

Town of Lakeville
Conservation Commission
August 9, 2022 at 7pm

Members present: Robert Bouchard, Chairman, Mark Knox, Joseph Chamberlain, Nancy Yeatts, and John LeBlanc. Members absent: Josh Faherty. Chairman Bouchard called the meeting to order at 7pm. This meeting was recorded by LakeCam.

Chairman Bouchard announced that Conservation Commission member Fred Frodyma had resigned from the Commission.

8 Paul Ave - NOI, Prime Engineering - (continued). Applicant Gary Amaral (Greco Construction) was present for discussion. Mr. Amaral said at the last meeting there had been a discussion about turning in the ends of the seawall. Member Knox said at the last meeting they spoke about one end of the wall hitting the neighbor's stairs and the other end would be returned on itself. He didn't see a notation on the plan. He asked if Mr. Amaral could show that, or if he was just going to commit to that. Mr. Amaral responded that he could commit to that. It's like a field adjustment because there are some rocks that are connected to the concrete so they will have to shortcut the concrete so it's not an exact location. It may be pushed over 6" or 1'. Mr. Amaral had a detail plan of the project.

Upon a motion made by Member Knox, seconded by Member Yeatts, it was:

Voted: to accept the plan.

Unanimous approval.

Mr. Amaral explained that the sandbags are set up to hold back any of the water and all the work would be done in a dry area. He would set up sandbags the whole way across and the first block would go below grade for stabilization. Once you dig down, you have to hold the pond water back. They are going to be about 22" down or 20" in, then they add a little bit of stone and set the first block. When the first block is level with the existing bottom of pond, as you're setting the first block there will be some water seeping through the gravel. You would be dewatering a small amount of water. The sump for dewatering would be set in a washed stone sump pit. Typically, once you turn the sump on, you're going to get a little bit of fines coming out of the pump. But once it starts to pump, after a minute or two, it starts to pump clean water. Member Knox asked about the plan detail that was distributed. He said it was very similar to the originally proposed plan that they had. The only difference is that he showed the sandbags with what looks like some sort of siltation mesh. On the original plan there was a silt curtain in the water. He asked if Mr. Amaral was committing to the sandbags. Mr. Amaral said he didn't think they would need to commit to the silt curtain because it was so far out, it wouldn't really be doing anything. He thought that would be an unnecessary addition. Member Knox agreed, but his concern was what about water coming the other way, runoff from the land if there's a heavy rain during construction. Mr. Amaral said the sandbags are set close to where they will be setting the first block for the wall. Member Chamberlain asked if it was just enough room for people to work in there. Mr. Amaral responded that yes, it wasn't going to be set that far back. Any runoff from the lawn should have a minimal effect. Member Knox said the sandbags themselves will act as a filter barrier and then what they have with siltation on the other side. As long as the water on the pond side stays higher than

what comes off the land. Mr. Amaral anticipated that they would be able to put in close to 80' per day. So, they will be in and out fairly quick. Member Chamberlain asked if the whole thing was 137'. Mr. Amaral said that was correct, it would probably be two days. Member Knox said, so two days to set the bottom block and the rest is backfilling. Mr. Amaral said that was correct. From the bottom block facing the pond to the sandbags there will be very little disturbance. Member Knox asked about the back filling that would take place after they set the second block. Mr. Amaral explained that they would use the existing gravel on the pond side of the block. They will put 2" of stone under the first block and there will be a small gap that they will rake in whatever is there already to meet the bottom of the block. Member Knox asked about dewatering. He didn't think he saw a location for that on the plan. His concern was, if they had to dig a pit in the lawn, they needed to know where the septic system is. Mr. Amaral said he knew where everything was, he had done work there before. Member Chamberlain asked if there was any step-back on the wall or if it was 90-degrees. Mr. Amaral answered that it was straight. Member Chamberlain asked about the 4" weep holes. He said usually you see weep holes smaller than that. He asked if the holes were pre-cast. Mr. Amaral said they were. Member Knox added that in the bigger retaining walls, you do see larger weep holes. Member Yeatts asked what was sent to Natural Heritage. Since the Commission just got this, had they seen the change. Member Knox said there is no change in the wall, it's only the processes of sand bagging and siltation. There was a continued discussion about Natural Heritage. Member Yeatts said they can't release an Order of Conditions until Natural Heritage has responded. Also, a Chapter 91 license will be required prior to the work if you are working below the ordinary high-water line. Member Chamberlain asked if the owners had a Chapter 91 license. Mr. Amaral responded that they did. He said this was a big improvement from what is there. Member LeBlanc explained that the Commission can't supersede Natural Heritage. Whatever the Commission decides is contingent on approval from Natural Heritage. Member Yeatts added that they will probably give a list of conditions that the Commission will add on to their order. Member LeBlanc said they could approve it contingent on Natural Heritage approval. Member Knox suggested Mr. Amaral contact Natural Heritage and find out the status since he is the applicant. He wanted to also make sure there was a Chapter 91 license on the property for the dock. Those would be the two things that would cause a hold up on this, but they could conditionally approve. Mr. Amaral would not be able to start work until Natural Heritage responds. Mr. LeBlanc said the cover letter from Prime Engineering states that the application for the waterways permit will be submitted once the Order of Conditions is obtained from the Commission. He said that sounds like they don't have one. Mr. Amaral said he would check with the owner. There was continued discussion regarding the project.

Upon a motion made by Member Yeatts, seconded by Member LeBlanc, it was:

Voted: to close the hearing and issue an Order of Conditions. Conditional upon: 1) Natural Heritage Endangered Species comments being included in the Order of Conditions when they come, and the Order of Conditions can't be issued until they do come, they have until September 1st. 2) proof of Chapter 91 application. 3) Answer DEPs questions about compliance with standards.

Unanimous approval.

Member Chamberlain cautioned that after the permit is issued, there is a 10-day appeal period. So, you start at your own risk. He also said Mr. Amaral should contact the engineer regarding the questions DEP had.

Open Space Residential Development - Town Planner, Marc Resnick was present for discussion.

Chairman Bouchard said he wasn't at the joint meeting and asked if the Board could fill him in. Member Yeatts said the Board of Health called the meeting and they had a lot of issues. Member LeBlanc said there were issues with the size of the lots and fitting wells and septs on them. Member Chamberlain said Bob Poillucci had made some great comments. When this first came out, he thought it didn't look too bad until Mr. Poillucci pointed out that there wouldn't be a single tree left, it was going to be like a ball park. The first guy who builds will have it made, but then it goes downhill. Member LeBlanc thought most of the issues had been resolved with language changes. Mr. Resnick pointed out the OSRDs don't look like the perfect plan that Mr. Poillucci was showing. The lots are all different shapes and sizes and elevations. As a result, there's more flexibility in locating wells and septic areas. Often times they get moved without any approval or they can't get water in this location, so they move it. Mr. Poillucci did have a good suggestion about installing wells on a certain number of lots first and then you move on. So, it's approved as a "phased development". Mr. Resnick said he would be working on some revised language. Member LeBlanc mentioned a public water supply, a shared septic, or town water. Mr. Resnick said that was correct. To address those concerns brought up at the Board of Health meeting, those would be added to the next draft that the Planning Board will be discussing. Member Yeatts stated that her concern was about the land being protected, and she thought it would be good if they hired an environmental lawyer to make sure of the language about the protection of the land. She had spoken to Member Knox about it and he thought it should be discussed with Kopelman and Paige (Town Counsel). She has worked with different committees with the town for 20 years, and didn't find that Kopelman and Paige had the greatest people for environmental issues. She added that they've done a lot of great things for the town, but environmentally, there are specialists that could do it. Mr. Resnick said because there are multiple things to work on, not just Board of Health or Planning Board, this may or may not be ready for the fall town meeting. As it relates to the language of some stronger protection, it falls under Chapter 97 protections. The reason why the Article 97 wasn't in the first draft is that he didn't think that Article 97 would apply to recreational and agricultural lands. He didn't want to restrict all the lands that have been set aside, regardless of the purpose under that chapter if you couldn't do it, so he removed it. He had conservation restrictions and other protections in there for open space land, whether it was natural open space or active open space. He did some additional reading, and it can apply for parks or agriculture as well, so it can continue to be farmed. He will be adding some language back into the draft to add that level of protection. Member Yeatts mentioned that it was very difficult to get land out of Chapter 97. She said that one option that has been brought up is a homeowner's association. She heard about an example in Middleboro that has hiking trails and the homeowner's association did a wonderful job keeping it up. Member LeBlanc asked if it was open to the public. Member Yeatts replied that it wasn't. Mr. Resnick stated that the idea here, is that all our open space would be open to the public which is specifically in the draft. We would ensure that it was public access and wouldn't be blocked off. That was one of the reasons the Planning Board was opposed to having homeowner's associations. They felt that if a developer was seeking the benefits of the OSRD, the land would be public. Member Chamberlain said he couldn't see the residents in those houses would welcome that. Mr. Resnick said they would be buying into it, knowing there's town owned open space land behind or adjacent to them. Member Yeatts said that puts it back on the town to take care of it. Mr. Resnick thought as they move forward, there will be opportunities to see grants or other funds for moving many of these capital projects. Member LeBlanc asked if it was a consideration of the Planning Board, if someone wants to do a subdivision on a smaller space, does the Planning Board consider what it's going to be used for and how it's maintained? Member Knox said part

of the process is for the Planning Board to communicate with other Boards to get input. Member LeBlanc said, the problem with the homeowner's association is, if you want to make it accessible to the public, why is it in their best interest to maintain the open space. Member Knox said personally, he's not one that says it needs to be open to the public. He looks at it as if someone comes in with 10-acres and wants to put four lots on a tiny cul-de-sac, the adjacent land around there could stay open space. If it abuts other neighborhoods, it would only be accessible by those neighbors. If it was designed that it was impossible to fit another house, it makes it more appealing to make the homeowner's association argument. If it was 25 acres to the left, and 25 acres to the right, open space that's adjacent to another park or something, that might be something the town might be interested in, expanding park space. Member Knox said if 10-years from now, there's an entirely different Planning Board, if they are younger, less experienced members, they don't know what the intent of what we do today was. They don't understand what our intent was and how to use it. It could go awry. The challenge is to create language. It's tough to write instructions into a bylaw. A previous Planning Board member's biggest concern about the homeowner's association was the lack of protections long term. There's a fear of a developer being able to come back around and develop it some more. Member LeBlanc said they could take care of that with a deed restriction. Member Yeatts said that's where Article 97 comes into it. Member Knox added that with the right legal direction, it shouldn't be a concern. Member LeBlanc thought there should be something in the bylaw that the developer signs off for the development of anything. He's not going to own that property, it's going to come to the town one way or another, or some other conservation entity. Member Knox said, it could be the concern that if the homeowner's association has it, and it's a big block, then they have the ability to lift the deed restriction on their own property, and then sell a chunk. They are trying to address, if they did have a homeowner's association, we just want to make sure that there's no chance of future development. Member Yeatts said the Lakeville public is one thing. But if you say the land is open to the public, now you have people from Brockton, New Bedford, and trash on the trails. Member Chamberlain said Mr. Resnick called him and asked about taking abandoned cranberry bog upland and converting them to residential use. He said it's mostly Army Corps, but that's been changed of late. There have been changes in the federal Clean Water Act, much to the detriment of the land. He didn't think the protections are anywhere close to where they used to be. There's a big difference between the old bogs built on swamps and the new bogs that were built upland. This question is popping up more and more in cranberry growing areas. He said he really isn't the one to talk to but he knew that there are provisions in the wetland regulations. Member Yeatts commented that Cedar Pond Preserve was built on upland bogs. Member Knox said that it was Army Corps of Engineers and you had to prove it was upland, that it wasn't wetland before it was made and there was a process to go through.

Community Preservation Committee - Member Yeatts said they are having a 2-hour training put on by the State. The CPC needs to meet with all the Boards and Committees to discuss their ideas about what they want to protect in town. She will figure out the date of the training and try to coordinate on a date when Conservation is meeting so the CPC members can stay after the training to meet with Conservation. Member Yeatts will update the Board at the next meeting.

Meeting minutes - June 14, 2022

Upon a motion made by Member Chamberlain, seconded by Member LeBlanc, it was:

Voted: to approve the June 14, 2022 meeting minutes as published.

Four in favor, one abstains (Knox)

Adjournment - (7:03)

Upon a motion made by Member LeBlanc, seconded by Member Yeatts, it was:

Voted: to adjourn.

Unanimous approval.