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MINUTES

May 25, 2017

PRESENT: John Hall (Chair), Liz Craig, Tom Burgess, Nick Lee, Kathie Mandel, Rick Stow, Mark Andrews

ALSO PRESENT: Mike Conklin, Director of Environmental Affairs; Liz Larkin, Recording Secretary; Rick Tomasetti, Lovas & Tomasetti Architects; Chris & Theresa Brubeck, Property Owners; Marjorie Shansky, Attorney; Tom Harris, Neighbor

I. CALL TO ORDER

Mr. Hall called the meeting to order at 7:30 p.m.

II. PUBLIC HEARINGS

A. WET#2453(S) – GANY – 66 Little Brook Road – proposed additions and site improvements including extending parking area and relocation of a shed

Mr. Conklin, Mr. Hall, Ms. Craig, Ms. Mandel, Mr. Stow and Mr. Andrews indicated they visited the site.

Mr. Tomasetti reminded the commission that this owner received an approval in 2016 for a family room addition, driveway modifications and B100a. He confirmed the B100a septic has been done but the remainder of the project is changing so he is coming back before the board for approval. He stated the former application had the addition over the driveway. They have now received a variance from Planning & Zoning to place the addition in the back of the property on an existing stone patio. He confirmed there will be a 6 ft. crawl space and not a full basement underneath. The revision includes pulling the garage bay back by 17 ft. and shifting it so that the one long bay will become two bays. In order to accomplish this revision, the shed will be relocated so there is an area for the cars to pull out and turn from the garage. Mr. Tomasetti confirmed the new proposed addition is farther from the wetlands than the previous approval.

Mr. Hall noted the shed is closer to the wetlands but the addition is farther away and asked if they are increasing the impermeable area. Mr. Tomasetti responded the only additional coverage is the car turnaround area. Ms. Craig asked what is stored in the shed. Mr. Tomasetti confirmed the Gany's have a lawn service so there is mostly rakes and shovels with no mower. He stated there will be no pesticides or herbicides in the shed which is raised with cinderblocks; not a

concrete pad. Mr. Tomasetti confirmed the shed is moving 15 ft. from the originally approved location

Ms. Craig asked about the driveway configuration. Mr. Tomasetti confirmed the driveway will remain the same with only a slight modification for the turn-around. Ms. Craig commented that this property has one of the best buffers in town and should be a model to other property owners in town.

Mr. Tomasetti confirmed the new configuration of the house with the addition in the back affords them the opportunity to keep their view of the pond. Ms. Craig asked about the construction access to which Mr. Tomasetti responded it will be in the driveway. He added that the construction staging would be in the prior septic location.

Mr. Conklin stated this is a positive revision for the wetlands as it creates less disturbance in the regulated area. He confirmed there is no potential for impact in the backyard. He also stated the property owners have already planted the buffer and is a model property for buffer health. Ms. Mandel asked about the timeframe of construction. Mr. Tomasetti responded that the contract is out to bid and there will not be ground breaking for another month or two and the construction will take four to six months to complete.

Ms. Mandel MOVED to APPROVE WET#2453 with the General and normal Special Conditions and the additional Special Conditions that this approval supersedes the previous resolution with the exception of the B100a which will stand, SECONDED by Mr. Lee and CARRIED 7-0-0.

B. WET#2437(S) LTWJ, LLC – Cannon Road (Map#21 Lot#13) – subdivide approximately 55 acres of land for a subdivision which will create eight building lots each one-acre minimum and set aside 43 acres for conservation land

Mr. Conklin read a letter from Casey Healy of Gregory & Adams asking for the Public Hearing opening be postponed until the next regular meeting on June 8, 2017.

Mr. Lee MOVED to POSTPONE the opening of the Public Hearing, SECONDED by Mr. Burgess and CARRIED 7-0-0.

Mr. Hall and Mr. Lee left the meeting.

III. APPLICATIONS READY TO BE REVIEWED

A. WET#2429 (S) – DAVID W. BRUBECK TRUST, IOLA W. BRUBECK TRUST, DERRY MUSIC COMPANY – 221 Millstone Road (Assessors Map#94 Lot#1), Millstone Road (Assessors Map#79 Lot #40), 67 Hickory Hill Road (Assessors Map#94 Lot#9), 69 Hickory Hill Road (Assessors Map#94 Lot #10), 73 Hickory Hill Road (Assessors Map#94 Lot#11), 85 Hickory Hill Road (Assessors Map#93 Lot #16), & 87 Hickory Hill Road (Assessors Map#93 Lot #17) – (i) the renovation of an existing wetlands crossing; (ii) the construction of a new wetlands crossing; (iii) the development within upland review areas of six (6) lots that were subdivided in 1954 and resubdivided in 1968

Mr. Conklin reminded the commission and the public that the Public Hearing is closed and there can be no new information from the applicant or interveners. He stated the approval or denial will need to be clearly executed and should be done on a lot by lot basis.

Ms. Craig stated she saw little or no compromise on the part of the applicant as there is little change from the initial plan. She commented that the applicant shows no sensitivity to the resource which is a public water supply and AAA watercourse. She stated she is not comfortable for many reasons with the proposal as there is a need to protect the buffer which is already compromised. She stated the ribbon highway is a misrepresentation as she believes the sloped road is a concept that may not be reality. She noted there is a reason no houses in the vicinity are built within the 100 ft. buffer and the current land use and setbacks have been respected throughout the years. Ms. Mandel asked Ms. Craig to clarify what she meant by a ribbon highway. Ms. Craig states it generally refers to a country lane with a grass median, but may be just narrow in this case.

Ms. Craig was concerned about fire department access as she was not sure the fire trucks can turn around. She thinks it is very optimistic that the buffer will be shaded in 5 – 10 years as stated. She raised concern about the amount of ledge in the planting areas and stated it would be difficult for trees to establish there. Ms. Craig was also frustrated that the amount of disturbed land from the last hearing was not reduced and that the applicant provided last minute information dumps that were hard to respond to and keep the flow of the conversation. She added that she felt handicapped by the discussions because of the way the information was provided. Mr. Conklin advised that the applicant has the right to provide information at the hearing. Ms. Craig stated there were choppy interactions with so much unchanged information other than little improvements here and there.

Ms. Craig stated the septic on lots 6 and 8 have not been adequately addressed. Mr. Stow stated the decisions should be completed on a lot by lot basis. Mr. Conklin suggested the commission schedule special meetings to dedicate the time required to look at each lot individually. The discussions can also continue during the regularly scheduled meetings if time allows. Mr. Conklin confirmed when a decision is made, there are factors of consideration and the regulations need to be strictly adhered to. He also noted if the commission denies any lot, there will need to be clear reasons for the denial. Mr. Conklin stated Lot 8 does not have Health Department approval which was discussed at length, and the lack of additional testing when asked repeatedly to provide it could be grounds for denial. All decisions should be listed in the motion so that if there is an appeal, the judge can read the motion for details. Ms. Mandel inquired if this lot could be approved based on a special condition that testing be done. Mr. Stow stated the engineer was speculative that Health would approve the septic on lot 8. Mr. Conklin stated the commission needs to look at the cumulative impacts to the resource such as the mitigation for Lot 5 is far away and the mitigation impacts different lots. Mr. Stow asked if the commission can say which septic location for lot 8 is better. Mr. Conklin responded that they need to evaluate impacts on the regulated area and resource as a whole.

Ms. Craig stated the site is very limited and constrained due to the wetlands and rocky ledge. Mr. Andrews suggested they study each lot and then discuss the common crossings. He noted the proposal has a building in the buffer of each lot. Ms. Craig stated the whole eastern development that runs by the driveway is a real issue. She added that some wetlands are more important than others and this is a public water supply. Mr. Conklin stated they should review

the resource on each lot individually and evaluate open questions on a lot by lot basis.

Mr. Burgess stated he has questions that he thinks the commission should divide by lot so that the discussion is manageable. He stated it is important to balance the rights of a homeowner while balancing the resources as he stated paying taxes on the property does entitle some consideration. Mr. Conklin stated the lots are reconfigured, so they are not the same lots, and there were no regulations when the last lot reconfiguration was approved so this is the time to make sure they are not adversely affecting the wetlands. He added that paying taxes on the property does not give them a right to build whatever they want. Mr. Stow confirmed the lots exist and the commission needs to weigh the regulated activities. Mr. Conklin stated just because a lot exists does not mean it is a buildable lot. He also confirmed the confiscatory taking will not be the case for these sites. Ms. Mandel asked if there was a precedent on building within the public water supply. Mr. Conklin responded that there is not but this is a highly valuable resource. He also noted the question on the deicing salts where Ms. Throckmorton stated they will be soluble and the plants will absorb and dilute is not backed by science. He added that salts bind to certain soil types and plants may uptake the salts.

The commission looked at Lot 1 first and noted the driveway is completely in the buffer. The driveway is pitched away from the resource and is 12 ft. wide except for the opening at the top. Mr. Stow noted the plantings at the top of the driveway are better than what exists. The commission looked at the water quality basins and confirmed this basin #1 is meant to catch water from going into brook. Mr. Andrews asked if there was a better way to access this property. Ms. Craig stated they are disturbing the buffer with their treatment train. Mr. Conklin advised that the commission should look for unreasonable items that could have an impact to the resource and ask themselves if there is a feasible and prudent alternative. He stated unreasonable impacts would be filling wetlands, building a house on a wetland or destabilizing the upland review area.

Mr. Conklin stated Lot 1 is being graded and contours and soil and erosion controls are noted. There is mitigation here with shade trees but the proposed plugs are sparse. He stated seeds do not take when there is a lot of moisture and 18 inches on center is pretty far. Additionally, the types of plugs are not noted on the plans. Ms. Craig asked how much water the basins can hold. Mr. Conklin responded that it holds a 25-year storm event and that it will overtop anything more.

The water quality basin #1 shows ferns which is a good improvement. The stormwater infiltrator in the front of the house captures the runoff from the roof. The commission noted that not all trees are specified on the plans, only select trees are shown and the large pines will remain. The unreasonable impacts may be the septic, infiltration and driveway in a regulated area. Ms. Craig stated this plan is so complicated but it should not be. The commission then discussed the fill and grading for septic. Ms. Craig noted her concern about erosion on the stream. Mr. Conklin added this area is a gully where soil can erode and noted no chemical testing was completed to see if there is pollutant loading. Ms. Craig stated if this lot is approved, everyone will want to build that close. Mr. Andrews asked which resource is more valuable. Ms. Craig stated smaller houses would be reasonable and feasible.

Mr. Andrews MOVED to ADD two special Meetings to the calendar on June 1st and June 15th starting at 7:00pm, SECONDED by Mr. Stow and CARRIED 5-0-0.

Mr. Conklin asked the commissioners to try to think of benefits of the application, not just issues. Mr. Burgess asked if we could ask Peter Gelderman to attend the June 15th meeting. Mr. Andrews confirmed he will not be attending the June 8, 2017 meeting.

Mr. Burgess MOVED to CONTINUE the discussion on Brubeck Trust, SECONDED by Ms. Mandel and CARRIED 5-0-0.

IV. APPLICATIONS READY TO BE ACCEPTED - None

V. APPROVED MINOR ACTIVITIES

A. WET#2446(M) – CORTINA LEARNING CENTER INTERNATIONAL – 9 Hollyhock Lane – “after-the-fact” handicapped ramp, rear stairs, and pave parking lot

B. WET#2450(M) – DESOUZA – 192 Cheese Spring Road – proposed bathroom addition and mudroom

Mr. Conklin provided a brief description of each of the Minor Activities that have received permits since the last meeting.

VI. CORRESPONDENCE - None

VII. OTHER APPROPRIATE BUSINESS

A. Approval of Minutes – May 11, 2017 Meeting & May 17, 2017 Meeting

Mr. Andrews MOVED to APPROVE the May 11, 2017 and May 17, 2017 Meeting Minutes, SECONDED by Ms. Mandel and CARRIED 5-0-0.

VIII. ADJOURN

Mr. Burgess MOVED to ADJOURN at 10:10 pm, SECONDED by Mr. Andrews and CARRIED 5-0-0.

Respectfully Submitted,
Liz Larkin
Recording Secretary, Environmental Affairs

