

**Town of Auburn
Conservation Commission
Public Hearing
December 6, 2016**

Members present: Peg Donovan, Vice Chair, Alan Villeneuve & Ed Fehrenbach, Members. Richard Burnham, Alternate.

Absent: Jeff Porter-Chairman, Diana Heaton, Member. Stephanie Hanson, Alternate.

Others present: Eric Mitchell, Luis Arteaga and Michael Rolfe.

Mrs. Donovan called the meeting to order at 7:03 p.m. and moved on to the first discussion.

NEW BUSINESS

Mrs. Donovan elevated Mr. Burnham to full voting status for tonight's meeting.

James Gordon

214 Steam Mill Road, Tax Map 2, Lot 3-31

Discuss encroachment into wetland buffer/open space

Seasonal Skating Rink

Mrs. Donovan asked Mr. Gordon to begin the discussion with regard to a request for a skating rink. Mr. Gordon began by saying that he would like to have a 40 by 60 foot skating rink on the side of his house. Mr. Gordon indicated that he did not know there was a buffer zone in that area and presented the Board members with a package of pictures showing the skating rink area. Mr. Gordon went through the photos with the Board members and explained the area which would include temporary lighting. Mr. Fehrenbach commented that he has seen it and just found out that the proposed skating rink was not on Mr. Gordon's land but in fact was within the open space. Mr. Gordon stated that he knew there was common land there but was unsure where it was exactly. Mr. Gordon further added that he had spoken with Mr. Eaton as well. Mr. Fehrenbach added that with regard to the open space that the Conservation Commission would have nothing to do with that as it would be up to Mr. Eaton or the Association. Mr. Gordon thought that if he could get the town's approval that he could then go meet with the Homeowner's Association and possibly get Mrs. Rouleau-Cote's blessing. Mr. Fehrenbach asked if they were allowed to put structures within the open space. Mr. Villeneuve and Mrs. Donovan did not believe it had anything to do with the Conservation Commission with regard to the open space. Mr. Villeneuve added that they could not take space from the open space because the open space was dedicated to open space and would have to be dealt with the Homeowner's Association or Espana Building and Development, who was the current owner. A brief discussion ensued with

regard to the open space which would have to be dealt with Espana Building and Development.

Discussion ensued with regard to the wetland buffer and the Conservation Easement buffer. Mrs. Donovan asked Mr. Gordon if Mrs. Rouleau-Cote said anything about the wetlands. Mr. Gordon stated that she did not say anything about wetlands but what she did say was that before the association was started that there was a zone one and that if he brought before the Conservation Commission that they could rezone one, two and three. Mrs. Donovan informed Mr. Gordon that they don't zone. Mr. Gordon believed that maybe the Zoning Board of Adjustment. Further discussion ensued with regard to the structure being within the wetland buffer and common area. Mr. Villeneuve explained that there was a drainage easement and the drainage structure and ditch which are in the buffer as well of which is already disturbed. Discussion ensued with regard to the setbacks.

Mr. Fehrenbach commented that he has seen it and that he did not see an issue as it was a temporary use and that it was just water and that no chemicals were being used as it was just a place for the kids to play. Mrs. Donovan added that they could not make a decision with regard to the open space. Mr. Villeneuve indicated that all they could talk about was the buffer.

Mrs. Donovan asked Mr. Gordon where the lights would be placed. Mr. Gordon indicated that the lights would be placed on both sides of the skating rink close to the rink and a couple of lights on his shed. Further discussion ensued with the number of trees that were removed to put the skating rink in. Mr. Gordon added that most of the stuff was brush of which he just threw into the old foundation that was located within the open space. Mrs. Donovan asked about the tree in the photo that shows a placard on it and informed Mr. Gordon that he could not go passed that. Mr. Gordon stated that there was a drainage buffer before the tree with the placard which was approximately 60 feet from his house. Mr. Fehrenbach asked what the encroachment was and Mr. Gordon stated that he was in the open space but that he was also encroaching into the wetland buffer. Mr. Gordon further added that the skating rink was temporary as it would be taken down around April and put back up in November. Mr. Fehrenbach asked if the lights were permanent. Mr. Gordon said no.

Mrs. Donovan asked Mr. Gordon if he had talked to Mr. Eaton. Mr. Gordon indicated that he had spoken with Mr. Eaton but he was against as he is President of the Homeowner's Association but that everyone uses the skating rink and that within a year he will be turning it over to the Homeowner's Association. Mr. Gordon indicated that he did not believe it would move forward if the town doesn't let him move forward and did not believe there was any reason to talk to Mr. Eaton as he was giving him a hard time but believed if he approached the Homeowner's Association that they would approve it. Mrs. Donovan asked about the liability. Mr. Gordon believed it would be something they could do about a liability policy. Mr. Fehrenbach believed it was on the Association land and wanted to know what he wanted from the Board tonight. Mr. Gordon stated that he had spoken with Mrs. Rouleau-Cote and she put him in touch with Mr. Porter. Mr.

Gordon believed if he received the Conservation Commission's blessing that he could then go before the Zoning Board and they could rezone it to zone three and then Mrs. Rouleau-Cote could sign off on it. Discussion ensued with regard to the wetland behind the property.

Mrs. Donovan asked the Board members for their perspective and Mr. Villeneuve stated that from a perspective of anything going into the wetland that the impact would be minimal but from a perspective with regard to wildlife or habitat that everything has been cut out of there and will always be cut out of there because of the drainage structures are forced to be cleaned and maintained by the town. Mrs. Donovan asked if the whole rink was dismantled. Mr. Gordon said yes.

Mrs. Donovan stated that she believed that the Conservation Commission was okay with it but that Mr. Gordon would have to take it up with the open space people and Mr. Gordon understood that he needed to get approval from Espana Building and Development. Further discussion ensued with regard to the use and structure and whether or not it constituted a temporary structure. Mr. Fehrenbach did not believe it was a structure. Mr. Villeneuve also pointed out the clearing in the wetland buffer as there is an encroachment in the wetland buffer because it has been deemed less vegetated. Mrs. Donovan asked the Board members if something should be written up to that regard. Mr. Fehrenbach added that it should say something like "it would not be hazardous to wetlands" or something to that effect and they cannot say anything about the use of that land because it was not in the Board's jurisdiction. Mr. Villeneuve added that "as presented that it would not have any adverse effect on the performance of the buffer."

Mrs. Donovan asked Mr. Gordon if he had the letter that was sent to him by Mrs. Rouleau-Cote, Building Inspector. Mr. Gordon said that he did not have it on him. At this time, Ms. Royce obtained the file that contained the letter from the Building Inspector. Mrs. Donovan and the Board members reviewed the letter. Mrs. Donovan believed that if Mr. Gordon moved the skating rink over then he would not even be in the buffer. Mr. Gordon believed he would still be within the buffer. At this time, Mrs. Donovan stated that they could say that the way it has been presented that there would be minimal impact to the wetland buffer. Mr. Villeneuve thought they could take a site walk to see but believed that the pictures showed the location. Mrs. Donovan asked Mr. Gordon if he could move it over closer in one area. Mr. Gordon indicated that there was a propane tank in that location.

Mr. Villeneuve reiterated that he did not believe that a skating rink constituted an issue within the wetland buffer as it was a temporary item. Mrs. Donovan added that it was about five (5) months. Mr. Villeneuve added that as long as it was just water. The Board members agreed.

Mrs. Donovan stated that they could say that "the way that the ice rink is proposed as presented in the revised plan that the Conservation Commission is in agreement with its placement in relation to the wetland buffers." Mr. Villeneuve pointed out that he would

not say agreement but would say “there are no adverse effects that the Board is aware of seeing the placement” because the Board does not agree with what he is going to do but there is no greater threat to the wetland. The Board discussed how to word the final decision. Mrs. Donovan pointed out to Mr. Gordon that the Board was not going to reclassify the wetland.

In Conclusion, the Board discussed whether a letter needed to be drafted or were the minutes enough. Mrs. Donovan decided to say that “upon review of the revised plan that the Board sees no adverse effects on the impact to the wetlands.” Mr. Villeneuve added that Mrs. Donovan could just send an e-mail to Mr. Poltak and to the Zoning Board of Adjustment as well detailing those things. Mr. Gordon thanked the Board and exited the meeting.

Eric Mitchell
On Behalf of Luis Arteaga
10 Anderson Way, Tax Map 5, Lot 19-7
Discuss reduction in wetland buffer

Mrs. Donovan asked Mr. Mitchell to explain what his goal was because this was not on the agenda for discussion tonight. Mr. Mitchell began by saying that it was regarding Lot #7, 10 Anderson Way, Luis Arteaga. Mr. Mitchell stated that they were before the Conservation Commission a few times to try and reduce the 125 foot wetland setback. Mr. Arteaga has since purchased the property and there was discussion about putting in a pool or not putting in a pool. Mr. Mitchell passed out copies of a stormwater summary for yard improvements to each of the Board members to review. Mr. Mitchell talked about the proposed location of the pool along with the berm in the back of the property. Mrs. Donovan asked if the pool was in the far distant future. Mr. Mitchell explained that Mr. Arteaga’s children are 6 months and 3 years old currently and that they believe that the variance is only good for 2 years if they do not construct the pool so he is looking at being able to utilize the backyard to throw the ball around but is looking at putting a pool in sometime in the future when the kids are older. Mr. Mitchell explained the backyard and the location of trees as well as the wall that is on the property. Mr. Mitchell also pointed out on the plan which shows a green line which is where they would like to extend the buffer from 125 feet down to 85 feet. Mr. Mitchell stated that they are going before the Zoning Board of Adjustment to request a variance to allow the use in the back for a swimming pool and the use of the yard and if he decides to put the pool in before the 2 years are up or if he has to seek an extension then he will do so at that time but he would like to utilize the backyard as a backyard.

Mr. Mitchell further explained to the Board members that there was a note on the plan with regard to draining the pool and stated that most people don’t drain the pool totally but just enough to prevent it from freezing. Mrs. Donovan asked Mr. Mitchell what he was looking from the Conservation Commission. Mr. Mitchell indicated that the ZBA would be looking for the Conservation Commission input with regard to the request to reduce the buffer from 125 feet down to 85 feet. Mr. Mitchell stated that once they go

before the ZBA and if it is granted then they would go for a building permit. At this time, the Board members and Mr. Mitchell discussed the slope of the backyard and location of the pool and the grade and bringing in fill to bring the grade up in the back of the property. Mr. Villeneuve had some concerns with regard to bringing in fill and exactly how much fill would be brought in and what that would mean for drainage to the wetlands. Mr. Mitchell explained that there would be a berm in place to prevent drainage to the wetlands and that they would make sure that all the grades stay within the setback of the 85 feet. Mr. Villeneuve did not have a problem with trying to use the backyard, however, it seems like it's a very steep pitch. Mr. Mitchell talked about terracing the area to make sure that the pool surface was no higher than 4 feet from the edge of the buffer. Mr. Villeneuve stated that his issue was to not push the hill further out closer to that wetland and disturbing past 85 feet whether you do a pool or not.

A brief discussion ensued with regard to fertilizers and Mr. Mitchell indicated that they could use natural or organic fertilizers. Mr. Mitchell asked the Board if they had some sort of speck to use and believed some areas lime is the only thing you are able to use. Mr. Villeneuve indicated that Mr. Porter would know. Mr. Fehrenbach asked Mr. Mitchell where they were going next. Mr. Mitchell indicated that they were meeting with the ZBA next Tuesday night.

Mrs. Donovan asked if they were moving the buffer on the other side as well. Mr. Mitchell said yes so that it would give them more room and they are asking for the wall to be the berm. Mr. Villeneuve asked what type of vegetation would be removed. Mr. Arteaga stated that there were no trees. Discussion ensued with regard to reducing the buffer on the other side. Mr. Fehrenbach suggested possibly doing a site walk. Mrs. Donovan asked the Board if a site walk would change their opinion. Mr. Villeneuve added that he was okay with saying no disturbance beyond 85 feet in the back. Mrs. Donovan indicated that she could not justify reducing the side buffer. Mr. Villeneuve stated that it would depend on what it is. Mrs. Donovan believed that they would need to do a site walk. The Board members were in favor of doing a site walk and it was decided that the site walk would take place on Saturday, December 10th at 8:00am.

In conclusion, the Board members would be conducting a site walk on Saturday, December 10th at 8:00am with Mr. Mitchell and Mr. Arteaga.

Eric Mitchell
On Behalf of MStimes 2 Property
20 Commercial Court, Tax Map 1, Lot 16-25
Discuss potential addition to existing building

Mr. Mitchell began by passing out copies of a minor site plan and began by explaining what they are proposing was a 42 by 48 foot addition to an existing building. Mr. Mitchell further added that they are going before the Zoning Board next Tuesday and proceeded to talk about the buffer which would be 96 feet in one corner to a Level 3 wetland. Mr. Mitchell stated that this building was constructed prior to the wetlands

ordinance and the buffers. Mr. Mitchell stated that when they were before the Board last month that the Board members that were there spoke of that and asked about putting a berm along the edge of which there is an existing berm as he went out there to look at the site. In terms of the use of the existing building which is used for car repair and the new building would be used for vehicle storage for long term projects and would be used to store other vehicles as they have had problems with people coming and stealing tires at night and this way they will be secure. Mr. Mitchell added that nothing would be changing and in fact would be better as vehicles would be parked inside instead of outside. Mr. Mitchell stated that the building would not be heated but would have only electricity. Mr. Villeneuve asked if there would be drains inside the building. Mr. Mitchell said no. Mr. Villeneuve asked if there was any drainage on the site. Mr. Mitchell explained that there is no catch basin and showed the location of the runoff. Mrs. Donovan believed it was already pretty developed. Mr. Fehrenbach did not believe it would change anything and believed this would give a little more protection.

Mrs. Donovan asked Mr. Mitchell what their next step would be. Mr. Mitchell commented that they were going to the Zoning Board next Tuesday night as well and then would need site plan approval with the Planning Board. The Board did not have any issues and stated that they were okay with it. Mrs. Donovan indicated that she could send an e-mail.

At this time, Mr. Mitchell thanked the Board and exited the meeting.

OTHER BUSINESS

Review the NH Assoc of Conservation Commission Meeting attended on 11/12/16 by Peg Donovan

Mrs. Donovan wanted to talk a little about the annual Conservation Commission meeting that she attended on November 12th and informed the Board members that she had attended three (3) presentations and the keynote speaker was upbeat and said that we were going to be great for the next thousands of years. Mrs. Donovan attacked the invasive species, the change in climate, the population and the pests and insects. A brief discussion ensued with regard to the 3 presentations that Mrs. Donovan attended.

Mrs. Donovan also talked about doing an outreach program and had a specific idea about that. Mrs. Donovan also noted that a few times they have talked about doing something with Southeast Land Trust and doing a community talk at the library about educating Auburn residents about easements. Mrs. Donovan also stated that she asked them if they would be willing to work on a project with the school and one of the things that she was thinking about was they had somebody that came to them in their last meeting that he said he was interested in doing an easement and was unsure why he would do an easement but was open to doing something like that. Mrs. Donovan believed that this would be a good project to do a land plan for an easement and help a homeowner. Mrs. Donovan wanted to see what the feeling was with our Conservation

Commission with doing something a little more creative and getting more of the town involved and educating the teachers. A brief discussion ensued with regard to Mrs. Donovan's suggestion.

A brief discussion ensued with regard to doing a day of cleaning out invasive species as well. Mr. Rolfe talked a little about clearing the invasive species in an area within the Town of Auburn. Mrs. Donovan suggested pairing it with the eighth grade class and doing an invasive species removal day.

A discussion ensued with regard to NRCS (National Resource Conservation Services) and putting some bird boxes up and possibly contacting them. At this time, Mr. Rolfe and Mr. Fehrenbach gave the contact information to Mrs. Donovan.

MINUTES SEPTEMBER MEETING

Mr. Burnham moved to accept the minutes of November 1, 2016 as written, Mr. Fehrenbach seconded the motion. A vote was taken; all were in favor with Mr. Villeneuve abstaining, and the motion passed.

OLD BUSINESS

None noted.

ADJOURN

Mr. Villeneuve moved to adjourn the Hearing. Mr. Fehrenbach seconded the motion. All were in favor, the motion passed unanimously and the meeting stood adjourned at 8:45 p.m.

The next Conservation Commission meeting will tentatively be held at the Town Hall, 47 Chester Road on Tuesday, January 10, 2017.