

**TOWN DEVELOPMENT REVIEW BOARD
MINUTES
July 26, 2016**

MEMBERS PRESENT: Frederick Hunt, Kim French, Charles Wilson
MEMBERS ABSENT: Don Bourdon, Ingrid Moulton Nichols
OTHERS PRESENT: Travis Cole, Les Berge, Thomas Ballard, Greg McKenney, Fred Procopio, Michael Brands

I. CALL TO ORDER:

Vice-Chair Hunt called the meeting to order at 7:30 p.m.

II. APPROVAL OF MINUTES:

The minutes of the June 28, 2016 meeting were approved as submitted.

III. PUBLIC HEARINGS:

A. Old Business:

1. T-4565-15 Pidlipchak

Application is for Conditional Use Approval to reinstate Subdivision Permit T-4349-12 and to excavate within the Conservation Overlay District (wetland buffer). The property is located on 148 Iver Johnston Road and is zoned Residential Five Acres / Wetland Overlay.

Mr. Pidlipchak called and asked to continue the hearing to the August 23, 2016 meeting.

2. T-4623-15 Paul & Jan Maggi

Application is for Conditional Use and Wetland Review approval to replace existing 1771 sq. ft. garage with 3400 sq. ft. garage and to change the driveway within Conservation Overlay Zone. The property is located at 938 South Road and is zoned Residential Five Acre / Wetland.

Mr. Maggi called and asked to continue the hearing to the August 23, 2016 meeting.

B. New Business:

1. T-4670-16 Julie Levin

Application is for Conditional Use & Riparian Buffer Approval to excavate 7600 sq. ft. of land after-the-fact and to remedy violation. The property is located at 470 Noah Wood Road and is zoned Residential 5 Acres / Steep Slopes / Riparian Buffer.

Mr. McKenney, engineer, presented the application.

The TDRB reviewed an updated site plan, a number of photographs and the Conservation Commission minutes concerning the impact to the riparian buffer.

In October 2015, the excavator asked the Town Planner what permits may be needed to change the alignment of the town road, Noah Wood Road. The planner noted permits would be required from both Select Board (curb cut) and Town Development Review Board (conditional use for excavation that exceeds 5000 square feet.)

In early January just before first snow, a neighbor complained of work being conducted within the Town's right of way. The Town Planner visited the site to discover that excavation on the north side of Noah Wood road exceeded the 5,000 square foot threshold whereby a conditional use permit is required. Material from this site was placed along the stream behind the owner's home which is located directly across the road. Some of the material was placed within the 50' riparian buffer along the stream bank. The excavation also exceeded the 5,000 square foot threshold for a conditional use permit.

Upon notification in January 2016, the owner ceased all activity and began working with the Town officials to resolve the issue. Willis Consulting Engineers was hired to mitigate the situation and to secure all permits.

The plan to realign the town road was discarded. A second plan to lower the inside corner of the curve of the town road (which would have required removal of trees and a stone wall) was also discarded. The final plan, approved by the Select Board on July 19, 2016, is to fill in the excavated site and terrace the resulting slope. The terraced slope would have garden plants up front with bushes, shrubs and trees planted further back.

Mr. McKenney, responding to the riparian buffer impact, presented a site plan for the area behind the house along the stream. The plan shows the 50' riparian buffer and the area where additional fill (7,600 square feet) had been added. The fill is mainly a sand and gravel material. Larger stones were removed beforehand.

The excavated area measures approximately 200' in length along the stream and 120' wide from the stream bank. The stream flows through a well established rocky channel, 4' to 5' below the top of the bank.

The area had been a mature grassed lawn before addition of the fill. The deepest fill, closer to the stream, is approximately three feet deep. No trees or other woody vegetation were removed during the excavation process. The lawn, at it's closest point, is approximately 10' from the edge of the stream.

The owner's intent is to re-establish the lawn. This would require the addition of 3-4" of top soil, mulch and grass seed over the fill area.

The CC agreed the best option at the moment is to plant grass seed as soon as possible to prevent additional erosion into the stream. Removal of the fill would be more harmful to the stream via

additional sediment falling into the water. The fill also creates a shallower slope which should improve the lawn surface and lessen storm water runoff.

The CC noted a permit should have been requested before any work took place within the riparian buffer. It appears sediment did escape into the stream during the past seven months, as the fill had been left bare with no cover.

Re-establishing the lawn is a much better solution than the potential disturbance on the stream with the removal of the additional fill. Therefore, the CC recommends approval as presented.

The TDRB reviewed both the Riparian and Landscaping/Grading regulations.

Testimony was voted close.

2. T-4671-16 Julie Levin

Application is for Conditional Use & Riparian Buffer Approval to regrade a portion of the site to fill in an over-excavated area. The property is located at Noah Wood Road and is zoned Residential 5 Acres / Steep Slopes / Riparian Buffer.

Mr. McKenney, engineer, presented the application.

The TDRB reviewed an updated site plan and a number of photographs.

In October 2015, the excavator asked the Town Planner what permits may be needed to change the alignment of the town road, Noah Wood Road. The planner noted permits would be required from both Select Board (curb cut) and Town Development Review Board (conditional use for excavation that exceeds 5000 square feet.)

In early January just before first snow, a neighbor complained of work being conducted within the Town's right of way. The Town Planner visited the site to discover that excavation on the north side of Noah Wood road exceeded the 5,000 square foot threshold whereby a conditional use permit is required. Material from this site was placed along the stream behind the owner's home which is located directly across the road. Some of the material was placed within the 50' riparian buffer along the stream bank. The excavation also exceeded the 5,000 square foot threshold for a conditional use permit.

Upon notification in January 2016, the owner ceased all activity and is working with the Town officials to resolve the issue. Willis Consulting Engineers was hired to mitigate the situation and to secure all permits.

The plan to realign the town road was discarded. A second plan to lower the inside corner of the curve of the town road (which would have required removal of trees and a stone wall) was also discarded. The final plan, approved by the Select Board on July 19, 2016, is to fill in the excavated site and terrace the resulting slope. The terraced slope would have garden plants up front with bushes, shrubs and trees planted further back.

McKenney noted the boulders and stones that had been removed would be replaced. The garden area would be more of a rock garden with plants interspersed between the large stones.

The site would be terraced but would also be concave in shape as less fill would be added than had been removed. Mulch and top soil would be added to provide the proposed plants a good start.

The TDRB reviewed Section 518 Landscaping/Grading with the applicant.

Testimony was voted closed.

3. T-4680-16 Marvin & Janet Cole

Application is for Conditional Use and Site Plan Approval to place three storage containers on property. The property is located at 512 East Woodstock Road and is zoned Commercial / Light Industrial.

Mr. Travis Cole, the owner's son, presented the application.

The TDRB reviewed a site plan of the property.

Two 8' x 40' trailers and one 8' x 20' trailer were placed on site for personal storage. The owner was unaware a permit was required.

The property is commercially zoned and has five businesses on site.

The trailers are strictly for the owner's personal effects and would not be used for business purposes.

The trailers would be visited or opened on a rare basis, generating little if any conflicting traffic.

The trailers are located off to the side of the lot, north of the existing gravel parking area. They do not interfere with the traffic patterns of the current businesses.

The closest trailer is located 50' from the Route 4 centerline, which conforms with the required front setback. The three trailers also meet the side setback, 25'.

The Route 4 surface is substantially lower than the land on which the trailers are placed. Directly north of the trailers is heavily wooded. A line of parked cars and other vehicles being worked on from the other on-site businesses also serves to screen the trailers from Route 4.

The applicant offered to add landscaping to provide additional screening.

The TDRB felt additional landscaping was not necessary.

The TDRB reviewed Section 809 Site Plan Review and Section 810 Conditional Use criteria.

Testimony was voted close.

4. T-4681-16 Thomas & Tammy Ballard

Application is for a Waiver To Setback request to construct a 960 sq. ft. garage. The property is located at 530 Gabert Road and is zoned Residential Five Acres.

Mr. Ballard presented the application.

The TDRB reviewed a site plan and the waiver to setback form.

The property, although in a Five Acre Residential zone, is only 0.6 acres in size.

The owners did not plan to place a garage at time of house construction.

The home is located to the north side of the property with the septic system taking up the south central portion of the property. This leaves very little room for a garage.

The owner requests a fairly small garage 24' x 24' and single story as space is limited.

The garage would sit back from the road further than the house, lessening the visual impact.

The surrounding properties are all very large and minimally developed.

The property directly behind the garage, the area of the setback waiver, is an undeveloped heavily forested hilly 74 acre parcel.

The character of the area would not be impacted with the placement of the garage.

Testimony was voted close.

5. T-4682-16 Meadow Ridge Farm, LLC

Application is for Conditional Use & Conservation District Overlay Approval to relocate existing driveway with 1100 l.f. driveway within the Wetland Buffer. The property is located at 963 Grassy Lane and is zoned Residential 5 Acres / Conservation District.

The TDRB agreed to review both applications, T-4682-16 and T-4683-16, together as the driveway runs through the two abutting parcels which are owned by the same person. Two applications are required, one for each parcel. See below.

6. T-4683-16 Meadow Ridge Farm, LLC

Application is for Conditional Use & Conservation District Overlay Approval to relocate existing driveway with 1100 l.f. driveway within the Wetland Buffer. The property is located at 857 Grassy Lane and is zoned Residential 5 Acres / Conservation District.

The TDRB agreed to review both applications, T-4682-16 and T-4683-16, together as the driveway runs through the two abutting parcels which are owned by the same person. Two applications are required, one for each parcel.

Mr. McKenney, engineer, presented the application.

The CC reviewed an updated site plan and numerous photographs.

An 1100' long driveway was built late fall, early winter 2015 without permit. The Town Planner discovered it early spring when a request to move the driveway sign was made.

The owner did not want uninvited visitors turning around at his home. The driveway comes off a Class IV road at the point it becomes impassable by a regular vehicle. The new driveway crosses through and is located south of a large Class II wetland. However, the entire driveway is located within the 100' wetland buffer area. The driveway also exceeds the threshold for a conditional use permit, excavation over 5000 square foot.

The owner did not realize a permit was required to construct the driveway as the property manager, erroneously, had informed him no permit was required.

To resolve the issue, the owner hired Willis Consulting Engineers to secure all necessary permits. Both State and local permits are required.

Willis Consulting Engineers then hired Art Gilman to delineate the wetland.

The site plan includes the Gilman wetland delineation, the 100' buffer and the 1100' driveway.

The 1100' driveway is placed between two wetlands, Complex "A" (Class II) abutting the town road and Complex "B" (Class III) located further south and east. The 100' buffers overlap each other.

The new driveway starts just east of the wetland, noted as Complex "A". The applicant owns the abutting parcel. For the first 250' the driveway follows the path of an old field road used by farm equipment for access to hay fields.

The driveway then heads south eventually curving between the two wetlands to rejoin the original driveway near the town road. All but the last 100' (westernmost) of the driveway are placed within the 100' wetland buffer.

Approximately 200' of the driveway on the east side is placed within 5' of the wetland boundary. A swale along the driveway was built to direct runoff to a 24" culvert. The 24" culvert crosses through the wetland serving the stream that connects the two wetlands.

During construction it appears there were minor amounts of cut and fill excavation along the drive. The area is fairly flat where the driveway was placed. Photographs showed the cut fill areas along the driveway. The driveway follows the slight ridge of highland between the two wetlands.

Three culverts are placed on the west side to drain the land which slopes up the hill to the home site. The middle culvert has an 18" diameter and also serves as a drainage way for a pond located up the hill. The other two culverts have 12" diameters. The middle culvert shows sediment at the outlet. This was not deemed a problem as the culvert is 75' away from the wetland at this point and drains into a hay field.

On July 19, 2016 Mr. McKenney met on-site with Rebecca Chalmers, State Wetland Official.

Ms. Chalmers felt removal of the driveway would cause more issues of sediment and erosion than it would resolve. She asked that the driveway at the east end after the culvert crossing be realigned to continue straight following the property line before curving back towards the home. This would increase the buffer area between driveway and wetland, especially at this section where the driveway is built directly on the edge of the wetland.

Ms. Chalmers also asked to have the 130' long swale placed along the edge of the driveway removed and filled in. The swale as placed tends to pull water from the wetland and would not be necessary with the relocated driveway.

Mr. McKenney drew a line on the site plan to show where the driveway would be relocated. This as-built section of driveway would be removed and restored to its original form. The new section would be approximately 180' in length.

Due to the fact the meeting with Ms. Chalmers was the day before, there is no written report available.

McKenney agreed with Ms. Chalmers' assessment, noting he would have designed it as she suggested had he been involved before the construction process.

The road base was constructed of a black fabric liner covered with 8-10" of 1 ½" stone topped with 4-6" of hardpack. The driveway appears to be very well constructed. There is no apparent erosion except at the outlet of the 18' culvert. The area where the 24" culvert was placed is still raw and not vegetated due to continued running water where the stream flows through and the swale drains.

The CC noted the drainage for the most part appears to follow the driveway, although there are three culverts on the higher sloped west end of the driveway. The land between the wetlands and the driveway is a mature hay field and should provide excellent drainage and erosion control. There did not appear to be any substantial removal of vegetation such as trees or shrubs.

In discussion, the CC felt the driveway should be removed as it had been built without a permit. However, the driveway appears to be well built with little evidence of erosion except near the area of the 24" culvert where it crosses the stream. The applicant agreed to follow the State's recommendation that the driveway be relocated at this point to improve the buffer area between driveway and wetland and to remove the swale. The CC agreed this should improve this sensitive area of the stream crossing.

The CC discussed winter maintenance and worried about sand and salt being introduced into the wetland. The relocation of the driveway would help somewhat. The CC suggested a condition to prohibit an asphalt surface therefore preventing the need for winter application of salt.

After discussion, the CC unanimously agreed the owner should be admonished for lack of permit on such a sensitive site, but realizing removal of the driveway would cause additional harm,

recommended approval with the following conditions:

1. The applicant shall follow the State's recommendation to realign the driveway just south of the 24" culvert which would include removal of the as-built section of driveway, and remove the as-built swale and fill it in with the appropriate soil.
2. The driveway surface shall not be asphalted.
3. Salt shall not be applied to the driveway surface.

The Town Planner noted a written report has not yet been completed by the State's Wetland official, and suggested continuing the application until the report is received.

Mr. McKenney agreed. It would be best to wait for the State's final report, to prevent potential changes if the report has additional recommendations.

The TDRB agreed and voted to continue the application until the report is finalized. The TDRB also asked for a site visit. The site visit would take place just before the meeting at which the testimony is continued.

The Town Planner noted a generator has been placed within the wetland buffer and appears to be located within the Town road right-of-way. This will require a permit or removal from the site.

The Select Board require a permit for the second driveway connection to Grassy Lane and for the generator placement.

The applications are continued, awaiting the State Wetland report.

IV. OTHER BUSINESS:

A. Zoning Officer's Report

V. DELIBERATIONS:

A. T-4578-15 Pidlipchak Continued

B. T-4623-15 Paul & Jan Maggi Continued

C. T-4670-16 Julie Levin

After discussion, the following findings of fact were established:

1. The TDRB reviewed an updated site plan, a number of photographs and the Conservation Commission minutes concerning the impact to the riparian buffer.
2. The site plan shows the 50' riparian buffer and the area where additional fill (7,600 square feet) had been added. This is located directly behind the home.
3. The fill is mainly a sand and gravel material.
4. The excavated area measures approximately 200' in length along the stream and 120' wide from the stream bank. The stream flows through a well established rocky channel, 4' to 5' below the top of the bank.

5. The area had been a mature grassed lawn before the addition of the fill. The deepest fill, closer to the stream, is approximately three feet deep. No trees or other woody vegetation were removed during the excavation process. The lawn, at its closest point, is approximately 10' from the edge of the stream.
6. The owner's intent is to re-establish the lawn. This would require the addition of 3-4" of top soil, mulch and grass seed over the fill area.
7. The CC agreed the best option at the moment is to plant grass seed as soon as possible to prevent additional erosion into the stream. Removal of the fill would be more harmful to the stream via additional sediment falling into the water. The fill also creates a shallower slope which should improve the lawn surface and lessen storm water runoff.
8. The CC noted a permit should have been requested before any work took place within the riparian buffer. It appears sediment did escape into the stream during the past seven months, as the fill had been left bare with no cover. Re-establishing the lawn is a much better solution than the potential disturbance on the stream with the removal of the additional fill. Therefore, the CC recommends approval as presented.
9. The TDRB reviewed both the Riparian and Landscaping/Grading regulations.

After further discussion, Mr. Hunt moved with a second by Mr. Wilson to approve the application as presented.

The motion passed with a 3-0 vote.

D. T-4671-16 Julie Levin

After discussion, the following findings of fact were established:

1. The TDRB reviewed an updated site plan and a number of photographs.
2. The final plan, approved by the Select Board on July 19, 2016, is to fill in the excavated site and terrace the resulting slope. The terraced slope would have garden plants up front with bushes, shrubs and trees planted further back.
3. The applicant noted the boulders and stones that had been removed would be returned to the site. The garden area would be more of a rock garden with plants interspersed between the large stones.
4. All remaining exposed areas would be seeded with grass to create a natural cover to prevent erosion and stormwater runoff.
5. The site would be terraced but would also be concave in shape as less fill would be added than had been removed. Mulch and top soil would be added to provide the proposed plants a good start.
6. The TDRB reviewed Section 518 Landscaping/Grading with the applicant.

After further discussion, Mr. Hunt moved with a second by Mr. Wilson to approve the application as presented.

The motion passed with a 3-0 vote.

E. T-4680-16 Marvin & Janet Cole

After discussion, the following findings of fact were established:

1. The TDRB reviewed a site plan of the property.
2. Two 8' x 40' trailers and one 8' x 20' trailer were placed on site for personal storage. The owner was unaware a permit was required.
3. The property is commercially zoned and has five businesses on site.
4. The trailers are strictly for the owner's personal effects and would not be used for business purposes.
5. The trailers would be visited or opened on a rare basis, generating little if any conflicting traffic.
6. The trailers are located off to the side of the lot, north of the existing gravel parking area. They do not interfere with the traffic patterns of the current businesses.
7. The closest trailer is located 50' from the Route 4 centerline, which conforms with the required front setback. The three trailers also meet the side setback, 25'.
8. The Route 4 surface is substantially lower than the land on which the trailers are placed. Directly north of the trailers is heavily wooded. A line of parked cars and other vehicles being worked on from the other on-site businesses also serves to screen the trailers from Route 4.
9. The TDRB reviewed Section 809 Site Plan Review and Section 810 Conditional Use criteria.

After further discussion, Ms. French moved with a second by Mr. Wilson to approve the application as presented.

The motion passed with a 3-0 vote.

F. T-4681-16 Thomas & Tammy Ballard

After discussion, the following findings of fact were established:

1. The TDRB reviewed a site plan and the waiver to setback form.
2. The property, although in a Five Acre Residential zone, is only 0.6 acres in size.
3. The owners did not plan to place a garage at time of house construction.
4. The home is located to the north side of the property with the septic system taking up the south central portion of the property. This leaves very little room for a garage.
5. The owner requests a fairly small garage 24' x 24' and single story as space is limited.
6. The garage would sit back from the road further than the house, lessening the visual impact.
7. The surrounding properties are all very large and minimally developed.
8. The property directly behind the garage, the area of the setback waiver, is an undeveloped heavily forested hilly 74 acre parcel.
9. The character of the area would not be impacted with the placement of the garage.

After further discussion, Ms. French moved with a second by Mr. Wilson to approve the application as presented.

The motion passed with a 3-0 vote.

G. T-4682-16 Meadow Ridge Farm, LLC Continued

H. T-4683-16 Meadow Ridge Farm, LLC Continued

VI. NEXT MEETING:

The next TDRB meeting is scheduled for August 23, 2016.

VII. ADJOURNMENT:

The TDRB adjourned at 8:20 p.m.

Respectfully submitted,

Michael E. Brands, AICP
Town Planner