

## CONSERVATION COMMISSION PUBLIC HEARING

January 24, 2012

FINAL

The meeting was called to order at 7:00 p.m. by the Chairperson, Jay Diener, at the Hampton Town Office Meeting Room. Commission Members present were Barbara Renaud, Sharon Raymond and Peter Tilton. Alternates present were Diane Shaw and Gordon Vinther. Commission Members absent were Ellen Goethel and Steve Scaturro. Rayann Dionne, Conservation Coordinator, was present. Fran McMahon was representing the Planning Board.

The Minutes of December 27, 2011 were accepted with corrections noted.

The site walk was held on Saturday, January 21, 2012 meeting at the Town Hall Parking Lot at 9:00 a.m.

1. 21 Riverview Terrace
2. Esker Road
3. 1048 Ocean Blvd
4. 20 Robin Lane
5. 18 Bragg Ave

### NHDES APPLICATIONS

- A. Esker Road  
Ronald Remick  
Agent - Gove Environmental, Jim Gove

This is a Standard Dredge & Fill application for the construction of a retaining wall and pervious driveway on a narrow strip of land off of Esker Rd. The revised plans are similar to the ones the Commission has already reviewed with the exception that the applicant is looking to install a permeable asphalt or paver driveway surface instead of crushed stone. The applicant's agent, Jim Gove of Gove Environmental, explained that the purpose of the driveway is to provide a secondary access route to the applicant's property at 436 Winnacunnet Rd. Mr. Gove gave a brief explanation of the project indicating that the impacts to the swale and wetland soils would be temporary and that the retaining wall would be approximately 90 feet long with a maximum height of 2.5 feet. The swale has been properly functioning for several decades and shows no signs of erosion or deterioration. The discussion was then opened up to the Commission members.

Ms. Raymond asked whether or not a drainage study had been performed because the volume of the swale is going to be impacted by the construction of the retaining wall and driveway. Mr. Gove responded that they have been in contact with the Engineer (Altus Engineering) who is reviewing a drainage analysis and the tentative conclusion is that there will be no impact to the flood storage provided by the drainage swale. However, the final report has not been completed yet. Mr. Diener asked when would the final report be completed and if a copy would be sent to the Commission. Mr. Gove responded that the report should be finalized within the next three or four days and agreed to send a copy to the Commission.

Ms. Raymond also noted that the plan indicated that the pervious driveway would be constructed with either pervious pavement or pavers. However, the cross section of the pervious driveway did not appear to follow the pervious pavement guidelines presented in the NH Stormwater Manual. This vague depiction makes it difficult to verify if the proposed construction details comply with the NH Stormwater Manual. The plan also does not show the seasonal high groundwater levels, which plays an important role in the design of a permeable driveway. Mr. Gove responded that the cross section does incorporate some of the actual recommendations from the UNH standards. He also stated that the Engineers at Altus are well aware of the necessary components needed to construct a pervious driveway and believe this can be achieved within the constraints of the site. The owner is partial to pervious asphalt but leaning toward pavers. The proposed condition plan will remain as shown until the applicant makes a final decision or is required to by NHDES.

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### NHDES APPLICATIONS (cont)

#### A. Esker Rd. (cont)

Mr. Diener added that he was curious as to why only one of the UNH Stormwater recommendations were incorporated into the plan instead of all of them. Mr. Gove responded that he would need to get more specifics from the Engineer. Mr. Diener clarified that a vague or incomplete plan, as this would be classified, makes it difficult to understand and gauge the potential impacts of a project. Ms. Raymond agreed and reiterated the importance of a drainage study and its role in justifying and supporting a design.

Mr. Tilton asked if the tree stumps located along the top of the swale's embankment would be left in place. Mr. Gove stated the stumps will not be left in place and will have to be removed. Mr. Tilton noted that removal of the stumps is contrary to the Town's Wetland ordinance. Mr. Tilton recalled that the Commission reviewed a project very similar to this one in June. Mr. Tilton remains opposed to this project because the vegetated swale is a stable drainage feature which receives water from a densely developed neighborhood. Even through repeated flood events over the past decade indicates the swale does its job and shows no evidence of erosion. Mr. Tilton fears that reducing the volume of the swale in its upper section by constructing a retaining wall and driveway for a secondary access to the back yard of an existing home is a risky gamble. It seems like constricting the water in the swale may increase the speed of the water moving through the swale, especially during large storm events, which will have a greater power and may cause erosion especially along the eastern side. Mr. Tilton is uncomfortable supporting a project that may cause drainage issues where none currently exists and where the applicant has not demonstrated a need or hardship. Lastly, Mr. Tilton pointed out that the representative present on Saturday's site walk was very curt and he did not appreciate the way she treated and spoke to the Commission. Mr. Gove acknowledged Mr. Tilton's concern.

Mr. McMahon's concerns revolve around the overall function of the drainage system in this area. This drainage swale is a drainage feature in itself but it also plays an important role in a larger drainage system. Mr. McMahon is very concerned about the impact of incrementalism, where the sum total of little projects can be devastating in neighborhoods.

Mr. Gove summarized the concerns he had heard thus far and asked if he was able to provide a drainage report, which showed no change in the swale's flood storage, would the Commission look favorably on this project? Both Mr. Tilton and Ms. Raymond commented that at this time there is no drainage study to review and based on the proposed plan it is extremely difficult to understand how the retaining wall and driveway will not have a negative impact on the function of the swale. Ms. Raymond mentioned that the drainage report would have to show that there is no impact to the neighbors by changing and altering the drainage pattern.

Mr. Vinther noted that Mr. Gove is asking for an approval when there is no engineer present to answer and address these important questions. Mr. Gove reiterated the preliminary drainage study findings. Mr. Gove followed up that all of the Commission concerns were being noted and there was no issue with supplying the additional information required, however he was getting the impression that even with additional information the Commission was not willing to accept this project.

Mr. Diener responded that the Commission is wrestling with trying to understand how a substantial change in the footprint of the drainage swale is not going to have a negative impact short and/or long term versus the potential gains of constructing a secondary driveway. Mr. Diener also noted that the abutter to the east who has partial ownership of the swale has a very specific deed restriction, which states that they cannot alter the drainage swale. This suggests that at the time of development it was deemed necessary to take precautions through a deed restriction to protect the function of the drainage swale. However, it is not clear why Mr. Remick's deed does not include the same restriction.

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NHDES APPLICATIONS (cont)

A. 16 Esker Rd. (cont)

Ms. Dionne commented that during the site walk on Saturday there had been some uncertainty about how far the retaining wall would extend towards the rear property line. The representative on-site indicated that the retaining wall would extend to the rear property gate. However, based on additional review of the plans the retaining wall appears to stop about 30 ft from the gate. Mr. Gove concurred with this observation.

Ms. Shaw stated that there appears to be many questions and a lack of necessity to substantiate this application. Mr. Gove responded that the owner simply wishes to have a secondary access route and believes he has this right because historically it has been an access point.

At this time, Mr. Diener asked if anyone from the public would like to speak. Ms. Terri Brunette, abutter and owner of 40 Esker Rd., spoke concerning potential flooding on her property should the swale be altered. Ms. Brunette also shared photos with the Commission showing a period in June when the swale was partially full of water. These photos also showed the downstream portion of the swale not located on Mr. Remick's property. Ms. Brunette has a perimeter drain that empties into the swale and is extremely concerned that changes in the swale's volume could cause water to back-up and flood her basement, which has never flooded. Ms. Brunette has also observed that a greater volume of standing water in the swale following the removal of the trees along the top of the western slope. Ms. Brunette stated that the swale works beautifully and protects their neighborhood but the potential unknowns associated with this project are very distressing. Ms. Brunette does not wish to experience the potential consequences from altering the swale to simply provided a secondary access route. Lastly, Ms. Brunette asked about snow removal and snow being plowed into the swale or onto the abutter's property to the west. Piling snow into the swale could also interfere with Ms. Brunette's perimeter drain.

Mr. Olney, resident across the street and original developer of Esker Road, offered some background information. The swale receives water from Esker Rd as well as the water collected from a catch basin across the street from the Esker Rd. parcel. The installation of the swale was a way of not using pipes and preserving open space. The swale over the years has held together quite well. Mr. Olney questioned what type of hardship exists that supports the need for this second driveway. Mr. Diener responded that it was also unclear to the Commission whether a hardship in fact truly exists. Mr. Tilton asked how much water was in the swale on the Mother's Day storm a few years back because water entering that swale must come from other places than just the catch basin. Mr. Olney agreed and stated the swale also receives water from Winnacunnet Rd. Mr. Tilton asked if Mr. Olney had seen water in the swale above the perimeter drain outlet for 40 Esker Rd. and Mr. Olney said he had not. Mr. Tilton also asked if an engineer designed the swale as a major drainage component of the Esker Rd. development and Mr. Olney said that it was.

Mr. Diener closed the public session and brought the discussion back to the Commission.

Mr. Diener asked Mr. Gove how snow removal was going to be handled. Mr. Gove responded that Mr. Remick is prepared to truck the snow away. Mr. Gove would like to suggest to the owner that the stone barrier proposed along the edge of the driveway/top of the retaining wall be changed to a wall, which would prevent snow from entering the swale.

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NHDES APPLICATIONS (cont)

A. 16 Esker Rd (cont)

Mr. Diener also asked how the permeable driveway surface is going to be maintained. Mr. Gove said that permeable parking, which receives more activity than a driveway, requires cleaning at least once or twice a year. However, a driveway does not have the same level of usage, therefore, cleaning once every few years would most likely be sufficient. Based on Mr. Gove's response, Mr. Diener clarified that currently no maintenance plan has been developed. Mr. Gove agreed because the plan would be dependent on whether pavement or pavers are selected.

Mr. Tilton and Mr. Vinther brought the discussion back to snow removal. There were questions about the height of the wall/snow barrier and how practical is it to enforce the snow removal technique. The enforcement of a special snow removal practice would be very challenging, if not completely impractical.

Ms. Raymond believes that this project has just too many unanswered questions, the plan lacks important details, and no drainage study is available to support the proposed design. Commission members agreed. Mr. Tilton reiterated his feeling that the swale is working properly and making the alterations may cause some serious future problems, which is not something the Commission wants to be involved in.

Mr. Gove stated that from a procedure stand point he was authorized to come before the Commission only once. He is willing to supply the Commission with any changes that may occur to plan. However, at this time he requests that the Commission supply a letter to NHDES explaining their concerns. Mr. Diener explained that a recommendation to NHDES is one option unless the property owner would like to revise the plans and continue the discussion. Mr. Gove stated at this time the property owner wishes to proceed with the plan as presented. Ms. Raymond clarified that even if the NHDES approves this permit application, a Town Special Permit will still be needed. Mr. Gove explained that his client understands that both permits are required in order to move forward with the project.

Mr. Tilton motioned to oppose the granting of this application for the following reasons:

1. The proposed plan lacked specific construction and technical details.
2. No drainage study is available to support the proposed design.
3. The proposed plan lacks information on snow removal.
4. No maintenance plan has been developed for the porous driveway.

Mr. Vinther seconded the motion. All were in favor.

B. 16 Battcock

Terrence & Kelly Connor

Agent - Jones & Beach, Joe Coronati

This Standard Dredge & Fill Application is to remove an existing concrete foundation and gravel driveway and to construct a 583 sq ft addition to the existing house and to install porous paver driveway. The applicant originally offered to remove the asphalt on the slope between the property and the salt marsh. The Commission, in consultation with the NHDES, recommended that the asphalt be left in place to better stabilize the asphalt slopes on the bordering properties. Additional mitigation was offered in the form of tree and shrub plantings. Additional discussion took place regarding the distance of the proposed posts with chain/rope from the driveway. The Commission wanted the posts to be far enough to allow for snow storage, but not so far to permit additional parking on the yard. In addition it was recommended that a maintenance plan be developed to ensure that the permeable driveway remain permeable. It was recommended that the placement of the posts and the submission of an annual maintenance report for the

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DES APPLICATIONS (cont)

B. 16 Battcock (cont)

driveway be added as a deed restriction to best ensure that they would stay in place, and that future owners would be aware of these issues. Ms. Renaud motioned to not oppose the DES permit application with the following stipulations and usual stipulations:

1. Granite posts with chain or rope shall be installed 4 ft. from the western edge of the driveway.
2. Applicant has agreed to develop a maintenance plan for the permeable pavers and to submit an annual maintenance report to the Planning Board by December 31<sup>st</sup>.
3. Deed restriction that includes the same as above in #1 & #2.

Mr. Tilton seconded. All were in favor.

C. 21 Riverview Terrace

Albert & Linda Scranton & Jangel Trust

This is a Dredge & Fill Application to rebuild an existing porch (12' x 6') porch with a 7' x 6' extension. The new porch will be 19' x 6'. The applicant explained that the extension to the porch is replacing a concrete slab where the previous owners stored their trash cans, etc. So, even though there was no porch over that area, it was impervious because of the slab. The Commission members discussed the merits of planting under the drip edge of the roof versus adding gutters. The consensus was that dispersed runoff, slowed by the plantings would be better on this site than concentrated runoff from a gutter-and-downspout system. Mr. Tilton motioned to not oppose the granting of the wetlands permit with the following stipulations:

1. The Commission must approve the planting plan prior to installation.
2. Even though the applicant had offered to install roof gutters, the Commission feels that plantings under the drip edge of the roof will do a better job.
3. The Commission is to be notified at the beginning and end of the project.

Ms. Raymond seconded the motion. All were in favor.

D. 18 Bragg Ave.

Thomas & Patricia Roughan  
Agent - West Environmental

This Application is to tear down and rebuild within the existing footprint. Replace existing paved parking area with permeable pavers. This application will be continued to the February meeting at the applicant's request.

SPECIAL PERMITS

A. 16 Battcock Ave.

Terrence & Kelly Connor  
Agent - Jones & Beach, Joe Coronati

This Special Permit is to remove an existing concrete foundation and gravel driveway and paved tarred embankment along the tidal marsh. Then construct a 583 sq ft addition and eco paver driveway. After a review of the application, Mr. Tilton motioned to recommend the granting of the Special Permit with the following stipulations, as the applicant had revised the plan:

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**SPECIAL PERMITS (cont)**

**A. 16 Battcock (cont)**

1. Granite posts with chain rope shall be installed 4 ft. from the western edge of the driveway instead of the proposed 10 ft.
2. The applicant has agreed to develop a maintenance plan for the permeable pavers and to submit an Annual maintenance report to the Planning Department by December 31<sup>st</sup>.
3. A deed restriction that includes the following:
  - a. The granite posts with chain or rope must be maintained 4 ft from the western edge of the driveway.
  - b. The driveway shall be maintained as a permeable surface with the submission of an annual maintenance report to the Planning Board Department by December 21<sup>st</sup>.

Ms. Shaw seconded the motion. All were in favor.

**B. 21 Riverview Terrace**

Albert & Linda Scranton & Jangel Trust

This Special Permit is for the reconstruction of an existing porch (12' x 6') with a 7' x 6' extension. The new porch will be 19' x 6'. Mr. Tilton motioned to grant the Special Permit (per the plan signed and dated by the Chair) with the following stipulation and the usual stipulations:

1. The Commission must approve the planting plan prior to installation.

Ms. Raymond seconded the motion. All were in favor.

**C. 20 Robin Lane**

Ray & Ellen Lavin

Agent - Millenium Engineering Inc.

This special permit is to rebuild the fire damaged home on the same foot print with the addition of a 5' x 7' bulkhead. After a brief discussion, Ms. Renaud motioned to recommend the granting of the Special Permit (per the plan signed and dated by the Chair) with the following stipulation and the usual stipulations:

1. The applicant has agreed to double check the location of the silt fence to ensure that it has been installed within the property boundaries.

Mr. Tilton seconded the motion. All were favor.

**D. 1048 Ocean Blvd.**

Dean Koravos

Agent - D.D. Cook Builders, Inc.

This Special Permit is to tear down an existing dwelling and rebuild within building setbacks with a reduction of 90 sq. ft. of sealed surface in the 50 ft buffer. This project already has an active NHDES Dredge and Fill permit that expires in 10/25/13. After a brief overview, Ms. Raymond motioned to recommend the granting of the Special Permit (per the plan signed and dated by the Chair and the letter dated 01-24-12 with re-calculated impacts) with the usual stipulations. Mr. Tilton seconded. All were in favor.

**PLANNING BOARD REFERRALS**

- A. None

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**PLANNING BOARD ACTIONS**

A. None

**DES ACTIONS**

A. 8 Battcock Ave

Construct a 223 sq. ft. deck using pervious grate decking. Remove 54 sq. ft. of pavement on the embankment adjacent to the tidal marsh and stabilize using bioengineering technology and plantings of salt tolerant species including Rosa rugosa, Bayberry & American Beach Grass. Approved.

**OLD BUSINESS**

A. Draft Ice Pond FRP - update

Ms. Dionne stated that the RFP's went out last week. Proposals are due on February 8, 2012.

**NEW BUSINESS**

A. Schedule an Ice Pond Dam RFP review/selection date

B. Letter to State Representatives, Senator Stiles and NHDES opposing proposed changes to the Prime Wetland Regulations.

C. Mr. Diener mentioned that the Commission should be thinking of looking into additional funds.

**CONSERVATION COORDINATOR UPDATE**

A. Pages Meadow - Ms. Dionne stated that the Town Special Permits have expired, and that the applicant would have to re-file for both. She has asked the applicant to provide copies of the last approved plan, as well as the new plan when they submit their applicants.

B. Geoff Rallis, 20 Merrill St. - The Special Permit has expired in 2006 for the deck.

C. 15 Church Street - The snow location was in the back corner and where it was suppose to go.

D. Operations and Maintenance Plans will be implemented.

E. Ms. Dionne mentioned there was a concern from a Hampton resident regarding ATV activity at Whites Lane.

**TREASURER'S REPORT**

The next meeting of the Conservation Commission Public Hearing will be held on Tuesday, February 28, 2012, meeting in the Town Office Meeting Room. The site walk will be announced and will start at the Town Office Parking Lot.

Mr. Tilton motioned to adjourn at 9:45 p.m., seconded by Ms. Shaw. All were in favor.

Respectfully submitted,



Sue Launi, Secretary