

**Town of Auburn
Conservation Commission
August 13, 2019**

Members present: Jeff Porter-Chairman. Peg Donovan, Vice Chair. Richard Burnham, Member. Minutes recorded by Denise Royce.

Absent: Diana Heaton, Ed Fehrenbach & Stephanie Hanson, Members. Kayla Beliveau, Alternate Member.

Mr. Porter called the meeting to order at 7:01 p.m. and introduced the Board members to everyone present tonight. Mr. Porter moved on to the first item on the agenda tonight and proceeded with Eric Mitchell who was presenting on behalf of the Longmeadow Congregational Church.

NEW BUSINESS

Eric Mitchell

Longmeadow Congregational Church

Wilson's Crossing Road, Tax Map 5, Lot 50

3 Lot Subdivision – Wetland Buffer Reduction

Mr. Mitchell presented on behalf of Longmeadow Congregational Church and passed out copies of a Wetland Evaluation for Variance Application to each of the Board members. Mr. Mitchell explained what they are proposing do which is to subdivide the property across from the Longmeadow Congregational Church into 3 new house lots to be used as revenue for the church. Mr. Mitchell further indicated that, they do not intend to sell all 3 lots at once but basically on an as need basis. The lot itself is approximately 26 acres and when they originally thought about doing this, they had not had the wetlands mapped and thought there would be more lots but the wetlands had been mapped by Tom Sokoloski and it was determined that there was a lot more wetlands out there than what was expected. Instead of several lots, they have only 3 new lots on Wilson's Crossing Road across from the church. Mr. Mitchell went on to explain the plan that was presented of which a copy is placed in the file.

Mr. Mitchell talked about the wetlands and the location of the wetlands on the property and noted that the wetlands do start onsite. Mr. Mitchell considered these to be Level 2 wetlands and have filed an application with the Zoning Board of Adjustment to seek relief from the 75-foot wetland setback down to a 50-foot buffer. Mr. Mitchell showed the location of the proposed houses on each of the lots and indicated that, if it remains with the 75-foot buffer that it does not give the property owner much room but if you reduce it

down to a 50-foot buffer than it will give them a little bit more room to work with. Mr. Mitchell pointed out that the only thing that is mapped as a wetland was located along the road on Chester Road which is Ridgebury which is poorly drained soil. The rest of the site is mapped as Woodbridge which is a moderately well drained glacial till. However, these wetlands were mapped according to the NH requirements for the wetlands bureau so they are wetlands even though the soil types initially did not indicate that.

Mr. Mitchell went on to talk about the wetlands and pointed out the contour lines which were a two (2) foot slope and talked about the direction of the flow. Mr. Mitchell believed that the land was probably farmed a long time ago but the wetlands themselves even though there is a lot of them, they are not as significant as what you might think based on size. Mr. Mitchell looked at the characteristics and the functions and values that are out there and there are a couple of functions that do apply and one of them being wildlife habitat and the other one is groundwater retention or infiltration. Mr. Mitchell also pointed out that, it was not unique to any type of wildlife. The wetlands are forested wetlands and although there might be wildlife habitat that is there it's not unique to what's adjacent to it in the uplands. In addition to that, because it is located on a glacial till, the water that comes down and goes into the ground and there are no springs onsite and it's not a stratified drift where you get some water sources for drinking water and supplies it's not, it's just your basic till.

Mr. Mitchell moved on to inform the Board members that, what they are looking for is a 25-foot reduction from 75-feet to 50-feet from the Zoning Board of Adjustment and this is coming before the Commission as required to seek their input. Mr. Mitchell stated that they do have a sufficient amount of uplands to put the houses and have a backyard and all the septs would be in the front yard. What they are looking to do is, three (3) houses in addition to the parsonage and that all of the lots would be in excess of 5 acres.

Mrs. Donovan asked if the parsonage would stay the parsonage. Mr. Mitchell said yes. Mr. Porter asked Mr. Mitchell when it was classified as a Level 2 and not a Level One because this is really poorly drained and has been existing for a number of years. Mr. Mitchell acknowledged that it was poorly drained as opposed to very poorly drained. With a Level One when you have seven (7) functions and you have any one of those functions that is a primary function then any wetland can be a Level One Wetland. With this one, although you do have a function of wildlife habitat it's not a principal function because it's not unique habitat to wildlife. If this was a different location then there may be different factors that different functions that come into play. It's wet by state definition but if you look at the Highway Methodology to determine what is an important function there are none that come out.

Mr. Porter commented that by looking at the size of the contiguous area for wet that it doesn't mean that it isn't valued as a Level One as a whole. Mr. Mitchell answered by saying that, in order to be a Level One wetland that, it would either need to be one of the

tiered which is on the Town of Auburn's study of which it is not. It is greater than 5,000 square feet so it could be a Level 2 or a Level One. Mr. Mitchell indicated that there are no vernal pools and that it did not have the functions that you would need for it to be a Level One or a valuable function. Mr. Porter believed that if you look at the lot in its entirety as a whole that it would be classified as a Level One because of the overall function. Mr. Porter went on to say that, to reduce it from 75 feet to 50 feet seems a little slight and wondered if it was germane when you're looking at it from a project perspective for 4 lots going down to one lot. Cutting it off into parcels that you could look at it as a Level Two but just because your breaking it down into parcels does not mean that it goes down to a Level Two just because of the size of the parcel and its functions. Mr. Porter indicated that, this is where he is at right now. Mr. Porter went on to say that, if there isn't a need to give immediate relief to a parcel for development rights and suggested that the individual homeowners come before the Board's to ask for specific relief if they need it and reiterated that, there is no need to go down to a 50-foot buffer reduction just to sell it. A brief discussion ensued with regard to granting a reduction prior to an individual request. Mr. Mitchell commented that, just because there is a lot of wetlands out there doesn't immediately make it a Level One wetland because there is a lot of wetlands. Mr. Mitchell went on and added that, you have to look at the function of the wetlands itself. Size is not a criteria to make it a Level One. The only criteria that you have is that it was initially mapped and it's in our ordinance as a Tier 1, Tier 2 or Tier 3 or if it has a vernal pool then perhaps it would be a Level One and if it's over 5,000 square feet and it has a principal function of any one of the seven that show in the Town of Auburn's ordinance, it would not be a Level Two but would be a Level One. Although, what we are looking at here, and although it has a function of wildlife habitat because wetland wildlife can live out here and it's not unique to just this wetland. It's not a specific habitat, there is no marshes and there is no open water or anything near here. It's not the size of these wetlands but is it a Level One or a Level Two and Mr. Mitchell believes it's a Level Two because they have limited principal value based on their functions. Mr. Porter asked what Mr. Sokoloski's analysis on this wetland. Mr. Mitchell explained that, he asked Mr. Sokoloski to do the report on this and he did not have time but one thing he said was that, he was very surprised when he was walking the site coming from Route 121 that, everywhere he would go, he would expect to reach uplands and it did not quite go there. There was more wet than more uplands. A brief discussion ensued with regard to the wetlands.

Mr. Burnham asked what the overall grade of the wetlands and asked how much of the 26 acres had runoff going towards Route 121. Mr. Mitchell explained while pointing out the location on the plan presented tonight. A copy of which is in the file. Mr. Mitchell reiterated that these wetlands have not been mapped and that the location of the houses are in the uplands by the road. Mr. Burnham talked about the location of the houses on the road and the flow of the wetlands and was aware of the culvert at the corner of Wilson's Crossing Road and Route 121 and was concerned about runoff.

Mrs. Donovan commented that, she could not understand how Mr. Mitchell or Mr. Sokoloski could say that it can be a Level One to a Level Two when it was stated that there were two (2) functions that were present in the wetlands and the wetland is as big as it is, she believes that the function becomes more primary.

Mr. Burnham asked what the impact would be if a vernal pool was found anywhere on the property. Mr. Porter added that, when looking at the overall lot and just because you are subdividing it doesn't mean that the wetland is reduced. A Brief discussion ensued with regard to reducing the buffer from 75-feet to 50-feet. Mr. Porter brought up the fact that, the Board does not usually grant a blanket reduction without any development behind it because what ends up happening is that, when they get a 50-foot reduction they then want to go down to 25-feet or they're just going to go right on top of the buffer. Mr. Porter stated that, his inclination is saying no, stay at 75-feet and make a case for the reduction and follow the standards and that would be what he would recommend. Mr. Porter had no objection to moving forward with the project but the open-ended reduction to 50-feet, he would vehemently oppose.

Mr. Mitchell pointed out that, they are before the ZBA now and that the meeting was Tabled without being heard last month until they met with the Cons Com so, they are going through the process of meeting with the Commission for going for a Variance for a reduction from 75-feet down to 50-feet. Mr. Porter stated that, that was for a development and not an individual lot and there is not an individual lot to make a case for what they are trying to do. Mr. Mitchell did not believe it was open-ended and what they are trying to do is reduce the buffer down to 50-feet because they do have the area showing the location of the houses, septic and well and they can do that but they don't have areas to build around the house. They can squeeze a house in but you would not be able to go around the house to put the siding on it. At this time, Mr. Porter asked if it was a buildable lot under the town's current standards. Mr. Mitchell said no and that was why they are before the Board seeking a Variance and the reason for the Variance is that the Zoning Ordinance does apply to all properties in town but not all properties are exactly the same so it applies exactly the same for all of them. Mr. Mitchell went on to say that, there are situations of which you have to show that what you are trying to do given the nature of the property and it's location and the hardship and what you are trying to do is a reasonable use of the property and they believe that a reduction of 25-feet from 75-feet is a reasonable use and that's why they are before the Zoning Board of Adjustment.

Mr. Burnham believed that the Cons Com is looking at it as 125-foot buffer looking to go down to a 50-foot buffer and that Mr. Mitchell is looking at it as a 75-foot buffer going down to a 50-foot buffer. Mrs. Donovan has not bought into the fact that it's a Level Two yet. Mr. Porter agreed with Mrs. Donovan and that was one of the struggles he had right now and wondered if it was really a buildable lot. Mr. Porter understood that there were some challenges with the lots and going into this with a blanket reduction down to 50-feet and knowing the history of the town and giving a 50-foot reduction without any building in

there now is where his concern lies. Mr. Porter went on to say that, in looking at the parcel as a whole that he agrees with Mrs. Donovan that it's a Level One and just because you break it up and then look at it in smaller parcels does not mean it's a Level Two. Mr. Mitchell commented that, breaking it up does not have anything to do with why he considers it a Level Two. Doing a subdivision is not the rationale in calling it a Level Two because it's the nature of it. Discussion ensued with regard to Level One and Level Two wetlands.

In conclusion, Mr. Porter stated that they were an advisory board and he understands, they'll take their information and share it with the Zoning Board but his take on this is that, what they have done in the past with other developments, you make the case on the individual lots when they are sold and the individual lot owners and the individual lot owners will make the case in front of the ZBA and not the developers. They are not looking to grant a Variance across the entire development, they want the individual homeowner to be a part of this engagement and not the developer. Mr. Mitchell pointed out that the wetlands ordinance is different than what the state requirements are and that the state would have no setbacks to these buffers so you could cut trees right up to the edge. Mr. Mitchell pointed out that, that ordinance has been placed on top of all landowners and that people who own land have rights too as to what they want to do. If there's something with a piece of property that makes it different and special where the blanket ordinance doesn't really cover it the way it does other places then they can go to the Zoning Board of Adjustment and look at special conditions on the site as well as the reasonableness of what's trying to be done of which they are trying to do here. Mr. Porter stated that, what they are trying to do here is to prevent a project blanket statement. Mr. Porter did not have a problem talking to the individual owners with their needs at an individual ownership basis and not as a project but on a case by case basis. Mr. Mitchell explained to the Board members that, what they are trying to do is get it done before the buyers move in so that it's already in place and they don't have to do it.

Mr. Mitchell asked Mr. Porter what he would advise them to do next. Mr. Porter basically said, is if the wetlands are a Level Two wetland and if he's going to build a house with a 75-foot buffer then if they want a Variance then let them come before the Cons Com and go before the ZBA for a Variance which would be his recommendation. Mr. Porter again stated that he did not have a problem with the project but would prefer the people who purchase the property to come before the Board and request a Variance for what they propose to do. Let them make the case and if they don't need it then they don't need it.

Mr. Mitchell stated that, they are going before the Zoning Board of Adjustment in a couple of weeks and based on what Mr. Porter is saying, he did not believe there was a recommendation from the Cons Com. Mr. Porter reiterated what he had said previously about having the individual homeowner come before the Board and request a Variance. Mr. Mitchell pointed out that, without a recommendation from the Cons Com that it's difficult to get something approved through the Zoning Board of Adjustment and did not

want to get something denied by the ZBA. Mr. Mitchell asked Mr. Porter if there was something that they could do different and then come back before the Cons Com then they would like to do that. Mr. Porter believed that, the way the plan is now that it would not preclude him from doing this project but what it will require is for the individual homeowners to put a case before the ZBA if they would like to extend the buffer if it's appropriate.

Mrs. Donovan asked how big the houses that they were proposing for these lots. Mr. Mitchell believed that they were 30-feet by 60-feet. A brief discussion ensued with regard to the size of the houses. Mr. Porter stated that, they will vote and will make a recommendation as a Board but his take on this is that, it's totally up to the individual homeowners to make a case to the Zoning Board to extend into the buffer beyond the 75-foot buffer. Again, there is still a lot of discussion on whether or not this project is a Level One or a Level Two.

Mr. Mitchell asked Mr. Wood if he had any questions or comments. Mr. Wood asked how is it determined what level of wetland is on the property. Mr. Porter said, by a wetland scientist. Mr. Mitchell stated that he used the U.S. Army Corps of Engineers Highway Methodology and that he is a wetland scientist. Mr. Mitchell also pointed out that, in the Town of Auburn's Ordinance that it has the different Tiers that show on the wetlands map and this does not show on the wetlands map. Mr. Porter indicated that, he was okay with this going out as a Level Two with a 75-foot buffer but would prefer to act on each on an individual basis.

Again, Mr. Porter indicated that they would make a recommendation based on the town and what they have seen in the past. Mrs. Donovan moved on to make a motion to vote.

Mrs. Donovan made a motion to accept the reduction of the buffer from 75-feet down to 50-feet as proposed for Longmeadow Congregational Church, Wilson's Crossing Road, Tax Map 5, Lot 50. Mr. Burnham seconded the motion. Mr. Burnham voted not to accept the reduction, Mrs. Donovan voted not to accept the reduction and, Mr. Porter also voted not to accept the reduction. The Conservation Commission did not recommend the reduction and therefore there was no recommendation from the Conservation Commission.

Mr. Porter added that, the reason being was that they would like the individual homeowners when the lots are built to request if necessary, a reduction if they need to have a reduction in the wetland buffer.

Mr. Porter thanked Mr. Mitchell for his presentation and Mr. Mitchell exited the meeting. Mr. Porter moved on to the next person on the agenda.

Mark Travassos
405 Wilson's Crossing Road, Tax Map 2, Lot 4
Proposed Addition – Wetland Buffer

Mr. Travassos passed out copies of a proposed plan for his property located at 405 Wilson's Crossing Road. Mr. Travassos began by saying that they obtained a Variance and built their house and now they are looking to complete the house and are now back because they are going before the Zoning Board of Adjustment at the end of the month to discuss adding a two car garage and a wrap around farmer's porch onto the house which will protrude about 7½ feet into the corner of the buffer. Mr. Travassos informed the Board members that, basically the only disturbance would be to two and maybe three of the precast footings. Mrs. Donovan asked what would be under the deck. Mr. Travassos indicated that there would be nothing as it would be enclosed with lattice.

Mr. Porter indicated that, this was the second time that Mr. Travassos was before the Board and when he did his plan initially that, it was to support a garden and they conditionally approved it with the understanding that it would have to be restored to a wildlife area if it was not completed. Mr. Travassos understood that. Mr. Porter talked about a restoration of the buffer reduction before looking to approve this. Mr. Travassos stated that, that plan is still in place as they are using that entire area and they are just looking to add the deck/farmer's porch to encroach into where they would have their garden. A brief discussion ensued with regard to the garden plan and what they are proposing to do now. Mr. Porter talked about the previous agreement with regard to the garden and if it was not being used then it would have to go back to its natural state. When the plan changes then they need to re-evaluate the plan. Mr. Travassos pointed out that, on the original plan that he did have a wrap around deck and garage on it but they weren't ready at the time and it wasn't in the budget but they are ready to do it now but they do have in the preliminary plans that show a wraparound deck and garage. Mrs. Donovan was going to suggest that the wraparound farmers porch to be possibly smaller. Mr. Travassos stated that if he made it smaller that it still would require the same amount of disturbance with the footings. The Board did not recall this being mentioned previously but did not have a problem with the garage and deck being built.

In conclusion, Mr. Porter stated that, his interjection here is that the area has already been disturbed that he has less of a concern with the minimal impact to the existing disturbed area for a deck that is not going to encroach any further into the buffer. Mr. Burnham agreed. Mrs. Donovan believed that with the porch being elevated was better than being directly on the ground. A brief discussion ensued with regard to the deck and the garage. With that said, Mr. Porter asked the Board if there were any comments. Mr. Burnham believed that they should stick with the agreement but believed that it would be okay. Mrs. Donovan agreed with the Board. Mr. Porter asked for a motion.

Mr. Burnham made a motion to support the proposed wraparound porch and garage as drawn on the plan for 405 Wilson's Crossing Road, Tax Map 2, Lot 4. Mrs. Donovan seconded the motion. All were in favor, the motion passed unanimously.

Mr. Porter indicated that, that would be the Board's recommendation. Mr. Travassos thanked the Board members for their time and exited the meeting.

Mr. Porter moved on to the last item on the agenda for tonight which was with Mr. James Pidhurney.

James Pidhurney

551 Pingree Hill Road, Tax Map 2, Lot 37-2

Discuss placement of inground pool within wetland buffer

Mr. Pidhurney began by passing out a package of materials showing the location of the pool and pool house proposed on his property located at 551 Pingree Hill Road. Mr. Pidhurney explained that they would like to create an outdoor space for their growing family to enjoy. They would like to work with the existing landscape to minimize impact to neighbors and to blend in with the topography and natural features. Mr. Pidhurney would like to maintain as much open space as possible for the family and friends to continue to enjoy. They would like to place the pool and pool house as tight as possible into the back-right corner of the developed yard and are looking for recommendation from the Conservation Committee on how best to minimize the project impact if they were approved to proceed. At this time, the Board went through the package which showed photos of the area as well as google earth photos and a certified lot plan for the property. Mr. Pidhurney also did a Hydric Soil survey of the property.

Discussion ensued with regard to the wetland being a Level One or Level Two and noted that the file showed that a reduction into the wetland was granted by the ZBA back in 2004. A copy of the approval can be found in the file. Mr. Pidhurney pointed out the poor locations of their propane tank which is an underground propane tank and the location of the well which is in the middle of the backyard. Mr. Porter gave Mr. Pidhurney some options with regard to keeping the pool out of the buffer and possibly obtaining a wetland scientist to classify the wetland.

In conclusion, Mr. Porter suggested that they try to keep the pool as far away from the buffer and if they would consider moving the inground propane tank that would probably give them more area to work with. Mr. Burnham asked Mr. Pidhurney if he planned on heating the pool. Mr. Pidhurney said yes. Mr. Burnham commented that they may think that the tank is too small and that he may need to dig it up anyways. Mr. Porter suggested that they get a wetland scientist. Ms. Royce informed the Board that a Functional Analysis

was done back in 2004 when they came before the ZBA for a reduction in the wetland buffer. A copy of which can be found in the file. At this time, Mr. Porter reviewed the Functional Analysis.

MINUTES

Mrs. Donovan moved to approve the minutes of June 6, 2019 as written. Mr. Burnham seconded the motion. All were in favor, the motion passed unanimously.

NEW/OTHER BUSINESS

Mr. Porter asked if there was anything else to discuss. There was no new business to discuss tonight.

ADJOURN

Mrs. Donovan moved to adjourn the meeting. Mr. Burnham seconded the motion. All were in favor, the motion passed unanimously and the meeting stood adjourned at 9:10 p.m.

The next Conservation Commission meeting is currently scheduled for Tuesday, September 10th, 2019 at 7:00 p.m. at the Town Hall, 47 Chester Road unless otherwise noted.