

NEW CASTLE CONSERVATION COMMISSION MEETING
Town Hall
August 2, 2016 – 3pm

Application requesting a seasonal pier, gangway and float with frontage on Lavenger Creek. 95 Mainmast Circle, Property owner: Marion Clough

Jim Rini MOVED that the New Castle Conservation Commission politely decline to recommend the approval of the construction of a seasonal dock for Tax Map 9, Lot 23, applicant Marion Clough as delineated by the plans dated 7/11/16 prepared by Riverside and Pickering. Mr. Pascale SECONDED the motion. There was no further discussion. The motion was APPROVED unanimously.

Members Present: Brian Mack (Acting Chair), Darcy Horgan (Planning Board Representative), Bill Stewart, Beth Barnhorst, Conni White, Don Pascale, Jim Rini, Bill Marshall

Others Present: Zack Taylor, representing property owner applicant, Don Graves

Acting Chair Mack called the August 2, 2016, meeting of the New Castle Conservation Commission (NCCC) to session at 4:05pm.

1. Approve Minutes to the meeting of June 7, 2016. Chair Mack asked for changes, Secretary Clement suggested adding page numbers to the document.

MOVED to approve minutes as written, SECONDED by Ms. Barnhorst, and APPROVED unanimously.

2. Work Session/Applications

Application requesting a seasonal pier, gangway and float with frontage on Lavenger Creek. 95 Mainmast Circle, Property owner: Marion Clough

Members of the NCCC had previously made a site visit to the property at 95 Mainmast Circle.

Zack Taylor represented the owner, Marion Clough. The application is to install a seasonal pier, gangway and float with frontage on Lavenger Creek. Mr. Taylor described the proposed dimensions of the structure which would be in place in the summer. It is proposed that the structure be removed and stored in the upland region of the lot in the off-season. The reason to install

the structure is to provide safe access to the Creek without trampling the growth on the shoreline.

Chair Mack asked for comments from the NCCC:

- Mr. Mack expressed concern with the placement of the structure for storage on the steep slope. It was suggested that this could be resolved if it were stored on a less steep slope or moved up to the driveway area of the lot. There was also concern about moving the pieces up/down over vegetation twice a year. It was noted that there is a set of stairs present which could be used to partially alleviate this concern. It was noted that the State Department of Environmental Services has regulations regarding the height which the equipment can be set above the mudflats. To hold the equipment in place, there is a proposal that pilings could be driven into the bottom of the creek. These would be removable to protect them from ice damage.
- Ms. Barnhorst questioned whether a dock belongs on Lavenger Creek. She questioned the overall impact on the area since a dock would bring in motorized crafts which would bring in increased wave action, vibrations, etc. Now the Creek has kayak and paddleboard traffic which can maneuver in the space and doesn't impact the Creek in this way. Mr. Taylor responded that the dock as designed would not impede access for people using the area in this manner.
- Ms. White noted that there are platforms on Lavenger Creek already and suggested that this might work for the applicant. Mr. Taylor replied that the intent of the dock, etc. was to provide safe access from the house to the water without trampling the shoreline. The goal is safe access. Ms. White asked what would prevent others from also adding docks where there are now floats. All places of the shoreline are not necessarily appropriate for docks. It is possible that other homes could not install a dock because of this.
- Mr. Stewart referred to the tax map and asked if the homeowners across the Creek are abutters and whether they have been notified of this application. The answer was that the question was whether they were "abutters", assuming the property ends at the high tide mark. If the property lines extend across the Creek, they would be abutters and they need to be notified.
- It was noted that the NCCC looks closely at ANY application and assesses each situation. In the case of Lavenger Creek, the NCCC notes that there could be significant impact if this goes forward. This is a wildlife corridor, especially in spring and summer, for marine animals and birds especially. This will represent an obstruction to them. If there are multiple applications of this type in the area, the cumulative impact would be significant. It would affect the wildlife as well as the creek-bed stirred up by motors. The area would silt in,

material which floats in on the tide would be entrapped, all of this would make the mouth of the Creek smaller. There would be decreased flow at the back of the Creek where the ideal would be to increase flow. The Town has been working on plans to improve the condition of the Creek and this structure would impact this.

- Previous applications for similar structures have resulted in the compromise solution of installing platforms. This has the added benefit of improving the aesthetics for neighbors, who would not be looking out on an aluminum structure; the floats are less obtrusive.
- Mr. Stewart recommended that in this location a platform would work, the dock is obstructive and should not be put in the Creek.
- A discussion followed regarding the definition of abutters" according to Town regulations. Jim Rini read the definition from 2.3.2:

Take from regulations

- Peter Hunt, resident asked to address the group. He opposes new docks and platforms in the area. There is not enough control in that area, ex. Hot tubs, lawns down to the water.
- It was noted that platforms are less intrusive and that the salt marsh is in good condition now. It would be too bad to limit the flow in this sensitive area.
- Mr.Rini noted that there was a wetlands study done in the early 2000's. In that Lavenger Creek was identified as one of the most valuable resources in New Castle. He opposes anything in this area.
- Ms. Horgan noted that the argument of installing this structure to protect the pathway to the water is weak. The vegetation on the shoreline will recover and regrow if trampled, whereas the installation of this structure will have long-term negative impact on the Creek. Also the movement of the equipment up and down the steep slope twice a year will have an impact on erosion of the slope. She felt that protection of the salt marsh is paramount.
- It was noted that other homeowners in the area have accepted the platform as a compromise.
- Ms. Barnhorst read from a document she prepared based on extensive research in similar geographic areas regarding docks and boats and the negative impact they have. These impacts included aesthetics especially important on an island, the impact of oil and fuel spills in the water, the impact of vibrations from boats and jet skis on the creek bed, the impact of waves on the shoreline, the upset to the wildlife of the area. It is our job to protect the island. We have been working hard to clean up, restore and rejuvenate this creek. She is against docks or platforms in this area.

- Tracey Degnan addressed the NCCC and reminded the group of some of the many projects which have been undertaken to renew this area directly or indirectly. They included the work done in the Creek since 2005, the High Impact Study done in 2013, the conservation plan done in 2015 which was sent to the state, the Tides to Storms project which articulated the protection of the salt marshes. All of these were done to improve and protect what we have. We have also done public relations work to inform the public of the importance of Lavenger Creek, of the wetland buffers. We have conducted workshops and written articles, we have received grants and have removed much of the phragmites in the area. The NCCC, the state and the federal government have all spent time and money on attempts to restore, rehabilitate and renew Lavenger Creek. It is a priority resource and a prime wetlands area.
- Ms. Horgan reminded the group of a statement made by Theresa Walker, Rockingham Planning Commission: New Castle is small enough that every single application and decision has greater impact on the small area than similar activities in larger ones.
- Ms. Barnhorst questioned whether it would be possible/desirable to limit jet skis (because of the noise, spills, wave action). It was agreed that this is another discussion which the NCCC should look into for a potential ordinance, but doesn't bear on this discussion.

The question was raised as to who would be voting on this decision tonight: Ms. White, Mr. Pascale, Ms. Barnhorst, Mr. Stewart, Mr. Mack, Mr. Rini, Ms Horgan.

The group was asked if they wished to postpone the vote for another meeting or if someone wished to make a motion.

Mr. Rini MOVED that the New Castle Conservation Commission politely decline to recommend the approval of the construction of a seasonal dock for Tax Map 9, Lot 23, applicant Marion Clough as delineated by the plans dated 7/11/16 prepared by Riverside and Pickering (author). Mr. Pascale SECONDED the motion. There was no further discussion. The motion was APPROVED unanimously.

3. New Business.

Tracy Degnan from Rockingham County Conservation District will address the group next month.

It was suggested that the Study from the NCCC regarding Lavenger Creek Conservation Plan, which has been sent to the state be reviewed and

forwarded to the New Castle Planning Board (NCPB) to consider formally adopting the document. The NCCC also needs to pursue a designation of Lavenger Creek as a "Prime Wetland" if it is not already so designated. It is a pristine wetland which impacts positively on the property of the island.

Ms. Degnan and Ms. Barnhorst were asked to contribute the notes which they had read from, to be added to the file of the discussion.

Also not discussed at this meeting but a potential topic for another meeting was the deterioration of the slope in the area of Lavenger Creek, taking into account all local and state regulations. Homeowners are entitled to one path, 6 feet wide to the water, according to state regulations.

Ms. Barnhorst reminded us that other towns have public docks for all to use, so that individual homeowners don't feel the need to have multiple private structures.

It is the responsibility of the NCCC to deal with slope grades. As there are no "pre" documents, it is difficult to know just how it has changed over time.

What is the next step for the decision made tonight? The application from Ms. Clough will next go to the state which will make a decision. The letter will be written by Brian Mack. It was urged that this be taken care of soon, perhaps in the next 3 days. Items to be included in the letter might be:

- All of the abutters were not informed of this application, this should be rectified; the contiguous abutters were, but not the ones on the other side of the Creek
- Include the concept that small town decisions have greater impact than large town decisions; this one would be major for New Castle.

Coming before the NCCC in the near future will be an application for a Shoreline permit at 17 Seabreeze Lane; this should be added to the September Agenda; it mostly deals with landscaping.

4. Adjournment

Jim Rini MOVED to adjourn the meeting at 6:30, Mr. Pascale SECONDED the motion; it was APPROVED unanimously.

Respectfully submitted by
Ellie Clement
Secretary to the New Castle Conservation Commission.

