

**APPROVED MINUTES
Town of Auburn
Zoning Board of Adjustment
January 23, 2018**

Present: Mark Wright, Chairman, Jim Lagana, Vice Chairman and Mike DiPietro, Members; Stephen Carroll, Alternate Member of the Board. Minutes recorded by Denise Royce.

Also, Present: Carrie Rouleau-Cote, Building Inspector and Jeffrey Porter, Conservation Commission.

Absent: Peggy Neveu & Kevin Stuart, Member. Robert Beaurivage, Alternate Member.

Mr. Wright called the meeting to order at 7:03 p.m. and introduced the Board members and pointed out that there were only four (4) members of the Board present tonight and explained that, under state law they can sit and hear a case with four (4) members so they have a quorum for hearing a case and granting relief. Mr. Wright added that, the only issue that he wanted to mention to the only applicant present tonight was that, it was conceivable that with only four (4) members that they could end up with a two to two tie. Mr. Wright asked the applicant if he wanted to postpone the case and Table it until next month when they had a full five (5) member board to vote on the case that it would be up to the applicant. Mr. Dinnsen commented that he believed it was a simple matter that he was looking for and was okay with proceeding with only the four (4) members present.

At this time, Mr. wright explained the procedure for tonight's hearing to everyone present.

**Case #18-01
Kristin & Mark Travassos, Trustees
405 Wilsons Crossing Road – Tax Map 2, Lot 4
Zoned Rural**

Applicant is requesting a Variance to allow a reduction of the 125-foot wetland setback to 75-feet to utilize the land for fruit trees & gardening as well as a ground mounted solar array in a Rural zone. (Article 5, Section 5.08(1)(a))

Mr. Wright informed everyone present tonight that the applicant has sent in a request to withdraw their application at this time, so the Board will not open this case up and no action will be taken and informed everyone present that if they were here for this case that it has been withdrawn. No abutters were present. Mr. Wright indicated that, if the applicant wishes to re-apply that notices would be sent out to abutters again. With that

said, Mr. Wright moved on to the next case before the Board tonight and elevated Mr. Carroll to full voting status for the next hearing.

Case #18-02

Jamie & Douglas Dinnsen

21 Hawthorne Drive – Tax Map 5, Lot 69-7

Zoned Rural

Applicant is requesting a Variance to allow the use as under Section 5.0491)(c) specifically to extend the grade at the edge of the wetland setback out to the stone wall and to landscape with oak, apple and cherry trees, blueberry bushes and grass within the wetland setback in a Rural zone. (Article 5, Section 5.04(1)(b))

Mr. Dinnsen began by saying that he had a wetland analysis done by a certified wetland scientist which was done by Mr. Sokoloski of which everyone had a copy of in their possession. Mr. Dinnsen began reading his application into the minutes for the record. Mr. Dinnsen indicated that he was looking for approximately 25 feet more because he couldn't really go any further because there was a drainage and slope easement in that area as well that he cannot touch. Mr. Dinnsen explained to the Board what he would like to do which was to plant fruit trees and blueberry bushes to the stonewall which would make the house look better. Mr. Dinnsen believed that the wetland scientist believed it was a Level Three wetland.

Mrs. Shank who lives across the street from Mr. Dinnsen indicated that she did not have an issue with what Mr. Dinnsen was proposing to do. Mr. and Mrs. Mosher did not have an issue with what Mr. Dinnsen was proposing as it would make the property look good. A brief discussion ensued between Mr. Dinnsen and his abutters.

Mr. DiPietro asked Mr. Dinnsen to show him on the plan where the rock wall was located. Mr. Dinnsen showed Mr. DiPietro the location on the plan. Mr. DiPietro asked how many square feet was the area he was looking to landscape and plant fruit trees in. Mr. Dinnsen indicated that it was approximately 20 feet by 70 feet so about 1,400 square feet. At this time, the Board members reviewed the proposed plan presented to the Board.

Mr. Wright asked if there were any other abutters who wished to speak. None were noted. Mr. Wright asked Mr. Porter to comment at this time and indicated that the Board members have been given copies of the Conservation Commission meeting minutes for November 7th and December 5th, 2017. Mr. Porter began by saying that, Mr. Sokoloski I guess went out to assess the area to determine whether or not it was a vernal pool which he determined was not a vernal pool. Mr. Porter indicated that they still need to know whether it is a Level One, Level 2 or Level 3 wetland because the classification of the wetland was one of the things that they were looking for. Mr. Porter believed that by determining what level wetland that it would note what relief that Mr. Dinnsen would be seeking because if it's a Level One he would be seeking relief from

the 125-foot and if it's a Level 2 then it would be 75-feet and Level 3 would be 25-feet. Mr. Porter also stated that, if it was truly a Level 3 that it wouldn't even need to come before the Board for relief. Mr. Porter still believes it needs to be classified in terms of what type of wetlands it is, and this was one of the things that the Conservation Commission was asking for. Mr. Porter did not believe there were any real problems with what Mr. Dinnsen was trying to do but in order for the Variance to be granted that level of offset would need to be understood. Mr. Wright asked Mr. Porter if they could say with certainty that it was not a Level One and that it's either a Level 2 or Level 3. Mr. Porter commented that, in the absence of a wetland scientist it was not determined. Mr. Lagana believed it was important to know what level wetland that it was because if it was a Level 3 then this would all be moot. Mr. Lagana read a section of the Con Com minutes where it states that "Mr. Dinnsen would have the Conservation Commission's blessing" and asked Mr. Porter if he indeed had the Conservation Commission's blessing. Mr. Porter said that, for the understanding that the Board had was that, what Mr. Dinnsen was trying to do up to the wall that, that impact would be negligible in terms of what the impact would be but in order for the Board to hear it accurately the amount of disturbance there would be and to classify it as to what the level of wetland it is was one of the determination factors. Mr. Wright indicated to Mr. Porter that, in a worst-case scenario they came back, and it was a Level One in terms of relief needed would he view what is being requested as something that he described as negligible and something that they could still get behind being a Conservation Commission even if the relief requested was a 100-foot versus 50 feet for a Level 2. Mr. Porter indicated that given the topography that they saw, and he could speak for the Board that he believed everyone was behind it and one of the concerns was if there would be any type of fertilizer used and would he be putting in an irrigation system and explained why. Mr. Porter said that they were told that he was not putting in an irrigation system but that they have to look at it from a larger perspective because they won't be the owners forever. Mr. Wright asked Mr. Porter that, if it was a Level One would the Conservation Commission be in support of what was being proposed. Mr. Porter stated that if it were a Level One that the discussion would have to be done again and his personal take on it, given the size of it that he would believe it's a Level 2 which he would be looking at a reduction from 75-feet to 25-feet. Mr. Wright again asked Mr. Porter if the Conservation Commission would be as supportive if it was a Level One. Mr. Porter said correct. Mr. Porter stated that if it was a Level One would push it back to 75-feet from 125-feet looking at the amount of disturbance in that area. Mr. Wright stated that it answers his question. At this time, the Board asked Ms. Royce to pull the subdivision file to see what level wetland it was classified on the plan. Ms. Royce presented the plan to the Board for review which looked like the developer received a Variance from the 125-foot setback down to 100-feet already. Discussion ensued with regard to the subdivision plan reviewed by the Board members. Mr. Wright believed that it looked like it was considered a Level One based on the original subdivision plan and believed the question was that they get certainty, or they make a decision based on worst case scenario.

Mr. Wright asked the Board members if they wanted to enter into deliberations.

Mr. Lagana made a motion to enter into deliberations at 7:44 p.m., seconded by Mr. Carroll.

The Board members discussed the Conservation Commission meeting minutes and the discussion that occurred with Mr. Porter of the Conservation Commission tonight. Mr. DiPietro believed that it looked benign to him to give relief to the rock wall. Mr. Wright viewed Mr. DiPietro's comment to assume that it was a Level One and it being worst case scenario. Mr. DiPietro said yes as it was protected and Mr. Carroll agreed with Mr. DiPietro. The Board discussed the fact that the buffer as shown on the subdivision plan showed 100-feet and Mr. Wright believed that they already sought relief from the 125-foot buffer down to 100-feet. The Board discussed lowering it down to 75-feet which would give him another 25-feet.

Mr. Wright asked the Board to come out of deliberation.

Mr. Lagana made a motion to exit out of deliberations at 7:47 p.m., seconded by Mr. Carroll.

Mr. Wright asked if there were any further questions for the applicant or the Conservation Commission. None were noted.

Mr. Wright asked the applicant if he had any further questions. Mr. Dinnsen explained that he didn't really need 25-feet and only asked for 25-feet because he believed it was the right thing to do if it was a Level 3 because 25-feet would put him in the easement, so he didn't need it that far. Mr. Dinnsen stated that all he was looking for was a 28-foot reduction in one area. Mr. Wright understood what Mr. Dinnsen was looking for. Mr. Porter stated that, if the Conservation Commission had to review this as a Level One that, what they would suggest is to change his plantings by having the blueberries and low plantings in the back and have the fruit trees in the front so that if anything does runoff that it will be caught by the low shrubbery.

Mr. DiPietro made a motion to vote on the Variance application as presented with the condition that they reduce the setback by 28 feet up to the stone wall for Case #18-02, 21 Hawthorne Drive, Tax Map 5, Lot 69-7.

Mr. Lagana wanted to make a friendly amendment to that motion as follows:

With the condition that he not fertilize as recommended by the Conservation Commission. Mr. DiPietro agreed with the amendment.

Mr. DiPietro made a motion to vote on the Variance application as presented with the condition that they reduce the setback by 28-feet up to the stone wall and Mr. Lagana added with the condition that no fertilizer be used as recommended by the Conservation Commission for Case #18-02, 21 Hawthorne Drive, Tax Map 5, Lot 69-7., Mr. Carroll seconded the motion. Mr. DiPietro voted to grant, Mr. Carroll voted to grant, Mr. Lagana voted to grant and Mr. Wright also voted to grant as all five (5) factors have been met. All were in favor, the motion passed unanimously.

Mr. Dinnsen stated that he could not plant as he needed to go back before the Conservation Commission again first. Mr. Porter said yes. The Board all agreed. Mr. Dinnsen thanked the Board and exited the meeting.

Other Business

Mr. Wright asked if there was any other business and asked if anyone had any new business. Mr. Lagana announced that, after 22 plus years on the Zoning Board of Adjustment that he will not be seeking another term in March 2018 but wanted to inform everyone how much he has enjoyed his terms and how much he enjoyed being on the Board as it has been a wonderful experience. Mr. Wright and the rest of the Board members present will be sad to see Mr. Lagana leave the Board and wished him all the best of luck in his future endeavors. Mr. Wright asked the Board members to keep their ears open to see who they could get to join the Zoning Board of Adjustment as they are now 2 member/alternates short. Ms. Royce did inform Mr. Wright that she had forwarded his e-mail to Mr. Herman regarding Mr. Lagana's departure.

Minutes

Mr. Wright indicated that there were not enough members present to vote on the approval of the minutes and therefore it would be taken up at the next ZBA hearing.

Adjourn

Mr. Lagana made a motion to adjourn, seconded by Mr. DiPietro. All were in favor, the motion passed unanimously, and the meeting stood adjourned at 7:58 p.m.

The next ZBA Hearing is scheduled for February 27, 2018 at 7:00 pm and will be held at the Town Hall, 47 Chester Road.