

**BOROUGH OF FENWICK
PLANNING AND ZONING COMMISSION
INLAND WETLANDS AGENCY
SPECIAL MEETING
SATURDAY, APRIL 8, 2017
MINUTES**

Present: Chuck Chadwick – Chair, Sallie Boody, Bill Christensen, Rick Neely (Alternate), T. Van Itallie (Alternate), Marilyn Ozols – ZEO.

Absent: Art Wright, Rosalind Shenkman.

Members of Public: Brooke Girty, Jessica Gay, Ethel Davis, Bill Webster.

1. Call to Order.

C. Chadwick called the meeting to order at 9:00 a.m. and seated T. Van Itallie and R. Neely as voting members. A quorum was established (Chadwick, Boody, Christensen, Van Itallie, Neely).

2. ZSP17-002, 12 Neponset Avenue, map 11, lot 8. Martha Staniford & Matthew Myers, owners and applicants; Site Plan and Coastal Site Plan Review to extend porch and stone terrace, regrade yard to create 30'x50' level area southeast of porch and terrace.

B. Girty presented and submitted copies of the site plan revised to April 6, 2017 (Exhibit M) and photos of the rear of the house (Exhibit O). She stated that they want to bring the covered porch out 10 feet, add pull down screens, and extend the terrace. She demonstrated the proposed changes on the elevation drawings and the floor plan.

Relative to the proposed regrading, B. Girty stated that there is a hump in the rear yard which they would like to level out in order to create an area for entertaining that does not drop off. She demonstrated the current condition using the contour lines on Exhibit M. She indicated the flood zone line which crosses through the area to be regraded and stated that originally they were proposing using railroad ties to contain the level area but they had changed to the currently proposed gradual grade for aesthetic reasons. M. Ozols noted that the railroad ties would likely have created a more substantial structure which might have created additional issues for P&Z.

R. Neely inquired about additional fill on the septic system; M. Ozols stated that the plan had been reviewed by CRAHD and they had not expressed any concern.

J. Gay, representing the Lynde Point Land Trust, expressed concern with increased fill and the potential that it will drain into the marsh at a greater rate than it does now, which might also increase chemicals washing into the marsh. She added that currently the Myers' have appropriated more land than is shown on the survey, which the LPLT will be asking them to address. B. Girty stated that since the area is all grass, it should not create any increased runoff, but she could not speak to the chemicals because she did not know what might be used on the grass. M. Ozols noted that the Commission's engineer had been asked to consider any potential drainage impact as part of his review. Chairman Chadwick noted that the change in slope appears to be less than 4 inches in 10 feet.

E. Davis, 6 Neponset Avenue, stated that it is evident that the yard had been filled previously and expressed a concern that adding more fill would create more barrier, which is significant from a viewing point of view. She added that it appears that water will run off this property onto the property at the former 8 Neponset Avenue and suggested lowering the hump to create a level area rather than raising the yard to meet the hump. M. Ozols stated that the as-built from when the house was built does indicate grading; that plan is fairly consistent with what is shown as the existing grade on the current application. W. Christensen noted that the information from the applicant's engineer indicates that they will be both adding and relocating fill.

T. Van Itallie stated that the flood zone line cuts through the area to be regraded which means that Section 5.3.2.f of the flood ordinance applies. He read from Section 5.3.2.f relative to landscaping/aesthetic fill which the ZEO cannot approve without an analysis by a professional engineer re 1) particle composition, 2) wave deflection and 3) wave run up and ramping. He added that since fill can direct wave action, the Commission needs to be assured that it meets certain criteria. B. Girty stated that she understands that section to mean that the fill must be permeable. She submitted copies of the FEMA map (Exhibit P) to show the area in the flood zone and agreed that they need to provide specs for the fill.

T. Van Itallie expressed concern that the tidal marsh line dates from 1995 and it is probably at least 2 feet closer now based on the newly flagged line for the adjacent property. He added that the southeast corner of the new 10' contour could now be within the 50' setback, but could probably be moved back to meet the setback requirement. B. Girty scaled the distance at 57 feet and stated that they could update the line but she did not think wave action in this area would be considered significant by FEMA.

Chairman Chadwick summarized that he had heard three concerns:

1. The Commission is sensitive to E. Davis' comment about topography changing over time; the Commission can't address what has happened in the past but understands the impact of pushing out repeatedly over time. He noted that the Commission now does a better job of documenting and can better track changes.
2. The tidal wetland line is over 20 years old and should have been updated. However, based on scaling the map, if the line is more inward, it only impinges on the proposed 11' contour. The Commission could stipulate that the proposed eastern grading be moved to the west to avoid possible infringement in the setback area or it could request that the applicant come back with a current tidal wetland line delineation.
3. There is a question as to whether there is an issue with placing additional soil on top of the septic system.

W. Christensen noted that adding one more step down from the house to the yard could scale back on the amount of fill needed. R. Neely stated that the engineer needs to convince the Commission that the correct materials are being used, that the slope is correct so as not to create drainage impacts, and that there is no erosion issue. He added that he has no good sense of the flow of water in the regraded area but he is comfortable with the proposed porch and terrace. S. Boody agreed that they should have an updated plan.

Commission members reviewed their options which included continuing the full application for more information, acting on the porch and terrace but continuing the regrading portion of the application for more information, or acting on the porch and terrace but denying the regrading portion of the application to allow resubmission of revised information.

Based on the discussion, **W. Christensen moved that the Commission approves the screened in porch and terrace and delays, based on requiring more information such as a current tidal wetland line, the application for regrading. There was no second and the motion failed.**

Based on the discussion, **S. Boody moved that the Commission finds that the application for Site Plan and Coastal Site Plan Review to extend the porch and stone terrace, with the stipulations noted, is consistent with the goals and policies of the CT Coastal Management Act and that it complies with the review standards in the Borough of Fenwick Zoning Regulations, and approves the porch extension and stone terrace based on the plans and documents submitted with the stipulations noted below. The Commission continues the application to regrade the yard to create a 30'x50' level area southeast of the porch and terrace for additional information.**

Stipulations:

1. In order to avoid encroachment onto adjacent properties by construction equipment, the side property lines shall be clearly marked in the field prior to the start of construction.
2. The plan shall be revised to include erosion control measures and information on final stabilization of disturbed areas. Silt fence and/or a crushed stone construction entrance

shall be installed if deemed necessary by the Zoning Enforcement Officer during construction.

3. In accordance with the adopted fee schedule, the applicant shall reimburse the Borough for all engineering fees prior to issuance of a Zoning Permit for construction and prior to issuance of Zoning Compliance for a Certificate of Occupancy. Reimbursement shall include all costs incurred to that point in time.

T. Van Itallie seconded the motion and it was approved unanimously.

Approved 5-0-0

For: Chadwick, Boody, Christensen, Van Itallie, Neely.

Against: None.

Abstain: None.

The following information should be provided:

- newly flagged tidal wetland line
- distances from the tidal wetland line to all proposed work
- more clear delineation of the flood zone line
- specifications for the fill material with an analysis by a professional engineer re 1) particle composition, 2) wave deflection and 3) wave run up and ramping (Section 5.3.2.f of flood ordinance)
- drainage information – offsite and into the tidal wetland; including the potential for erosion
- assurance that fill will not impact the septic system

They also recommended submission of a 10 scale plan.

The current record plans for this application are:

- *Site Development Plan for Property of Martha Staniford, 12 Neponset Avenue*, by Angus McDonald Gary Sharpe & Associates, dated February 13, 2007, revised through 4/6/17
- elevation drawings marked as Exhibit C:
 - Myers South Elevation
 - Myers East Elevation
 - Myers West Elevation
 - Myers Terrace & Screened Porch

W. Webster spoke from the public to indicate that the Sea Level Rise Committee was working with the Lynde Pointe Land Trust and the Borough on a dune restoration project for the Hepburn dune. He stated that he hopes to have an application before the Commission in the near future. This is considered a Shoreline Flood and Erosion Control Structure (SFECS) and there is a mandatory 35 day referral to DEEP. The Commission noted that they will be looking for an engineering review of the impact of the construction on adjacent property. Hopefully, DEEP will provide this information, but if not, they may require an independent engineering review.

4. **Status and Possible Action. ZSP12-004: 20 Mohegan Avenue, map 10, lot 13-1**, A Piece of Paradise, LLC, owner; 10 Mohegan Avenue, map 10, lot 13, 273 Water Street, LLC and Fenwick Acquisition, LLC owner; Frank Sciame, applicant. Site Plan/Coastal Site Plan Review to restore dune and vegetation and to remove stone patio/restore area. Approved with Conditions, September 6, 2012.

At 10:16, R. Neely moved to go into executive session to discuss the “pending claim” that the Commission has against Mr. Sciame, as expressed by the order issued in 2007 and the subsequent Commission action approving the remediation claim, and to invite ZEO Ozols to attend. T. Van Itallie seconded the motion and it was approved unanimously.

Approved 5-0-0

For: Chadwick, Boody, Christensen, Van Itallie, Neely.

Against: None.

Abstain: None.

At 10:45, R. Neely moved to come out of executive session. S. Boody seconded the motion and it was approved unanimously.

Approved 5-0-0

For: Chadwick, Boody, Christensen, Van Itallie, Neely.

Against: None.

Abstain: None.

No actions were taken.

5. Approval of Minutes of previous meeting: Planning & Zoning/Inland Wetlands – February 18, 2017.

S. Boody moved to accept the Borough of Fenwick Planning and Zoning Commission minutes for the February 18 meeting as submitted. R. Neely seconded the motion and it was approved unanimously.

Approved 5-0-0.

For: Chadwick, Boody, Christensen, Van Itallie, Neely.

Against: None.

Abstain: None.

6. Staff Report.

M. Ozols reported that

- Anticipated applications include dune restoration at the Hepburn Dune (discussed earlier in the meeting), redevelopment of 24 Pettipaug Avenue (Wright), improvements and ac/generator at 41 Pettipaug (Keeney), ac/generator at 4 Neponset Avenue (Neely), 18 Pettipaug (Millard), and 28 Fenwick (Munn). The Commission requested that all the ac/generator applications be scheduled for the same meeting.
- At the last ZBA meeting members requested that P&Z review the regulation on generators with an eye toward accommodating them on smaller lots with consideration for neighbors. M. Ozols reminded them that the regulation was enacted to protect neighbors from being impacted by the limited areas for placement on smaller lots. The intent was to require the location to be as far as possible from windows and outside seating areas on neighboring properties. Unique situations where the regulation does not have this effect go to the ZBA. ZBA Members felt that there should be some mechanism other than a variance based on hardship to address situations like Neponset Avenue where all the lots are small.
- Preliminary drafts of the updated POCD will be distributed prior to the next meeting for discussion at that meeting.

7. Other Business.

Members expressed concern that there was a significant amount of information received the day before this meeting for the 12 Neponset Avenue application. They noted that this timing did not allow sufficient time for review and requested that in the future all information be provided in a more timely manner.

8. Adjournment.

At 11:13 a.m., it was moved by R. Neely and seconded by S. Boody to adjourn the meeting. The motion passed unanimously.

Respectfully submitted,

Marilyn Ozols, Acting Secretary