

FINAL – Approved by the Conservation Commission at their January 12, 2016 meeting

**Town of Lakeville
Conservation Commission
Tuesday, December 8, 2015
7:00 PM – Lakeville Library**

On December 8, 2015, the Conservation Commission held a meeting at 7:00 PM at the Lakeville Library. The meeting was called to order by Chairman Bouchard at 7:00 PM. Members present: Robert Bouchard, John LeBlanc, Joseph Chamberlain, Peter DeFusco, Mark Knox, Derek Maksy, Martha Schroeder, Katherine Goodrow-Robinson, Associate, Nancy Yeatts, Conservation Agent and Christine Weston, Recording Secretary. Sarah Kulakovich, Associate, was absent. LakeCAM was recording the meeting.

7:00 PM

NOI – 33 Shore Ave. – Manny Bugginga – continued from November 10, 2015 mtg.

Chairman Bouchard stated that the following discussion is part of a continuation for 33 Shore Ave. *Manny Bugginga was present this evening for the discussion.* Mr. Bugginga stated that there had been some questions at the previous Commission meeting about the drainage. He recently worked on a project using filter fabric and natural stone (which filters water and acts as a drain) and would like to use this method. Mr. Bugginga showed a set of plans from this project where stones have been used to stabilize entrances, it is a better approach he stated. This is a cleaner way to get the job done. Member Knox explained that the Commission did not like work getting done without initial approval and was concerned about the water run-off from the concrete and steps into the water. Mr. Bugginga stated that a trench drain will not work. Member Knox asked if Mr. Bugginga was willing to rip out the stone wall? Mr. Bugginga responded that he would not be. Member Chamberlain explained that the issue was permeability and rain run-off, since the rain was not going into the ground. Mr. Bugginga showed how the pitch of the land and wall runs. He stated that nothing but natural water will hit the wall; anything else is caught by the stone.

Mr. Bugginga stated that he understands that this was not the way to do this but his daughter got hurt. They had to take her to the hospital to receive stitches. Chairman Bouchard explained that the water that hits the stairs will go down the stairs; the water that hits the patio will go to the center. He asked Mr. Bugginga if what he was proposing was; the concrete will stay concrete, there will be crushed stone, 1 ½” river stone with filter fabric and the pitch of the stone wall pitches to the water. If the Commission had a plan from the beginning it would have saved a lot of misery. Ms. Yeatts stated that herself, and Member Chamberlain were the only ones to visit the site. She stated that she did not understand the pitch. Member Chamberlain explained that it is not a visible pitch, the land is fairly flat, but the swale must carry water to the pond. Mr. Bugginga explained that the swale is between two properties. It is the contour of the land. Member Chamberlain clarified that any rain that falls will eventually go into the pond, but it is filtered if it is able to penetrate down through the soil and also enters the pond at a slower rate. However, with the river stone and the mesh, it should be fine.

Member Schroeder added that she has no quarrel with the wall. It is the extensive impervious coverage. The only argument to allow it to stay is that it would do more damage to remove it. Mr. Bugginga asked if the Commission wants him to pay \$1000 and get the project done or pay \$6000 to an engineer for engineering plans? Member Schroeder stated that the project as completed would not have been approved. Mr. Bugginga stated that he thinks the Commission has put him through enough hoops. Member LeBlanc stated that, Mr. Bugginga should have known better.

Member Chamberlain asked about life of filter fabric. Member Maksy responded that it lasts a really long time.

Upon a motion made by Member Maksy; seconded by Member LeBlanc it was:

**VOTED: To close the hearing and issue the Conservation Commissions Standard Special Conditions, including 1 1/2" riverbed stone, filter fabric as proposed, pending the receipt of a revised plan indicating drainage and where the water will go.
In favor 5, Oppose 2 (Member Schroeder and Member DeFusco)**

NOI –Pietro Panettieri – 139 Staples Shore Road

Chairman Bouchard read the notice of the hearing into the record. *Jen Silva, Wetlands Specialist from Outback Engineering was present with Mr. Pietro Panettieri.* Ms. Silva presented the plan. The present property has an existing cottage with a little porch. Last year plans were approved for a septic system and well. The plan is to tear down the existing cottage and put up a new house. The septic system layout may need to be moved. Mr. Panettieri stated that the proposal is to build a dwelling on the same size footprint of the existing building. The existing house is 34' from the road. The new house will be 30' from the road, this will have the new house further from the pond than the existing dwelling. Mr. Panettieri has spoken with Mr. Larry Perry, BOH (Board of Health), and he suggested to leave the tank the way it is, it will be less damage to the environment.

Ms. Yeatts went over her report. The filing is for razing an existing house and building a new house on Assawompsett Pond. The well and septic have already been approved. There is one outstanding condition on the old OOC for loaming and seeding near the well area. This condition shall be carried over to a new OOC, once the project is approved; then the old OOC can be closed. Mr. Panettieri explained that he understands that the Commission is concerned about the seeding around the well and he will do that. Ms. Yeatts stated that once the new OOC is recorded in Plymouth, the new one will be issued and the old one will be issued a COC. Ms. Yeatts asked where Mr. Panettieri would like the Order of Conditions sent? Mr. Panettieri asked for it to be sent to his address and he will do the recording. Member Schroeder stated that it is nice to see a project where it has been pulled back from the first 25'. Member DeFusco asked about the driveway? Mr. Panettieri responded that it would be paved since dirt is messy.

Upon a motion made by Member Maksy; seconded by Member Chamberlain it was:

**VOTED: To accept the new plan for 139 Staples Shore Road with the percent impervious coverage added.
Unanimous in favor**

It was pointed out by the Commission that the 973 square feet that was added to the plan in handwriting was not stamped by the engineer and is also not “percentage” coverage. Since Ms. Silva just found out about the driveway, the plans were handed back and it was asked that they be signed by the engineer. It was pointed out that Jason Youngquist, of Outback Engineering, needs to put the driveway and the percent lot coverage on the plan, and sign/stamp the plan. Member LeBlanc noted that the property is at 20% now by his calculations. Mr. Panettieri pointed out that he has another lot across the street, therefore the percent coverage will stay under 25%. Ms. Yeatts stated that the driveway material needs to be identified and if necessary included with the impervious coverage.

Mr. Panettieri asked if he needed to come back before the Commission when he was ready to raze the house? Member Maksy responded that he did not, once he puts up the silt fence and receives his permit he is ready to go. Ms. Yeatts asked that she be called to inspect the siltation barrier prior to the project beginning since people have not been calling lately. It is mandatory that the siltation barrier be inspected.

Upon a motion made by Member Maksy; seconded by Member Chamberlain it was:

**VOTED: To close the hearing for 139 Staples Shore Road pending receipt of a new Plan of Record including percent coverage, a description of the proposed driveway material, and issuance of a DEP number. To issue an order of Conditions that includes the loaming and seeding condition from the previous filing with all the Conservation Commissions Special Standard Conditions.
Unanimous in favor**

NOI –Lewis Gammons – 332 Bedford Street

Chairman Bouchard read the notice of the hearing into the record. *Jen Silva, Wetlands Specialist from Outback Engineering was present for the discussion.* Ms. Silva presented the plan. There had been a superseding OOC for property, for a commercial building that had expired. This plan is for a single family home. The percent coverage was not on the plan. Ms. Yeatts stated that Outback Engineering was notified to include the percent coverage on the plans. It is part of the submittal requirements. Outback had been notified by email. Additionally, the plan that the Agent had received and commented on for the Zoning Board is not the same plan submitted to the Commission. Ms. Silva explained that the driveway was moved. It is closer to the Wetlands. Ms. Silva explained that the area is raised up, there is an existing culvert there and rather than change it, the existing culvert will be used. Member Chamberlain asked why the driveway was made wider, it was 12’ and it is now 14’? Ms. Silva responded that she did not know why that change was made. Member DeFusco asked what material the driveway would be? Ms. Silva responded that it is typically blacktop. Member LeBlanc asked what Fire Department needed for

access? Member Maksy asked about the Natural Heritage boundary since he thought the edge of the pond was the line. Ms. Yeatts responded that it is off the pond. Member DeFusco asked how old the culvert is and its condition? Ms. Silva responded that she does not know condition of the culvert. Member Chamberlain stated that there has always been equalization of water on that road. Ms. Yeatts stated that now there will be construction trucks going over it. Member Schroeder asked about; “an alternative analysis”, what does it refer to and what are best management practices according to DEP”? The roadway is within 100’ of the river, and actually it is a lot closer than that in some places. How is the runoff from the driveway being treated, snow, plowed snow, etc? Ms. Silva responded that she did not know. She indicated that there may be a condition that they do not have to treat the water since it is far enough away from the river. Member Schroeder stated that she would like to see something in writing about the “Best Management Practices”.

Member Knox asked about the waterline going under the culvert? Will the waterline be rerouted? Ms. Silva responded that these are great questions and Mr. Youngquist was supposed to be present. Member Schroeder asked how long it has been since the previous project was proposed? Ms. Yeatts responded that it has been seven (7) years.

Member Chamberlain noted that a 270’ long driveway picks up and flows out a lot of water. It will be necessary to make sure that the water goes where it should and does not take part of the driveway with it. That is a lot of impervious area to be shedding water, where is it going to go, and what will it be carrying with it? Real care should be taken with this aspect. Typically any paved driveway 80’ or longer will give way to erosion at the edges. Ms. Yeatts stated that the Superseding OOC had calculations for the drainage. It will have siltation fence since straw wattles are not appropriate for the project. She asked that information be provided regarding the condition of the 24” culvert.

Upon a motion made by Member Maksy; seconded by Member Chamberlain it was:

**VOTED: To close hearing pending receipt of a new plan of record, issuance of a DEP number, explanation of best management practices regarding protection of the perennial stream and issue and Order of Conditions including Conservation Commissions Standard Special Conditions, all water and snow plowing coming off the driveway will be directed/piled away from the wetland/riverfront area.
In favor 6, Oppose 1 (Member Schroeder)**

OOC – Order of Conditions Form

A handout was provided by the Agent. She would like to change the cover letter from the Commission that goes out with all OOC’s. Member Maksy stated that he did not like the fact that the letter seems to be threatening the homeowners and the Commission works for them. Member Chamberlain stated that the letter is simply making sure that the project is able to proceed since if there are hold ups it otherwise causes problems to the homeowner, when the work cannot proceed. The letter is only advising the homeowner. Member Leblanc stated that it is better that the applicant is aware of what they need to do upfront. Member Maksy stated that

what needs to be done is on the plan. Chairman Bouchard noted that it is usually ignored. Ms. Yeatts mentioned a recent case. The foundation was in when she had found out about the project moving forward without the siltation barrier being inspected. She would have to otherwise put in place a stop work order. Then the project stops, the workers go home, they get paid and the hardship goes back to the homeowner. With this particular project though, the siltation fence was in and an excellent installation job had been done. However, it is happening more and more that people are not recording their OOC or calling in for the siltation barriers to be checked prior to the project starting. Ms. Yeatts explained that the letter was made to pull out the two (2) most important features since the OOC has so much in it. Member Schroeder asked Member Maksy to suggest other wording. Member Maksy and the Commission worked with the Agent and modified the form/cover sheet. Member Chamberlain added that it is important that the OOC be recorded.

Upon a motion made by Member LeBlanc; seconded by Member Maksy it was:

VOTED: To approve the amended wording for the cover letter/form regarding the two (2) primary conditions in the OOC that need to be completed prior to the start of a project.

Unanimous in favor

Other Business

a. Tamarack Park – Mike Schroeder

Member Schroeder explained that her printer is not working, thus she was unable to print out the information she had prepared regarding Tamarack Park. She then read it from her computer into the record;

Shortly after the purchase of Betty's Neck and Tamarack Park, I was asked to come up with a landscape idea for Tamarack. I did and was told to make it happen. In summary my plan was to remove the exotic invasive plants and replant the property with plants indigenous to Lakeville, donated when possible from Lakeville properties, creating a park filled with shrubs, trees and herbaceous plants that would provide food for native butterflies and other insects, birds and other animals. The work would be done by volunteers as an opportunity to learn about invasives control and native plants. Invasive remove provided to be daunting even with the three-year commitment of TEAMS a local environment group, so using funds raised by TEAMS I became a licensed pesticide applicator in order to use pesticides on the property in order to make the project more management and hopefully to draw in more volunteers, I divided the project into sections. Over the years, groups and individuals have made short term commitments to the park so that the bittersweet has been removed from several sections and the meadow has been established over an old parking lot and an unused septic field.

This has been a particularly good year in terms of volunteer help with 6 individuals putting in a total of approximately 90 hours removing invasives and other weeds, mowing, and planting, a third grade class buying and planting more than 20 pots of shrubs and perennials, a pack of cub scouts watering the new plants all summer and an Eagle Scout candidate building a kiosk and a park bench and repairing our old ones. A visitor to the park gave us a poster of dragon flies he has photographed at Tamarack.

Still after some 11 years, the project is a long way from being completed. Bittersweet is insidious and the cut-and-paint method of applying herbicide is time-consuming. Native plants are expensive and local

plants have rarely been donated. Deer and other herbivores, which do not care to lunch on bittersweet, have taken a toll both on our plantings of natives and also on natives that have seeded in naturally, native wildlife eating native plants but too vigorously to let them get established! Elderberry nibbled down to stubs by deer never produces the flowers and berries that would support other wildlife as well!

We have used the last of TEAMS funds meaning my license next year and the courses I am required to take need other support. The original project came with a small “endowment” of sixteen thousand dollars but I have never intended to use it as I felt the labor should be volunteer and the plants donated in order to create a sense of ownership. Rita has assigned assorted expenses at the park such as wall repair to this fund so I am not sure how much of it remains. For sure there is not enough to finish the project as originally planned.

I am now at a crossroads and must come up with a method of attracting more volunteer commitment or source of funding or the project will have to change radically, as an example, maintaining only a small part of it and letting bittersweet reclaim the rest or bulldozing the whole thing and turning it into what we really do not need in town, more grass. The project will change anyway when I reach a point that I can no longer manage it unless someone new takes it over who shares my vision. However I am hoping before that happens to get more sections established as well as the meadow so that even a casual observer will notice the interactions of wild beings there and respond to their beauty.

As Tamarack is officially a Conservation Commission responsibility I am seeking your advice and recommendations as to how I should proceed, especially for actions I might take this winter to draw volunteer labor and find funds for Tamarack.

Member Schroeder stated that she is looking for some advice. Member Chamberlain asked if the fund of \$16,000 has been depleted? Member Schroeder explained that she did not know. Member Schroeder did not want to use the fund money since at some point, when she is no longer able to provide herself to work there she wanted to make sure that there would be funds available to pass on to others. Member Maksy suggested to take the cost for the licensing out of the Conservation budget, and if there is no line item in the budget for it, to put it in. Ms. Yeatts stated that she would look into it.

b. Succinct version of Wetlands By-Law – Mike Schroeder

Member Schroeder stated that she is not a lawyer but has provided her best attempt at a Wetland Resources Protection By-Law for the Town of Lakeville. It is as follows;

Section 1: Under this bylaw the Conservation Commission of Lakeville, duly appointed by the Board of Selectmen of Lakeville, shall administer and enforce the provisions of the Wetlands Protection Act (MGL c. 131, s.40) and any amendments made there to, following the current Code of Massachusetts Regulations promulgated by the Department of Environmental Protection (310 CMR 10.00) and shall also administer and enforce the provisions in this bylaw as specified in Section 2 and Section 3 as additional protections to the Town’s wetland resources.

Section 2: In order to minimize changes to the natural quantity and quality of the flow of ground and surface water to wetlands and to provide a portion of adjacent upland necessary for the survival of most wetland-dependent wildlife, all new construction shall have a 25-foot no-touch zone (defined in Section 4) on the upland side of any wetland line.

Section 3: Vernal pools (as defined in Section 4) shall not be filled in and shall be given the same protection that bordering vegetative wetlands are given in the Wetlands Protection Act and in the Code of Massachusetts Regulations, including a 100-foot buffer zone with minimum disturbance.

Section 4: Definitions:

No-touch: the term no-touch shall mean no grading, no filling or dumping of yard waste or other debris, no paving or surfacing of any sort, and no removal or destruction of vegetation except for invasive exotic plants and no planting except for restoration of indigenous plants. The Commission may permit minor vista pruning, trimming for foot paths, or the placement of non-obtrusive boardwalks, railings, or stepping stones in a no-touch zone on a case by case basis as long as the impact is minimal.

Vernal pool: The term “vernal pool” shall include, in addition to scientific definitions found in the regulations under the Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The boundary of the resource area for vernal pools shall be the mean annual high-water line defining the depression.

Section 5: The same exemptions for agriculture, public utilities, and public safety as are granted under the Wetlands Protections Act (MGL c. 131, s.40) and the Code of Massachusetts Regulations (310 CMR 10.00) shall be granted under this by-law.

Discussion then took place on the handout as provided by Member Schroeder. Member DeFusco suggested instead of saying “Wetlands” say, “Resource Area”. And instead of; “No Touch Zone” say; “No Disturbance Zone” which is the more accepted lingo. With Section 3 it was suggested to use the wording; “Isolated Land Subject to Flooding” (ILSF) instead of “Vernal Pool”. Member DeFusco further mentioned that the Commission needs to come up with a size (of a vernal pool) that Commission agrees upon. Member DeFusco recommended that the Commission work on making Section 1 stronger before going onto the subsequent sections.

Member Maksy stated that the words; “may permit” in Section 4, which means may deny, will drop half of the town meeting voters right there. Ms. Yeatts stated that No Disturb has always had the caveat as New Construction only. Member Knox stated that it needs to be clarified, people with sheds, walkways, walls and maintenance as well, etc. Member Chamberlain noted that maintenance is accepted within the regulations. Member Knox remarked that it is not noted here, it needs to be clarified along with an explanation of what is grandfathered. Member Chamberlain stated that people can maintain seawalls, so why put it in a bylaw? Member Knox commented that if it is pre-existing, it can be maintained or repaired. Ms. Yeatts asked if it is the front or back of the house that faces the pond. She stated that it depends on how people feel about their house. Member Knox indicated that it needs to be clearly stated. Member Chamberlain stated that problem is, when the Commission has tried to put a bylaw on one-page people comment on how it does not say this, or it does not say that, so that when the Commission puts in what the people require, the bylaw turns into nine (9) pages, and then the people say it is too long. Member Maksy suggested to just complete Section 1. Member Schroeder stated that you cannot do just Section 1, you need something that is somewhat more restrictive. Member

Maksy stated that he can bring this to the Zoning By-law Advisory Sub Committee meeting on Thursday, since he is the liaison to that sub-committee for the Conservation Commission, and have them see if they want to entertain it. Member Schroeder stated that each Section had a good idea for a modification. Member Maksy mentioned about the; Right to Farm Community, though he was not sure how it works, but it might tie into Section 5. Member Schroeder commented that it started when manure was left on public streets. There had been an article in the newspaper. Member Chamberlain mentioned that someone called him about that, the group that has formed will be making presentation to the various boards.

c. Approve meeting minutes of 11-10-15

Upon a motion made by Member Maksy; seconded by Member Chamberlain it was:

VOTED: To approve the Conservation Commissions meeting minutes of November 10, 2015
as amended.
Unanimous in favor

d. Pay Bills (if necessary) - Bills to be paid are signed by Commission Members

Member Schroeder stated that she has a few books to donate to the Conservation's area in the library. Could she donate them to the library or does she have to bring them before the Commission to approve? Member Chamberlain stated that she could just bring them to the library. Ms. Yeatts added that she also has the additions of Northern Woods magazine from the previous year to donate to the library.

Schedule next meeting.

Next meeting: Tuesday, January 12, 2016 @ 7 PM, Lakeville Library Conference Room, Precinct Street.

Adjournment

Upon a motion made by Mr. Maksy; seconded by Member Chamberlain it was:

VOTED: To adjourn the Conservation Commission meeting at 8:50 PM.
Unanimous in favor

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