

Minutes of the Peterborough Conservation Commission
ZOOM Meeting, November 12, 2020, 4:30 p.m.

pursuant to Emergency Order #12 issued by Gov. Sununu

Present: Jo Anne Carr, Swift Corwin, John Kerrick, Matt Lundsted, John Patterson, Francie Von Mertens, Robert Wood; Town Planner Danica Melone; Town Code Officer Tim Herlihy; Nathan Chamberlin, Fieldstone Land Consultants; Akhil Garland; Jason Hackler; Attorney Phil Runyon.

Walden Eco-Village Open Space Residential Development (OSRD) review

Nathan Chamberlin, Fieldstone Land Consultants, presented plans that had been presented to the Planning Board for Preliminary Review.

By request, the plans Mr. Chamberlin presented were color-coded green to indicate the town's Wetlands Protection Overlay Zone (WPOZ)—a standard requirement of the Conservation Commission for projects involving WPOZ impacts, and one that could assist the Planning Board in its deliberations.

Color-coding indicated that the seven existing structures appear to lie in the WPOZ. Francie Von Mertens questioned how they had received permits given the WPOZ. She asked whether the current proposal involved further impacts to the WPOZ relating to those structures. Mr. Chamberlin said there would be no further impacts to the WPOZ relating to existing structures.

Jo Anne Carr noted that by code in an OSRD not served by town water/sewer, wetlands cannot be used in calculating density.

Related to that, John Patterson noted that by the OSRD code, under H-1, density bonus points, "in no case" can density be permitted greater than 25% of what's allowed in the underlying district. He noted that the application has exceeded that.

Von Mertens said that open space to have value as open space needs to be contiguous, or be linked in some manner if not contiguous. She noted stippling on the plans that suggest fragmented areas had been used in calculating the percentage of open space and bonus points applied for based on that percentage.

Swift Corwin asked about forestry, and whether access had been planned for any future timber harvest.

John Kerrick noted concerns of neighbors regarding potential for 26 new and Robert Wood asked what was known about groundwater conditions, including existing wells in the area (deep bedrock, shallow, yield). Mr. Chamberlin said that was unknown, but would be determined.

Jo Anne Carr noted that a planned detention pond appeared to include an existing stream of unknown size. She suggested a site visit.

All agreed. Von Mertens will work to set that up before the next Planning Board consideration of the project on December 14.

John Kerrick thanked applicant and project engineer for presentation of an ambitious project.

Cunningham Pond Deed Restriction

The Zoning Board of Adjustment, in response to a variance request for two structures proposed on the Peterson boathouse property, requested comment from the Conservation Commission relating to deed restrictions on the property. That restriction allowing two structures each less than 200 s.f. (the size that triggers a building permit) was drafted by the Conservation Commission and the Monadnock Conservancy.

Restrictions prohibit residential development on the parcel, and overnights are limited to "short term."

The deed restrictions were a condition of town funding support for the Monadnock Conservancy's purchase and conservation of the Peterson properties, some 100 acres on the south shore of Cunningham Pond. The boathouse property was to be subdivided off for sale.

Von Mertens said that the structures' plans and use had not been presented to the ConCom, as the variance application suggested, and recommended a meeting with that presentation as an agenda item. Only the structures' footprint (200 s.f. or less) had been confirmed by the Commission.

Attorney Runyon pointed out that members had seen the cabin plans by email, and therefore approval was assumed. ConCom members, rather than setting a future meeting, agreed to consider the plans and use for the cabins, and draft a response to the Zoning Board of Adjustment.

Carr suggested there were two issues: whether the cabins meet codes, and whether they meet the deed restrictions. The combination of kitchen, septic, and beds adds up to residential use, prohibited by the deed restriction. However, that restriction allows "short-term" overnight use, without further defining "short term."

Code Officer Tim Herlihy said it was "dancing fine lines here," on whether the cabins were residential, given the three uses – bed, bath, kitchen.

The group attempted to further define "short term," but did not come up with a workable solution.

Applicant Jason Hackler gave assurances that overnights would be short term. He said there had been no attempt to mislead concerning Conservation Commission approval of the cabins and their uses, that he had been confident the ConCom had approved the cabins as meeting the deed restrictions.

There was general consensus that the proposed cabins met the deed restrictions. Von Mertens questioned what lighting was planned for the cabins. Given the conservation goals of conserving the Cunningham shoreline viewed from the town's swimming/skating area, minimizing lights viewable from the pond was an important consideration.

Danica Melone said she would make note of that, and follow-up with site planning phase.

Matt Lundsted made the following motion (Kerrick second) as a response to the Zoning Board of Adjustment request:

The Conservation Commission agrees that the proposed use of Peterborough tax parcel R001-002-100 meets the deed restrictions on that parcel. In reaching this decision, the Conservation Commission is concerned about the extent of overnight use and encourages the Zoning Board of Adjustment to consider that issue in its action on the variance application.

The motion passed. Von Mertens will draft a letter to the ZBA with that motion, and include mention about lighting.

Attachment below: letter to ZBA

/fvm



November 13, 2020

To Peterborough Zoning Board of Adjustment
From Peterborough Conservation Commission
Regarding: Hackler Family Cabins Variance application

The Peterborough Conservation Commission met November 12, 2020, to discuss the Hackler Family Cabins variance application. After hearing from the applicant and his lawyer about proposed uses of the Hackler Family parcel on Cunningham Pond shore, the following motion was made and passed:

The Conservation Commission agrees that the proposed use of Peterborough tax parcel R001-002-100 meets the deed restrictions on that parcel. In reaching this decision, the Conservation Commission is concerned about the extent of overnight use and encourages the Zoning Board of Adjustment to consider that issue in its action on the variance application.

As explanation of the last sentence, the Conservation Commission discussed the possibility that the ZBA, if it looked favorably on the variance application, would consider conditions that would help further define "short-term overnight" stays.

The Commission also discussed whether lights from the cabins would be visible from Cunningham Pond. Given the ambitious project to conserve the southern acreage and viewscape of the Pond, every effort should be made to minimize visibility. Danica Melone said that she would follow up on this with the applicant.

Francie Von Mertens
Co-chair