

TOWN OF FARMINGTON
INLAND WETLANDS COMMISSION

September 18, 2019

Present were Chairman Hannon, Commissioners Isner, Simpson, Statchen, Wolf and Alternate Commissioner Berlandy and Assistant Town Planner and Clerk. The meeting was called to order at 7:00 p.m.

Chair Hannon requested a motion to add an item to the agenda, Notice of Intervention, to consider the request for Intervenor Status as submitted on September 16, 2019 by Gregory and Jessica Gerratana.

Upon a motion made and seconded (Isner/Wolf) it was unanimously

VOTED: To add Notice of Intervention to consider the request for Intervenor Status as submitted on September 16, 2019 by Gregory and Jessica Gerratana to the agenda.

Notice of Intervention – Gerratana - 11 Dorset Lane

Upon a motion made and seconded (Isner/Wolf) it was unanimously

VOTED: To grant Intervenor Status to Gregory and Jessica Gerratana at 11 Dorset Lane as requested.

Chair Hannon briefly commented on what the courts have said about Notices of Intervention and then proceeded to explain how the public hearing will proceed moving forward.

PUBLIC HEARING

Jason Levesque – Lot 9A1 Main Gate

Application for regulated activity within watercourse, wetland and upland review area to construct road with related improvements for four parcels at Lot 9A1 Main Gate (adjacent to 6 Main Gate). Continued from the September 4, 2019 meeting. Chair Hannon noted a number of documents received since the last meeting that are part of the record. Attorney David Markowitz was present and stated he represents the applicant. Brian Cunningham, P.E., Robert Green Associates, LLC, commented they have made some updates to the plans and reports which has been submitted for the record prior to this meeting that include; adjustment to the conservation easement on Lots 3 & 4 to the top of slope; addition of a conservation easement to the rear of Lots 1 & 2; copy of deep hole testing that had been done with the original plan to provide septic systems for each home; assessed what is happening hydraulically at the site; responses to Steve Trinkaus' letter stating his responses for the record; direct impact to wetlands is limited to the area on either side of the culvert being replaced – 125 sf upstream and 110 sf downstream; responded to comments regarding pollutants noting the homeowners association will have an integrated pest management plan regarding maintenance of lawn areas and a storm water system maintenance plan. Mr. Cunningham commented on his analysis regarding stormwater flow pre and post development adding there will be no increase in peak flow out of the 30-inch pipe. He confirmed that the headwater elevation is lowered 1.25 ft at the culvert inlet with the installation of a 30-inch pipe, based on his calculations. The Town requires a pipe sized for a 50-year storm event and described the method of calculation he has used for 35-years. He did not use an additional method of calculation.

Jennifer Beno, Biologist/Wetland Scientist, Soil Science and Environmental Services, Inc., visited the site July 24, 2019 with the plans to observe the wetland functions and values and conducted an assessment for impacts of the proposed development. In December 2017 three areas of on-site wetlands were delineated; a larger area within the southeastern portion of the project site, located approximately 10 to 12 feet down slope of the proposed project area, whose primary functions include groundwater discharge, floodflow alteration, possible fish habitat, sediment and nutrient retention and removal, and wildlife habitat; a small area in the northwest corner 10 to 12 feet down slope of the proposed development area associated with a larger off-site wetland, whose primary function includes groundwater discharge and wildlife habitat; a western wetland area that was previously impacted with the installation of a 24-inch pipe culvert for construction of the existing gravel driveway crossing, whose primary functions include groundwater discharge and wildlife habitat. Her report adds that a culvert pipe allows water to flow from the north side of the driveway to the south side of the driveway crossing. In this area approximately 235 sq. ft. of direct wetland impact is expected due to culvert installation and placement of stone inlet and outlet protection. This is required to upgrade the road to a conforming road and cul-de-sac for the proposed subdivision. Ms. Beno stated she observed the presence of invasive species and recommended they be removed and managed in the buffer areas. She also recommended a low or no maintenance seed mixture/wildflower mix in the vicinity of the outlet. South of the culvert she suggests planting non-invasive native shrub species by hand. Additionally, she stated she checked the updated Natural Diversity Database and no Federal and/or State listed Endangered or Threatened species or Species of Special Concern are known to exist on the site.

Mr. Cunningham responded to concern voiced by neighbors about Curtains Pond; the natural topography of Lot 2 is bermed along the property line and prevents runoff from this site to the pond. The development is not proposing a change to the berm. Lot 3 and 4 grades away from the house at the rear of the property toward the southeast wetland and watercourse.

Erich Baumgartner, P.E., Thornton Thomasetti, Inc., provided a letter regarding the proposed retaining walls. He stated a licensed Geotechnical Engineer will need to evaluate soil borings taken at the site and provide a Geotechnical Report. Based on the report they can determine the most efficient and environmentally responsible retaining wall type and supporting foundation.

There was discussion between the Commission and Mr. Cunningham regarding whether the drainage from Curtains Pond will change as a result of the proposed development. Mr. Cunningham responded no. Regarding the exterior details of the retaining walls the addition of decorative facing to the visible portion was discussed. Mr. Cunningham responded a knoll on 6 Main Gate blocks the view of the wall. There was discussion regarding the wall height. The Commission next commented that at the September 4th meeting they asked the applicant to address feasible and prudent alternatives. Attorney Markowitz stated he will include the response in his summarization. Mr. Cunningham stated the plan balances the impacts of the new culvert; the plan meets the Town's guidelines for the roadway and that there is no room to move the roadway. Mr. Cunningham was asked to clarify the location of the natural berm/ridge on Lot 2; he used the site plan for clarification of the height and area elevations. The Commission asked Ms. Beno to classify the wetlands on site and if there were any other recommendations to mitigate impacts. Ms. Beno responded she would classify the wetlands to the southeast as moderate to high but limited due to the number of invasive plants, the wetland at the culvert crossing is a lower quality as it is already disturbed and the wetland at the northwest corner is really a small section of a larger system. To mitigate impacts, she recommends saving as much existing vegetation as possible. The Commission asked if the

Geotechnical testing has been done yet. Mr. Baumgartner responded no, he did not believe so. The Commission expressed concern that they don't have final structural retaining wall information and that they would like to have it. Mr. Cunningham stated the retaining wall is seven feet from the closest wetland. The Commission asked if there was any opportunity to move the inlet closer to the wall. Mr. Cunningham said he chose not to, to give the contractor room to perform the work to install the retaining wall. There was further discussion regarding the retaining wall. The Commission if Mr. Baumgartner could confirm that the footing for the retaining would not get closer to the wetlands regardless of footing type. Mr. Baumgartner agreed that this could be accomplished. The Commission asked questions about construction rights / easements in place allowing the work to proceed on adjacent properties as shown on the plans. The applicant indicated that discussions with the neighbors were on-going with respect to the necessary easements. There were additional questions from the Commission regarding the constructability of the walls at the culvert crossing and the need for cofferdams, etc. Mr. Cunningham indicated that construction would take place during low flow time periods and sand bags would be used to facilitate the construction of the new culvert. The Commission confirmed water quality measures in place and noted that the water quality unit must be a ConnDOT approved unit. The applicant confirmed the catch basins will have 2-foot sumps. The Commission noted that chain link fence is not aesthetically appropriate along the top of the retaining wall adjacent to the culvert. Mr. Cunningham agreed and indicated they will likely install a steel handrail.

Attorney David Baram represented the Intervenors Mr. & Mrs. Gerratana at 11 Dorset Lane. He provided copies of and reviewed updated comments from Stephen Trinkaus of Trinkaus Engineering LLC. Mr. Trinkaus generally commented that he believes that the calculations used by Mr. Cunningham were inaccurate and not appropriate for developing a hydrograph and that the plan's details are lacking. He also felt the water quality unit is not sufficient to treat the stormwater prior to discharge to the watercourse. The Commission asked Mr. Trinkaus to quantify his responses; he commented minor impacts over time could become more significant and identified limits to the calculation methods used. The Commission asked Mr. Trinkaus if he visited the site. He responded no; he does not have permission to do so. They asked him why he feels the new outlet protection will erode if the existing one is not. Mr. Trinkaus stated he feels the runoff from the new road will overwhelm the scour hole. There was also discussion regarding the use of brine on roadways as a snow removal technique. Mr. Trinkaus believes the proprietary water quality units are insufficient to adequately remove suspended solids and pollutants from the stormwater, citing University of New Hampshire studies.

Attorney Baram distributed a number of documents to the Commission for review and discussion. These included a statement on Prudent and Feasible Alternatives, Intervenor Highlights of Engineering issues, case law summary: George L. Finley (Stew Leonard) vs. Inland Wetlands Commission of the Town of Orange; and a more detailed summary of the court case. Attorney Baram summarized, noting the court case indicated that the Commission must have sufficient information to make an informed decision on impacts; he does not believe the applicant has addressed staff comments adequately; the applicant has no definitive permission from the adjacent property owner to work on the retaining wall. Attorney Baram also summarized his Prudent and Feasible Alternative memo for the Commission.

The applicant and intervenor both declined to cross-examine one another. Therefore, Chairman Hannon opened the meeting to public comment.

Tom Ciravolo, 6 Main Gate, asked if a row of pine trees on his property will be compromised due to the construction of a wall, he does not want to lose the trees. Mr. Cunningham is

investigating further. Mr. Ciravolo commented on the Homeowner's Association and maintenance of road, storm water system and lawn maintenance fertilizers. He questions how the stormwater elements will be maintained and how is it enforced.

Chair Hannon clarified that this Commission only has purview over wetland and watercourse related impacts of the proposal.

Marie Dudley, 52 Dorset Lane, read into the record and provided a copy of a letter requesting that the 15-foot side yard setbacks on lots 2 and 3 be designated as conservation easement area.

Elenor Reid, 48 Dorset Lane, expressed concern with runoff into the wetland behind her house and concern with erosion of the embankment.

Commissioner Statchen asked Attorney Baram to clarify his purpose in submitting the case law information to the Commission. Attorney Baram indicated that it is used as an analogy and general information, that if the Commission is lacking substantive information that the item cannot be left as a condition of approval, it must be provided during the hearing.

Attorney Markowitz commented that the requested conservation easement along the side yard setback of Lot 2 renders the lot infeasible. They feel what has been proposed is appropriate and provides a sufficient buffer. He proceeded to describe the meaning of feasible and prudent as defined in the regulations. Regarding concern with runoff into the wetland area behind 48 Dorset Lane. Stormwater will run off to the wetland area as it does today, there is no change to the drainage pattern for this portion of the property. He summarized the criteria the Commission uses in their decision process; little work proposed within the wetlands, he cited Robert Fuller, and noted that there will be a declaration filed on the land records providing specific maintenance of the storm water system, the roadway and lawns. All staff comments related to wetland concerns have been addressed. Attorney Markowitz disagreed with Attorney Baram's statement regarding feasible and prudent alternative, he explained that they are neither feasible or prudent as measured against the definitions. Although Attorney Markowitz appreciates concerns voiced, he does not believe they are sufficient to deny the application. He asked that the hearing be held open to obtain the geotechnical report and an update regarding the retaining walls and finalize whether the wall in front of 6 Main Gate can be moved enough to protect the row of pines.

At 10:03p.m. a motion made and seconded (Wolf/Statchen) it was unanimously

VOTED: To continue the Jason Levesque public hearing to the October 2, 2019 meeting.

The Commission noted the following outstanding issues:
Hydrologic analysis – the Commission relies on Town Staff and their evaluation;
Geotechnical analysis/report for the retaining walls; and
Whether there are open Staff comments.

NEW BUSINESS

Anchor Engineering Services, Inc. - 12 Northeast Road

Regulated activity within upland review area to regrade/fill area south of existing driveway. Jason Manafort, 12 Northeast Road, stated he is in the process of replacing his driveway and would like to add fill and regrade his front yard. He has an application for special permit because of the amount of fill he will need to regrade his yard. Additionally, he needs wetland approval for the work proposed within the upland review area. The Commission explained they would like details on how the fill will be compacted for stability. There was further discussion regarding the slope stability and the off-site watercourse.

Upon a motion made and seconded (Isner/Simpson) it was unanimously

VOTED: To accept the Anchor Engineering Services, Inc. application for regulated activity within upland review area to regrade/fill area south of existing driveway at 12 Northeast Road.

The Commission agreed they will not need to conduct a site walk.

Architectural Building Services – 8601 & 8602 Palazzo Drive

Private roadway connection to Plainville Avenue and grading for detention basin related to two-lot resubdivision. Robert Palazzo reviewed his site plan regarding resubdivision of Palazzo Drive. Wetlands are located on the opposite side of Plainville Avenue but a portion of the opening of Palazzo Drive is within the upland review area. The Commission was asked if they could either accept the wetland application or make a determination that an agent review application was appropriate. After a brief discussion the Commission came to consensus that because the proposal is not one single family parcel it would be appropriate to require the wetland application or the Commission to review.

Upon a motion made and seconded (Isner/Wolf) it was unanimously

VOTED: To accept the Architectural Building Services application for private roadway connection to Plainville Avenue and grading for detention basin related to two-lot resubdivision.

The Commission agreed they will not need to conduct a site walk.

Upon a motion made and seconded (Statchen/Berlandy) it was unanimously

VOTED: To make the determination that the Architectural Building Services application for private roadway connection to Plainville Avenue and grading for detention basin related to two-lot resubdivision was non-significant and does not require a public hearing.

PLANNER'S REPORT

Dana Hinman – Lot 8520 Mountain Lane

Assistant Town Planner Rutherford provided an update on the condition of the site. Staff continues to monitor the erosion and sedimentation control measures at the site. Final limits of grading were discussed with the contractor to get the site stabilized for the winter.

88 Birdseye Road

An existing lot behind a lot of record has been determined to be a lot of record and can be developed. George Logan has walked the property and there are no wetlands on the property. Based on the Town GIS mapping and NRCS Soil information there are wetlands on the adjacent property. Approximately 1,000 sq. ft. of upland review area will be impacted to get the driveway in and to do grading around the proposed home. The Commission was asked to make a determination on whether a wetland application was needed. After a brief discussion the Commission made the determination that an application is needed.

MINUTES

Meeting Minutes

Upon a motion made and seconded (Wolf/Statchen) it was unanimously

VOTED: To approve the September 4, 2019 Inland Wetlands meeting minutes.

The meeting adjourned at 10:41 p.m.

SJM