

Town of Center Harbor
Conservation Commission Meeting Minutes
August 4, 2023
Cary Mead Room

Commissioners present: Maureen Criasia, Chairman
Harry Viens, Selectmen's Representative and Voting Commissioner
Karin Karagozian
Don Carey
Mark Hildebrand

Others present: Bernard Volz, Chairman, Zoning Board of Adjustment (ZBA)
Helen Altavesta, Administrative Assistant, Planning & Zoning

- I. Call to Order: The meeting was called to order by Chairman Criasia at 8:32 am. Introductions of those present were made by the Chair.
- II. Approval of Draft Minutes of July 7, 2023 – Chairman Criasia reported that the Commission's recommendation pertaining to the case discussed during that meeting was incorporated verbatim into the minutes. Commissioner Hildebrand motioned to approve the minutes of the meeting as written. Commissioner Viens seconded the motion and the vote was unanimous.
- III. Stormwater Management Plan Follow Up Communication – TML 101-021 Cargile / Johnson (ZBA Case 2023-0622.A). A draft memo including details re: the Stormwater Management Plan needed for this parcel, to be forwarded to the applicant's agents, was circulated to the Commission for discussion. There was no further input from the Commission re: its content, and no changes to the memo were requested. Therefore, Chairman Criasia will forward the memo to the applicant's agents, and a final version will be emailed to the Commission.

At this juncture in the meeting, Chairman Criasia requested to move agenda item V to be discussed next, then follow with agenda item IV. The Commission agreed.

- IV. Seepage Wetland Complex and Garage Construction in Wetland Buffer – TML 104-016 – Chairman Criasia let the discussion and ZBA Chairman assisted with Power Point slides of the property, project plan, and related ordinances. The discussion is focused on the proposed and previously permitted construction of a 32'x 32' garage and septic system in the upland portion of this property. The seepage wetlands and an ephemeral stream that have been created by the drainage (over many decades) originate from a large stormwater culvert that runs under Waukewan Road, emptying onto the property, and do not appear on the Town's Water Resources Map due to prior mapping technology limitations. They have been delineated on behalf of the property owners by 2 different wetland scientists (R. Shuey in 2021 and A. Beauchemin in 2023), have been sent to the Planning Board in June and August 2023 respectively, and have been approved "for

application” by the Planning Board under Zoning Ordinance 10:4:2:4, reflecting that these wetlands and their associated buffers per Chapter 10 of the Zoning Ordinance are considered jurisdictional. The Town’s Water Resources Map for this parcel will be amended to incorporate these water resources. The siting of the garage, parking pad and driveway is within and encompasses the 50’ non designated wetlands buffer. The impact of the stormwater flow from the culvert, loss of wetland buffer value and destruction due to the introduction of appreciable impervious surface in this upland area, given the topography of the property, is of serious concern to the Commission. Without mitigation of stormwater outflow from the culvert, the loss of infiltration and attenuation of water is likely to impact the proposed construction on the lower portion of the parcel. Chairman Criasia requested that Selectmen’s Representative Viens contact and consult the municipal attorney to determine what options and avenues the Commission may have regarding this situation.

- V. Review and Provide to the Zoning Board of Adjustment Written Comments and/or Recommendations re: Project Plan and Details – TML 104-016 (ZBA Case # 2023 – 0726.A) in Accordance with Zoning Ordinance Section 10:7, Special Exceptions Table 2, item g. (Protective Buffers) and Section 10:7, #1:

Chairman Criasia led the discussion and ZBA Chair Volz assisted with PowerPoint slides. The ZBA Special Exception application materials, including the application and project plans were provided electronically to the Commissioners in advance of the meeting and were included in the PowerPoint slides.

A review of the pertinent Chapter 10 ordinances was conducted, including those in Section 10:7 (Special Exception, Table 2, Item g. – Protected Buffers), and Section 10:7 #1. Section 10:4:2:3 referencing non-designated wetlands was discussed. At this juncture, Chair Criasia emphasized the need for the Commission to have a clear picture and understanding of what does occur and could potentially result from impact on the upper portion of this parcel prior to discussion of the impact being applied for in the lower portion of this property.

As stated in ZBA Chairman Volz’s 7/27/23 letter to the Conservation Commission: “This Special Exception applies to replacing the existing structure with a new structure that is larger in size and locates the house a bit further back from the shoreland.” The expansion and reorientation of the proposed primary structure impinges on one of 2 small wetland complexes’ non designated 50’ buffer, located on the lower portion of the property near the boundary line between the applicant and the abutter. The project map reveals the structure is sited well within the larger of the two wetland’s buffer area.

A review of the project plans reflect that the repositioning of the proposed enlarged structure yields a relocation of the structure away from the lake by a net of 65 sq.ft. The structure size is expanding from 977 sq.ft. (source – sum of measurements of the footprint area from the tax card drawing) to 2228 sq. ft. (source – ZBA Chairman), which

includes a second story, and a deck as noted on the design plan. An outdoor kitchen area has been proposed. Chair Criasia indicated that all of this construction creates significant impervious surface and there have been no measures incorporated in the current plan to mitigate that run off, in addition to all of the stormwater run-off anticipated from the upper portion of the parcel. The water, with no provisions made for infiltration and attenuation, along with partial obliteration of the upper wetland buffer, will run downhill surrounding this area, and onward into the lake. This is likely to exacerbate and worsen the current stormwater runoff problem and contribute to the lake's nutrient loading.

The application for Special Exception was reviewed by Commissioners in advance of the meeting. The applicant mentions the relocation of the primary structure as noted above, installation of a newly designed septic system, and "installing stormwater runoff mitigation measures". There is no mention of an engineered stormwater management plan being developed as part of the project plan. Item #8 states that "there will be no increased impact to the wetlands buffer with the proposed new home". The current proposed buffer impact created by the expansion of the primary structure is significant, and well appreciated by the Commission.

The Commission has concerns about possible expansion of the wetland complexes, along with a diminishing of buffer value in those areas due to the increase in existing stormwater runoff. The lowest wetland complex exists right at the lake's edge.

After a lengthy discussion and comprehensive review of project materials, the Commission determined that a recommendation for this Special Exception could not be made, and that Chair Criasia would draft a commentary document to the ZBA reflecting the meeting's discussion. The document will be reviewed by commissioners prior to sending to the ZBA in time for their hearing on this case on August 14, 2023, and will be attached below.

- VI. Proposed Agenda Items to be Discussed at the Quarterly Conservation Commission Meeting on August 16, 2023 – Chair Criasia requested to be placed on the agenda a discussion of a Water Resources Map update, and a status update on groundwater withdrawal testing report sent to the town re: Bean Road condominium project. Commissioners were encouraged to send their agenda items to Chair Criasia.
- VII. Other Business – Chair Criasia reported that a cyanobacteria warning was issued on July 26, 2023 for Lake Winona, retesting was performed a week later, and the warning was removed on August 3, 2023. The Chair coordinates the posting of the Town's boat launch on the lake with the road agent and health officer.
- VIII. The commission adjourned its meeting at 10:04 am.

Respectfully submitted,
Maureen A. Criasia, Chair

TO: Center Harbor Zoning Board of Adjustment
FROM: Center Harbor Conservation Commission
RE: ZBA Case # 2023-0726.A TML 104-016 Wein 10 Mayo Shores Lane, Center Harbor
DATE: Thursday, August 10, 2023

At a meeting held on 8/4/23 at the request of the ZBA Chairman in accordance with the requirements for a Special Exception per Zoning Ordinance Section 10:7, and after an extensive review and lengthy discussion of project plans & other materials, the Conservation Commission unanimously decided to withhold any specific recommendation to the ZBA regarding approval or denial of the Special Exception application filed in conjunction with the above referenced case.

Rather, the Commission would like to take this opportunity to express its deepest environmental concerns about this project to the ZBA, as outlined below:

1. The Commission is seriously and legitimately worried about the overall environmental impact to abutters, the private right of way travelled by the public, and Lake Waukegan associated with the pending and permitted construction of a 32' x 32' (1024 sq. ft.) garage, parking pad and driveway in the upland portion of the property, sited in the midst of a jurisdictional wetland buffer of a non-designated seepage wetland complex, which includes an associated intermittent stream. The destruction and loss of this well-established wetland buffer, in the face of no mitigation, would likely worsen the volume of and velocity associated with stormwater run-off from a large culvert, due to the buffer destruction replaced by impervious surface. The Commission holds firm to the belief that, regardless of the permit status of this structure in the upland wetland buffer, the overall amount of impervious surface introduced, the pitch, slope and grade (topography) of the property, along with loss of properties creating a palustrine forested wetland complex (tree removal), *may create a direct detrimental impact to the lower portion of the property. There is a potential for the stormwater flowing unimpeded over Mayo Shores Lane to negatively impact the proposed expanded primary structure with a second floor (the cottage footprint of approx. 977 sq. ft total will expand to greater than 2228 sq ft which will include a deck and cement patio area for an outdoor kitchen).*

In turn, an introduction of more stormwater with directional flow onto the lower portion of the property (containing its fair share of impervious surface) will likely create a deleterious ripple impact, expanding the lower wetland complexes and their buffers. The current size and morphology of the 2 smaller wetlands is unlikely able to handle the level of infiltration and attenuation required to mitigate the stormwater (and its accompanying nutrient load), creating a worsening impingement on the abutting property and contributing to even more stormwater directly entering the lake.

2. The benefits of an installation of a NHDES Subsurface Systems approved (previously permitted) septic system on this property is recognized and appreciated by the Commission, albeit with the leach field being contained within the ordinance - mandated 75' wetlands buffer. This is clearly an improvement over what currently exists by way of Subsurface System disposal, apparently original to the cottage (1923),

and has never been updated.

3. The repositioning of the proposed expanded primary structure away from the Town's lakefront setback by 65 net square feet, modestly reducing the area of nonconformity, is considered by the Commission to be environmentally negligible compared to the potential negative impact created by unmitigated stormwater and creation of impervious surface as described above.
4. It is the Commission's wholehearted recommendation to all, including the applicant and their agents, that a comprehensive and effective engineered stormwater management plan be developed and implemented for this **entire property** prior to ANY construction being undertaken.

Respectfully submitted,

A handwritten signature in cursive script, reading "Maureen A. Criasia".

Maureen A. Criasia, Chairman
Center Harbor Conservation Commission