

Conservation Commission Meeting
Virtual Meeting
October 15, 2020

Roll call was taken of members and staff present: Peg Arguimbau, Chair, Jon Wasserman and Keevin Geller, and Colin Barbera were the members present. Alan Westman joined the meeting at 7:49pm . Stephen Cremer ,Meredith Avery were not present: Staff present included John Thomas, Conservation Administrator and Linda Callan, Clerk

Eric Dias for applicant

Arguimbau opened the meeting by reading Governor Baker's Executive Order of March 12, 2020. Per guidance from the State, Arguimbau noted that all votes would be taken by roll call.

The remote meeting started at 7:32pm

7:30 PM 126 Morse Street – Notice of Intent, LOT 1 <i>Strongpoint Engineering</i>

*Arguimbau opened the hearing by reading public notice
Dias presenting for the applicant Chris Piazza*

Overview

The project site currently functions as one site totaling 8 acres. Property abuts DCR Borderlands on the south side, is located with the Surface protection overlay district, and contains an active ORAD on site, which has been extended and good through March 2021.

Wetland Resource Areas

Three Wetland resource areas on the site, and one Intermittent stream runs on northern side of the site. ORAD confirms the boundary of the manmade stream and is jurisdictional only under bylaw. Applicant states the man-made area has low value wetland, more of a drainage ditch.

Environmental Sensitivity

Back portion of property is area within natural heritage and have filed with them. NHESP responded, if turtle protection plan in place, then would not result in a taking.

Existing Conditions

Only way to access is by an existing gravel driveway through 50 foot buffer, so maybe considered a limited project. There is an existing dwelling, but very much dilapidated. About 85 feet from intermittent stream. Existing cesspool about 80 feet from intermittent stream. To west about 75 feet is an existing garage which is larger than the house.

Proposed Work

Applicant proposing to come in with a common driveway at existing driveway. They chose common driveway to minimize impact to buffer. Lot one is eastern most lot and closest to intermittent stream. Proposed house is within natural heritage area, turtle protection measures will be in place. Only way to access upland is to pass through 75 no touch. No alternative. Small portion of house is 75 feet from boundary of manmade intermittent stream. Septic proposed in front of home and outside 100 foot buffer. Limits of proposed grading and work and erosion control barriers to protect turtles out of work area. Closest point of disturbance is about 9 feet from manmade stream. Applicant is also proposing Conservation Restriction. Applicant is seeking variance for 100 no build for house and 75 no disturb, mostly access to upland area.

SCC Comments

Arguimbau: despite fact that you designated as two lots, need to file as one project as same owner of the project. Need to be considered as one project. Different options, can withdraw one and ask to amend other filing and incorporate same info. Dias, We currently have numbers for both projects. You can go through when take up lot two, can discuss impact, but structure will need to be changed.

Narrative on table on plan considers as if one project. Same narrative for project. Broke up as thought would be easier to close out at the end. Can certainly make as one project. Peg, the SCC can deal with two lots separately in the orders. All same address, same owner and has been SCC past project.

Has planning board approved? No, planning board is next step.

Arguimbau, clearly there are issues, whether for WPA or bylaw. Clarification of plan symbols and line-work on the site plan was provided by the applicant.

Wasserman, where is manmade intermittent stream? Where does it come from? Believe from property east of the site, understanding a channel dug to drain from property, not sure stems from a pond. Asked if Thomas has been out to site to look at. There are no photos. Dias will take photos for next meeting.

Arguimbau since advertised as two lots will stick to lot 1. Lots of areas of impact to consider. Geller: it's a tough lot. Dias, knows, and have seen different proposal on this lot. One point apartment building and three lots. Client has whittled down to something believes SCC can agree to allow to build responsibly.

Peg, photos will be helpful. Designation of intermittent is by whom? That is what is shown on ANRAD. Determined to be intermittent stream during ANRAD process. Maybe worth taking a walk out to look at the property. Easily accessible. Worthwhile for folks to look at. It is a tough lot. Given opened as Lot 1. Any abutters have any questions?

Public Comments

John Welch. 359 Mountain Street. Mom is part owner of Robert Morse Property. Would say manmade stream does go onto their property. If site visit and go onto Morse property, would like to be notified. Of course, if go on will notify. Intermittent stream does go on to their property. No questions at this time.

Administrative

Peg, received all checks and green cards. Thomas, yes.

Motion

Motion to continue to November 5th. Deal with amending of order of conditions in the interim, so back to dealing with only one project. Same impact and same info,

Geller, Barbera 5-0-0

Geller – Aye, Wasserman – Aye, Westman – Aye; Arguimbau – Aye; Barbera - Aye

**7:40 PM 126 Morse Street – Notice of Intent, Eric Dias presenting
Strongpoint Engineering**

Arguimbau opened meeting... refer to above.

Proposed Work

Applicant proposing access through common drive 75 foot, peeling off driveway... still looking for waivers. Structure outside of buffer. Driveway within 75 no disturbance and 100 foot.....On this lot, septic reserve area is 90 feet from intermittent stream. Just reserve area, but wanted to bring to attention to commission in case ever to be activated, would be within the buffer. No natural heritage on this lot. When combine into one, it will not just be this particular lot.

SCC Comments

Arguimbau, you can divide into two lots, but same filing.

Thomas, concern about impact potential. That is what is being looked at. Not provide additional for impact that is under allowance of WPA and bylaw.

Between now and November written request to have lot two combine with lot one.

Both sites are tight. Sensitive areas on both lots. Lot 2 less than one, but less challenging. What are the sizes of each lots? Roughly 4 acres each.

Peg, any other questions. Think site visit important.

Westman asked to zoom in on lot two. Wondering about reserve area, potential, but is it possible to slide those two components so that corner of reserve area is out of the buffer? Dias, 20 foot set back is required from property line, and challenging soils, balance act with Board of Health setbacks as well. Will look into .

Dias will look to see if can make changes.

Peg, any other comments?

Public Comments

Jon Welch. For being an abutter, can get copy of ORAD/ yes, out of the SCC. Thomas can send copy to Jon Welch.

Motion

Motion to Continue to November 5th. will receive letter combining of the filings. And take up again. Folks to go visit.

Wasserman, Westman 5-0-0 (Motion Passes)

Geller – Aye, Wasserman, Westman, Barbera, Arguimbau - Aye

Dias, if mutually agreeable time, will be happy to meet SCC members and walk the site with them

Put this hearing at 7:30 for next meeting.

8:10 P.M. - Notice of Intent: 40 Harold Street; Schuster, Costa

*After action filing for deck conversion project
Jonathan Schuster of Oxbow, Costa and Mr. Denny
Continuation. Arguimbau visited the site this afternoon.*

Proposed Work

Schuster to review what it is proposing. Enclosure of existing deck 308 sq ft. Previous deck with slats with pervious beneath. Enclosure began last year, there was a stop work, client complied. Provided mitigation including rain barrels, 950 sq ft removal of invasives and something else.

Modest amount of increase in impervious surface. Believe measures will be net benefit. In surface water protection supply. Have submitted variance request. Existing deck is 35 feet from delineated wetlands. New structure at 35 feet. Happy to answer any questions. Provided alternative analysis letter.

Showed plan and existing deck which is partially enclosed. Showed limits of work. Benefits of this approach existing with existing piers. Post will be upgraded to 6 by 6 from 4 by 4. Showed native pollinator garden and native invasive removal.

SCC Comments

Peg asked where retaining wall. Showed existing retaining wall which was put in 2013. Delineation starts at flag one and runs southwest and wall is to rear of site. Pollinator garden would be on existing lawn. Believes provides a benefit. Native bee habitat.

Peg. One of the problems or issues or dilemma is the fact referring to no disturbance as use what is already existing. That was allowed to be used once, but you are coming back with a different impact arguing same disturbance. Very sensitive lot. Thinks, surprised as to how close edge of wetland is to the property and how little lawn there is. That is concern. Unfortunate that after the fact filing. If had prior work happening, would be a different conversation. Not sure how comfortable moving forward.

Schuster, Costa pointed out at the last hearing. There was good faith on part of applicant. Back in 2013 multiple conversations with Meister, understood the need for that. Was caught off guard with contractor not getting permits. But understood and there is that, By providing mitigation values... trying to enhance the values. From Commission not bad precedent, setting bar high, want project to take steps taking now.

Peg, Understand point made. Offer of improvements appreciated.

Wasserman. 120 feet of native pollinator garden. One time removal of invasive, or will that be on going?

Schuster: open conversation, intent is removal one time removal, but if SCC wants follow up, can put in orders, it is a possibility, difficult to forecast ahead and in perpetuity. Intent is to allow more native species to populate, add native seed mix so that glossy buckthorn does not move back in, happy to discuss at time of removal or condition.

What made choose 120 sq ft pollinator garden. Converting lawn to usable habitat. Tight lot, with house, yard and against fence and wall and wetland area. About four feet in width and thirty long. Think appropriate size for size of yard and continued use of lawn by the family.

Geller: concern whole thing is located within the fifty.

Wasserman, not a ton of mitigation relative to impervious

Peg, project is confusing , not creating any more impervious , just going on top of what is there previously.

Schuster: Opted for rain barrels as no soil disturbance. But open to other mitigation options. Want to hear commission what they think is appropriate. Put forward to achieve goal, but happy to hear what is more appropriate,

Peg, if heard at the beginning, then perhaps addition to house go over the driveway, as not dealing with as already in construction phase, Meister out there numerous times about retaining wall and deck. Unfortunate. All impact to one lot.

Alternative Analysis Discussion

Alternative analysis, address where else could similar size addition go. Non conforming lot. Much more compliant to put addition on the side. From zoning, structure permitted in 2013, passed by SCC staff. Think enclosure is consistent with other projects just as tight.

1819 Niantic in December of 2019. That project was similar to this. Existing deck. Not just existing piers, but concrete piers 39 feet from resource areas.

Current project is similar distance to resource , plus proposing suite of mitigations. Thinks in line with spirit of what it takes to get a variance to do work in sensitive area.

Thomas. Talking about variance. Talking about bylaw and public benefit. Anything they can do on lot for a public benefit?

Schuster: stated the pollinator area is public benefit, invasive species removal public benefit. Controlling that is public benefit, from resource benefit side of things.

Schuster: Covered number scenarios no build, similar Schuster discussed. Basically, lot offsets alone. Deck is prime location to have the addition. Original intent was place for family to enjoy views of the woods in back. Project as proposed has zero disturbance of soil. Putting deck elsewhere more impactful to resource area, as well as re-engineer existing deck which was approved in 2013 space for family to congregate, still there, just will be an enclosed deck. Also deck on side of home requires zoning setbacks.

Applicant is open to Mitigation , willingness to work with commission, and is flexible to requests. Short summary of the letter, covers those topics. Not to mention hiring architect to draw up new plans. Architect was at site , know piers there now will support new enclosure.

Peg any one else any comments?

Costa: No, where do they stand with Zoning at this point. Costa, have appealed decision and pending with land court.

Geller, if appeal in land court, would make sense to postpone until that decision comes out?

Costa, suggest zoning bylaw is a separate jurisdiction and issue is different. Zoning petition was for special permit to expand structure. Conservation is a different not sure what would be gained? Environmental controls? Costa, SCC has their issues, zoning, their issues. SCC looks at more scientific specifically the wetlands.

Peg, Section 3300 often times connect the two especially when in sensitive area. There is usually a connection.

Costa: Process is different than notice of intent.

Peg, hesitate putting up against another town board while in limbo with overlapping interest.

Thomas, would not be able to delay, but could condition. Based on another boards regulations and rules.

Costa, point trying to make. SCC is the main board which relates impact on wetlands. Would be secondary to zba.

Keevin comfortable with timing of waiting for permits? If going to , ask if close hearing tonight?

Peg, has number, submitted alternative analysis. If others feel different, have received info for tonight that need to bring to a close.

Thomas, would propose a time frame for management of invasive species area? Maybe a three year time frame? And annual updates? Is that something should condition?

Peg, Schuster put up plan of 40 Harold street lot. Wondering down the road. Of lot, 25 sq foot, maybe , just throwing up there, no small area, if draw a CR line across back of lot, a little more than dividing in half, with CR at the back of the property, to secure. Deny would still own, would not allow anything back there, wetlands back there so nothing should happen, maybe if willing to do. While taking out invasive is good, not sure how SCC would enforce continuity of that in the future.

Schuster, sees a lot of similar projects not a CR, but 950 sq ft infective basically restorative, can be bounded in perpetuity, and conditioned..... without as much legal architecture....

Peg, how would you marker?

Schuster: Conditioned with survey markers or noting on permit which is recorded, no disturbance beyond retaining wall.... Gives legal framework no one will chop down trees in the wetlands.

Thomas would take step further and draft additional special conditions requirements.

Arguimbau, more agreeable to...Low lying markers, do not disturb beyond this point.

Wasserman, still selective invasive control?

Arguimbau yes, how far out to monitor.

Schuster: Proposed manual removal. Selective removal and size appropriate for hand pulling

Close tonight? work on restoration area in perpetuity, would be a condition.

Close hearing and condition as spoke about tonight. With Schuster indicated the area with markers, at limit of the wall. Still to the restoration area with invasive and garden along the side.

Motion: Wasserman, Barbera (5-0-0_

Geller – Aye; Wasserman – Aye; Westman – Aye, Barbera- Aye; Arguimbau – Aye

Will issue the OOC to the applicant . If wish to pick up or put in the mail.

Mr. Denny to put number DEP of the project in front of the house.

Conservation Meeting Updates

Try to schedule working session to review rules and regs. Thomas has some proposals. Would like to do before next meeting November 5th.

Available Oct 22nd or 29th? wasseman cant do the 22nd. Nor can keevin or alan. At 7:30pm

Ok meet on the 29th. at the rec center. Posted as a working session.

Lakeview/Morse Street Parcel

Scout project ended up just doing the trail. Now wants to do water trough. Peg said to present. Make area more welcoming to walkers.

Stormwater and Dam Evaluation Meeting

John and peg met this am with Eric Hooper and Peter O'cain. Dpw is looking for concom and agent to become responsible for stormwater management testing as well as dam maintenance and inspection. John was willing to consider, however, going to mean increase of budget, job description review, and maybe even staff. Now that under selectman of budget, up to SCC whether want to agree with.

The SCC own manns pond, we own dam and ours and includes care and maintenance. Even though dpw has been taking care of. Need professional engineer to review.

Why come up now? Discussion ensued regarding previous board interactions on work proposed at Mann's Pond.

Something we will be discussing. What will be needed for money and hours.

Also stormwater testing.. maybe 200 outfalls which need testing. Would be looking for consultant or assistance to do that as well, as work may be extensive for the CA. Do we want to do, what does it mean, how it is moving forward.

Cant just say no. Keevin asked if we have to do. DPW said maybe some money from water can go towards stormwater.

Funding to cover work that is done, now is transferred to concom, then maybe

Peg did not get that as part of plan.

John, if we don't have the money, we cant do the work.

Topic for future discussion. According to O'cain who goes to Neponset watershed meetings, every other town has concom doing stormwater. And recommended calling Ian Cook. Peter o and his staff does stormwater and indicated Kevin Davis is doing a variety of activities. Unfortunate that the Town Administrator was not at the meeting. Will maybe going to select board. Not sure what going to ask for.

Will need more resources to entertain further commitment requests.

Conservation Administrator Updates

43 condor road. Illegal cutting last year and had to file and restoration plan. Anonymous tip they are cutting down more trees. Will be meeting with wetland scientist to check out.

Will be working with Kevin weber next week on tree damage around town. Emergency action of tree damage at wonderland. ...

Receive word from lawyer at 44 harold street. Wanted john to testify. Did not feel comfortable zoning board wetland regulations. Not authorized to do so.

54 applicants for the clerk job. Alan and Meredith with be subcommittee. After meeting with Lauren Barnes. Smaller committee can come to agreement and appoint the person. Fred leaving up to peg, Meredith, and john.

*Meeting adjourned at 9:19pm
Geller, Wasserman 5-0-0 (Motion Passes)
Wasserman, Geller, Westman, Barbera, Arguimbau*

Approval of meeting minutes 10/15/20

Motion: to accept minutes of 10/15/20