

Town of Lakeville
Conservation Commission
Tuesday July 14, 2020
7:00PM – Remote meeting

Members present: Chairman Bouchard, Joseph Chamberlain, Mark Knox, Nancy Yeatts, John LeBlanc, and Josh Faherty.

7 Forest Park Drive – Notice of Intent (NOI), Noll Family Trust -Outback Engineering. Elyse Tripp was present from Outback Engineering for discussion. Member Yeatts inquired about a certified abutters list. Ms. Tripp said she had one and would forward it to the Commission. This property needs a septic repair which would be within 100' of an intermittent stream that Ms. Tripp had flagged this summer. This is just outside 25' of the intermittent stream. This is a very large system and due to the well location and the space on the side of the house, this is really the only location for it. The reason for the large number of chambers is that the soil is silt loam, which was very poor so a lot more chambers were needed for infiltration. A silt fence is proposed around the leach field. Chairman Bouchard said he was at the site and everything looked good to him so he would like to recommend approval. Member Yeatts asked if they did an alternatives analysis would they be able to fit the system longer and skinnier up the side of the property and further away from the stream. Ms. Tripp thought that if that were feasible they would do that, but it would require a lot more access to the neighbor's property. Chairman Bouchard asked Member Yeatts if she was recommending an alternate location. Member Yeatts said no, but usually if something is that close to a stream, even intermittent, they usually do an alternatives analysis to see if it would fit up the side, longer and skinnier. But if not, she realized that it was a pretty small site and there weren't many places to put it. She just wondered if they had looked at anything else. Chairman Bouchard said it really is a tight space and moving it in any direction is going to have an additional impact on removal of vegetation. He did not see any benefits to it. Member Chamberlain asked if there was a name to the intermittent stream. Ms. Tripp said there wasn't. She said from what she could tell it's more of a drainage ditch, even on the other side of the road. It's more of a grass swale and water percolates through. It ends at the top of bank, 14 flag. Member Chamberlain asked if it was a feeder to Bates Brook which runs under route 105. Ms. Tripp said she didn't believe so. There is no channel past top of bank 14. Member LeBlanc asked if this had always been a three-bedroom home. Ms. Tripp said she wasn't sure of the history, but it is currently under agreement based on the septic being done.

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

Voted: to close the hearing and issue an Order of Conditions with Standard Conditions pending receipt of the certified abutters list.

Unanimous approval.

103 Staples Shore Rd. – NOI, Sena – Prime Engineering (continued). Spencer Lynds from Prime Engineering was present for discussion. There was a review of the site plan. The left side

of the lot will remain unchanged. On the right side of the lot there is an existing three-bedroom dwelling with a patio in back. They are proposing a slight increase in footprint of the dwelling which would increase the impervious area. To off-set that they are eliminating the patio. This creates a reduction from 33.7% impervious to 20.7% impervious. The existing septic system goes across the road to the other side and will remain unchanged. A letter from Natural Heritage has been received and it states this will not result in a prohibited take of state listed rare species. Member Yeatts asked if the proposed farmer's porch was going to be off the ground on footings. The porch will be on footings. Member Knox asked if the existing house was going to be torn down. Don Sena (property owner) said the house will be torn down. Member Yeatts inquired if the footings would be put in at the same time the foundation was put in and how the heavy equipment would access the lot. The machinery will be coming in from the existing right-of-way on the side. Member Yeatts said a condition that is usually put on is that any debris during demolition that goes into the water will be taken out right away. Member Knox asked if an excavator would be used to take down the house with trucks down the road to be loaded. Mr. Sena said yes, and he wasn't sure if there would be a dumpster. Member Knox thought it might be a good idea to have a higher fence to catch debris during demolition only, maybe an orange snow fence, since the hay bales will catch siltation but not blowing debris. Chairman Bouchard asked how close Mr. Sena was to his abutter. He said he was pretty close but the proximity to the abutter has been reduced.

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

Voted: to close the hearing and issue an Order of Conditions with the Standard Order of Conditions for before, during, and after construction and also to include an orange snow fence will be installed during demolition so nothing will blow into the water. Also, the building materials during demolition, if not removed that day, should be covered if not removed from the property.

Discussion: Chairman Bouchard asked when they would start the work. Mr. Sena said he still needs to meet with the Zoning Board of Appeals, and then go back to the architect. He said he would like to take the house down in October. Chairman Bouchard asked that Mr. Sena notify the office what the schedule will be.

Unanimous approval.

3, 5 Malbone St. – NOI, Malloch Construction – Zenith Consulting Engineers. Nyles Zager was present for discussion. They are proposing a 20' common crossing to access both properties (3&5 Malbone) since both properties are encumbered by wetlands along Malbone St. A smaller crossing could be done on 3 Malbone, but there still needs to be access to 5. This common crossing would be the least impactful if both properties are taken into account. An alternatives analysis was done to see what would have the least impact. They are proposing a 20' wide gravel drive with two 12" culverts on each side to allow water to pass through so there will be no damming of water. They will be accessing through the wetland to the back area. This filing will also include the building of a single-family home on lot 5, while lot 3 has not been designed yet. The 20' wide is for fire access code. There was a review of the driveway cross section. They are proposing a replication area of about 8,200s.f. There was a review of the replication plan. Since there was an area of wetland that replicated itself, they have added additional area to

account for that. They are proposing a 1.3 ratio, or 30% more area than required. Member Yeatts asked the area size for replication. Mr. Zager stated it was 8,247s.f. Member Chamberlain asked the size of the common drive. Mr. Zager said it was 12' of pavement with 4' of gravel (crushed stone) on either side. Member Chamberlain asked if there is a standard for common drives that they be 16', two lanes of 8. There was a brief discussion regarding the common drive. Member Knox asked if there would be an access easement on each property for the other party. Mr. Zager said there would, and they could add a homeowner's association, set up for maintenance of the common drive. Member Yeatts said since they didn't know what was going to happen with lot 3, that they have exceeded the replication and maybe there should be no more replication. Could they add a condition that no more replication, or wetland filling can be allowed on lot 3. Member Knox asked if they did the crossing and the replication was approved, would there be enough land to add two houses and not encroach on the wetlands again. Mr. Zager said there was. There was a brief discussion about the replication plantings. Mr. Zager reviewed the plan for 5 Malbone with the Commission. The only things within the 100' buffer zone and within a small amount of the 50' are the grading, the septic system, about 1/3 of the home and the extension of the driveway. There are erosion control measures in place as well as dewatering basins.

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

Voted: to close the hearing and issue an Order of Conditions for 3-5 Malbone St. including the Standard Order of Conditions and the Standard Order of Conditions for replication and an additional condition that no more filling of the wetlands on either lot 3 or lot 5.
Unanimous approval.

5 Harding/39 Cross - This is a continuation for an NOI. Nyles Zager from Zenith Consulting Engineers said they were waiting for a peer review from Nick Lanney which they haven't received back. They would like to have any changes implemented before coming back to the Commission so they are asking for a continuance to the next meeting.

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

Voted: to continue to July 28th at 7pm.
Unanimous approval.

43D Committee Representative - Chairman Bouchard said it has been requested that a member of the Commission serve on the 43D Committee. He said he was interested and would like the Commission's support. He asked if anyone else had any interest. Member Chamberlain asked if that was the expedited permitting process. Member Knox said it had to do with the Smart Growth overlay district put over the entire town for any property over 50 acres would be subject to the Smart Growth overlay district guidelines (43D expedited permit process). Every Board or Committee is to send one representative to create a committee that will review all aspects of the plans prior to projects going to the Boards, Commissions or Committees. Member LeBlanc asked if this pertained to the hospital. Chairman Bouchard said

it did include the hospital. Member LeBlanc asked if that was why it was a priority. Member Knox said it was.

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

Voted: to appoint Chairman Bouchard as the 43D representative for the Conservation Commission.

Unanimous approval.

Meeting Minutes –

March 10, 2020 –

5 in favor, 1 abstention (Knox – not present at 3/10/20 meeting).

April 28, 2020 -

Unanimous approval.

7 Charbonneau Ave - Chairman Bouchard reviewed the Request for Determination of Applicability (RDA) that the homeowner's association filed regarding a dock that an abutter placed on the beach area without permission. The homeowner's association would like a positive determination so that this dock would not be permitted since the abutter does not have the town's permission and this is a resource area. The Commission voted at the last meeting that a letter should be sent to the Department of Environmental Protection (DEP) to give some guidance or resolve on their own. Chairman Bouchard spoke to Mr. Viveiros (association president), and he wanted a quicker response, rather than a letter, go to DEP and get a determination as soon as possible since several abutters and members of the association are getting irate over the situation. Mr. Viveiros spoke with someone at DEP and they will be getting back to Chairman Bouchard to come up with a resolution. If Chairman Bouchard doesn't hear back by Friday, he will try to get something verbally from DEP and if not, he will send a letter. If there is no response, they could do a cease and desist. Chairman Bouchard said even though this is a civil matter, and there are safety issues, it is still an impact on a resource area. Member Yeatts said she believed a cease and desist would be a better approach. She said she didn't think they ever saw the paperwork for the RDA and would like to see the actual filing that was done. There was discussion about jurisdiction. Member LeBlanc asked if the process for a dock is through DEP. Chairman Bouchard said for a Chapter 91 license, DEP wants to hear from the Commission first to make a recommendation for approval. Member Knox said based on the condition that it's a community with an association, if we don't act and in turn be silent and allow this, would this set the precedent that we allow it for anyone in the association to put a dock in. He added that if there is 50-100' of shore and 50 association members, what would 50 docks look like in 50'. He thought the determination route might be the way to go. According to the president of the association, the abutter/homeowner that took on this challenge is causing quite a stir and disrupting the association's efforts to have a beach and area for boats. He is getting a lot of pressure from the rest of the association so he would like to get it done as soon as possible. Chairman Bouchard thought a cease and desist may not be the best route. Member Yeatts reiterated they really need

guidance from DEP. Chairman Bouchard said they can issue a cease and desist but beyond that, they have no enforcement ability. Member Yeatts said a copy of any cease and desist goes to DEP as well. Member Knox questioned if they sent a letter to DEP requesting guidance and DEP made a positive determination is that within the Commission's powers to do that. Member LeBlanc asked if the Commission had access to Town Counsel. Member Knox thought they could draft a question and see if the Town Administrator would send it to Town Counsel. Member LeBlanc said he thought they should find out if they have the authority before they act. Member Chamberlain suggested that Chairman Bouchard reach out to MACC since they have legal people on staff. Chairman Bouchard said he would talk to Nate Darling and see if he has any insight on how to handle this. In the meantime, he will continue to try to get through to DEP so they can get some guidance from them.

Adjournment – (8:08pm)

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

Voted: to adjourn.

Unanimous approval.