

**Peterborough Conservation Commission minutes**  
**October 20, 2022, 5:30 p.m., Peterborough Town House**

Present: Jo Anne Carr, John Kerrick, Dick McNamara, John Patterson, Bob Strong, Francie Von Mertens, Robert Wood; Tyler Ward, Select Board liaison  
For Microspec: Jeff Kevan, TF Moran, project engineer, applicants Tim Steele and Elizabeth Steele  
For Carley Road OSRD: Chad Branon, Fieldstone Land Consultants

**Carley Road Open Space Residential Development (OSRD)**

Francie Von Mertens explained that the Planning Board requested comment on the Carley Road OSRD concept plan, and typically an applicant explains how clustering housing in one area of a tract protects natural resources in the remaining areas.

Chad Branon showed a conceptual plan with 12 house lots on the 39-acre tract, divided into two cul-de-sac roads. Subtracting wetlands (7.39 acres) leaves 31.7 acres. Divided by 3 acres gives a "base yield" of 10 house lots. With bonus points, the proposed lot number shown on the conceptual plan is 12.

Members pointed out that steep slopes (>25%) indicated on the plan also need to be subtracted along with wetlands for the yield process.

Asked about diagonal hatching on portions of all lots, Mr. Branon explained: "This dark hatch is actually areas that we are proposing to be part of the open space but it's on some of the lots. So it's an easement, an open space easement."

Mr. Branon said that the owner wanted lots that are an acre or larger, "but we wanted to protect the jurisdictional [wetland] areas."

Jo Anne Carr asked what open space was protected on the overall tract relating to the 50% OSRD requirement. Mr. Branon said there were 19.2 acres outside of the house lots, just short of the required 50%, and 5.16 acres of easement area on the 12 house lots, for a total of 24.44 Common Open Space acres.

He said the easement areas could be expanded to include all wetland buffers "to preserve more land so somebody can't "accidentally expand" their backyard into the area."

Bob Strong asked what legal entity would make sure the open space easements are enforced.

Mr. Branon said a homeowner's association likely would be responsible, unless the Conservation Commission or some other entity wanted to hold the 12 easements.

He said there might be trail links with conservation property abutting the west and north, but trails weren't part of the bonus points being sought.

He said the if the easement areas on the 12 lots were expanded so that 70% of the overall tract was open space, that would merit a 20% bonus.

Francie Von Mertens cited OSRD language that emphasizes clustering house lots both to protect identified natural resources on a tract, and to encourage a neighborhood community. The two separate roads divided by wetlands fragment rather than encourages community. The two roads also run counter to preserving undeveloped roadside frontage, a stated OSRD purpose.

Mr. Brannon said that the design creates two neighborhoods.

Regarding a density bonus, the OSRD ordinance states that privately owned land can't be counted as Common Open Space or used to gain bonus points.

Mr. Branon said there was nothing in the ordinance that says a homeowners' association can't enforce the 12 open space easements. They have in similar Fieldstone projects in other towns. Plaques placed along the easement lines clearly indicate use restrictions.

Von Mertens said that a homeowners' association typically makes decisions relating to Common Open Space, owned in common: trails, picnic tables, forestry management—not trails, benches, forestry, on property privately owned by 12 different owners.

Jo Anne Carr suggested a separate entity could be established with some HOA-member representation, but long-term management could be challenging.

Discussion followed with a variety of opinions about how enforceable an open space easement deed restriction on 12 private property lots would be, and whether neighbor watching neighbor would encourage neighborhood community.

There also was lack of clarity whether the definition of "wetland" in the OSRD ordinance included the Wetland Protection Overlay Zone (wetland + buffer).

Mr. Branon thanked the group, saying that the comments were helpful at the conceptual stage. He said he will be exploring other bonus points, mentioning trails and forestry management, confident the 25% bonus threshold can be reached.

### **Microspec Zoning Board application for a Use Variance to allow manufacturing in the Rural District and Family District on a new subdivided 11.7 lot on Route 202S**

Von Mertens explained the Zoning Board of Adjustment requested Conservation Commission comment relating to wetlands, groundwater protection and steep slopes relevant to the Microspec use variance application.

Jeff Kevan explained that fitting the proposed facility in the Village Commercial District didn't allow needed room for tractor-trailer access. They therefore are proposing a use variance for 11.7 acres total that also would allow room for future expansion if needed.

He said the percentage of impervious surfaces would be 26.5%. Twenty percent is allowed by town Groundwater Protection Overlay Zone (GWPOZ), "or you infiltrate and provide drainage that offsets the difference between the two" (26.5% and 20%). Satisfying both the state's Alteration of Terrain requirements and the town's GWPOZ that requires engineered infiltration of runoff from the additional impervious coverage.

Mr. Kevan said that runoff from the parking areas likely would require underground chambers to slow, capture and filter runoff, especially "first-flush sediments." He said all that would be spelled out in a maintenance plan that Alteration of Terrain requires in groundwater protection areas and the town's GWPOZ also requires.

Von Mertens said that typically a board for a variance or special exception wants to know proposed buildout, rather than having an applicant appear later on with expansion plans. This relates to impervious percentages as well as expanding commercial operations and attendant impacts and "commercial creep along a gateway road." She said she was unclear about the difference between rezoning to extend the Village Commercial District to include the facility and a use variance.

Mr. Kevan said that instead of rezoning, Microspec is asking for a variance to allow a specific use.

Mr. Kevan said any expansion would likely occur between the building and northeasterly parking area, and area shown as green on the conceptual plan, and that any expansion of use would have to appear before the Planning Board.

Robert Wood said he had concerns about stabilizing slopes including the sand slope directly behind where Microspec plans to build. Mr. Kevan said Alteration of Terrain requires slope stabilization, typically with straw matting and seeding.

Von Mertens added that Town Planner Danica Melone has said that town code requires that the former sandpit area will have to be stabilized at a 3:1 slope with a revegetation and landscaping plan submitted with clear deadlines and inspection for successful revegetation.

Jo Anne Carr said she'd like to say in summary that that proposal can meet our wetland and groundwater standards, is a forward-looking company and is a good business to have in town.

### **Deliberations**

**Microspec.** Members agreed that the proposal meets the town's GRPOZ, backed up by Alteration of Terrain requirements, and avoids impacts to the town's Wetland Protection Overlay Zone; that a maintenance plan and inspection schedule for stormwater treatment chambers needs to be filed with the Town, as code requires; that stabilization of slopes behind the building be cited in addition to the former sandpit area.

Carr and Von Mertens will draft a letter of comment for member approval.

### **Carley Road OSRD.**

Several issues needing attention were raised.

--The OSRD code 245-26B Definitions states that Common Open Space cannot include privately owned land, making clear that open space easement land on the 12 house lots cannot be counted when calculating bonus points.

--Members agreed that the spirit of the ordinance—maximizing protected open space and creating a pedestrian-friendly neighborhood—has not been met at this conceptual stage. Carr pointed out that if the lots were combined with one curb cut, open space would be maximized to include valuable upland, creating "a little village. . . but that's not the developer's desire" given a stated preference for lots sized as large as possible without losing bonus points.

--To be determined: Does the OSRD ordinance define "wetland" as the town-jurisdictional WPOZ (wetland + buffer), or the state-jurisdictional actual wetland?

--For trails on the Common Open Space, abutting privately-owned conservation easement land cannot be included, however connectivity with abutting conservation land adds value to protected natural resources on the tract.

--If preservation of forestry resources is cited as meriting bonus points, a forestry management plan is needed that indicates forestry values as well as access to the resource (log landings, etc.).

--Steep slopes need to be subtracted from the original base density computation.

### **Dog Park at Evans Flats**

John Patterson said that Lisa Betz, Recreation Director, has approached the ConCom regarding a dog park on the Evans Flats town-owned parcel. He said that details would be needed about fencing, parking,

### **Trails outing**

Members agreed to a hike along the loop trail that Bob Strong laid out on the westerly section of Fremont to include as many Tom Wessels natural and land use features. Bob will send around possible dates.

### **Minutes**

September 15 and 22 minutes were approved.

/fvm