



City of Nashua
Conservation Commission
229 Main Street
Nashua NH 03061-2019

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NASHUA CONSERVATION COMMISSION

Tuesday, February 4, 2020

A. Call to order

A regular meeting of the Nashua Conservation Commission was called to order on Tuesday, February 4, 2020 at 7:00 PM, 229 Main Street, City Hall in Room 208.

B. Roll call

Members present: Sherry Dutzy, Chairman
Richard Gillespie
Gene Porter
Bill Parker
Gloria McCarthy
Josh Hauser

Also in Attendance: Sarah Marchant, Comm. Dev. Dir.
Linda McGhee, Planning Department
Alderman Ernest Jette
Alderman Elizabeth Lu
Carol Sarno

C. Approval of minutes

January 7, 2020

MOTION by Commissioner Gillespie to accept and place on file the minutes of January 7, 2020, as amended.

SECONDED by Commissioner Porter

MOTION CARRIED 6-0

January 11, 2020 - Site Walk and Minutes

MOTION by Chairman Dutzy to accept and place on file the site walk and minutes of January 11, 2020 (4 Kanata Dr), as written.

SECONDED by Commissioner Porter

MOTION CARRIED 6-0

D. Treasurer's Report

None

E. New Business

- ***City of Nashua & Public Service Co of NH (Owners) Requesting approval to remove conservation easement restrictions. Property is located at 3 & 21 Pine St Ext. Sheet 77, Lots 2A & 17. Zoned General Industrial/Mixed Use "GIMU". Ward 3.***

Sarah Marchant, Nashua Community Development Director

Ms. Marchant presented the Commission with her request. The two properties exchanged land by lot line relocation in 2019, and the parcels will exchange ownership. During the title search they discovered an old easement from 1973 that nobody can find the exact location of. The grantor of the easement, Nashua NH Foundation, did not own the property at the time. She is requesting a statement from the Commission confirming that the area of the easement is not on this parcel.

Chairman Dutzy asked if there was a conservation easement on a piece of land, location unknown, and Eversource wants confirmation that it isn't here.

Ms. Marchant said yes.

Commissioner McCarthy asked if surveys were done on the land.

Ms. Marchant said there was extensive title research done, and multiple surveys involved. She said they do not believe it was in this area at all, since the ownership of this parcel was not in control of the Nashua NH Foundation to deed it to the city for a conservation easement. Where they did deed the easement she doesn't know, but she knows that they didn't own this parcel at that time, so there's no way they could have deeded this.

Commissioner Porter said he attended a meeting on the Nashua River waterfront development project, and said that a lot of input had to do with expanding access along the river. It seems to him that this stretch of land between the Millyard Technology Park and Mine Falls Park is an important piece of land for that public access. If there is already a conservation easement that permits public access, he would be reluctant to give it up.

Ms. Marchant said she is not asking them to give up anything. The land that abuts the river is still not owned by the City, and never has been. They have had many conversations with the owner on that future potential. She said the most pertinent thing is that the easement was granted in 1972, and the Nashua Millyard did not own any of this land at the time. There is no way that the easement could be here.

Commissioner Porter asked if they don't know where it is, but it's not here.

Ms. Marchant said exactly.

Chairman Dutzy asked if the Conservation Commission voted to disavow any right to that property, would that allow the land to transfer.

Ms. Marchant said she is just looking for a statement that the easement granted is not located on this lot.

Commissioner McCarthy asked if they still don't know where the easement is.

Ms. Marchant said it would be within the Commission's purview to task staff with trying to find the location of this easement, but it may cost funds to hire a title surveyor.

Chairman Dutzy asked if it would be a conservation easement on city owned lands.

Ms. Marchant said at this point it just says a conservation easement.

Chairman Dutzy asked if they don't even know if it's on city owned lands, it could be on private lands.

Ms. Marchant said yes. All she knows is that it's along the south bank of the Nashua River, formerly owned by the Nashua NH Foundation, and its size.

Ald. Jette asked if it would be more proper for city Legal Counsel to prepare a document releasing any easement as pertains to this lot.

Ms. Marchant said she doesn't think they are interested in

releasing any easements. This is a letter for a title company that states to the best of their ability this specific deed is not located on this property. They are not giving up their rights to anything. There are a ton of easements on this lot, but none of them are conservation easements.

Chairman Dutzy said there are two issues. One is if they want to expend energy and funds to find this easement in case it might be a valuable easement along the Nashua River. The other is what they are being asked to address tonight, that they definitely know that the easement is not in that area.

Ms. Marchant said yes. If they want to deal with the other issue tonight, she is all ears.

The Commission held a discussion regarding issuing a statement about the parcel, and all expressed agreement.

MOTION by Chairman Dutzy to request that Community Development Division perform title research to determine the location of the conservation easement

SECONDED by Commissioner Porter

MOTION CARRIED 6-0

A discussion of future plans for the substation ensued.

F. Old Business

- ***Juan Taveras (Owner) Requesting review for to construct a 280-sqft shed within the 40-ft "critical" wetland buffer. Property is located at 4 Kanata Dr. Sheet E, Lot 972. Zoned "R9" C-Suburban Residence. Ward 1.***

Thomas Sokoloski, Wetland Scientist, TES Environmental Consultants LLC, 1494 NH-3A, Bow NH.

Mr. Sokoloski introduced himself as the representative for the property owner.

Mr. Sokoloski gave an overview of the request. He said they held a site walk for the proposed shed on January 11th. He said the original proposal was to have the shed within the 40-ft critical wetland buffer of Lincoln Brook. He described the site and reason for request. He summarized the findings of the

site walk.

Mr. Sokoloski presented a revised set of plans. They propose to remove the current shed and build the new shed on top of that, extending to the west. He described the best management practices they would perform onsite for stormwater and invasive species. They propose to remove the chain link fence along their section of Lincoln Brook. The owner is committed to not storing lubricants, fuels, or fertilizers in the shed, and has agreed to meet state shoreland standards for fertilizers.

Commissioner Porter said they have a responsibility to prevent development in the wetland unless it's for a really good reason. The reason they gave last time is that it's typical to put sheds in the back of the lot, even if it's in the wetland. He didn't find that to be a persuasive argument. He asked last meeting why they can't put it next to the garage, and he has not been given an answer.

Mr. Sokoloski said he spoke with the owner, and one of his concerns is that putting another impervious surface next to the garage would increase water levels in the soil. He already has water concerns in the garage that prevent him from keeping anything in the garage that would be harmed by rust or mold. Adding more water to the situation would not be advisable.

Commissioner Porter said there could be a shed roof that keeps the water away from the garage.

Mr. Sokoloski said he doesn't know what sorts of designs there might be for that, but a typical shed has a peaked roof that sheds water in both directions. If it's drained towards one side, that's still bringing more water to the garage than currently exists. It would be exacerbating a problem that already exists.

Commissioner Porter asked if that was an assessment made by a certified hydraulic engineer.

Mr. Sokoloski said he is a soil scientist, and described his assessment of the water table.

Commissioner Porter asked if he would agree that if the shed roof flowed away from the garage, it would ameliorate the problem.

Mr. Sokoloski said that would not necessarily avoid worsening the existing problem, but it would be better than a peaked roofed.

Commissioner Parker asked why they would want to carry and store the textiles so far from the house.

Mr. Sokoloski said they aren't heavy items. Part of the reason is that they plan to open the yard. If you put the shed in the middle of that, it would be an obstacle to any use of the yard.

Commissioner Parker asked if there was currently a moisture issue in the garage.

Mr. Sokoloski said yes.

Commissioner Parker asked why.

Mr. Sokoloski said he doesn't know the source of the problem, but that it might be the roof and gutter arrangement or soil saturation. The owners plan to waterproof the garage at a later date.

Commissioner Parker said he appreciates the effort they have gone through in the application process, but it seems that this is motivated purely by enhancing the property for their personal use. He said it's hard for him to agree to the placement in the wetland buffer.

Chairman Dutzy said this is why they need wetland buffer regulations. She cited wetland impacts from properties along the brook, and the degradation to the brook over time. She thinks the owner is doing a lot of mitigation and that the whole area has been compromised.

Commissioner Porter suggested they place the shed along the property line, about where the buffer line is. That gets it away from the garage and protects the shoreline of the brook.

Mr. Sokoloski said he agrees that would be an improvement over the situation, and thinks the owner would be agreeable to that based on their previous discussions. Since it would still be within the buffer, they would still be able to commit to the mitigation efforts proposed. He gave a detailed description of

the benefits of removing the chain link fence.

Commissioner Porter said that he would like to see the shed centered on the buffer line. That takes it away from the garage and moves it away from the stream.

Mr. Sokoloski suggested they move the shed to the side property line, and it would end at the base of the current shed. He showed the new space on the plan.

Commissioner Porter expressed approval for the new location.

Chairman Dutzy asked if the owner would be ok with this.

Mr. Sokoloski said he's wondering at this point if they would be encroaching into the side yard setback.

Ms. McGhee said they need to be 6-ft from the side property line, or they will need a variance.

Mr. Sokoloski asked if they could have the infiltration trench within the setback, because that would be ground level and the shed would be 6-ft off the property line.

Ms. McGhee said correct.

Chairman Dutzy said if Mr. Taveras is willing to move the shed, she would be agreeable to it.

Mr. Sokoloski said he would confirm with Mr. Taveras. He can submit a revised plan.

Ms. McGhee suggested he email the plan to her.

MOTION by Commissioner Hauser to favorably recommend the proposal with the following stipulations:

1. The location of the shed shall be moved along the eastern border of the property line, as indicated on the revised plan.
2. Wetland buffer signage shall be installed on the southeast corner of the fenced portion of the property.
3. Landscaping shall be as natural as possible and promote the habitation of birds and pollinators.

4. The chain link fence along the property's abutting section of Lincoln Brook shall be removed.
5. The wooden stockade fence shall be relocated above the retaining wall.
6. The existing shed shall be removed.
7. All invasive species found onsite shall be removed.

SECONDED by Commissioner Porter

A brief discussion of invasive plant removal ensued.

MOTION CARRIED 6-0

Ms. McGhee advised Mr. Sokoloski on applying to the Zoning Board of Adjustment.

➤ ***Annual nomination and election of officers***

Chairman Dutzy said Commissioner Sloan was not reelected to the Commission. She read a letter to the Commission from herself, and she will not stand for reelection as Chair of the Commission.

Ald. Jette suggested they postpone election to give people time to process Chairman Dutzy's decision.

MOTION by Commissioner Porter to postpone the election of officers

SECONDED by Commissioner Parker

The Commissioners held a discussion regarding the authority and responsibilities of the Commission, and the role of the position as Chairman.

MOTION CARRIED 6-0

➤ ***Update On Terrell Homestead Conservation Area Maintenance***

Chairman Dutzy said that John Brown & Sons Inc. completed landscaping maintenance over the course of two days, for a

total of \$3,200. She and Commissioner Hauser walked the site when the work was almost completed.

MOTION by Commissioner McCarthy to approve the payment of \$3,200.00 to John Brown & Sons Inc.

SECONDED by Commissioner Gillespie

MOTION CARRIED 6-0

G. NCC Correspondence and Communications

- Newsletter from NH Fish & Game re: Winter Forest Notes
- Moosewood Ecological Services re: Survey of amphibians and reptiles

MOTION by Commission Gillespie to accept and place on file all correspondence

SECONDED by Chairman Dutzy

MOTION CARRIED 6-0

H. Nonpublic Session per RSA 91-A: 3 II (d) concerning land (Roll call vote required).

Nonpublic session was not required.

I. Commissioners Discussion

- **Conservation Commission Chairman:** Chairman Dutzy led a discussion with the Commission on her reasons for not seeking reelection as Chair.
- **Election of Commissioners:** The Commission held a lengthy discussion on the election process for board members and the city's management of its boards. Members expressed their concerns with the handling of Commissioner Sloan's removal from the Commission. Ald. Lu recommended a Commissioner be present when candidates are interviewed. Ald. Jette volunteered to discuss with the Mayor about the concerns of the Commission.

J. Adjournment

MOTION to adjourn by Commissioner Porter at 8:37 PM.

SECONDED by Commissioner Hauser

MOTION CARRIED 6-0

APPROVED:

Richard Gillespie, Clerk, Nashua Conservation Commission

DIGITAL RECORDING OF THIS MEETING IS AVAILABLE FOR LISTENING DURING REGULAR OFFICE HOURS OR CAN BE ACCESSED ON THE CITY'S WEBSITE. DIGITAL COPY OF AUDIO OF THE MEETING MAY BE MADE AVAILABLE UPON 48 HOURS ADVANCED NOTICE AND PAYMENT OF THE FEE.

Prepared by: Kate Poirier