

**UNAPPROVED MINUTES
Town of Auburn
Planning Board
PUBLIC HEARING
January 20, 2016**

Present: Ron Poltak, Chairman; Alan Côté, Vice-Chairman. Paula Marzloff & Steve Grillo, Members. Jim Tillery, Alternate. Dale Phillips, Selectmen's Representative; Minutes recorded by Denise Royce.

Also Present: Jeff Porter, Chairman of Conservation Commission. Eric Mitchell, Eric C. Mitchell & Associates, Inc.

Absent: None.

Mr. Poltak called the meeting to order at 7:01 p.m. Mr. Poltak stated that he had a full board tonight.

MINUTES

Mr. Côté moved to accept the minutes of January 6, 2016 as written, Mrs. Marzloff seconded the motion. A vote was taken; all were in favor, the motion passed.

Mr. Côté moved to accept the minutes of January 11, 2016 as written, Mr. Grillo seconded the motion. A vote was taken; all were in favor with Mrs. Marzloff abstaining, the motion passed.

ANNOUNCEMENTS/CORRESPONDENCE

➤ None were reviewed at this time.

GENERAL BUSINESS

Eric Mitchell

On Behalf of Maverick Development

Haven Dr & Pingree Hill Road Subdivision, Tax Map 5, Lots 29 & 36

Request extension of Conditional Approval

Mr. Mitchell began by saying that they were before the Board tonight to request an extension of the Planning Board Conditional Approval dated July 22, 2015. They have met the conditions of the Town Engineers review (Stantec) which was submitted back to

them the beginning of August. The Alteration of Terrain Permit was in the works at the time they received conditional approval and have since obtained that from the State. The wetlands permit was cataloged with the state at the end of December 14th which is still in process of which there is a 40 day window to allow any local Conservation Commission to weigh in so they will hold the application until such time. Mr. Mitchell was unsure whether or not the Conservation Commission has replied back to the State yet. The reason this was held up was because at the beginning of the project they were looking to go through the vernal pool at the time and the permit is only good for one year. With this in mind, they had to reapply because they ended up moving the road out of the vernal pool. Mr. Mitchell concluded that this was all in the process of which they will require an extension of the conditional approval for 180 days.

Mr. Poltak informed the Board that they could go up to 2 years and believed this was reasonable and that a motion would be necessary from the Board at this time. Mrs. Marzloff asked for a date specific. Ms. Royce stated that if the Board granted the 180 day extension that she would figure out 180 days from the date of the approval for the extension and put it in the Notice of Decision from the Planning Board. Mrs. Marzloff asked if the prior one had expired. Ms. Royce stated yes, it expired on January 18, 2015. Discussion ensued with regard to the expiration of the conditional approval and Ms. Royce informed the Board that Mr. Mitchell filed his request for an extension prior to January 18th, the expiration date. The Board agreed to the 180 day extension and made a motion to that effect. Ms. Remillard commented that within the town regulations that it states that the Board could only extend the conditions of approval for only 90 days. Mr. Poltak stated that the state regulations (state statutes) shall take precedence over town regulations which allows the Planning Board to grant up to a 2 year extension. Mrs. Marzloff explained that approximately 3 or 4 years ago when the economy took a turn for the worse that the state changed a lot of the dead lines and extended the approval period because the towns and the developers could not do anything.

Mrs. Marzloff moved to approve the request for an extension of the Planning Board approval for 180 days, Mrs. Phillips seconded the motion. A vote was taken; all were in favor, the motion passed.

PUBLIC HEARING

**James & Susan Tillery
50 Wood Hill Drive, Tax Map 7, Lot 25-108
Subdivision Amendment
Cluster Development Specific Design Requirements
Article 9, Section 9.18 (F) (iii) "Structures no closer than 60 feet"**

Mrs. Tillery passed out photos of the proposed location of the garage to all the Board members for review. Mrs. Tillery began by saying that they were before the Planning Board tonight because they are looking to add a 14 by 22 foot garage within the 60 foot

building to building setback and when you put the garage addition on they are left with approximately 54 feet. Mr. Côté explained that the reason they have a 60 foot side separation between buildings was for fire purposes and stated that if the Fire Chief had no issue with the proposed garage addition that he would not have an issue with it. A brief discussion ensued with regard to the garage addition. Mrs. Tillery added that nothing would change and no trees would have to be removed. At this time, the Board reviewed the proposed plan and thought it looked good.

Mr. Poltak asked if there were any abutters present. None were present. Mr. Poltak stated that he had no issues with this and agreed with Mr. Côté and asked if the Board wanted to make a motion. Mr. Côté believed they could make a motion with the condition that the applicant obtains approval from the Fire Chief with regard to the proposed garage location.

Mr. Côté moved to grant a waiver to the Cluster Development requirements to Article 9, Section 9.18 (F) (iii) “Structures no closer than 60 feet” to allow a garage to be constructed on Tax Map 7, Lot 25-108 at 50 Wood Hill Drive to be no closer than 50 feet to the abutting home at 46 Wood Hill Drive and subject to the Fire Chiefs approval, Mrs. Marzloff seconded the motion. A vote was taken; all were in favor, the motion passed.

OTHER

Informal – Eric Mitchell On Behalf of Stragetic Contracting/Rob Starace Anderson Way Subdivision, Tax Map 5, Lot 19 Discuss Wetland Evaluation

Mr. Mitchell presented on behalf of the applicant, Rob Starace, Strategic Contracting and pointed out that he has reviewed the letter from Stantec dated January 14, 2016 regarding the proposed wetland reclassification. Mr. Poltak indicated that he has read the letter from Stantec. Ms. Royce gave a copy of the letter to Mr. Côté for review. Mr. Mitchell stated that they were looking for a revision to the wetland setback and to reclassify the wetland located within the project. Mr. Mitchell further pointed out that it would affect Lot 19-3, 19-4 and 19-6. Mr. Mitchell passed out copies of the proposed plan showing the location of the reclassification area. Mr. Mitchell stated that the wetland in the area is shown to be reclassified as a Level Two wetland and that it is currently shown as a Level One wetland that was previously approved by the Board. Mr. Mitchell explained that the owner has gone out several times when the contractor was out there while the road was being put in and they did not see any water coming down through the wetland. After seeing this, Mr. Starace contacted his wetlands person, Thomas Sokoloski of which the Board has received a copy of the report along with Mr. Tatem’s report from Stantec which states that the area should be reclassified as a Level Two wetland which would reduce the setback down to 75 feet. Mr. Mitchell talked about installing fences and trees and that on Lot 19-3 that there would be an 18

inch berm built so that no water would go towards the wetland. Mr. Mitchell pointed out that they were on the agenda for the Conservation Commission of which he believed it was last Tuesday but it was the Tuesday before that and that they could go back before the Commission if the Board finds that it is necessary.

Mr. Poltak asked if there was anyone present that would like to speak on this subject. Mr. Porter commented that he did a little homework and that they have a difference of opinion. Mr. Porter passed out a few things of which one was from GRANIT and that GRANIT that this was a feeder stream pushing into the Cohas wetlands area which is a prime wetland and is a Level One. Mr. Côté asked Mr. Porter if there was scientific data that would back this up that all feeder streams in the Level Two should be classified as a Level One. Mr. Porter stated that this is how we've been doing it with Conservation Commission, Planning and Zoning. Mr. Porter went on to say that on Page 2 that within GRANIT that this area is looked upon as farm land, however, in the back of this farm land is a drainage class water that flows straight into Cohas which is feeding into a Level One wetland. This is why from the Conservation Commission's perspective that they stood very firm on a Level One analysis even though the land itself can be classified as a Level Two because of the types of soil. Mr. Porter stated that by reducing the buffer in this area would further just under mind the whole wetlands area. Mr. Porter stated that he would be happy to have Mr. Mitchell come before the Conservation Commission when Stephanie was present because she works down in Derry as wetlands scientist. Mr. Poltak understood Mr. Porter as suggesting that the Board take a look at this area as a Level One wetland. Mr. Porter said yes. Discussion ensued with regard to reclassifying this area from a Level One to a Level Two wetland.

Mr. Porter asked if there were any other questions or comments from the Board members. Mr. Côté pointed out that the Board requires a 125 foot wetland setback to a Level One wetland and indicated that if you read the science on this that it takes about 68 feet of unsaturated soils to take the nutrients out. Mr. Côté further added that the pictures that he has seen of that area that he did not see a defined stream running through there and understood that sure there was a headwater there but that there were a lot of headwater areas that have vegetated areas and that Cohas was thousands of feet from this area. Mr. Côté believed that they could not automatically say that just because it feeds into Cohas that it should be classified as a Level One wetland and did not agree with Mr. Porter. Mr. Porter believed that this was one big contiguous area and that this was why the Conservation Commission was taking a stance by continuing to say that areas of this magnitude truly need to remain protected. Mrs. Phillips added that she did observe the site and checked with Stantec and the Road Agent and that she did not see a problem with reclassifying this short area because it was bone dry. Mrs. Phillips believed it was a very short piece that they were looking at reclassifying from a Level One to a Level Two.

Mr. Starace reiterated that he observed the location all year and that there was not a drop of water that they could see. Mr. Porter added that when they did the site walk with Mr. Starace in August that there was water. Mr. Starace did not dispute what Mr. Porter was saying but also noted that it had rained for a week and there was a little

stream at that time but was gone in days. Mr. Starace also added that they were asked to have Stantec to take a look at it and verify Mr. Sokoloski's report and Stantec did take a look at it and came to the same conclusion that Mr. Sokoloski did.

Mr. Febonio pointed out that Mr. Côté hit the nail on the head with his comment above and has seen it firsthand. Mr. Febonio also commented that the determination between a Level One and a Level Two is very easily done by a soil scientist because they can check the vegetation and the soils. Mr. Febonio further added that you do have to have some type of diversity and that Conservation Commission wants a 125 foot wetland buffer and had no problem with that because if a wetland scientist says it's a Level One it's a Level One and if they say it's a Level Two then it's a Level Two and it can be right next to a Level One.

Mr. Porter commented that if you diminish that buffer area then you automatically fall into that category of polluting that wetlands. Mr. Côté stated that the State Regulations state that you must be 75 feet from a Level One wetland with your septic systems and as a licensed designer that he has designed a system that was 30 feet from a Level One wetland because it was a failed system that needed to be replaced and the State indicated that they would allow it because wetlands are one of the best places to treat for nitrates and cattails do a great job of picking up nutrients. In conclusion, Mr. Côté did not believe that by reclassifying this small section of wetland from a Level One wetland to a Level Two wetland would not have a negative impact. Mr. Côté also commented that one of the problems with the large requests for variances is because we need to put realistic footprints on lots so that there is no need for variances.

Mr. Willett of 231 Pingree Hill Road wanted to say that the water from Mr. Staraces property comes right down to his property because his property is one of the lowest properties on the road. Mr. Willett further added that once Mr. Febonio begins his construction that there will be more water on his property and that he has three (3) culverts in front of his house.

Mrs. Marzloff pointed out that during 2015 that we were 3 to 4 inches low on rainfall and would like to defer a vote on this until they meet with Conservation Commission. Mrs. Phillips did not believe it would solve anything by having them go before the Conservation Commission because she believed that it would come back before the Planning Board and that the Board would be in the same place. Mr. Côté did not believe they could vote on this tonight anyways and believed that it would have to go before the Board for a Public Hearing because this was just an informal meeting tonight because they would be changing something that was on a recorded plan. Mr. Côté noted that the Conservation Commission has already weighted in on this and did not believe that by going back to the Conservation Commission would necessarily sway his decision. Mr. Mitchell understood and would do whatever the Board would require them to do. Mrs. Phillips agreed with Mr. Côté and didn't think that by going before the Conservation Commission would change the decision as well.

Mr. Starace understood everyone's concerns and that they are willing to address those concerns. Mr. Grillo asked Mr. Starace what had changed since they decided to label it a Level One and leave it as a Level One. Mr. Starace stated that has been able to observe it over a one year period and that the only time there was a little bit of water in there was when they had the heavy rains back in August 2015. Mr. Starace further added that they had originally labeled it a Level Two and when they were asked to have it checked out by Stantec that there was like four (4) feet of snow in that area and no one was willing to go out and check it out. Mr. Starace indicated that in order to move the subdivision forward that he had them put it as a Level One and after observing it for one year he decided to have someone go out to reclassify it. Mr. Grillo did not understand how the Board could say they could not reclassify it when the town's engineer has gone out and stated that it was a Level Two. Mr. Côté still believed it needed to go before the Board in a Public Hearing. Mr. Grillo understood and agreed with Mr. Côté.

Discussion ensued with regard to Mark West's study done in 2009 of which Mr. West was hired by a developer to refute this. Mr. Porter further talked about the Conservation Commission's wetland scientist. Mr. Côté asked Mr. Porter if she put her stamp on the e-mail that he read earlier. Mr. Porter said yes and that was why he wanted her to hear this discussion with Mr. Mitchell, Stantec and Mr. Starace because this is how we look at these. Mr. Porter asked if this reclassification was because they wanted to add another lot. Mr. Côté said no that what it would do was to make it a more realistic footprint on an existing lot so that they are not necessarily going to the Zoning Board of Adjustment. Mr. Côté would much rather see it handled at the Planning Board level. A brief discussion further ensued with regard to wetland reclassification and the impacts.

Mrs. Marzloff asked Mr. Mitchell if he had time to meet with Conservation Commission before they come back before the Planning Board for a Public Hearing. Mr. Mitchell said yes that he believed that the Conservation Commission would be meeting on February 2nd or the 9th and they would not have enough time to be back before the Board by the next meeting. Mr. Côté wanted to explain that he did not have a problem with the Conservation Commission weighing in but wanted to clarify that the Conservation Commission is an advisory board and was not the deciding board and take their opinions into account but they are not necessarily the last word.

Mr. Willett commented that what Mr. Porter was coming to fruition behind his house. Mr. Côté stated that what he is saying has nothing to do with any flow going onto your property and continued by saying that this subdivision has had a hydraulic study and they have to make sure that post development runoff does not exceed pre-development runoff. The change in the buffer has nothing to do with the runoff. Mr. Willett added that when they put the culvert in that all the water started going to the back of his house. Mr. Côté suggested that Mr. Willett talk to the Board of Selectmen and the Road Agent because it has nothing to do with this subdivision. Mrs. Phillips added that if there was any runoff from Anderson Way that it would go directly to the back of her property and that it does not go that way.

Mr. Poltak pointed out that it's a judgment value relative to functions and the like as to wetland classification. Mr. Poltak said that he would like Mr. Starace and Mr. Mitchell to talk to the Conservation Commission and then come back before the Planning Board for a Public Hearing and then they would rule accordingly. With that said, Mr. Poltak thanked everyone present and concluded the meeting.

At this time, Mr. Poltak informed the Board that on the meeting that is scheduled for Monday, January 25th that he would be in New York and unable to attend that meeting and that Mr. Côté would be chairing the meeting. Mr. Poltak also recalled that Mr. Grillo would be arriving late for that meeting. Mr. Grillo said potentially he would be a little late arriving to the meeting. Mr. Poltak wanted to make sure that the Board had a quorum to vote on the Zoning Ordinance Amendments. Mr. Poltak asked all the members and alternates and everyone agreed that they would be at that meeting.

Mr. Poltak talked about the Petition that is proposed to be on the ballot that would vote to do away with the Cluster Subdivision within the Town of Auburn should not have happened and hoped people would think long and hard about voting on this issue because the Board members have worked very hard on rewriting the Cluster Ordinance. Mr. Poltak informed the Board members that they will need to vote on whether to recommend or does not recommend the abolishing of the cluster ordinance. Discussion ensued with regard to the petition.

Mr. Poltak asked if there were any other questions from the Board. None were noted.

ADJOURN

<p>Mr. Côté moved to adjourn the Hearing. Mrs. Marzloff seconded the motion. All were in favor, the motion passed unanimously and the meeting stood adjourned at 8:05 p.m.</p>

The next Planning Board meeting will take place on Monday, January 25, 2016 at 7:00pm which will be a Public Hearing on the Zoning Ordinance Amendments and that the following Planning Board meeting will take place on Wednesday, February 3, 2016 of which both will be held at the Town Hall, 47 Chester Road.