

**Town of Auburn  
Conservation Commission  
July 8, 2014  
7:00 p.m.**

**Members Present:** Chuck Joy (chair), Alan Villeneuve, Ed Fehrenbach, Peg Donovan, Stephanie Hanson

**Others Present:** Tim Ferwerd, Vern Dingman, Sharon Ramos, Rich Ramos, Eric Mitchell, Tom Sokolski, Jane Cooper, Naomi Edwards, Jesse Edwards, Steve Fabonio, Denise, Fabonio, Mickey Rolfe

Meeting Called at 7:06pm

**Eric Mitchell – for Maverick Development, Pingree Hill Subdivision – Tax Map 5, lots 29-36**

Eric Mitchell was present to talk about the proposed wetland impacts of this plan. He said he spoke with the Planning Board and they would like a through road, however, the road this plan suggests goes right through a vernal pool. Town regulations require 125' buffer around vernal pools so there is need for remediation if the variance to go through was granted. Mr. Mitchell is planning to create three "vernal pools" as a counter to going through an actual one, he asked the commission for questions and comments.

T. Ferwerd claimed that about 2000-3000 square feet of wetland will be impacted. Alan Villeneuve noted another vernal pool listed on the plan and asked if the commission had seen that one. Ferwerd said "that wetland has a 25' setback planned." There was some discussion about proposed house placement on several lots. Chuck joy said the biggest question is where the developers are planning to locate the created "vernal pools". A. Villeneuve asked the size of the vernal pool they want to go through. E. Mitchell said the entire pool is 6000-7000 square feet but they say they will impact 5,000 sq. ft. of the vernal pool and about 3000 sq. ft. for the crossing. Peg Donovan asked if they had received any data from people in Massachusetts that had attempted to recreate a vernal pool, the developer was supposed to find out from them whether it was successful and if so, how long it had taken to establish. T. Ferwerd said no, he had not followed up with that.

C. Joy noted that the developer had no information to offer about the success rates of created vernal pools. A. Villeneuve said that it may be more than a vernal pool as ducks flew out of the pool and there is a deep end, in addition, he queried what the overall impact to the vernal pool would be, more than just the section they propose to be working over. T. Ferwerd said if the animals want to survive they will move to the area that is not "directly" impacted, adding that it is difficult to say how great the total impact would be. E. Mitchell said all crossings will have curbing, so the water should not go directly into the wetland. A. Villeneuve added unless of course, nature thinks otherwise, he included that he has concerns about the slope of the road, and a giant struggle with the proposed because this area is one of the best vernal pools seen on their site walks. C. Joy agreed, saying there is great canopy. P. Donovan concurred as well. T. Ferwerd said he did not think it was a big vernal pool.

S. Hanson asked about the setback from the wetland between lots 9 & 10, T. Ferwerd said that

would be 25'. A. Villeneuve asked where they plan to go then if the "created" pools were not successful? T. Ferwerd said that will be part of the permitting process, if not successful, they may be required to try another spot. C. Joy said one of the issues he has is they cannot guarantee the success of any of the "created pools" they are planning to construct and they have no data to support the success of them. T. Sokolski said they had transplanted some salamander eggs from a productive to nonproductive pool in Henniker and were waiting to see if they were viable, also they had wood frogs breeding in a created pool and after four years spotted salamanders (DATA TO SUBSTANTIATE?). S. Hanson said you are asking for permission to do something that has not been done before yet offer no overwhelming data on how you plan to make sure they are successful. T. Ferwerd said "hopefully they will find it on their own" P. Donovan and C. Joy expressed dismay that the developer was banking on "hopefully the animals will find the created pools on their own". S. Fabonio added "I think it will still function, the animals will instinctively continue to use it, as it is a pretty significant pool." A. Villeneuve said "I have not seen the overwhelming evidence that this will be successful or that the disruption won't kill the vernal pool." T. Ferwerd said the area will be monitored, so A. Villeneuve asked if a bond will be put into place to re-establish the pools if they failed, Ferwerd answered "no because the E.P.A. does not require that." A. Villeneuve said there is no overwhelming evidence compelling him to support the proposed, C. Joy added he does not feel comfortable endorsing it, P. Donovan and E. Fehrenbach agreed. E. Mitchell said he appreciated the feedback good or bad before they filed their application and the commission would get a copy once it is filed and would have forty days to respond.

A. Villeneuve asked if there were any more details about the stream crossing. E. Mitchell responded about the culvert they planned to use, he added that this design is an "open space subdivision". C. Joy asked if they intend to show the layout of a traditional subdivision as well as the cluster as regulations for a cluster subdivision require. E. Mitchell said the road placement is set regardless because of the wetlands. A. Villeneuve responded "so the only way to get the number of homes you want is to call the plan a cluster even though it is a through road, this is taking advantage of the regulations." C. Joy added that "the town has a regulation that says you cannot put more houses in a cluster than you could a traditional grid subdivision. A cluster is supposed to have less impact than a traditional grid." A. Villeneuve said "you should have fewer homes with a cluster and you are getting more." He continued "I have no support for this and I do not think it is the best approach for dealing with the vernal pool and the property. There has not been enough information presented about created vernal pool success or enough assurances that you will make it work. It is a very nice piece of property for development, but the vernal pool is an issue to get past." S. Hanson agreed that there was not overwhelming evidence to support and that they had not provided any additional environmental benefits to offset the destruction. She added that if the Commission supports this then they will be setting a precedence for the future and that the town is getting nothing additional as an offset to a significant wetland crossing. T. Ferwerd said they plan to create three replacement pools, as suggested by the E.P.A. who said at least one could be successful. S. Hanson again pointed out that this would then be a 1:1 replacement and that there is nothing extra to offset the impact of something that has never been supported before. Ferwerd replied "do you want us to do four or five?" P. Donovan asked if they had any parameters for the construction of the vernal pools, to which Ferwerd replied all would be different. E. Fehrenbach asked what the plan was should they all fail. Ferwerd answered that depends upon what the DES says.

The discussion continued along these lines, with back and forth about the actual impact crossing a third of the vernal pool would have upon the area as a whole. E. Fehrenbach asked if it would be less aggravation for the developer to just purchase a house lot since he owns the

land on either side of the vernal pool. S. Fabonio, the developer, answered that the lots were not cheap, and if all the “created vernal pools” failed, he would not be opposed to doing what was necessary to get them to be successful. E. Fehrenbach asked how he would guarantee that, S. Fabonio did not have an answer.

C. Joy said he believes the town’s zoning ordinances are designed to protect the environment.

### **Eric Mitchell for Lover’s Lane subdivision (Jean Gagnon, developer)**

Mr. Mitchell mentioned that they had not yet filed their wetland crossing permit. Wetland scientist Tom Sokolski said he took a look at the functions and values of the wetlands and there was a stream crossing area that had already been disturbed, so this was where they placed their crossing. He spoke about the interconnectedness of the wetlands and how the levels of the areas change in their opinion according to their functionality. They have based their proposed setbacks accordingly. A. Villeneuve asked about the setbacks lines in lot 1, he did not see how the house and yard would fit and asked how big the lots were. E. Mitchell responded that the lots will be from  $\frac{3}{4}$  of an acre to 1 acre. A. Villeneuve said so you are down to for a house and yard and thus expressed concern about the distance to the large body of water and the capacity for the homeowner to add all those items, pool, patio, shed, etc. that they invariably want in a  $\frac{1}{2}$  acre. Jane Cooper, an abutter, who has property on Calef Lake, noted that silt in the lake has been increasing ever since the building on Lover’s Lane began. Ms. Cooper wondered if it would only continue to increase. C. Joy said he had spoken with Carrie Cote, the building inspector, about that and she has information about it.

E. Mitchell said he knows the Commission has concerns about decreasing the buffer below 125’, then continued to talk about using the highway method of wetland determination, and asked for questions and comments about their proposal. A. Villeneuve said you are asking us to change our procedure which has always been to go lot by lot for support on setbacks to just give a blanket approval for the whole regardless of the wetland status. A. Villeneuve added, that despite what Mr. Mitchell thinks the town regulations say, he has an issue with several of the proposed lots, and how things will fit in them. C. Joy mentioned he spoke with a state conservationist who said, according to the state of NH if a contiguous wetland contains a vernal pool, the whole thing is considered a vernal pool, and they do not give different levels to contiguous wetlands. A. Villeneuve said it is not the job of the Conservation Commission to protect future homeowners from having to ask for permission or get variances, but rather to help the developer create a sustainable environment. He added, going lot by lot makes sense as this development has varying levels of wetlands, and he suggested they maximize the protection around the open water. C. Joy asked them to return with house placements drawn on the plan for each lot, making it clearer to conceptualize where porches, pools, sheds etc. will go and therefore help determine whether a reduced setback is appropriate. E. Mitchell responded that they had not filed yet and would return.

### **Bunker Hill leach filed for in-law addition – Rich and Sharon Ramos**

Mr. V. Dingman spoke for the Ramos’ saying they were told to move the leach field, however it is not failing and meets the criteria, and is further from the pond, he went through the minutes from the last time they were at the commission and did not see where it said the leach field needed replaced. He added that it was constructed in 1983 but was dormant for a bit between homeowners and leach fields a/re able to rejuvenate after dormancy.

There was discussion about leach fields. A. Villeneuve said he would like to see a design of

one outside the existing leach field. V. Dingman said they could put a caveat in writing in the deed that says a replacement will have to be 125' away.

A. Villeneuve – Motion to propose that the Conservation Commission supports an addition to the leach bed that cannot be replaced in kind at future date and a test pit outside of the 125' setback upon failure of the existing leach field.

E. Fehrenbach – Second

All in favor, motion passes

### **Gazebo Construction - 33 Rattlesnake Road – Naomi and Jesse Edwards**

Built a screened in gazebo that is within the wetland setback, did not get a permit, and so are now working with C. Cote to rectify that. C. Joy said C. Cote would like him to get a conditional use permit, and the commission should probably take a look at the area. A. Villeneuve asked that they create a plan with the dimensions on it and return for the August meeting.

The commission scheduled a site walk for 7/9/14 at 5:00pm.

### **Approval of Minutes**

A. Villeneuve - Motion to approve minute of May meeting

E. Fehrenbach – Second

All in favor, motion passes

### **Site Walk on Steam Mill**

C. Joy said they were at this site to decide what needed to be done to restore the buffer around a shed/patio/playground area, he added that the building inspector said the home owner needs a conditional use permit regardless [\[ES1\]](#), however he thought the homeowner was under the impression he could proceed. E. Fehrenbach said disagreed saying the commission made it clear the homeowner needed to go to the building inspector for whatever they wanted to do.

A. Villeneuve - Motion to adjourn

E. Fehrenbach – Second

All in favor, motion passes

Meeting closes at 9:22pm