

**Town of Auburn
Conservation Commission
Public Hearing
August 2, 2016**

Members present: Jeff Porter-Chairman, Peg Donovan, Vice Chair, and, Members. Stephanie Hanson & Richard Burnham, Alternates.

Absent: Alan Villeneuve, Diana Heaton & Ed Fehrenbach, Members.

Others present: Michael Rolfe.

Mr. Porter called the meeting to order at 7:04 p.m. and introduced the Board members to everyone present and elevated Mr. Burnham to full voting status for tonight's hearing.

NEW BUSINESS

**Eric Mitchell
On Behalf of Strategic Contracting, Co.
Anderson Way, Tax Map 5, Lot 19-7
Zoned Residential One**

Mr. Mitchell presented on behalf of the applicant, Mr. Starace as well as the potential purchaser of the property. Mr. Mitchell explained that they were before the Conservation Commission as well as the Zoning Board of Adjustment back in February 2015 requesting relief from the 125 foot wetland setback to a Level One wetland. Mr. Mitchell further explained that at that time, the Commission was not in favor of reducing the buffer and when they went to the Zoning Board they did not want to give something just to give it as they would prefer to have the homeowner come in to request relief specifically for what they would like to do. Mr. Mitchell pointed out that, the proposal that they have before the Board tonight was to seek relief from the 125 feet down to 85 feet. Mr. Mitchell indicated that they were before the Zoning Board last week which was Tabled because they had yet to go before the Conservation Commission. The particulars of the lot itself are that it contains 5 acres and that the house is almost completed and the septic system is located in the front yard. Mr. Mitchell explained that they currently have approximately 30 to 40 feet to the 125 foot setback and what they are proposing to do is to have it reduced down to 85 feet which is where the stonewall exists. Mr. Mitchell talked about the plantings and fencing and passed out a copy of a couple of pictures of the backyard as it exists today. At this time, the Board reviewed the photos. Mr. Mitchell indicated that the proposed purchaser of the home would like to put in an inground pool which would be 20 feet by 40 feet with a 10 foot area around the sides of that which brings it to about 40 feet. Mr. Mitchell also talked about the back

slope of the land and the grading which would then also allow a deck off the back of the house. Mr. Mitchell passed out copies of an aerial view of the property showing the location of the foundation which was taken from Google Maps. Mr. Mitchell pointed out that the land slopes away from the house and so they are requesting a reduction down to 85 feet from the Board tonight.

Ms. Donovan asked if the Board supports the setback change what would happen with the pool proposal would they have to come for a pool plan. Mr. Porter explained that if they were looking for a reduction to the wetland buffer would be through the Zoning Board. If the Conservation Commission supported the reduction then the Zoning Board would either approve it or deny it. A brief discussion ensued with regard to the pool.

Mr. Burnham asked Mr. Mitchell if the house has been sold yet. Mr. Mitchell stated that it has not closed but that the house is under agreement. Ms. Hanson asked if the rock wall would follow the 85 foot buffer and if so how high was the rock wall. Mr. Mitchell stated that the rock wall was approximately 2 to 3 feet tall. Ms. Hanson asked if any trees would be removed. Mr. Mitchell said no as they proposing the setback to be where the wall is.

Mr. Porter explained his take on the whole thing and that they would probably get support from the Zoning Board but in the absence of having a plan in front of the Board members for a pool and the fact that the house has not been sold yet that he felt that they were trying to make a condition for something that did not have to be requested at this point in time. Mr. Porter further stated that they have been saying all along that they would prefer to seek relief from the homeowner. If it does come before Planning or Zoning for a pool that they should take it up then and that it should not be a precursor for selling the house. Mr. Starace added that the potential purchaser will be the homeowner. Mr. Porter added that they still have not seen a plan for the pool yet. Ms. Donovan wondered if the prospective owner would not close on the home if this was not granted. Mr. Starace stated that it was right in the contract that it would give him the option to pull out. Mr. Porter reiterated that it should be done by the homeowner when the time comes and that currently, Mr. Starace is the homeowner and not the potential purchaser. Mr. Porter reiterated that there is no plan for a pool and therefore the need is not there. Mr. Mitchell pointed out that the last time they were before the Commission and the Zoning Board that the house was not built and so it was suggested by both the Commission and the Zoning Board to come back when there was a need and right now they don't see there is a need because there is no pool. However, when they show the pictures and the only area in the back of the house that they have to use for a deck and a pool that it is insufficient so when they look at it, he is not ready to pull a permit on the pool yet because he does not own the house yet. Mr. Mitchell further stated that given the circumstances of the lot and that it is all open. Mr. Porter also pointed out that when you put a pool in this area that it raises some other concerns like where's the water going to go when they are draining it off which will be going right into a Level One wetland. Mr. Porter again explained to Mr. Mitchell that there was no pool plan before the Board tonight for review. Ms. Donovan asked Mr. Starace if he was building the pool. Mr. Starace said no that he was not building the pool. Ms. Donovan further added

that what the Board as a whole is saying is that when the proposed purchaser becomes the owner and has a pool plan should come before the Conservation Commission at that time to ask relief. Mr. Porter believed it would be a pretty easy talking point to have when the time is right but to act on it prematurely is something that we are trying to follow the rules. A brief discussion ensued with regard to asking for relief to put a pool in. Mr. Porter also stated that if there is a pool plan in place when it goes before the Zoning Board at the end of the month then they would have that discussion then. Mr. Mitchell asked when the Commission would be meeting next. Mr. Porter said the beginning of September which would be September 6th. Mr. Porter believed the Board needed to follow the rules and follow the plan if there was a pool plan.

Mr. Porter asked if there were any other questions or comments. Ms. Donovan agreed with what Mr. Porter had said. Ms. Donovan suggested that they would recommend that the owner present and request the change with the pool design and could do both at the same time coming from the owner rather than from the builder. Mr. Burnham also understood that the homeowner could come in to seek relief and since he technically was not the homeowner yet that it was premature to seek relief.

Mr. Starace asked the Board if they would have any interest in reconvening a meeting between now and the 26th. Mr. Porter stated that he would be unavailable for that but asked the vice-chair, Ms. Donovan if she would entertain the idea. Ms. Donovan asked when the purchase and sale would occur. Mr. Starace stated that the closing is scheduled for the 19th. Mr. Porter's recommendation to the proposed purchaser was to not concern with the politicking right now but it would be his responsibility to come before the Zoning Board and to come back before the Commission with a plan which is how they would like to see it work. In conclusion, Mr. Porter stated that this would be his recommendation.

Mr. Mitchell pointed out that he would be doing some more research and if the pool had to be drained that it would be drained on the surface and if they had to put a dry well in or some sort of containment area to leach into the ground that they would. Mr. Mitchell asked the Commission if they had any positive words to keep the door open until final plans are here they cannot give a formal recommendation. Mr. Mitchell went on to say if it was possible on behalf of the proposed purchaser to give the buyer. Mr. Porter commented if it would be sufficient if the Commission were to word it in such a manner to request that it would be appropriate to table it until a plan was available. Mr. Mitchell was asking for wording from the Commission to say they would reconsider but would only reconsider if a plan is before the Board which would be helpful to the buyer. Ms. Donovan added that if there was a need from the buyer then there would be more consideration given. Mr. Porter believed that they have already had the door partially open and believed that the design would probably support this based on what they are seeing absent a pool plan that shows the outflow for the pool water itself. Again, Mr. Porter stated when a plan becomes available and it probably will come back in time and it may not happen this year but believed it was fair and that the Board would do whatever it takes to make this work but that in the absence of a plan that there was no real reason for relief.

At this time, Mr. Mitchell thanked the Board for their time and Mr. Porter thanked Mr. Mitchell and Mr. Starace as well.

Jill Morrison
48 Meadow Lane, Tax Map 12, Lot 16-8
Zoned Residential One

Ms. Morrison began by saying that she was trying to put in a barn and that she was going before the Planning Board tomorrow night to seek a Minor Conditional Use Permit and believed she was supposed to come before the Commission to get their blessing prior to going before the Planning Board. Mr. Porter asked Ms. Morrison to show them a plan. At this time, Ms. Morrison showed the Board members a proposed plan but only had a few copies. Ms. Morrison explained the layout of her property and where the proposed location of the barn would be. Ms. Morrison also showed the Board members where the brook was located which was a Level One that ran through her property. Ms. Morrison also indicated that the existing tree line was about 75 feet from the wetland according to the wetland scientist. Ms. Morrison further indicated that when she was before the Board previously that she wanted to place the barn on the stump dump but has since been told that it would cost her so much to excavate out the stumps and to fill it in that it was just not practical and that she would have to go before the Zoning Board of Adjustment as well as the Planning Board. Now she would like to place the barn in the corner of her existing lawn which would be approximately 30 feet from her house. The reason she is trying to get relief from the 125 foot setback with a Conditional Use Permit is because out of her 2 acre lot she has only a little piece that she can use for her pasture. Ms. Morrison also pointed out the location of the Level 3 wetland which only gets wet during storm runoff of which is very seasonal and all dry right now. Ms. Morrison also stated that she proposed the barn to be a 24 foot by 24 foot barn but reduced it to be 22 feet by 22 feet which is 484 square feet which is well beyond the buffer for a Level 3 and was well beyond the buffer for 75 feet from the seasonal brook.

Mr. Porter asked Ms. Morrison what she was looking for in terms of relief. Ms. Morrison believed she would have to be 125 foot from the brook which was a Level One and 25 feet from Level 3. Mr. Porter wondered if it was grandfathered. Ms. Morrison explained that according to the Ordinance that if she wanted to put in an accessory structure that it would have to be 125 feet from the Level One and 25 feet from a Level 3 so with that said she is trying to keep it under 500 square feet to get the Conditional Use Permit to bring the buffer down to 75 feet. Ms. Morrison stated that she would really like to put in a 24 foot by 24 foot barn but doubted she would get that because that would bring it to about 588 square feet because she really wanted 12 foot by 12 foot stalls but is now putting in 11 foot by 11 foot stalls.

Ms. Morrison explained that Mrs. Rouleau-Cote had indicated that she was within all of the criteria to get the Conditional Use Permit. Mr. Burnham asked where the horses would be when they are not in the barn. Ms. Morrison explained the location and

pointed out that she would not have a yard anymore. Ms. Morrison pointed out that there were miles and miles of trails.

Mr. Porter asked Ms. Morrison if she was doing any clearing. Ms. Morrison said that there would be no clearing inside the buffer and that she was not clearing anything on the Level One side except for some low limbs so that she can put in a barn access road to be able to access the barn for hay. Ms. Morrison further informed the Board members that she was having Matt Seavey clear up to the edge of the wetland from the Level 3 wetland and that he was only taking about 20 feet on each side because her whole yard was leaning in and so in order to open things up to make not so small and that he is not taking any adult trees or stumps. Ms. Morrison reiterated that nothing would be taken down on the Level One side. Ms. Morrison also stated that the fence would be up to the wetland but nothing would be within the wetland.

Ms. Donovan asked Ms. Morrison if she was meeting with the Planning Board tomorrow night to seek the Conditional Use Permit. Ms. Morrison said yes. Ms. Hanson asked where the manure storage would be. Ms. Morrison indicated on the plan where the manure storage would be and that she would have a dumpster which would be emptied once a month. Ms. Morrison commented that the location that she is putting the barn in was basically the only place that she could put it and that it would be 30 feet from the corner of her house.

Ms. Hanson commented that she did not have an issue with what Ms. Morrison was proposing and that it sounded like she would be clearing up to the wetland but was unsure. Ms. Morrison said about a couple feet before the Level 3 because her pasture would be going in there because the husbandry rules is that she cannot pasture inside the wetland. Mr. Porter explained his concern with what Ms. Morrison was proposing and began by saying that the clearing was not inside the buffer and would support reducing up to the wetland area and not going into it but the buffer for 25 feet would be fine for clearing. The Level One, he would make sure that it's not clearing inside the buffer itself and understand from her design that it's a Level One and that she is looking for a reduction to the buffer and she's at 75 feet right now and believe that this was grandfathered from when it was put in place because the 125 foot and looking at the design that he would be hard pressed to believe that the house was even put in at 125 feet. The Board agreed. Mr. Porter reiterated that, provided there is no clearing inside the Level One wetlands. Ms. Morrison indicated that she was not clearing inside any of the wetlands. Discussion ensued with regard to the wetlands.

Ms. Donovan asked about a fence for the pasture. Ms. Morrison said yes and explained the location to the Board.

Mr. Porter asked the Board members if they had any questions and for their thoughts. Mr. Burnham stated that he did not have a problem with what Ms. Morrison was proposing and believed that she has done a lot of work and that she did not have a lot of options. Mr. Burnham asked if any abutters had anything to say. Ms. Royce explained that the abutters were noticed for the Planning Board meeting tomorrow night

and that abutters could voice their opinion at the hearing scheduled tomorrow night. At this time, Ms. Morrison explained where the well was located as well as the driveway location to the Board members.

Ms. Donovan asked if they could vote on this. Mr. Porter added that they could say that they were supportive of the design. Ms. Hanson also added that they should be specific on how close the clearing can be because of the setbacks. Ms. Morrison talked about the Forestry Ordinance where it says that no clearing shall be done within the wetlands but does not say anything about a buffer and if you go down to number 4 it says that if you are talking about two (2) acres or less that none of this applies. She is staying out of the buffer but in the ordinance it says nothing about a buffer as it just says that you can't clear inside the wetland without going to the Planning Board and asking for a Conditional Use Permit for that. Ms. Hanson asked Ms. Morrison how this was considered Forestry and Ms. Morrison showed the Board members the section in the Ordinance talking about Forestry. At this time, the Board reviewed Animal Husbandry and believed this is what Ms. Morrison would have to follow. Discussion ensued with regard to the wetland and how wetlands can go dry during certain times of the year.

A brief discussion ensued with regard to the buffer and Ms. Morrison was directed to review Section 5 – Wetlands Section which explains the different buffers for each type of Wetland. Also, the Board reviewed Section 5.10 (5)(b) – Minor Conditional Use Permit. The Board pointed out that this section states “Buffer Required – No structure, excavation, filling or grading for the installation or placement of an accessory structure shall be allowed within 75 feet of a Level One Wetland.” Mr. Porter asked Ms. Morrison if she received anything in writing from Roscoe Blaisdell. Ms. Morrison said no that the plan was the only thing she received from him. Ms. Donovan asked Ms. Morrison if she was bringing Mr. Blaisdell with her to tomorrow night's meeting. Ms. Morrison said no but asked if she should ask him to go. Ms. Morrison did not know if she could get him to go at the last minute. Mrs. Marzloff explained that possibly Mr. Blaisdell would be the only one to answer any questions that the Planning Board may have as this was his expertise. Mr. Porter suggested getting something from Mr. Blaisdell that clarifies the types of soils and where the Level One wetland is and where the Level 3 wetland starts.

Ms. Morrison said that she has all this land and can't use it. Mr. Porter indicated that this was a hardship which was a Zoning Board issue.

The Board and Ms. Morrison began discussing Mr. Blaisdell and the wetland levels again as well as the distance for the buffer that she is seeking relief. Mrs. Marzloff suggested to Ms. Morrison that if she was unable to get Mr. Blaisdell to come to the Planning Board meeting tomorrow that she should come to the meeting and ask for a continuance. Ms. Morrison explained that she had guys lined up to start work on Thursday. Mrs. Marzloff informed Ms. Morrison that it could be continued for 2 weeks only as they would be meeting next on Wednesday, August 17th.

Ms. Morrison thanked the Board for their time and exited the meeting.

MINUTES

JUNE MEETING

Ms. Donovan moved to accept the minutes of June 7, 2016 as written, Mr. Burnham seconded the motion. A vote was taken; all were in favor, the motion passed.

OLD BUSINESS

Update on Rolfe Easement

Mr. Porter updated the Board members on the Rolfe Easement and stated that they had to hash out details with regard to the easement and that it would be forthcoming.

Mr. Porter went on to talk about Trout Unlimited and the Fehrenbach stream. Discussion ensued with regard to the stream being dry. At this time, the Board members reviewed a few photos with regard to this topic.

NEW BUSINESS

None were noted.

ADJOURN

Ms. Donovan moved to adjourn the Hearing. Mr. Burnham seconded the motion. All were in favor, the motion passed unanimously and the meeting stood adjourned at 8:25 p.m.

The next Conservation Commission meeting will tentatively be held at the Town Hall, 47 Chester Road on Tuesday, September 6, 2016.