

**Town of Auburn
Conservation Commission
Public Hearing
January 3, 2017**

Members present: Jeff Porter-Chairman; Peg Donovan, Vice Chair; & Diana Heaton Member. Richard Burnham, Alternate.

Absent: Ed Fehrenbach, Alan Villeneuve, Members. Stephanie Hanson, Alternate.

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

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

NEW BUSINESS

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

Eric Mitchell

On Behalf of Luis Arteaga

10 Anderson Way, Tax Map 5, Lot 19-7

Discuss reduction in wetland buffer

Continued from December 6, 2016

Mr. Mitchell began by distributing copies of a proposed plan that the Board reviewed at the last meeting. Mr. Mitchell began his presentation by saying that they were before the Board tonight regarding Lot #7, 10 Anderson Way and that Luis Arteaga was the owner and they were before the Conservation Commission last month to seek relief of the 125 foot wetland setback down to 85 feet. Mr. Mitchell talked about the last meeting where he was asked to show where the grading and drainage would be and they submitted a drainage report showing that the drainage would be coming down behind the house and that there would be no increase in runoff. Mr. Mitchell talked about the contours of the property as well as the backwash area and informed the Board that there was a note on the plan as far as any draining for the pool or draw down in the fall as well.

At this time, Mr. Mitchell went on to talk about the site walk that had occurred on December 10th of which three (3) of the Conservation Commission members did attend and one of the questions that had come up at the last meeting was regarding the tree line and which side of the wall were they on and so at the site walk everyone walked out there. What they are looking for is to create a larger backyard that would be usable and pointed out on the plan the relief that they are looking for from the wetland buffer. By obtaining this reduction, it would allow the homeowner a usable backyard of which he

would eventually like to put in a pool and did not believe the reduction would be as much of a concern to the wetland because of the way the water flows.

Mr. Mitchell went on to say that they were before the Zoning Board of Adjustment last month of which they requested a continuance to be able to go back before the Conservation Commission to discuss the site walk and that they are on the ZBA at the end of this month. Mr. Porter believed that what the Board would be looking at was two (2) things of which would be a request for a reduction to the wetland to support the pool or a lawn against that rock wall. Mr. Mitchell said yes, but there is no intention to put a lawn in completely but wanted to come in and ask for something that they believed was reasonable. Mr. Porter asked Mr. Mitchell if his ZBA request was for a reduction in both areas. Mr. Mitchell said yes.

At this time, Mr. Mitchell talked about the grading plan and pointed out that any fill in the back would be within the existing tree line. A brief discussion ensued with regard to what amount of grading would occur in the back of the property. Mr. Mitchell indicated that the grading would be four (4) feet or less. Ms. Heaton asked about the berm and if it was in place now or was it included in the future plans. Mr. Mitchell stated that it would be part of this proposal. Mr. Mitchell explained that there was not one in place currently but that they would be putting one in alongside the pool area. Mrs. Donovan said that it sounds like the pool would be put in within the next two (2) years. Mr. Mitchell stated that Mr. Arteaga was present tonight and that he could speak to that but believed that he wanted to utilize the backyard for his children to play in but that he would like the ability to put in a pool. Mrs. Donovan had a concern that she had at the site walk and that she did not really want to move the setback on the side area because she believed the area was growing back and that the area had revegetated and was concerned about cutting off the revegetation along the stone wall.

Discussion ensued with regard to possibly putting in a shed and a lawn and to flatten the area out so they were looking for a reduction from the 125 foot setback down to 85 feet in that area.

Mr. Arteaga stated that he didn't want to take any trees down and pointed out that he just moved into the house and was unsure how long he would be there but had no plans to move anytime soon.

Mr. Burnham talked about what he saw on the site walk which was buildable lots and that he felt that it was not a buildable house but a big house on a lot with a lot of acreage and believed that they would have a slope no matter what. Mr. Porter understood Mr. Burnham's perspective and believed that this lot was flatter than many lots in the Town of Auburn. Mr. Porter talked about dry wells and how they tried to put one in, in New York. Mr. Mitchell stated that a dry well was permitted in the State.

At this time, Mr. Porter talked about the amount of fill they were looking at doing that would change the grading. Mr. Mitchell pointed out that it would be mostly on the backside of the pool area which would be a 3 to 1 grade. Further discussion ensued

with regard to grading and the amount of fill. Mr. Mitchell ended the discussion by saying that if relief was given that he believed was a reasonable request. Mr. Porter asked Mr. Mitchell if he had to fence the pool in. Mr. Mitchell asked if it was a requirement within the Town of Auburn. Ms. Royce said yes. Mr. Mitchell stated that it would then be fenced in and if it had to be shrunk down then they would shrink it down a little bit.

Mr. Porter talked about the berm being high and trying to keep the tree in tack. Mr. Burnham commented that if it were him that the first thing he would do is cut those trees down because it will be casting shade onto the pool and not to mention leaves which was his opinion only.

Mr. Porter asked the Board members if they had any further questions. None were noted. Mr. Porter asked the Board members to make a recommendation or vote on it. Ms. Heaton made a comment about the berm that she believed would affect the berm and the rain flow and had no concern with the area that the shed would be in but had a problem with the pool and water flow. Discussion ensued with regard to the retaining wall, slope and the request for reduction in the wetland buffer.

Ms. Heaton reiterated that she did not have an issue with the request for reduction in the location of the shed but did have an issue with the reduction for the pool as she believed it would affect the water flow. Mr. Porter asked what the requirements were for a retaining wall. Mr. Mitchell did not believe there were any requirements other than dealing with the slope with the retaining wall.

Ms. Heaton moved to permit the wetland reduction on the East side of the property but not on the South side of the property.

Mr. Porter asked for comments. Mr. Burnham began by saying that he goes back to what he said earlier about the buildable lot and that it was unfortunate that it had come to this where the builder built a house on a lot where he knew what the circumstances were and then Mr. Arteaga came and purchased the property and now the owner feels that his needs are different than what the intended purpose of the home and the lot were. Mr. Burnham explained that it was tough for him because he appreciates the process and all and did not like how the rules were getting overlooked and tweaked at times. Mr. Mitchell stated that the Zoning Board of Adjustment commented that they much rather have the homeowner come before the board and tell them what they need as opposed to giving relief for something that was unknown so they withdrew that application before the ZBA. At this time, Mr. Mitchell reiterated that he still believes the request was reasonable and that when Mr. Villeneuve was here, he asked to have a drainage study prepared of which they have done.

The Board discussed the purchaser requesting the reduction and Mrs. Donovan talked about the plan and indicated that it had changed where they added the request for the side reduction. Mr. Arteaga explained that they have always talked about moving the wetland setback to be the rock wall and that he does want to put a pool in and it may

happen within two (2) years or it may be a little bit longer. Mr. Porter talked about a buildable lot and the Planning Board process of looking at what is a buildable lot and reiterated what he had said earlier with regard to the amount of fill being more than he thought would have occurred and how best to deal with that. Mr. Porter pointed out that there was a motion on the table right now with the acceptance of the side wall lot but not to the back wall lot. Ms. Heaton indicated that she did not have enough information to say that she would support the pool so maybe she should retract that motion and make the one as follows:

Ms. Heaton moved to make the motion exclusively for the reduction of the buffer on the East side.

Mr. Porter stated that he would recommend that she make a motion to vote on the reductions for the ZBA for basically both sections and whether they agree then they would vote on that.

Ms. Heaton asked Mr. Mitchell if there was a copy of the drainage study. Mr. Mitchell stated that a copy was provided previously to the Board members and added that he had another copy with him. At this time, Mr. Mitchell provided the Board members with a copy of the drainage study. Ms. Heaton asked if there was a summary of the change. Mr. Mitchell directed Ms. Heaton to sheet #2 which says "Drainage Summary" which was basically a quick sentence. Ms. Heaton stated that, that was the piece of information that she did not have and believed that Mr. Mitchell has done the work and after reviewing the drainage study, Ms. Heaton removed her previous motion and made the following motion.

Ms. Heaton moved to accept both reductions to the buffer, Mr. Burnham seconded the motion. A vote was taken; Ms. Heaton voted in the affirmative and both Mrs. Donovan and Mr. Burnham voted against, and the motion did NOT pass.

Mr. Porter asked the Board members if they would like to make a counter proposal. Mrs. Donovan stated that she was actually okay with the pool going in but was a bit disturbed by the amount of fill that would have to come in for the grading and that it was the side that she was challenged by so she would accept the buffer proposals to include the pool but not the side. Mr. Mitchell wanted to add that, if the Board was okay with one location to be reduced to a certain amount and if there would be a consideration to say that no trees are to be cut within 10 feet of the stone wall that this would be something they could do to keep the trees with the exception of the location of the shed. Mr. Mitchell further stated that they were not looking to make a lawn or regrade that area and if there is a 10 foot separation with the exception of the shed then they would do that. Mrs. Donovan explained that after seeing the area where it has revegetated itself is an issue. A brief discussion ensued with the area that has revegetated itself. Mr. Porter asked the Board members if they would support a 10 foot buffer. Mrs. Donovan said yes and made the following motion.

Mrs. Donovan made a motion to accept the proposed buffer reductions to include the pool area and the side setback except for the location of the proposed shed to be no less than 85 feet and that the rest of the buffer to be no less than 95 feet, Ms. Heaton seconded the motion. A vote was taken; all were in favor, and the motion passed.

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

**Jason Morin
135 Steam Mill Road, Tax Map 2, Lot 9-29
Discuss Potential Detached Garage to
Encroach into the Wetland Buffer**

Mr. Morin began by passing out copies of a proposed plan and photos of the proposed area to be discussed tonight with the Board members. Mr. Morin stated that the property was located within the Wethersfield Subdivision and that the property was very flat. Mr. Morin explained the location of the proposed two bay garage that he would like to build which would be detached from the existing home and would mirror the current garage off the house. The proposed two car garage would be 24 feet by 30 feet which would allow them a place to store the kid's power wheels, bikes as well as other items. Mr. Morin further explained that there was also a water setback on the side of the house and that he was before the Board members tonight to obtain approval from the Conservation Commission and then move on to the next step. The Board members reviewed the photos and proposed plan that was presented to them. Mr. Morin also informed the Board members that his property abutted conservation land.

At this time, Mr. Morin opened up the discussion to any questions that the Board might have. Mr. Porter asked Mr. Morin why so big? Mr. Morin stated that it was for the depth because he wanted it to match the existing house and that he had a truck that was 21 feet with the hitch and that he did not want to take away from what was already there. Mr. Morin added that he was a truck and car guy and that he had three (3) vehicles and needed a place to put the truck somewhere. Mr. Morin also noted that he looked at a lot of ways to configure it and really wanted to make it look right and with the size of the vehicle that 24 feet was needed. Mr. Burnham asked Mr. Morin if he wanted the garage doors to face each other. Mr. Morin said yes. A brief discussion ensued with regard to the location of the garage as well as the size. Mr. Porter indicated that it would be challenging. Discussion turned to possibly attaching it to the existing house. Mr. Morin stated that if he were to attach the garage to the existing house that it would be a lot more costly because the driveway would have to be extended and that the garage was a side entry as well. Mr. Porter talked about the disturbance within the buffer area. A brief discussion ensued with regard to the buffer disturbance which would be near an open space. It was noted that the encroachment would be within the wetland buffer which was already reduced during the subdivision approval from 125 feet down to 75 feet. Ms. Heaton explained to Mr. Morin that the reason he was sent to meet with the

Conservation Commission was because of the encroachment into the wetland buffer because the buffer was already reduced from 125 feet down to 75 feet.

Mr. Porter explained that if he chose to go the next step that he would have to go before the ZBA for a reduction in the wetland buffer and would have to be really supported with some pretty serious mitigating requirements. Mr. Burnham brought up the idea of attaching it to the house again. Mr. Porter indicated that extending the roof line to add onto the existing house was a plausible option. Mr. Porter thoughts were how to steer him away from the wetland buffer because the land was pretty much flat and talked about the excavation and fill for the garage and understood that attaching to the house was not Mr. Morin's plan but it was something to consider. Mr. Porter again reiterated that by having that support would really have to be justifiable and that he was not in support of placing the garage in the location that Mr. Morin was hoping to put it but suggested that he make his case before the Zoning Board of Adjustment. Mr. Porter commented that, if Mr. Morin had plans and he wanted to pursue it before the Zoning Board then the Conservation Commission members would take a look at the final plans and go from there.

Ms. Heaton wanted to explain to Mr. Morin so that he would understand was that, when he sees a significant reduction already like 50 feet that there would be great reluctance to give further relief because now you're only 75 feet from a wetland that you should be 125 feet away from.

In conclusion, Mr. Morin believed he would have to go back and rethink this through for a new location. Mr. Porter believed Mr. Morin had other options to weigh out and pointed out that the Conservation Commission was an advisory board and they have no vote but can make recommendations. Mr. Morin informed the Board members that he has evaluated adding to the house and adding to the back of the house and most of them don't make sense because he is actually going to be impacting both the property and the setback and believed that where he wanted to place the garage would be less of an impact and would still look good from a visual and a cost standpoint. Mr. Morin pointed out the cost to add to the back would be little but the negative impact of attaching it to the existing house because you then get close to where the gas tanks are and the well and it would cut you off from the backyard. Mr. Porter stated that it was now up to Mr. Morin to make the decision on what he wanted to do.

At this time, Mr. Morin thanked the Board members for their time and the Board thanked Mr. Morin for a great presentation.

OTHER BUSINESS

Ms. Heaton asked about information on Easements. Mr. Porter indicated that he did not get anything back yet but would pursue it again.

MINUTES DECEMBER MEETING

Mrs. Donovan moved to accept the minutes of December 6, 2016 as written, Mr. Burnham seconded the motion. A vote was taken; all were in favor with Ms. Heaton abstaining, and the motion passed.

OLD BUSINESS

Mr. Porter asked the Board members if there was any old business. None noted.

ADJOURN

Ms. Heaton moved to adjourn the Hearing. Mrs. Donovan seconded the motion. All were in favor, the motion passed unanimously and the meeting stood adjourned at 8:54 p.m.

The next Conservation Commission meeting will tentatively be held at the Town Hall, 47 Chester Road on Tuesday, February 7, 2017.