

Town of Lakeville
Conservation Commission
August 8, 2023 at 7pm

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

310 Kenneth Welch Drive - Notice of Intent - SE192-891 - continued from 7/11/23.

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

Voted: to continue to August 22nd at 7pm.

Discussion: Member Knox explained that so many people had gone and identified the wetland line and have been paid by that project, they had to find a neutral wetland scientist to identify the line.

Chairman Bouchard said they had found someone and expect to get started. Member Chamberlain added that they had to put in almost 5,000 square feet of replication and wouldn't want to do that at the end of November into December. There was continued discussion about the timeframe of the project.

Unanimous approval.

17 Hitching Post Road - Request for Certificate of Compliance - SE192-296. Chairman Bouchard reported that he had been out to the site and it was immaculate. There are wetlands to the rear of the property and it's been stabilized for a long time. Member Knox said it was drainage and the easements and other things are on individual house lots. Chairman Bouchard said a sale had come up and they need to clear the outstanding Order of Conditions. Member Knox asked if Chairman Bouchard would recommend issuing a Certificate of Compliance. He said he did.

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

Voted: to issue a Certificate of Compliance for 17 Hitching Post Road, SE192-296.

Unanimous approval.

Bylaw discussion - Member Yeatts wanted to discuss the dock part of the bylaw. She questioned if they were specific about the docks and included too many things in the bylaw for docks, that it would never pass. Some cottages have been handed down through the generations and don't have a dock permit. Member Knox agreed that some people do get a Chapter 91 license, but if it is included in the bylaw, it would probably kill it. Member Faherty said he had no problem with altering what he presented to the Commission. There's no point in bringing it to the town if it's going to fail. Member Yeatts said she thought that's why a bylaw has never passed before, because they've always been very long and lengthy and covered a lot of things. Member Yeatts said she liked some of the things they've already done, like the 25' no touch. We had done that for almost 10-years. She said she also liked that engineers used to color code the buffer lines. Member Faherty said that wasn't something they needed to put in a bylaw, that could just be the preference of the Commission. There was more discussion on the 25' no touch buffer. Member LeBlanc said he didn't think anything would pass in town, unless it's very simple. He said he had spoken to Building Commissioner Nate Darling and he would be in favor of a wetland bylaw

that simply reinstated the Wetland Protection Act. That would allow him to have some teeth in his permit process, whereas now he cannot deny a permit if there's no approval from Conservation. Member Yeatts asked if anyone asked Town Council if the Commission can set a policy. The Commission could set a policy for a 25' no touch. Member Faherty said he would edit the bylaw he presented to the Commission and will send out another draft version. Member Yeatts said we can keep the bylaw discussion on the agenda.

Open Space Residential Development (OSRD) - Town Planner Marc Resnick was present for discussion. He distributed a revised version of the OSRD bylaw after some changes made by Conservation and the Board of Health. Conservation had concerns about accepting two- and three-acre parcels. A 20-acre minimum size was added, which means 10-acres would be open space. Also, regardless of who owns it, the open space would be restricted by Article 97. If someone wants to take it out and use it for another purpose, it would require legislative action. There were also some changes made for the Board of Health. Locating both a well and a septic on a small lot could affect the buildability of the adjacent lots due to setbacks. In order to address that concern, a requirement has been added for a public water supply, a municipal water supply, or a shared septic system or wastewater treatment plant. With this requirement, there will only be either a septic system or well on each lot. The Board of Health also wanted to make sure that all lots would be tested. Each lot will have one test hole to ensure the soils are suitable. Mr. Resnick said it was also added that the OSRD concept plan and preliminary plan should have the wetlands delineated. It would be required that an Abbreviated Notice of Resource Area Delineation (ANRAD) be filed with the Commission prior to any approvals from the Planning Board. Member Chamberlain asked if the Board of Health was in favor of septic systems being within 10' from the front property line. Mr. Resnick replied that it would just be a tank. One of the concerns was that if you do a shared septic system, all the individual homes would be on individual tanks. Currently, there are no Board of Health rules that address shared systems, so it was added to the OSRD. If it's within 10', there's an easement and the homeowner's association will pump all the houses at the same time. Member Yeatts asked if the Board of Health and Conservation could get notification of the pre-application meeting. Mr. Resnick explained that the pre-application meeting would be at a Planning Board meeting to present the concept. Member Knox added that the pre-application meeting would be an informal conversation, when an actual plan is developed, it goes out to all the other departments before it goes on a Planning Board meeting. Member Yeatts said she wanted to know all the stages the plan would go through. Mr. Resnick said the first step is just an informal meeting. The next step would be to develop the actual preliminary subdivision plan and the concept plan for the open space. That would be a regular preliminary plan application and departments would get a copy. If both plans, the preliminary and concept plans are approved, then they file for the special permit and the definitive subdivision plan as a single application. Member Yeatts asked if they would have to come to Conservation for the pre-application meeting. Mr. Resnick said no, but they would have to prior to the preliminary plan because they would need an ANRAD. Member Yeatts said the dedicated open space is a minimum of 50%, but can go down to 40. Then in sections two, three, and four of the bylaw, you have storm water can be in there, detention or retention basins, or natural courses for disposal of storm drainage from impervious surfaces. She asked how small the dedicated open space can get down to if all this happens in there. Mr. Resnick replied that the bylaw also says the drainage system in an open space is subtracted from the calculation. It's excluded from the land area calculations. If you have an area with basins that totals 1-acre within the open space, it's exempt from the total. You would need 21-acres not 20. It would be the same with the septic system. If there's a shared system and the septic and reserve areas are an acre and they put drainage in there, you need 22-acres. There was some

continued discussion about the calculations. Mr. Resnick said the roadway layout would be excluded from the open space land area calculations. He said they could make a change to say roadway layouts and drainage basins shall be excluded. Member Faherty asked if that was covered in section three. Detention or retention basins may be located in open space; however, this land area may not be counted towards the minimum open space required. Mr. Resnick said it was covered there too. Member Knox asked if there had been any comments from the Board of Health. Mr. Resnick replied that he had sent it to Agent Ed Cullen, but hadn't heard anything. Member Faherty asked about section 7.10.6 that read the opens space shall, at the planning board's election, be conveyed to either Conservation Commission or Select Board. How would they make that determination on who would accept it? Member Knox said he thought it would be more of a who would take it, who wants to be responsible. Member Chamberlain said Conservation doesn't want to deal with small lots that aren't contiguous. Member LeBlanc asked if Conservation had a capacity to manage open spaces. If it was a park, Conservation isn't going to maintain a park. Mr. Resnick said that's why the Select Board is there. If the Conservation Commission doesn't want a particular piece, the Select Board can still accept conservation land and hold it under the authority of the Select Board. Member Chamberlain asked what the liability for the town would be in accepting a piece of property like this. Mr. Resnick said if there is a deficiency in a piece of land, and you know about it, then you are liable. If you take reasonable precautions or are not aware of it, you wouldn't be liable. Member Faherty asked if it was dedicated open space, would it be like having a conservation restriction. Mr. Resnick said yes. Member Faherty asked if anyone would be responsible for going out and making sure it's being maintained as open space? Or if there are any encroachments from a property owner that lives along the property line? Mr. Resnick said in other communities, Conservation Agents check properties. Also, with more than one homeowner in any of these associations, if a homeowner is doing something he shouldn't, usually another homeowner will call the Conservation Commission office or Planning office. Member Faherty agreed that neighbors are good at policing other neighbors. Member Knox said they really didn't need to make a motion as much as just put it on the agenda for the next meeting and have continued discussion and send in any comments.

Conservation Land (Highland Rd.) - Marc Resnick (Town Planner), distributed several maps of the property. He said this is property adjacent to Route 140, off Highland Road. He gave a brief description of the property. The owner would like to retain the barn and pond. There's a house in the middle of the property with a bunch of small animal sheds and barns. There is also a cell tower. This property also abuts the town owned Vigers conservation property and several properties that Wildlands Trust has a conservation restriction on. Mr. Resnick gave an overview of the property. This property is a total of 40-acres, with the owner looking to sell approximately 30-acres to the town. Mr. Resnick said he was looking to gauge the Commission's interest in accepting the land if the town was to negotiate something. Member Knox said he was aware that Mr. Resnick and Member Yeatts went on a site visit along with Amy Knox from the Open Space Committee. The owner acknowledged that he needed to do some cleaning out there. Member Knox thought that should be a condition. Member Yeatts explained that the owner was going to clean up some of the trails prior so more boards can go out. There is also a 30-foot easement that connects the property to Old Stonewall Road. Member Knox thought that would be good for maintenance access, but didn't think it would be good for public access. He also was concerned about access from Highland Road. If there were going to be walking trails, he would want to make sure that off Elliot Way there is suitable public access and a small parking area. Mr. Resnick said they had talked about having an easement off of Elliot Way for access to the property. Member Knox thought the easement discussion and access and legality should be part of the discussion for the

negotiation. It should be very clear that if the town is going to enter into this negotiation, that all of that is possible. Member LeBlanc asked if there was anything on these two parcels that would need to be maintained. Member Knox said keeping the trails clear. Member LeBlanc said he would want to know that they had the capacity to keep the trails clear. Member Knox said that for the Commission to approve the negotiation for purchase as long as legal access and easements are worked out, the property is cleaned up, and the town has the capacity to maintain. Member Yeatts said the more conservation restrictions the better, just being under the town or Article 97 doesn't protect. Wildlands Trust is a sustainable organization that takes care and oversees all of their properties. It would be worth it to pay the fee to Wildlands Trust in perpetuity and then they would watch the property. She explained that the town would own the property, Wildlands Trust would own the conservation restriction on it. They have staff that goes out. Mr. Resnick said Scott MacFaden from Wildlands Trust will be at the Open Space meeting Thursday at 5:30pm. The original purpose of Mr. MacFaden coming to this meeting was to begin discussion on how the Open Space Committee should be moving forward. Types of acquisitions and how to negotiate. Member Faherty thought it would make sense to take the property since there are wetlands on one piece and Hathaway Brook on the other. If the trail network can be extended from the Vigers property into this property, and Wildlands Trust has any conservation restriction allowability for trails. It would make the Vigers property bigger and more people get exposed to it, and maybe get volunteers to help maintain it.

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

Voted: to approve the negotiation for purchase as long as legal access and easements are worked out, the property is cleaned up, the town has the capacity to maintain, and public access/parking.
Unanimous approval.

Adjournment - (8:13pm)

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

Voted: to adjourn.
Unanimous approval.