

ZONING BOARD OF ADJUSTMENT
JUNE 28, 2018

PRESENT: Wendy Juchnevics-Freeman, Chairman, David Lage, Edwin Somero, Walker Farrey, Lori Rautiola
ABSENT: Stan Long

The meeting was called to order at the Town Office on June 7, 2018 at 7 p.m. Lori was appointed to fill the vacancy of Stan Long.

7:00 p.m. Mathew Cardin (Eversource), 367 Line 367 ROW Utility easement- Public Hearing of a variance application: Mr. Mathew Cardin, Environmental Representative for Eversource explained they are seeking temporary relief for the replacement of existing overhead electrical utility structures and replacement of cross arms on structures within the Wetlands and Surface Water Conservation Overlay District. Eleven structures need to be replaced, four of those structures need the cross arms replaced, and eight of the eleven structures are located near the Conservation Overlay District and need to be replaced. The total temporary impact to the wetlands is 41,400 square feet. Mr. Cardin stated the structures themselves are not in the wetlands but seeks the variance for temporary relief in order to access the roads and work paths. Wooden timber mats will be used within the wetland areas that will distribute the weight of the equipment evenly and reduce the amount of rutting. There will be no dredging in the wetlands and the vegetation that is laid down by the timber mats will re-vegetate within the next growing season.

Wendy questioned what type of mitigation will be used to keep the disturbed soil from going into the wetland area and Mr. Cardin responded that the erosion sediment control procedures will be followed and the ground will be stabilized and sediment barriers used if needed. In most cases they would use a straw waddle and in worst cases silt fence and/or hay bales used. Weekly monitoring reports are done by Tighe & Bond as well as daily monitoring reports by an Eversource construction representative and a civil environmental construction representative.

Mr. Cardin explained the first phase of the project would be to lay the timber mats and establish a work pad for each structure (gravel). Then erosion controls would be put in place and any seed/mulch needed. Grading any slopes and erosion controls would be put in place. Holes are then drilled for the poles followed by the line contractors who set the structures and move the lines to the new structure and remove the old structures. The civil contractor comes back to remove timber mats, restore rutting and re-seed/mulch and fix any earth disturbance done by the timber mats. Mr. Tom Sullivan stated the first phase is expected to happen in July, structure work done in August.

Access roads were discussed and Mr. Cardin stated they researched and found the best way with the least amount of impact to the wetland but are restricted to the right-of-way as it is hard to gain access from property owners. Some of the access roads will include Rumrill Road and Tobey Highway. Wendy stated work has already begun on Rumrill Road and the road has been impacted due to the trucks dropping off the timber mats. Mr. Cardin stated a wetland scientist delineated the wetlands and did not show that area as wetlands but would take another look at the area. Wendy questioned what the applicant has in place to protect the roads. David stated Timbertop Road is due to be paved this summer and requested a bond

be put in place for the protection of the newly paved road. David suggested videotaping the roads before the work begins and Mr. Cardin agreed.

Mr. Cardin displayed maps of areas where the structure work would take place starting on the east side of town. 1) Tobey Highway – to access structure #261 and #262 no impacts to the wetlands. 2) Temple Road- to access structure #271. It was noted any seasonal stream or drainage area would be air gapped with wooden timber mats so there would be no impact to those areas. 3) Temple Road structure #271 is upland area so there would be no impact to the wetlands. Wendy questioned when making a road or path how close would the applicant get before using erosion controls and Mr. Cardin responded about 100 feet, and added any area that has a down slope area will have sediment barriers in place. Mr. Sullivan mentioned utility maintenance notifications are filed through NHDES and they are required through the process to abide to the best management practices. 4) Structure #303 - off Timbertop and Old Stage Coach Road will have timber mats and a work pad in place. There will be no digging within the wetlands. The applicant has written permission from the homeowners to use Barret Mountain and Old Stage Coach Road. In the agreement Eversource is to repair the road after construction to the same or better condition than before. Wendy asked to have the agreement on file. 5) Barret Mountain Road will be used to access structure #305. David requested Eversource supply copies of the updated maps to the Town.

Structure #306 (west side of Timbertop Road) structure #307, and #308 will all have work pads. Structures #307 and #308 will have cross arm replacements so most of the work is done above ground. #309 and #310 will have work pads, and structure #311 will be the last structure in New Ipswich. It was noted that Rumrill Road was the best way to access that structure to avoid a sensitive vernal pool and the applicant has permission from the Blais' at the beginning of the road to access the property. Wendy questioned if there was any way to avoid using Rumrill Road adding heavy equipment has already damaged the road when the work mats were brought in. There was discussion on Rumrill Road. It was noted the applicant will lay timber mats on Rumrill Road before any more work is done and restore the road back to the current state or better when the work is complete.

Wendy questioned if work has been started in New Ipswich and Mr. Cardin stated no work or laying of mats has started in New Ipswich. Mr. Cardin noted he will revisit the site near Rumrill Road to ensure the sensitive areas are staked out and will follow up with Lori the following week.

David mentioned the timing of the work being completed will be around the same time that Timbertop is getting new pavement. Timing of the pavement was discussed and it was determined the work would take about five weeks to complete. Mr. Sullivan noted they could make this a priority providing they get the variance needed to start as soon as possible. David stated he would speak with the DPW Director, Peter Goewey, to prioritize the paving to start on other roads prior to Timbertop. It was noted the applicant's engineer will place a value on the roads for the bond. Mr. Sullivan noted this could take more time and questioned if the Town's DPW director could place the value. David asked the applicant to speak with Director Goewey regarding the value of the roads and provide the information to the Town Administrator.

Structure #317 would be the next structure which is in Rindge. David questioned the need to go through wetlands in New Ipswich to get to structures in Rindge and if there were other options to access those

structures. Updated maps were displayed. Wendy mentioned coming through the gravel pit and going east would be much less impact to the wetlands. Mr. Cardin stated he was not familiar with that area. It was noted the applicant was granted access to use the gravel pit as a lay down yard for the timber mats but this did not happen until late in the planning process. Mr. Cardin stated they will look into gaining access through Rindge in order to avoid more wetland crossings in New Ipswich; this would also alleviate the use of Rumrill Road.

The five criteria for granting a variance were discussed:

- 1) The proposed use would not be contrary to the public interest because the work consists of the maintenance of existing utility infrastructure to provide reliable electric to the public.
- 2) The use is not contrary to the spirit of the ordinance because the work consists of maintenance and will not result in any new development.
- 3) Granting the variance would do substantial justice because it will allow the electric utility to maintain its infrastructure.
- 4) The proposed use would not diminish property values because existing structures will be replaced with like weathered steel structures and cross arms will be replaced on existing structures. All work will be completed within the existing utility ROW/
- 5) Literal enforcement of the ordinance could result in failure of the transmission system, which would result in hardship for both the utility company and the customers that the transmission line serves, including residents of New Ipswich.
 - a) No fair and substantial relationship exists between the general public purposes of the ordinance....The existing use provides a public service (electricity) to the general public.
 - b) The proposed use is a reasonable one because it consists of the maintenance of existing electric infrastructure. OR 5.a and 5.b are not met.. The project involves work within the Wetland Conservation Overlay District, and there are no provisions to maintain existing electric infrastructure.

Wendy stated as long as best management practices are followed she did not see a problem, adding the impact would be minimal and impacts are temporary.

Abutters were asked to speak:

Abutter Al Jenks, 1180 Turnpike road, stated structure #303 is on his property and there is a large rock in the way that will need to be moved. Mr. Jenks continued stating there is an old stone culvert that needs to be preserved. He questioned the drainage and material to be used to help with the flow of run off. It was noted that water bars will be in place and gravel will be brought in to bring the road up to grade. Mr. Jenks noted that without proper drainage gravel would wash away with heavy rain. It was noted the water bars will aid in directing the water which would direct the water off to the side and into a plunge pool which would disperse as needed. Mr. Jenks stated many hikers use this part of the Wapack Trail and questioned what could be done to notify them as they come upon the scene. Mr. Sullivan stated signage will be put in place on both sides of the right-of-way.

Abutters Jon and Connie Cook, 80 Hubbard Pond Road- Mrs. Cook stated there are four structures between 306 and 311 and questioned if those were being rebuilt. Mr. Cardin stated the cross arms will be

replaced on the structures in between 306 and 311. Abutter Tom Jablonski, 200 Timbertop Road, questioned if a condition could be put in place that paving will not take place until Eversource has completed the work. David noted the contract has already been completed for the paving on Timbertop Road. Wendy noted Peter Goewey will place a value on the Road and a bond will be posted.

Abutters Paul and Linda Stevens, 156 Timbertop Road- Mr. Stevens stated he has witnessed Eversources' work in other towns and noted they are reputable and follow their word. Sister Lorraine Trottier, abutter at 400 Temple Road, questioned where the access point off Temple Road would be. She was also concerned about access getting in and out of their parking lot and if power would be shut off for any amount of time. Mr. Sullivan stated they will be able to access their parking at all times and there will be no power outages. Abutter Edward Silva, 62 Hubbard Pond Road, questioned impact to a stream located near structure #306 and it was noted there will be no impacts to the stream.

Walker made a motion to close the public hearing and enter into deliberations. David seconded the motion and it passed unanimously.

The Board discussed the criteria. David stated it is in the public's best interest to have electricity. Wendy noted those structures are very old and need to be replaced adding impacts to the wetlands are minimal and temporary and the variance will allow them to maintain the utility infrastructure. Members agreed the work has no impact to property values. David mentioned making changes to the ordinance to allow for an easier process than coming before the Board. The conditions for approval would be:

- 1) Updated plans submitted to the Town showing all matted areas.
- 2) A video showing the current condition of all roads being used to access the properties prior to work being done.
- 3) Seek alternative access from Rindge to avoid more wetland impacts.
- 4) Copies of access agreements supplied to Town.
- 5) Matting put in place on Old Stage Coach Road to access structure 303 and matting in place for the Temple Road access.
- 6) Matting in place on Rumrill Road before any other equipment/work is done.
- 7) Signage in place at the Wapack Trail.
- 8) Road bond shall be provided to cover the repair cost for any damage caused to any town road or right-of-way. Value of the bond shall be as determined by the town's DPW Director.

David questioned the amount of time it would take to find out if access was available through Rindge and Mr. Sullivan stated they should know within the next few days, adding the biggest issue is the timing of road paving.

Walker made a motion to approve the variance application with the above conditions. Edwin seconded the motion and it passed unanimously.

9:30 p.m. Lou Lioio, 102 Upper Pratt Pond – public hearing of a variance application: Wendy stated during the site visit members were looking at the surveyed map and the pile of fill that had already been replaced and that it was inside the delineated wetland area bringing forth the question about that wetland being delineated or not. Wendy added at the site visit it was requested Mr. Lioio have a wetland scientist

delineate the wetlands and provide a map for the meeting tonight. Mr. Paul Grasewicz was present to discuss the wetland delineations that he had done today. David stated the Board is looking for a plan stamped by a wetland scientist that shows the delineation of the wetland and questioned if Mr. Grasewicz was a licensed wetland scientist. Mr. Grasewicz stated he is licensed designer and certified wetland delineator and had surveyed this property in 2005 for a septic system. Rules have changed since 2005 but the system still meets all of the setback requirements. He stated he visited the property today to see what was wet/not wet and concluded the flags out there now represent the wetlands not surface drains. David questioned how he determined the wetlands that have been filled in. This is why the Board requested at the site visit a plan showing all wetland delineations. Mr. Grasewicz displayed a map showing the most current delineations he had done. David questioned why the wetlands marked on previous plans are no longer considered wetlands and Mr. Grasewicz stated the soils are non-hydric, adding he augured a test boring 6 feet below the culvert and it was non-hydric. When he did the original plan he had to meet all setbacks including the 75 foot surface drain setback.

Mr. Grasewicz mentioned he did not see any wetland vegetation in the area, adding it was disturbed but it was not wet. There was discussion on the unaltered square footage on the plan. Mr. Lioio displayed a map that was submitted to NHDES for the shoreline permit which was approved. David noted the square footage shows the same figure as before even though there is more impervious square footage due to the bigger project and disturbance within the wetland. David stated the Board has tried to be forth coming by requesting the plans for the meeting tonight so there are less delays but there is still no plan showing the wetland delineations. Wendy stated the Board needs a plan showing where relief is needed.

Wendy mentioned during the site visit it was observed the well was within the setback of the road and Mr. Lioio would need an additional variance for relief. She stated the applicant needs to show how they meet the vegetated buffer requirements, show where the fill is in reference to the wetland area, restore a portion of the lot, and have the wetlands delineated by a licensed wetland scientist.

Abutters were asked to speak:

John O'Brien, 88 Upper Pratt Pond Road, stated he was concerned about the pond and the quality of water. He agreed with the Board that an updated plan showing the wetlands delineations will be helpful to make sure the wetlands and all setbacks are met. Wendy added it may be in the best interest of the Board to hire a certified wetland scientist at the applicant's expense.

Judith Prager, 88 Upper Pratt Pond Road, stated she would like to see everything more clearly on updated plans.

Joe Woodworth, 174 Upper Pratt Pond Road, stated Mr. Lioio has been very responsive and gone out of his way to make sure things are done right.

Mary Fortier, 158 Lower Pratt Pond Road, stated she also would like to see updated plans. She questioned if the fill in the wetlands would need to be removed from the property and Wendy responded it would need to be removed.

Tom Moran, 140 Upper Pratt Pond Road, stated he was concerned with the run off into the pond.

Dwayne White, 120 Upper Pratt Pond Road, questioned if the septic system would be moved closer to the side setback and David responded it would not. Mr. White added his concern was making sure the pond stays clean. He added Mr. Lioio has been very responsive and easy to work with.

David Cotzin, 105 Upper Pratt Pond Road, stated he felt Mr. Lioio was trying to fit his house to the lot, not his lot to the house. He also questioned where the well was located and Wendy noted the Board will accept the variance application for the well tonight. Wendy added the applicant will need to show on the plan where the well is located.

David made a motion to continue the public hearing. Walker seconded the motion and it passed unanimously. The public hearing was continued to August 2, 2018 at 8 p.m.

David made a motion to accept the variance application to Article XII.A for the well. Walker seconded the motion and it passed unanimously. The public hearing was scheduled for August 2, 2018 at 8:00 p.m.

The minutes of the June 2, 2018 meeting were reviewed and the following corrections were made: Walker noted 2nd page third paragraph, change the number of units to 9. Wendy noted on page 3, fourth paragraph change the wording to read "the first of the five". Walker made a motion to approve the minutes as amended. David seconded the motion and it passed unanimously.

The meeting adjourned at 10:45 p.m.

Respectfully submitted,

Lori Rautiola, Secretary

