

THE INLAND WETLANDS COMMISSION OF THE TOWN OF AVON HELD A
REGULAR MEETING ON TUESDAY, JULY 1, 2014 AT THE AVON TOWN HALL.

Present were Cliff Thier, Chairman, Michael Beauchamp, Bryan Short, Bob Breckinridge and John E. McCahill, Planning & Community Development Specialist.

Martha Dean, Jed Usich and Dean Applefield were absent.

Chairman Thier called the meeting to order at 7:03 p.m.

NEW APPLICATIONS:

APPL. # 739 – Stephen P. Miller, owner/applicant: Requests within the 100' upland review area associated with Secret Lake: 1) Construction of a small house addition (227 s.f. on piers); 2) Construction of a portion of a proposed driveway (with retaining wall), portion of garage, one parking space and related grading (fill); 3) Proposed grading (earth removal) to compensate for proposed fill below 100/500 year flood line. Location: 165 Secret Lake Road, Parcel 3890165.

Present were Fred Osorio, Builder, and Stephen P. Miller, owner/applicant.

Mr. Osorio stated that he will begin his presentation by responding to the comments in a memo dated June 23, 2014 from Larry Baril, Town Engineer:

- a. The proposed garage is shown as 2.7 feet from the property line. We don't see what the foundation is for this structure but we believe it will not be possible to construct without permission from the neighbor at 171 Secret Lake Road.

Response: Mr. Osorio, referring to a letter dated June 24, 2014 from Brian Ford, resident at 171 Secret Lake Road, stated that Mr. Ford has granted permission to access his "adjacent property for a three car garage foundation 2.7 feet from the property line we share." He continued by stating that "I (Brian Ford) am in favor of this project and the addition to the existing structure on the north side of the property." Mr. Osorio distributed a copy of the letter to the Commission. Mr. Osorio continued by stating he will be doing the excavation and, in his opinion, will not be impacting Mr. Ford's property.

- b. The grading on the south side of the lot appears to be directly adjacent to and extends past the property line. Again, permission would have to be granted by the neighbor to allow this. Additionally, there are concerns that this grading will facilitate run-off from this property onto the neighbor.

Response: Mr. Osorio, again referring to the letter dated June 24, 2014 from Brian Ford, resident at 171 Secret Lake Road, stated that "Access is also granted to grade the soil subsequent to the foundation to slope the rainfall in the direction of the lake." Mr. Osorio

continued by stating that he proposes to pitch the gutter on the southeast corner of the proposed garage in order to slow down the run-off. He stated that precautions will be taken to ensure that the run-off is reduced.

Mr. Miller interjected that the adjacent property at 171 Secret Lake Road is at a higher elevation than his property.

Mr. Osorio stated that the proposed retaining wall will have a drain pipe underneath that will direct the water towards Secret Lake. He continued by stating that the grading proposed at the rear of the proposed garage will be sloped away from the adjacent property located at 171 Secret Lake Road.

Mr. Miller interjected that the retaining wall is three (3) feet high, with one-half (½) foot below grade.

Mr. Breckinridge inquired as to where the drain pipe will discharge.

Mr. Osorio responded by stating that the drain pipe will be directed onto Mr. Miller's property behind the proposed garage. He continued by stating that there is a minimal amount of water that will flow through the drain pipe and onto Mr. Miller's property.

- c. Grading and a retaining wall are shown within the Secret Lake Road right-of-way. Permission will be needed by whoever has legal jurisdiction to provide it for work within this area.

Response: Mr. Miller responded by stating that the Secret Lake Association had their annual meeting last month and they did not address the request he submitted to the Association at their annual meeting. He continued by stating that the Secret Lake Association is meeting again on July 8, 2014 to consider granting permission to conduct activities within their ten (10) foot right-of-way. Mr. Miller stated that he is hopeful he will receive permission for his proposed activities. If permission is not granted, there is an opportunity to shift the driveway to comply with the concerns of the Secret Lake Association.

Mr. McCahill interjected that this issue is not a concern for the Inland Wetlands Commission and it will be addressed at Town Staff level, in coordination with the Engineering Department, at a later time.

Mr. Osorio, referring to the memo dated June 17, 2014 from John McCahill, responded as follows:

1. An agent approval was authorized on June 29, 2011 (11-007) to allow for the construction of the two existing decks. The decks were constructed in 2011 and work was completed in accordance with the conditions of approval.
2. The proposed addition (to a nonconforming dwelling constructed in the 1930's) and the proposed garage (located within required setbacks) will require approval by the Zoning Board of Appeals. The proposed grading (fill and earth removal below the 100/500 year flood line) will require approval by the Planning & Zoning Commission.

Response: Mr. Osorio stated that comments number 1 and 2 are informational items about previous construction activities and other approvals which are required.

3. A detail should be provided for the proposed plunge pool.

Response: Mr. Osorio distributed a copy of the detail for the proposed plunge pool for the Commission to review. He continued by stating that the shape may vary slightly, but essentially, the details of construction will remain the same. He continued by stating that accurate details for the proposed plunge pool will be noted on the revised plans.

In response to Mr. Short's question regarding the details of the proposed plunge pool, Mr. Osorio stated that he is hoping the Commission will grant approval for this application contingent upon addressing the comments in Mr. McCahill's memo and noting them on the revised plans.

Mr. Thier requested that Mr. Osorio explain the operation of the proposed plunge pool.

In response to Mr. Thier, Mr. Osorio stated that the run-off from the driveway will be dispersed so that the water will not flow in one particular direction. The proposed plunge pool will disperse the water so that it runs gently towards Secret Lake.

Mr. Thier inquired if the proposed plunge pool will also collect sediment, and if so, will periodic maintenance be required.

Mr. Osorio responded by stating that the proposed plunge pool will collect sediment, but that there should not be much sediment that will flow from the driveway. He continued by stating that he could not answer the question regarding periodic maintenance but he will find out and if necessary, will ensure that there is continuous maintenance.

Mr. Miller stated that it is his understanding that the proposed plunge pool is similar to a dry well to a degree. He continued by stating that there is trap rock and a mesh fabric that acts as a one way silt screen.

Mr. Thier stated that if there is a build-up of sediment in the proposed plunge pool, it will cease to function as proposed.

Mr. Short inquired if the size of the proposed plunge pool is adequate for the amount of run-off and sediment that will be flowing through it.

Mr. Osorio responded by stating that the proposed plunge pool was designed by David Whitney, Consulting Engineers LLC, and, in his opinion, it is adequate to control the run-off from the driveway.

Mr. Thier noted that Mr. Whitney was not present at the meeting and inquired if we had anything in writing from Mr. Whitney with regard to the proposed plunge pool.

Mr. McCahill responded by stating that the proposed plunge pool was designed by Mr. Whitney and suggested that there is a calculated basis for his design. He continued by stating that, in his opinion, the proposed plunge pool was not designed specifically to deal with a sediment load. He continued by stating that the importance of the proposed plunge pool is to ensure that at the low point at which the flow of water is coming in from two (2) different directions (the driveway and Secret Lake Road), that the proposed plunge pool will be able to absorb the energy from any run-off that may happen from an intense rainstorm. He stated

that the intent of the proposed plunge pool is not to necessarily mitigate sediment as it may take years to accumulate. The proposed plunge pool will protect against the possibility of erosion.

Mr. Breckinridge inquired as to how wet the lawn area is abutting Secret Lake.

Mr. McCahill responded by stating that the area to which Mr. Breckinridge is referring is subject to occasional flooding, but most of the year it is firm and dry. He continued by stating that Secret Lake is a dynamic lake that increases in size but it also recedes quickly after a short period of time following a significant rainfall event.

Mr. Miller confirmed that the water recedes very quickly after an intense rain storm.

Regarding the run-off from Secret Lake Road, Mr. McCahill stated in response to Mr. Breckinridge's concern that the run-off will not be changed at all.

Mr. Osorio stated that the main concern is controlling the run-off from the driveway to ensure that the house is not compromised.

Mr. Miller stated that his home is built on piers. It is his understanding that the proposed driveway, and the lowest point of the proposed garage, will be one (1) foot above the 100/500 year flood line. He continued by stating that the proposed activities were designed as a result of the location of an existing sewer easement. As a result of the location of the sewer easement, there were not many options as to where the proposed garage could be located and where they could have an appropriate slope for the proposed driveway. It is his opinion, that there will be a minimal impact to the wetlands with this proposed plan.

4. The proposed silt fence should be backed up with staked hay bales in order to provide a stronger sediment control barrier (given the close proximity to Secret Lake). This should be noted on the plans, and a detail for staked hay bales should also be included on the plans.

Response: Mr. Osorio stated that staked hay bales will back up the silt fence. This will be noted and details will be included on the plans.

5. The "existing gravel area" just westerly of the proposed addition should be removed. A landscape plan should be provided for this area. I would recommend that a "planting plan" be considered instead of a "lawn area". This should be noted and the proposed plantings should be included on the plans.

Response: Mr. Miller stated that a detailed planting plan has not been determined at this time. He continued by stating that he will research plantings that will be appropriate for the area just westerly of the proposed addition.

Mr. Breckinridge inquired if the Planning & Zoning Commission will request a planting plan.

Mr. McCahill responded by stating that this will not be a concern of the Planning & Zoning Commission. Mr. McCahill stated that this would be more of a concern for the Inland Wetlands Commission. He continued by stating that his comment was included in anticipation of the Inland Wetlands Commission concerns and goals to try and minimize how

much lawn is being proposed within the upland review area. It made sense to remove the gravel and propose a more environmentally friendly solution. The concerns of the Planning & Zoning Commission would be to address the mathematical equation for balancing the “cuts and fills” and how they relate to the 100/500 year flood plain.

Mr. Osorio reiterated that the applicant is requesting that the proposed application be approved contingent upon knowing that all comments will be addressed on the revised plans.

6. An ‘as-built’ should be provided prior to the issuance of the Certificate(s) of Occupancy to document compliance with the proposed location(s) of the structures, as well as, compliance with the proposed elevations/grading. This should be noted on the plans.

Response: Mr. Osorio stated that an “as-built” will be provided prior to the issuance of the Certificate(s) of Occupancy.

7. A sequence of construction should be included on the plans; this should also include a proposed phasing sequence for the various activities.

Response: Mr. Osorio stated that a sequence of construction and a proposed phasing sequence for the various activities will be noted on the revised plans.

Mr. Beauchamp asked Mr. McCahill if he sees any wetland issues that this Commission should be concerned with.

Mr. McCahill responded by stating that any wetlands issues were addressed in his comments. The issue is to ensure that there are no contaminants or sediment that may enter Secret Lake. He continued by stating that the proposed garage is an adequate distance from Secret Lake. The addition on the north end of the house is elevated on piers and will impose a very minimal disturbance. As long as there is a silt fence in place, there should be very little run-off containing sediment which gets to Secret Lake.

Mr. McCahill stated that the applicant had just received an approval for the proposed project from the Zoning Board of Appeals on June 26, 2014 and they did not want to go too far ahead with their proposed project until they had received that approval. He continued by stating that, by waiting for action by the Zoning Board of Appeals, the applicant did not have adequate time to plan for the Inland Wetlands Commission meeting this evening. The comments are minor and the requested changes to the proposed plans are not that significant, but it is up to the Commission to feel comfortable with the proposed project and presentation. In response to Mr. McCahill’s request, Mr. Miller explained the need for the garage and the issues that he has been dealing with as the property owner. Mr. Miller stated that his current residence is approximately eleven hundred (1100) square feet and is on piers. The heating system is in the attic and runs inside the ceiling spaces therefore reducing the closet space for storage. The proposed garage will contain two (2) bays for two (2) cars with a third bay for the storage of lawn equipment. He continued by stating that he would like to retire in this home with the ability to properly store his vehicles and equipment in a presentable manner.

Mr. Short stated that he is uncomfortable with the fact that comments have not been addressed, in writing and prior to the meeting, so that the Commission could have the opportunity to review and evaluate the potential impacts to the wetlands and/or the upland review area. It is his understanding that the applicant is requesting an approval this evening without the comments addressed and noted on the plans. He understands that there will be minimal impact to the wetlands/upland review area, but it is difficult for him to evaluate the proposed plan independently without revised plans that address the comments from Mr. McCahill.

Mr. Miller inquired if the Commission would like to review the sequence of construction at this time.

Mr. Thier stated that the Commission would like to have written documentation to address Mr. McCahill's comments and any concerns from the Commission before they will consider voting on this application.

Mr. Osorio stated that in his opinion the comments were addressed, and he would like an approval contingent upon satisfying any requirements.

Mr. Short stated that he understands that time was limited to prepare for the presentation this evening, but the issue is, once the application has been approved, there is not a mechanism in place for evaluation or question with regard to any future activities. He cannot properly evaluate or ask questions without knowing some of the responses to the outstanding issues.

Mr. Thier explained that if the Commission approves the application without the appropriate documentation, it will lose its authority to ask any questions in the future. The Commission cannot vote on details that have not yet been presented.

Mr. Short reiterated that it is difficult to evaluate the proposal prior to voting without details being presented, in writing, and prior to a vote.

In response to Mr. Miller's question, Mr. Short responded by stating that the Commission has received high levels of documentation, including but not limited to detailed planting plans, which have been submitted in writing and prior to the presentation for applications that have been received in the past.

In response to Mr. Miller's question, Mr. Osorio stated that the area that Mr. McCahill suggested a landscape plan for is approximately five hundred (500) to six hundred (600) square feet. He inquired about what he can do to satisfy the Commission's requirements without having to wait until the next Inland Wetlands Commission meeting.

Mr. Thier took a quick poll from the Commission with regard to whether it feels it has enough information to vote.

Mr. Breckinridge stated that he has enough information but agrees that there should be more information in writing. He inquired if this information was submitted in writing, would Mr. McCahill feel comfortable to review the information.

Mr. McCahill stated the typical process is an application is submitted for review by the Inland Wetlands Commission. Mr. McCahill continued by stating that he then reviews the plans and provides comments in a timely fashion addressing any potential concerns for the Commission. There is usually a response to the Mr. McCahill's comments and then there is opportunity to brief the Commission on the fact that the issues have been addressed. In this case, the Commission has to be comfortable with the review process being entirely done by Mr. McCahill without concurrence from the Commission. Mr. McCahill stated that is what

the Commission is struggling with. Are the issues huge? No, but the process has not been followed and it is placing the Commission in an awkward position.

Mr. Osorio apologized for placing the Commission in this position. He continued by stating that they want to satisfy all that is being requested.

Mr. Beauchamp stated that he has no issues with voting on this application this evening, considering the size of the proposal and the understanding Mr. McCahill will be overseeing the proposed project.

Mr. Short stated that he does have a problem, but doesn't want to delay the homeowner. He will concur with the other Commissioners if they are satisfied with the information presented this evening and with Mr. McCahill's oversight.

Mr. Thier stated that he also has a problem and he is not comfortable with the process not being followed. He continued by stating that this is not the level of detail typically made available to make a decision. Mr. Thier suggested scheduling a special meeting to review the application.

A brief discussion followed to determine the availability for a special meeting. Each Commissioner will be contacted to determine which date will ensure a quorum to continue the review of this application.

OUTSTANDING APPLICATIONS:

There were no outstanding applications at this time.

COMMUNICATIONS FROM THE PUBLIC:

There were no communications from the public at this time.

OTHER BUSINESS:

APPL. # 737 – Gladys M. Walker, owner; Oak Land Developers, LLC, applicant: Requests within the 100' upland review area: 1) Construction of a driveway and a portion of the proposed house, installation of utilities, and related site grading (proposed Lot #1 parcel 2810348); 2) Construction of a driveway, installation of utilities, and related site grading (proposed Lot #2 parcel 2810354). Location: 354 & 362 Huckleberry Hill Road, existing parcels 2810354 and 2810362 – **Application previously approved (June 3, 2014) - discuss minor revisions to plans/lot layout.**

Mr. McCahill stated that this application was approved by the Inland Wetlands Commission at their June 3, 2014 meeting. At that time, there was a lot of discussion regarding lot configuration, with the Commission approving the proposed regulated activities in the upland review area for Lots # 1 & 2 for a proposed four (4) lot subdivision. He continued by stating that based on the input at the Planning & Zoning Commission meeting, the proposed plan has been revised to a three (3) lot configuration. There were no modifications to the approved regulated activities on Lot # 1. The modifications to approved regulated activities on Lot # 2 resulted in a reduction of regulated activities that had been previously approved. He continued by stating that

it was important to brief the Commission on the proposed modifications but, in his opinion, there were no modifications that need to be formally reviewed again by the Inland Wetlands Commission.

There was consensus from the Commission that the modifications to the proposed plan were positive modifications and do not need any formal review by the Inland Wetlands Commission.

STAFF COMMENTS:

There were no staff comments at this time.

Authorized Agent Approvals:

There were no authorized agent approvals at this time.

APPROVAL OF MINUTES: June 3, 2014

Chairman Thier asked if there were any corrections to the minutes. There being no corrections to the minutes, Mr. Beauchamp made the motion to approve the minutes. The motion was seconded by Mr. Breckinridge. The minutes were approved by Mr. Short, Mr. Thier, Mr. Beauchamp, and Mr. Breckinridge.

NEXT MEETING: September 2, 2014

There being no further business, the meeting was adjourned at 7:50 p.m..

Respectfully submitted,

Judy Schwartz