

**CONSERVATION COMMISSION
APRIL 10, 2013 at 5:00 PM
TOWN HALL, 41 SOUTH MAIN STREET**

In attendance:

Members: Ruth Bleyler, Ed Chamberlain (Chair), Peter Christie (Planning Board Liaison), Doug McIlroy (Vice Chair) – via SKYPE, Alan Saucier, Scribe

Alternates: John Trummel

Staff: Vicki Smith

Others: See Attendance Sheet

1. CURRENT BUSINESS

MANEGOLD, 10 MOODY LANE, TAX MAP 3, LOT 90

CHAMBERLAIN reported on a site visit that was conducted at the Manegold's property and announced that an agreement had been reached between the Commission and the Manegolds on a new conservation easement area. Barry Schuster said the proposal is to put a monument about 10' south of point 16 and draw a straight line from there to point 43. North of that line is where a house or other residential structure could be placed. South of that line the Manegolds are permitted to maintain 2 lawns and trees for wildlife. The rest of the easement area would remain subject to the terms of the original easement agreement. CHAMBERLAIN said the height of the house was discussed. The Commission decided that the allowable height of the house was a zoning issue and not specified in the easement. Smith said there was also discussion about making sure that the easement is clear that accessory structures accessory to forestry, agriculture, conservation, and recreation could be built in the easement area at a height limited to 15'.

Commission Comments/Questions:

- McILROY asked about Commission members' comments regarding the proposed line.
 - CHAMBERLAIN said the Commission had previously agreed on points 16 and 43. The only change is that the line will go out an additional 10' to the south and west of point 16, to accommodate a driveway, if necessary.
- McILROY said he recalls there being a proposal to extend the easement farther to the east side of the property, to offset the easement area lost.
 - CHAMBERLAIN said the Commission decided over a past discussion, and discussions at the site visit, to forego that proposal. He said the Commission felt it did not make a lot of sense; it would create an isolated easement area.

CHAMBERLAIN asked for any further discussion. There being none, **it was moved by BLEYLER, seconded by SAUCIER, to accept the proposal.** McILROY said one other issue raised in the past was a limitation on the height of the building. CHAMBERLAIN said the Commission agreed that would be their preference, but they felt that there is nothing of substance in the conservation easement that would support it. Schuster said both sides discussed the issue thoroughly. He said he thinks the proposal is a compromise on all parts. McILROY said he does not see the compromise.

There being no further comments, **THE COMMISSION VOTED FOUR IN FAVOR, ONE ABSTAINED (McIlroy). THE MOTION CARRIED.**

Smith said a new easement would be drafted that would then be approved by the Selectboard.

43 Occum Ridge

Alan Saucier recused himself. **Notes taken by Vicki Smith.**

It was noted that even though an alternate plan had been sent to the Zoning Administrator that no changes to the project were proposed as a result of the Commission's recommendations during the site visit. The Conservation Commission visited the Smith property at 43 Occum Ridge Road on April 8th with Ed Chamberlain, Ruth Bleyler and Jim Kennedy attending. Those members hoped to see a proposal with drainage improvements and the building out of the 0'-25' buffer.

Alan Saucier described two alternatives to the proposed plan that he had investigated. Option 1 set all disturbance out of the 25 foot setback so that the proposed development moved south and west. He noted that with this move there would need to be 1250 cubic yards of structural fill and a twelve foot high retaining wall at the southeast corner of the house. The shift to the west would require that at least 11 eleven mature trees be removed with a few more removed additionally for safety.

Option 2 sets the house to the south, but without the shift to the west. This option requires a 17 foot retaining wall and 750 cubic yards of structural fill at the south east corner of the house. This proposal would edge the development toward the big swale.

The current proposal requires fill and a retaining wall, but the quantities and height are not included in the application.

Russ Rohloff said that the application was not just based on what the owner wanted. He had worked with Judith Brotman(Zoning Administrator) and had a meeting with DES to establish the State jurisdictional line. The Commission noted the town jurisdictional line is the top of the bank and in this case coincides with the State line for the wetlands. The town also has jurisdiction over the 75 foot buffer measured from the top of the bank. The Commission also

noted that the most impact is in the 25'-75' buffer and no one had issues with disturbance in that buffer.

Russ said that there are no wetlands on the site and that the 0-25' buffer begins 160 feet from the edge of the River. A geotechnical scientist has evaluated the slope in search of signs of failure but found none. The soils are very well drained. Borings were made to 80 feet. The conclusion was that with proper anchoring the proposed structure could be built without jeopardizing the safety of the site.

In terms of avoidance, the application states that the avoidance of wetland buffer impacts is not possible. Russ said that the building footprint would be no closer than 7 feet to the jurisdictional line and that it was not possible to avoid impacts to the buffer. Russ enumerated the site constraints- to the east the tree line, to the north the beginning of the swale, to the west the jurisdictional line, to the south the tree line.

Doug McIlroy said that the Commission and applicant should be reminded of at least 4 catastrophic failures of slopes at the edge of the Connecticut River. He thought that building so close to the top of the bank was tempting fate. Ed Chamberlain noted that the foundation anchors would make the house stable but did not necessarily protect the slope. Alan pointed out that the geotechnical report had been made available to the Commission, but that the Commission did not have time to read it at the meeting. He added that the structural system proposed for the building provides appropriate structural support as confirmed by the structural engineer and the geotechnical scientist. Alan stated that both the slope and house could co-exist safely. He noted that there would be no pressure westward. Doug said that based on the Rivercrest failure, the slope at the Smith property was doomed to fail. Alan pointed out that between Occom Ridge and Downing Road there are many houses sited at the top of the slope. Doug noted that on Occom Ridge there is a road separating the house and top of slope. He suggested rotating the footprint out of the 25' buffer and moving it southerly.

Alan said that to do so would be a disservice to the building and to the design process. He said that the building could not be picked up and moved. Doug noted that the application touches on none of the considerations of the design process.

Russ brought up massing issues. He said that the demolished residence included 3516 square feet of house, garage, deck and walkway with an additional 6500 square feet of impervious surface with no stormwater treatment. The proposed project includes 5500 square feet of building with 3700 square feet of pavement. This is a reduction of 813 square feet of impervious area and includes stormwater management. Alan said that a stabilized stonedust would be used on the driveway instead of bituminous and that the stormwater from the driveway would be directed to the treatment system.

Ed lamented that when the Zoning Ordinance was amended to distinguish between the 0'-25' foot buffer and the 25'-75' buffer, applicants started to propose impacts to the 0'-25' buffer where before applicants were hesitant to proposed impacts in the 75 foot buffer. He said that the 0'-25' buffer was created as a very restrictive zone and that impacts to that area should be avoided if at all possible.

Ruth Bleyler said that the discussion had improved her understanding of the situation. John Trummel was worried about the precedent that supporting this application would set especially since in this case, a design can be developed that would avoid impacts to the 0'-25' buffer.

Peter Christie thought that what is proposed is better than what was demolished but wondered what criteria are being considered in evaluating the situation. Vicki gave him a copy of Section 702 from the Zoning Ordinance and noted that the proposal was not being evaluated against what was demolished.

Russ said that this project was not able to meet the avoidance and minimization criteria in the 0'-25' buffer.

The Commission noted that the demolished house had been located entirely out of the 0'-25' buffer. The Commission started brainstorming findings to report to the Zoning Board. These included:

- No evidence has been given that it is impossible to avoid impacts to the 0'-25' buffer. The applicant has not fully attempted to avoid impacts to that buffer.
- The Commission was not presented with any alternatives. The Commission is not convinced that impacts to the 0'-25' buffer have been minimized.
- The Commission wants to express concern for the integrity of the bank which experience has shown is at risk in this part of town.
- Other than being in the 0'-25' setback, the project is fine.
- The Commission is not comfortable with impacts to the 0'-25' setback and there is a lack of avoidance and minimization with too much unnecessary invasion of that setback.
- The applicant has done a good job with stormwater management and drainage as proposed.

John Trummel made a motion which was seconded by Ruth Bleyler to convey the following recommendations to the Zoning Board:

The Commission does not support the Smith's application as currently proposed and finds that the applicant could practicably locate the proposed improvements(house, drainage and associated disturbance) outside the 0-25' water resource buffer.

The Commission's primary concern is the slope to the Connecticut River and its stability. As proposed, the house footprint is in at least one location is within ten feet of the top of the bank with proposed drainage improvements located between the top of the bank and the house. The Commission is not convinced that construction can occur so close to the top of the bank without jeopardizing the stability of the bank. The Commission is also concerned that failure of the drainage system so close to the top of the bank might also result in erosion, loss of downslope vegetation and bank instability.

The Commission agrees with the applicant that it is not practicable to avoid impacts to the 25' to 75' water resource buffer and commends the applicant for an impressive plan for managing stormwater.

The Commission recommends that all improvements be located outside the 0-25' water resource buffer.

The Commission voted unanimously to approve the motion.

Ruth Bleyler excused herself as she had to leave the meeting.

Pasture Road Property

Julia Griffin joined the discussion on the Pasture Road Property.

Ed Chamberlain recommended the Town purchase the entire property or that all property south of Pasture Road be purchased by the Town.

Julia Griffin and Peter Christie requested town legal to review all discussions by the Selectboard to date. Regarding Probate Court: Can land be subdivided? Should the land be subdivided? (Town Legal opinion is this is not Probate Court's role). How should the land be subdivided?

It was noted that there is opposition by the abutters to a subdivision. Peter Christie stated that the Selectboard's opinion is of no benefit to the abutter's case.

The Conservation Commission does not want to be perceived as advocates for the subdivision of the property. They want to be perceived as advocates for the Town's purchase of the property and leave it intact in respect to its value as a significant natural and scenic resource.

Julia Griffin and Peter Christie reminded the commission that the Robes as property owners have the right to pursue the subdivision. All agreed it would be good if the Robes would consider selling their interest in the property to the Town.

The question was posed as to the best subdivision scenario in respect to the property's natural and scenic resource values. It was agreed that it will be important for the Town to develop an equitable alternative to the Robes' subdivision proposal (indicating house, access, etc. locations and routing). The alternative needs to be a reasonable offer to subdivide the property with a win / win outcome.

Julia Griffin and Peter Christie noted that the Robes want a view and this is a reasonable desire. It was also noted the Robes will not be given unfettered use of Pasture Road.

The Conservation Commission objects to a building site in any existing field. They recommend judicious clearing as an alternative measure to achieve a view from a less sensitive building site location.

It was agreed by all that the primary aesthetic and natural features of the property are the pond and the views. It was also agreed that these primary site features attract visitors to the property.

It was noted that the Conservation Commission wants to preserve the integrity of these features and that the Robes are also interested in acquiring these features.

The question was raised if there is any subdivision agreement possible based on the desire of both parties to acquire the primary site features.

It was noted that, if the court intervenes, the judge will likely decide that the building location should be adjacent to the existing houses. It was discussed and agreed that it is in the best interest of the Town to achieve an equitable subdivision agreement with the Robes versus letting the Court decide the fate of the property's subdivision. It was agreed that a scenario that subdivided the property to the Robes' and Town's satisfaction with the Robe's placing 90% of their portion back into a conservation easement was highly desirable.

Peter Christie stressed that the Selectboard will not interfere with the property rights of the Robes. Again, he raised the question: What is the best strategy for the Town's desired result... let the court decide?

It was agreed the best strategy is the preparation of an alternative plan to present to the Robes providing a reasonable proposal for land division, house location and appropriate access.

Julia Griffin and Peter Christie stressed that forcing the Robes to sell violates their property rights. They encouraged that the Town do all they possibly can to remain in good faith with the Robes and pursue a truly better subdivision plan to offer up to the Robes for their consideration.

Peter Christie noted that the Robes' legal counsel has stated that the Robes are willing to place all but 5 acres of their portion of the land (immediately around the house site) into permanent conservation.

Julia Griffin suggested the Town consider working with what the Robes have proposed as a point of beginning.

It was agreed that an alternative subdivision scenario be developed by the Town and then a meeting scheduled with the Robes to discuss and compare the two options.

2. RESOURCE STEWARDSHIP

Ed Chamberlain presented the idea of the creation of a permanent conservation easement of the South Esker property and the organization of a Neighborhood Workday. All were in agreement that an easement should be pursued and engaging the neighbors, capitalizing on their keen interest in the property. It was agreed that the Conservation Commission should assist with the organization of a Neighborhood Workday.

3. ADMINISTRATIVE BUSINESS

No minute takers for upcoming Conservation Commission meetings were assigned. Ed Chamberlain to follow up with assignments.

4. COMMITTEE REPORTS

Biodiversity Committee

Vicki Smith reported that \$100.00 was given for the Education Program for Garlic Mustard Eradication.

Open Space Committee

Ed Chamberlain informed members of the progress on the Hayes Trescott Pasture Plan. Refer to meeting minutes distributed regarding work.

Trails Committee

Doug McIlroy presented the proposed river trail work to be done by the High School Club as part of Earth Day. Funds needed for the work (materials: wood timbers and steps) is estimated at \$250.00. Vicki Smith noted existing available funds can provide \$200.00 toward the needed materials. Ed Chamberlain asked that abutters be notified of the work to be done on their respective properties. Doug McIlroy to coordinate notification.

Doug McIlroy informed members of Safe Routes to School's proposal to improve the Verona Avenue Trail including, removal of existing steps and regarding for bicycle use. A portion of the regarding will require clearing / disturbance into the wetland buffer. It was discussed the possibility of leaving steps and grading alongside for bicycles, elderly hikers and mothers with strollers. It was noted that the Safe Routes for Schools will present on Earth Day to the Selectboard. All were in agreement to allow improvement plans to move forward and to address the wetland buffer issue with the Conservation Commission at the appropriate time to make Safe Routes to School aware of stream, buffer, etc. issues as they proceed with planning of the improvements (ZBA, State DES, etc....).

Doug McIlroy informed the members of the proposed bridge for mountain bicycle trail at the Goodwin Town Forest. Home Depot has pledged to donate materials (\$800.00). A donation from the Conservation Commission of \$200.00 can't happen this year. It was agreed to discuss after July 1st. Doug mentioned that this is the last key piece of the work at the Town Forest. It was noted that the application process for the bridge will need to be discussed with Judith Brotman.

Doug McIlroy informed the members of the upcoming work day on the Ridge Trail at Moose Mountain on the 14th of May. Two chainsaw teams with assistants will work from the north and south to accomplish needed work. It was agreed that Al Strickland in Enfield should be contacted regarding the notion of a joint town effort

5. MINUTES: No minutes approved

6. OTHER BUSINESS: None.

7. ADJOURNMENT: The meeting adjourned at 7:30 PM.

Respectfully Submitted,

Alan Saucier, Conservation Commission Member, Scribe
(with the 43 Occom Ridge notes prepared by Vicki Smith since Alan was representing the owner for that case)