

**Town of New Castle  
Conservation Commission Minutes  
Tuesday, November 1, 2016 – 5:00 PM**

**Present:** Lynn McCarthy, Chair, Connie White, Vice Chair, Rebecca Audet, Ron Pasquale, Beth Barnhorst, Brendon Tanguay, Jim Rini, Alternate, William Marshall, Alternate, Darcy Horgan, liaison from Planning Board.

**Also present:** Steven Ricker, Ambit Engineering, Don Cook, D.D. Cook Builders, Inc., Bernie Pelech, Wholey and Pelech Law Offices, Ken White, 120 Wild Rose Lane, John Chagnon, Ambit Engineering.

**1. Approve Minutes.**

Approval of the October 2016 minutes of the Conservation Commission was deferred until the next meeting.

**2. Work Session/Applications.**

**a. 120 Wild Rose Lane Tax Map 3, Lot 8B  
Last House LLC**

**Review and recommend plan for driveway within 50 foot wetland buffer.**

John Chagnon and Steve Ricker of Ambit Engineering were present to address issues raised at the last work session. Ambit had submitted revisions to the September 2016 plans, to include tree locations, and delineating which trees were to be removed. The revised plan, dated October 25, 2016 was received by the Town on October 26, 2016, entitled, "Buffer Zone Impact Plan".

Mr. Chagnon referred to the plans showing the trees to be removed, each marked with an X. The trees have to be removed in order to construct the driveway. He stated he would be filing for Planning Board approval. He wants to satisfy the CUP (Conditional Use Permit) requirements regarding moving of rainwater. Chair McCarthy questioned how this would be done. Mr. Chagnon stated the driveway

would be sloped down. The water will run through the buffer before it gets to the wetlands.

Mr. Chagnon referenced the plan noting he incorporated the Commission's prior recommendations:

1. The contractor shall notify Dig Safe at 1-888-DIG-SAFE at least 72 hours prior to commencing any excavation on public or private property.
2. Underground utility locations are based upon best available evidence and are not field verified. Locating and protecting any aboveground or underground utilities is the sole responsibility of the contractor and/or the owner. Utility conflicts should be reported at once to the design engineer.
3. Contractor shall install and maintain erosion control measures in accordance with the New Hampshire Stormwater Manual, Volume 3, Erosion and sediment controls during construction. (NHDES December 2008.)

Mr. Chagnon then addressed the criteria necessary to obtain a CPU for this project. (Please refer to actual ordinance)

1. Must prove use can't be carried out. In this case this is a subdivision to create a lot and build upon it, which requires a driveway to access the lot. The subject lot frontage is all wetlands except for the corner. There is no other place to put the driveway. The proposed plan minimizes detrimental impact to the wetland.
2. The private right of way cannot be used therefore there is no feasible alternative.
3. The proposed plan outlines the minimum disruption to the site. They will be regarding and have shown erosion control measures.
4. The proposed driveway location poses no hazard. There is no creation of a hazard to public health and safety. A very small amount of buffer will be impacted. As this is a fresh water wetland, no State

permits from DES are required. They are doing their best to provide adequate filtration.

Chagnon stated his firm is doing its best to provide proper filtration.

Chair McCarthy had asked about additional plantings in the buffer. Mr. Chagnon responded there was no real opportunity to plant.

Mr. Chagnon then introduced Steven Ricker to speak to the wetlands issues. Chair McCarthy asked about the buffering plants and how turf was going to take place. Total square site footage of the area of disturbance is 2,965 square feet. There is a great amount of ledge. The driveway will be 20' by 40', leaving 800 sq. ft. as pavement. The rest will be left alone.

Mr. Chagnon stated that the intent is not to plant.

Surface roadway will be bituminous, concrete asphalt. The driveway must be 20' wide to comply with ordinances. In response to a board member's question about whether any other surface had been looked into, Mr. Chagnon replied no. Beth Barnhorst questioned why not something pervious. Ron Pasquale asked about ledge issues.

Brandon Tanguay asked if there was any other way to access the site. Vice Chair White expressed concerns about salt run off and grading of the site. Mr. Chagnon stated that the driveway is pitched so that the run off would be filtered through the buffer prior to arriving at the wetlands. There was much discussion over control of use of salt and other materials of which some are regulated by ordinance.

Mr. Chagnon said there is sufficient area outside the buffer to build another house.

In response to a question by the Chair about the need to take the marked trees, Mr. Chagnon responded the need is to be able to direct water elsewhere. They need to remove the designated trees to properly pitch the driveway.

The Commission members next spoke to the desire to have a rain garden and asked if that were a possibility to do on the site. Jim Rini asked if consideration could be given to planting a rain garden. Both Beth Barnhorst and Vice Chair White expressed support for this idea. Other types of possible shrub options were discussed.

Mr. Chagnon replied that doing a rain garden would necessitate excavating and removal of ledge which would unfortunately create an undesirable bathtub effect. He proposed that once this project goes before the Planning Board, that the Planning Board could place a condition on the building plan for additional plantings and items such as a rain garden. They could also require a bond posting. But he stressed that the proposed driveway is to provide access to the lot which will in fact be built upon, and he has proposed a plan which has minimal detrimental impact to the wetland and is in compliance with required CUP conditions.

There being no further questions or comments from the Commission, Chair McCarthy called for a Motion.

Jim Rini made the following Motion:

*That the Conservation Commission recommend to the Planning Board its approval of the driveway as proposed by Last House LLC, 120 Wild Rose Lane and delineated on Map C-3, dated October 25, 2016 from Ambit Engineering as updated from original plans of September 9, 2016.*

Connie White seconded. 5 members voted in the affirmative with Beth Barnhorst and Rebecca Audet abstaining. Motion carried.

#### **b. 350 Wentworth Road.**

#### **Discuss letter submitted to Building Inspector to install a fence through the wetland.**

Attorney Bernie Pelech and DD Cook, Builder, were present on behalf of the Applicants, property owners Mr. and Mrs. Spellman. An application for a Building Permit was filed seeking to construct a fence surrounding

the subject property. Construction of the six foot high fence is intended to keep out wildlife, such as deer, and keep their golden retrievers safe within the compound.

D.D.Cook filled out the Building Permit with Building Inspector Donald Graves, and did a color coded map delineating the wetlands proposed fence, swimming pool and adjacent lots. The original intent was to enclose the entire 3.3 acre site with a 6 foot high fence. The owners made it clear to Mr. Cook that they were willing to work with the Town and this was their initial plan and proposal. Mr. Graves suggested they go to the Conservation Commission for input and review.

Mr. Cook referred to the submitted plan ( not dated) showing the orange area of he lot as wetlands. He stated the entire lot is ledge. Whereas a portion of the fencing was going to be chain link, he is now working with Platinum fence. There will be no augers, nor anything used that would harm the wetland area. He noted that at this time, because of the dry/drought conditions you cannot tell it is a wetland. He would prefer to install whatever fencing is approved right away while the area is still dry.

He explained that the pink line on the plan delineates the edge of the wetland. The blue line depicts 75 foot wetlands buffer.

Much discussion ensued over location of adjacent lots, such as Secret Pond, but it was determine the site was Map 5 Lot 3, which is an L shaped lot. Other subjects brought up was the legal requirement to have a fence around the proposed outdoor swimming pool. There was also discussion about Secret Pond's designation as a Class A wetland. Attorney Pelech suggested the Commission do a site walk to clear up questions. Vice Chair White proposed that the applicants place the fence within the 50" setback and asked Mr. Cook to check with his clients for their approval. This would keep the fence 50' away from the wetland a opposed a proposed 75'. Attorney Pelech once again proposed a site walk next week and several members were interested in doing this. He noted his clients will come back after further discussion and a site walk.

### **3. Unfinished Business.**

#### **a. Storm water regulations.**

Darcy Horgan reported that she and Beth Barnhorst had an initial meeting to discuss the Storm water Management information which was needed to fashion proposed changes to New Castle's ordinances and get them ready for May Town Meeting. Theresa Walker from the Rockingham County Planning Commission provided Darcy with a compendium of surrounding towns storm water management plans and regs. Darcy reviewed them all and highlighted sections of interest to New Castle which we may wish to incorporate into our ordinances.

Darcy noted that the surrounding towns' plans are complicated, but they have a lot of developable land, unlike New Castle. WE shouldn't need to overkill the situation with many regulations; however the Conservation Commission should study the material provided and prepare its own list of recommendations for the Planning Board and eventual adoption at Town Meeting.

After discussion it was agreed Beth Barnhorst will chair a subcommittee to draft recommendations after consultation with Theresa Walker of Rockingham County Planning Commission. A timetable was discussed. Darcy agreed with Beth's recommendations to include specific fines for violations, such as for cutting trees. Beth also recommended that an attorney should review their proposed changes.

Darcy suggested the following plan:

Beth form a subcommittee; work with Theresa Walker. Have list ready by January/February; bring to Planning Board; Planning Board votes on proposals and has public hearings in March, final adoption and Warrant Article for May Town meeting. Vice Chair White is working with clarifying definition of "impervious surfaces" and "lot coverage". Chair McCarthy would prefer two different warrant articles: One for storm water matters and the other for "definitions".

Chair McCarthy spoke about Bill Stewart's meeting with Town Assessor relative to Lavenger Creek and the sought after opinion that purchasing

in that area would not necessarily result in property devaluation because of the primary wetlands designation.

Connie White reported that 2/3rds of an acre of phragmites have returned in a certain area. She will be in touch with Peter Rice to address this matter.

### Announcements.

Chair McCarthy stated

The New Castle Garden Club has had a speaker on Plum Island and describing how native plantings are so important. The speaker also provided information on healthy lawns and landscapes.

Lynn stated the NH Conservation Commission Annual meeting is coming up, along with a workshop on Site Plan at the Seacoast Science Center.

Jim Rini asked for help in copying and distributing Green Waste fliers to alert and inform New Castle residents as to when and where to deposit their Green Waste.

There being no further business to come before the Board, Jim Rini made a Motion too Adjourn which was seconded by Lynn McCarthy. Motion carried.

Meeting adjourned.