

TOWN OF SOMERS
Conservation Commission
600 Main Street

REGULAR MEETING
WEDNESDAY, MARCH 3, 2021

7:00 PM – VIRTUAL MEETING VIA TELECONFERENCE (ZOOM)
MINUTES

- I. CALL TO ORDER Meeting called to order by Joan Formeister at 7:03pm. Commissioners in attendance were Candace Aleks, Daniel Fraro, Greg Genlot, and Drew Kukucka. Also in attendance were Recording Secretary Tara Comrie and Wetland Agent Joanna Shapiro.
- II. PUBLIC HEARING – **Application #740:** 50 Hangdog Lane. Construct Driveway and Repair Drainage, involving work within both Wetland and Upland Review Area. Roulier Family Limited Partnership/Daniel R. Roulier.

Joan Formeister stated that the commissioners have spent time looking at materials available as hard copies and on the website. They are aware of all available information submitted. She reminded attendees that the purpose of the public hearing is wetlands issues and that they must keep arguments within the wetlands jurisdiction.

Jay Ussery with JR Russo and Associates was in attendance on behalf of the Roulier Family Limited Partnership representing Dan Roulier and speaking in favor of the application. Mr. Ussery shared his computer screen to show the plan and overview. He stated that the property owned by the Roulier family is an 11 acre parcel. The slope of the property goes up from Hangdog Road to the East. There is an existing driveway beginning at the cul-de-sac that The Roulier family owns. The wetland area is at the northeast corner.

Mr. Ussery explained that the drains that come from the house include a curtain drain and roof leader drain that tie together at a pipe that outlets and flows overland to the West. Mr. Roulier wants to come off of the existing driveway and create a 15' drive that includes a turnaround so that he may more easily use the property agriculturally. In order to put the driveway in, they will need to connect a pipe to the drain and extend down to a depression. This pipe will go under the driveway and there will be a bit of disturbance associated with the work, temporarily. It will be a 30 foot segment.

The wetland in the drawing displayed was delineated when the subdivision was proposed in 1995. Mike Mocko was the environmental consultant at the time. Dave Askew verified the delineation. Mr. Ussery spoke to Rick Zulick, a soil scientist, who stated that with the side hill seep, the wetland is not likely to change over time. There is an anticipated 280 sqft limit of disturbance associated with the installation of the pipe.

Attorney George Schober was in attendance, representing the intervenor, Mrs. Sarkis, and introduced each of the experts speaking against the application.

George Logan, wetland and soil scientist, spoke on behalf of the intervenor, citing his professional report on the likelihood that the wetland had changed since the last delineation. He stated that he observed a change in topography and hydrology over the years, which indicates that the wetland is likely significantly larger than it was when it was originally delineated.

Mr. Logan stated that indirect evidence including vegetation, drainage patterns, and map

comparisons supports his opinion. He states that there should be a new delineation in order to accurately identify the resources and potential impact.

Ozzie Torres of Torres Engineering spoke on behalf of the intervenor, and provided an alternative to Mr. Roulier's driveway plan. Mr. Torres shared the alternative plans on screen, suggesting that Mr. Roulier come off of Hangdog Lane to a more level area that is 150 to 200 feet from wetland with no more than 11% slope. Mr. Torres stated that the proposed driveway requires fill, which may erode, whereas his alternative involves cuts.

Richard Meehan, surveyor with Meehan & Goodin, spoke on behalf of the intervenor. He stated that he went to the site and ascertained the slope of the existing driveway. He ran elevation stations at 10 foot intervals all the way up the driveway and found several different pitches. The steepest that he identified was at elevation 862 feet – 868 feet which results in a 20.3% slope. He stated that the maximum allowed slope in Somers is 15%

Joseph Versteeg spoke on behalf of the intervenor. He stated that his safety consulting firm examined the site and wrote a report on adequacy of emergency vehicle access from the proposed driveway. He stated that the steepness, length and width, and sharp turns limit the sightline. He stated that any increased use of the road poses a hazard at the residence due to blockage. He concluded that the viable alternative posed by Mr. Torres eliminates this concern.

Jackie Sarkis, intervenor, spoke against the application, stating that the new driveway would be a safety hazard and that it was unnecessary since site access already exists from Hangdog Lane.

George Schober requested that the commission keep the public hearing open until the wetland is delineated; or that it be denied because it is not recently delineated.

Mr. Ussery commented on Mr. Torres' analysis of the slope on the proposed gravel driveway. He stated that the findings were incorrect, stating that the majority of the driveway has a less than 6% slope, and that the steepest portion has a slope of less than 8%. Somers only requires pavement when the slope is 10% or greater. He also stated that the area will be vegetated to prevent erosion and there will be no increase in traffic.

Deirdre Barbeau of 66 Hangdog Lane spoke against the application.

James Stephenson of 47 Harvest Hill Drive spoke against the application.

George Schober stated that his clients have some rights to the driveway legally. Since the Sarkises have a prescriptive drainage easement, they should have been a party to the application.

Sally Ginsburg of 14 Hangdog Lane spoke against the application.

Agent Shapiro recommended that the Commission provide guidance to the applicant regarding the question posed by the intervenor's experts regarding the wetland boundary.

Greg Genlot stated that the applicant should delineate the wetlands.

Agent Shapiro asked Mr. Ussery for comment, to which Mr. Ussery stated that if required by the Commission, the applicant will comply, but that weather conditions may not allow for wetland delineation prior to the next regularly scheduled meeting.

Agent Shapiro stated that the applicant and commission are entitled to up to 90 days of extension due to the governor's orders, which can allow more time if needed for delineation.

Greg Genlot made a motion to keep the public hearing open, and use the governor's order to extend the public hearing and decision periods by up to 90 days.

Candace Aleks seconded.

All in favor. Motion carried.

Public Hearing is continued to April 7, 2021

III. OLD BUSINESS

1. **Discussion/Possible Decision Application #740:** 50 Hangdog Lane. Construct Driveway and Repair Drainage, involving work within both Wetland and Upland Review Area. Roulier Family Limited Partnership/Daniel R. Roulier.

Discussion tabled - Public Hearing continued to April 7, 2021

2. **Discussion/Possible Decision Application #743:** 80 Denison Road. Construction of a house, septic system, well, and driveway in the upland review. Patsun Construction, Inc.

Agent Shapiro stated that the revised plans for this application are on the website. The applicant rethought the layout and shifted access to the basement level garage. The driveway is now further from the wetland and smaller.

Eric Peterson of Gardner & Peterson Associates was in attendance to share the new plan with the commission. They reengineered the house and eliminated 1200 sq ft of driveway, putting it 50 more feet from wetland. The septic hasn't moved but a curtain drain was added to protect the septic from fluctuations in groundwater table, as required by the town sanitarian. The outlet and curtain drain are the only additional disturbance. It will discharge at a relatively flat slope to prevent runoff and erosion, and this is the reason for the location choice.

Agent Shapiro stated her concern regarding the addition of the curtain drain outlet, since it now extends beyond the erosion controls and proposed tree line. She asked how much disturbance would be caused and whether or not it would involve clearing.

Mr. Peterson said he could move the erosion controls beyond the drain, but recommended that the limit of clearing not be changed, to limit disturbance. He stated that there will be minimal disturbance and no additional clearing as proposed. It will be done in a matter of hours, and they can likely avoid removing any trees.

Agent Shapiro stated that the changes to the plan are overall positive. She suggested having wetland markers toward the limit of clearing to deter clearing near the wetland. She stated that there must be 50 feet or less between markers.

Greg Genlot stated that the markers must be a minimum of 10 feet from the wetlands and that all monuments must be permanent.

Greg Genlot motioned to approve application #743 with the condition that permanent wetland boundaries are installed, at a minimum of 10 feet from the wetland boundary.

Candace Aleks seconded.

All in favor. Motion carried.

3. **Discussion/Possible Decision Application #744:** 233 Ninth District Road. Construction of an in-ground pool in the upland review area. Juliano's Pools.

Agent Shapiro stated that the plan is now shown on an aerial view and topographic. She visited the site and met the owner. The pool location is currently staked out. The pool is very close to the house and there appears to be significant distance to the wetland.

Daniel Fraro stated that he took a drive by and saw that the wetlands aren't close to where the pool is proposed.

Agent Shapiro stated, and Tim Goodale confirmed, that some grading will be needed and that boulders will be used to stabilize the slope.

Greg Genlot made a motion to approve application #744.

Drew Kukucka seconded.

All in favor. Motion carried.

IV. NEW BUSINESS

1. **Application #745:** 603 Hall Hill Road. Construction of Driveway in the Upland Review Area, from Bridle Path Drive, associated with construction of a single family House. R.A. McCullough Homes.

Joan Formeister stated that the application is for a long driveway that follows a wetland. Agent Shapiro shared the proposed plan on the screen for the commission.

Mike Mocko, representing the applicant, stated that the property is a 15 acre lot, 5-6 acres of which is wetlands. The property was originally delineated for a subdivision. To the rear of the lot is 3.5 acre of wetlands that is preserved by conservation easement. It adjoins a larger 30 acre wetland area.

Mr. Mocko stated that they are proposing to use the discretionary upland buffer zone running parallel to the wetlands while maintaining existing grades. They plan to restore the shoulders once the construction is done with mixed grasses. 700 feet of the driveway is parallel to the wetlands. Limit of tree clearing at pinch point still provides shade to the wetland. They are proposing a tree line that has very comfortable buffer and maintains grades and surface water drainage. There should be no impact at all. They are planning to not put utilities in the driveway but instead bring the power, phone and cable from the Hall Hill direction along the existing cart path. The proposal represents no impact to the wetlands.

Agent Shapiro asked how the underdrain would function under the driveway.

Mr. Mocko stated that the driveway detail will have an underdrain at the same depth as the base for the driveway. The site would be excavated wide enough to install a parallel underdrain. The intent of the curtain drain design is to just have it deep enough to have a positive effect on the driveway and avoid frost heaving without pulling groundwater out of the wetlands. It would be placed 40-50' from the wetlands.

Agent Shapiro asked why there was a change from what was originally approved for the subdivision.

Mr. Mocko stated that the owner prefers this driveway location for the safety of vehicles entering and exiting.

Joan Formeister asked when the wetlands were last delineated. Agent Shapiro said that it was sometime in the 2000s but that she can confirm.

Drew Kukucka asked about plans for wetland markers. Mr. Mocko stated that there will be some clearing in the buffer zone associated with house. Joan Formeister said that the commission will require markers on the side near the house.

Agent Shapiro stated that she talked with Rick McCullough and would be going to visit the site. She asked if there were any alternatives where there is no impact to wetlands, and expressed a concern that the original subdivision plan avoided any work within the upland review area, yet this new plan involves substantial disturbance in the upland review area. She mentioned possible mitigative measures such as plantings and a pervious driveway surface. The Commission discussed plantings along the proposed driveway. Mr. Mocko stated that he would revise the plans accordingly.

Joan Formeister stated that since the driveway is not going through wetlands or on top of wetlands, the need for an alternative is less important. She stated that permanent buffer markers are a good solution.

2. **Discussion:** 18 Harvest Hill. Unpermitted tree clearing and proposed restoration.

A restoration plan was submitted by the logging company. It was a copy of the original house plan with marked up lengths. The commission is trying to figure out what clearing was done inside and outside of wetland areas. Wood chip stabilization was also marked on the plan by logger John Burson and proposed plantings will be white pine and spruce. Agent Shapiro stated that the plan is just a start since the clearing limits measured by the logger are not drawn to scale. It's difficult to determine how much work was done within the wetland, since the site is lacking permanent delineation and there is variation in distance from wetland to brook, so she provided measurements in multiple areas, scaled off of the drawings, to compare against the clearing measurements. Greg Genlot stated that the conservation easement line comes out further than the wetland line.

John Burson stated that a microburst had gone through and knocked over many of the trees. He believes that there was very little taken down in the wetland area. He did field measurements and took the differential between Joanna's measurements and his own. At most, 4-5 trees were cut on the wetland line. These were not harvesting cuts, but that trees were standing dead or uprooted.

Joan Formeister asked if the area along the brook is still wooded and Agent Shapiro replied that it is still wooded.

Rebecca Joyal, the property owner, stated that they had the trees removed for safety and that the trees were dead. She plans to take the commission's advice on replanting.

Agent Shapiro stated that the Joyals will mark the boundary, replant trees, and allow vegetation to grow as suggested by the commission. She will revisit the property in the Spring and Summer to monitor regrowth and assess if any additional planting is needed.

V. AUDIENCE PARTICIPATION

None

VI. STAFF REPORT

Agent Shapiro stated that she received confirmation that the letter she sent to the property on 9th District Rd was received. The owner has not called her and the sheds are still there.

Agent Shapiro attended the Eleanor Road development preconstruction meeting with the developer and contractor before the clearing started. They discussed using tree grindings along the silt fence for added protection. The silt fence had been installed solidly. Agent Shapiro reminded them of sensitive areas to be aware of.

Agent Shapiro stated that she will be going out to the site way up on Root Road. They are done with the home construction and need to finish site work. The owner is looking for a certificate of occupancy.

VII. Greg Genlot made a motion to accept the staff report.

Drew Kukucka seconded.

All in favor. Motion carried.

VIII. CORRESPONDENCE AND BILLS

Agent Shapiro stated that she received notice of an herbicide application to DEEP for Shady Lake. It was for an aquatic herbicide and algaecide as well as for elodea and phragmites. They had to submit to the national diversity database for determination. A few species of special concern are the eastern pearlshell and bridle shiner. They were given recommendations for avoiding impacts to the mussel and speaking to fishery to protect the shiners.

Agent Shapiro presented a bill from the Journal Inquirer for \$110.18 for the notice of the public hearing.

Greg Genlot made a motion to pay the bill.

Candace Aleks seconded.

All in favor. Motion carried.

IX. MINUTES APPROVAL: February 3, 2021

Drew Kukucka made a motion to approve the minutes as submitted.

Daniel Fraro seconded.

All in favor. Motion carried.

X. ADJOURNMENT

Candace Aleks made a motion to Adjourn.

Greg Genlot Seconded.

All in favor. Motion carried. Meeting was adjourned at 10:19pm

Respectfully Submitted,

Tara Comrie, Recording Secretary

MINUTES ARE NOT OFFICIAL UNTIL APPROVED AT A SUBSEQUENT MEETING