



TOWN OF WINCHESTER
PLANNING AND ZONING COMMISSION
Town of Winchester Town Hall 338 Main Street - 2nd Floor – P. Francis Hicks
November 22, 2021 – 7:00PM
Regular Meeting Minutes

1. ROLL CALL:

Chairman George Closson called the meeting to order at 7:04PM.

Mr. Closson noted that the following individuals were present: John Cooney, Peter Marchand, Willard Platt, Craig Sanden, Alternates Troy LaMere, and Charlene LaVoie.

Feliks Viner was absent excused.

2. PUBLIC COMMENT:

None.

3. AGENDA REVIEW:

No changes were made to the agenda.

4. OTHER BUSINESS:

None.

5. PUBLIC HEARINGS:

None.

6. OLD BUSINESS:

None.

7. NEW BUSINESS:

A. PZC#21-09 – Special Permit Location: 3 Rocky Ridge Drive Applicant/Owner: Wayne Kuzma and Dee Kuzma Proposal: Clear Cutting of Trees with Existing Slope Over 15%.

Neither Wayne Kuzma nor Dee Kuzma appeared before the commission regarding this application.

It was noted that this application had not yet been accepted by the commission because there had not yet been a determination that it was complete. As such, no public hearing has yet been scheduled.

B. PZC#21-11 – Special Permit Location: 632 East Wakefield Boulevard Applicant: Goulet Masonry Owner: Jonathan Abrams Proposal: Clear Cutting of Trees and Development with Existing Slope Over 25%.

Gary Goulet, acting on behalf of the applicant, accompanied by his clients Mr. and Mrs. Jonathan Abrams, and Attorney Perley Grimes, appeared before the Commission regarding this application. Attorney Grimes reported an approval for the proposed activity had been received from the Inland Wetlands and Watercourses Commission (IWWC) on October 20, 2021. He relayed his client was advised, following that approval, by Wetlands Agent Michael Stankov that approval for a Special Permit, for work on a slope exceeding 15% was necessary. Attorney Grimes also reported on various building permits that had been received on the property.

Attorney Grimes, along with Mr. Goulet, reviewed the site plan that had been submitted with the application. Mr. Goulet described the proposed masonry improvements including a lower retaining wall comprised of boulders that were removed from the foundation, a patio replacement, an upper retaining wall near that patio, a set of steps (depicted in purple on the plan), and an additional set of permeable walkway steps (described as zigzagging, depicted in orange). Mr. Goulet reported that he had also already installed a propane tank and had backfilled it. Attorney Grimes questioned whether Mr. Goulet had shared with this commission a letter from Professional Engineer Joseph M. Green, dated October 21, 2021. Mr. Goulet confirmed, noting that he

was required by the Wetlands Commission to obtain an engineer's approval on the walkway area. Because of the inclusion of the cross slope that Mr. Green had included, the work undertaken was not going to hurt the property anymore and instead would help it, according to Mr. Goulet.

Mr. Goulet indicated that the upper retaining wall was already part of the existing site conditions but explained that he would be relocating it, 42" towards the home, thereby being relieved from digging out the base. He explained he would backfill behind it.

Mr. Goulet indicated that a section of erosion control measures had been installed along the lake wall, a section up the hill, behind the propane tank, and along the driveway.

Attorney Grimes submitted an additional letter from Mr. Green, dated October 8, 2021. The engineer requested the work be completed to avoid water from entering the house and for pedestrian travel. Attorney Grimes explained that the engineer did not have contours nor a finished grade. Attorney Grimes requested immediate approval for the snake-like walkway, the stairs on the south, and the area depicted in pink to protect the house. He requested leave to return with a completed plan, including a final grading plan, in April, 2022.

Mr. Marchand recused himself at this point in the meeting. Mr. LaMere was then seated for Mr. Marchand.

Mr. Closson explained that the work required a special permit and that this commission cannot waive the special permit process. He suggested that a public hearing be scheduled for the next regular meeting. Discussion ensued regarding whether the site plan presented was adequate for the commission. Staff reminded the commission that when approval is required for an activity either within wetlands or a watercourse, or within the regulated review area, that permit must be received prior to the Planning and Zoning Commission acting on an application. Additionally, staff noted the elevation at the road according to the town's GIS to be 915' versus the elevation at the lake to be 890', over a span of about 144'. Mr. Closson noted that the marked-up survey included in the application, was neither signed nor stamped. He explained the challenges that are presented to town staff during site inspections when there are no dimensions depicted on a plan. Mr. Goulet explained that he was unable to include square footage calculations because of the topography of the property. Mr. Closson explained that site plans typically include a zoning table. Staff noted that the retaining walls, especially for the building official to review and verify, should include top of wall elevation(s) and bottom of wall elevation(s).

Mr. Goulet reported inquiring of the IWWC at three separate meetings whether he needed an engineered plan and at each of those meetings, being told that he didn't really. He noted that all of the work he is doing is replacing what is already there, except for what was depicted in blue (the lower retaining wall).

Attorney Grimes again requested that his client be allowed to proceed with the proposed work and promised to return at a future time with a complete site plan and to submit a letter to this commission within 48 hours outlining the same. Mr. Closson polled the commission. Mr. LaMere shared his observation that the application was being made after-the-fact and noted that the IWWC had already approved the work. Mr. LaMere further opined that a decision could be made now due to health and safety and hold the applicant's team to a return visit to this commission in the spring. Mr. Platt noted the existing conditions and questioned whether the scope of work would be reviewed by this commission given that those items already are there. Staff confirmed, reminding him of the section from the zoning regulations on steep slopes. Staff noted that it was unclear whether the steps depicted in orange were truly a reflection of existing conditions. Mr. Goulet noted that they were there, in a different form and in a smaller size, at 4"x14" to be replaced with 48"x16". Mr. Platt noted that he had viewed the site, and that there was a lot of disturbance with many tree stumps. He questioned whether the entire site was going to be regraded. Mr. Goulet responded that it would absolutely be regraded and that it was the original intention. He indicated that if he had known a site plan was going to be necessary, then one would have been provided. Mr. Goulet indicated that he was told several times that a site

plan was not required. Mr. Goulet noted that he figured one was needed and discussed how the south side of the property was used as a road for the neighbor's project. He explained that the neighbor ran a tracked-vehicle up and down that side of the property for two months. Ms. LaVoie questioned who had told him that he did not need one. Staff reported having provided Mr. Closson with a copy of the timeline of how activities unfolded at this property along with a copy of an email from the town staff to Mr. Goulet from April, 2021 requesting an application be made at once. It was also reported that conversations with Mr. Goulet had begun in October, 2020. It was at that time when an application was made for a building permit, limited to interior renovations, that Mr. Goulet had reported that he was going to replace the basement walls, one at a time, with no equipment. He had communicated that, on behalf of his clients, he would later return with a site plan and be seeking to do site improvements then, according to staff. Following a site inspection in April, 2021, observations were made that trees had been cleared between the subject site and 634 East Wakefield Boulevard and an email was sent to Mr. Goulet in terms of what is required in terms of site plans and wetlands approval, according to staff. She reported an application being made in June with a site plan submitted in July. When a mechanical permit was applied for the underground propane tank, it was signed off by the wetlands agent/zoning enforcement officer for this previously seasonal cottage as the bury location was outside of the 100' regulated area and to date, only a pressure test had been completed, in terms of inspections for any exterior work.

Mr. Sanden opined that a formal site plan should be included due to the steep slopes of the site. Mr. Cooney noted that dimensions and measurements should be included on both the existing conditions and proposed conditions.

Attorney Grimes requested more time, until the middle of January, in order to get a site plan prepared. It was noted that the commission meets every two weeks. Mr. Closson noted that the commission is amenable to scheduling a public hearing as soon as possible. Mr. Abrams shared his frustration with the process, opining that the work to be undertaken will not compromise the lake. Mr. Closson again explained that this commission cannot waive its regulations. Mr. Abrams shared his concern with any delay in installing the patio, explaining that water could get into or towards the foundation.

Mr. LaMere questioned the current erosion controls being employed. Staff confirmed that there were some compromises (or breaches) to the controls in the beginning which were cited by Mr. Stankov and then corrected. With respect to engineered drawings, staff reported the IWWC being very split as to whether one was a necessary requirement.

Mr. Goulet questioned whether the survey prepared by Peter Keefe could be used for the application. Mr. Closson agreed, noting that existing grades and proposed grades should be included along with lake wall elevations. Mr. and Mrs. Abrams questioned whether the chairman was giving the go-ahead with the patio. Mr. Closson indicated that he was not but was explaining the mason could likely handle the concerns expressed over the foundation by connecting the footing drains away from the house. Mr. Goulet indicated that he needed to get the base in, the subgrade with the stones. Guidance was also provided that the discharge point for the footing drains should be included on the plans.

Attorney Grimes then again requested that Mr. Goulet be permitted to install the walkway ahead of the next meeting. It was noted that the "snaked" walkway was depicted on the survey as "proposed". Mr. and Mrs. Abrams noted that they had no way currently to access the site with no walkway. Ms. LaVoie noted that this cottage had previously been a seasonal cottage.

As more discussion ensued about what should be included on the site plan, Mr. Closson noted that all retaining walls and landscaping walls should be depicted. Mr. Goulet noted that the area that was disturbed between the two properties, the subject site and 634 East Wakefield Boulevard, previously had 80 trees. Inquiry was made as to whether the commission was inclined to accept improvements made by hand, on a surveyor's plan,

as adequate. The consensus was that they were not and that the improvements should be located by an engineer. Mr. Goulet indicated that he understood if he undertook further activity, a Cease and Desist Order was likely.

It was agreed that a public hearing for this application would be scheduled for the December 13, 2021 regular meeting.

Mr. Marchand rejoined the commission, assuming his regular member status.

8. APPROVAL OF MINUTES: November 8, 2021

MOTION: Mr. Marchand, Mr. Platt second, to approve the November 8, 2021 Minutes; Motion approved with Mr. Closson, Mr. Cooney, Mr. Marchand, and Mr. Platt voting in favor while Mr. Sanden abstained.

9. COMMUNICATIONS:

No communications were reported.

10. STAFF REPORT:

Staff relayed how difficult it can be to provide guidance on projects requiring a special permit due to the section of the zoning regulations regarding steep slopes. It was noted how even when site plans are prepared by a professional engineer, the area of disturbance can sometimes grow. Discussion occurred on what triggers a proposal being subject to the regulation and whether it is if the entire site has slopes in excess of 15% or if the disturbed area called out exceeds 15%. Generally, it was agreed only if the disturbed area exceeds 15%. It was noted that there is much room for interpretation when a survey is marked up by a lay person with the proposed finished improvements but does not include the execution plan and/or the necessary areas of disturbance.

Inquiry was made regarding the laurel that was to be planted on the disturbed slope at the new construction on Lincoln Street/Crescent Street. Inquiry was also made regarding a new flood light at the location of the brewery at 32 Lake Street.

11. OTHER BUSINESS:

A. Discussion on Proposed Zoning Regulation Change: Marijuana Dispensary Facility.

Discussion was deferred to the next regular meeting.

12. ADJOURNMENT.

MOTION: Mr. Marchand, Mr. Cooney second, to adjourn; unanimously approved. The Commission adjourned at 8:59PM.

**Respectfully submitted,
Pamela A. Colombie
Recording Clerk**