

**APPROVED MINUTES**  
**Planning Board Meeting**  
**7:00 p.m. New Castle Town Hall**  
**Wednesday, August 28, 2019**

**JULY, 2019 MEETING OF THE NEW CASTLE PLANNING BOARD WAS CANCELLED**

**Public Hearing for a Conditional Use Permit for Penhallow NC LLC for the property at 157 Little Harbor Road, Map 2, Lot 24 for alterations/disturbance within the 100' tidal wetland buffer (Section 9.2.5)**

**Members Present:** Tom Hammer, Margaret Sofio, Lorne Jones, Kate Murray, Rich Landry, Bill Stewart

**Others Present:** Steve Riker

**Members Absent:** Darcy Horgan

Acting Chair, Kate Murray, opened the meeting at 7:00 p.m. and indicated voting members: Ms. Margaret Sofio, Mr. Lorne Jones, Mr. Rich Landry, Mr. Bill Stewart, and Acting Chair Murray.

**1. Announcement of resignation of Secretary, Anne Miller**

Acting Chair Murray noted that Anne Miller will be retiring from the position of Secretary to the Planning Board. Gratitude was expressed for her excellent work.

**2. Public Hearing for a Conditional Use Permit for Penhallow NC LLC for the property at 157 Little Harbor Road, Map 2, Lot 24 for alterations/disturbance within the 100' tidal wetland buffer (Section 9.2.5)**

Mr. Steve Riker, of Ambit Engineering, representing applicant Penhallow NC, LLC, described plans for work within the wetland buffer at 157 Little Harbor Road. Existing on site is a single family residence with driveway, walkways, rear (water side) patio, with landscaping plantings and trees and some retaining walls near Little Harbor Road. A small lawn leads to a "ledgy bluff" which abuts Little Harbor.

Page C2 of the planset lays out the proposed improvements and delineates the buffer zone limits. Within the 100' wetland buffer:

- an impervious walkway to be changed to pervious
- a deck to be constructed over the existing stone patio
- a set of stairs to be added from the deck to the lawn
- the stone retaining wall on the east side to be straightened out
- "random stones" in an existing depression (shown on plan set as kidney-shaped) to be repositioned as seats around a firepit
- granite stairs to be dry-laid to provide beach access
- native shrub planting area to be added

- 14' scotch pine to be removed and replaced

Outside of the 100' buffer zone are proposed improvements that required a NH Shoreland Impact Permit:

- the existing concrete pad to be converted to pervious paver
- a 306 s.f. Walkway to be converted to pervious paver

Both the NH Department of Environmental Services (NH DES) Wetland Permit and the NH Shoreland Impact Permit have both been granted.

Mr. Riker also informed that Board that the contractor, upon receipt of the NH DES Wetland Permit and Letter of Acceptance and believing it constituted full approval, mistakenly began construction of the deck. Two sonotubes were dug and placed. Mr. Riker notified NH DES; a representative subsequently walked the site and "saw no issues." No Letter of Violation was generated due to the fact that the Shoreland Impact application had been submitted and was subsequently approved. The contractor apologized and stopped work pending the outcome of the Planning Board's decision.

The deck isn't any closer to the resource than the existing patio, however there is more square footage within the 100' buffer. While the deck's outermost point will be the same as that of the existing patio, the new deck will have a square edge instead of the curved edge of the patio.

The (impervious) stone patio will remain and the (impervious) deck will be built over it, including the pouring of two footings.

At 34.7% impervious surface area, the existing conditions exceed the 30% threshold. Therefore, pervious pavers are replacing some existing impervious surfaces to balance the addition of impervious surface in order to stay below 34.7%.

The existing 14" scotch pine is missing from the page C1, Existing Conditions. It will be removed (cut, but not stumped) and a new tree will be planted in a different place.

The stone steps, which will be dry-laid on ledge and soil (site photograph #5) will not increase the hardening of the shoreline.

Existing rocks will be repositioned for a fire pit (site photograph #4), above the mean high water line.

The tree on the left side, with the path going around it, is shown for planned removal, although they are hoping to be able to save it. Mr. Riker asserted that none of the NH or Town Ordinance buffer zone requirements for vegetation preservation apply.

Acting Chair Murray asked Mr. Riker to clarify details of the conditions proposed by the New Castle Conservation Commission (NCCC):

The plan set includes the NCCC-recommended 60 s.f. native planting area, depicted in crosshatch.

Board Members discussed the proposed condition, “native plantings within 50’ buffer be placed on either side of the granite depression.” Mr. Riker assumed that the “granite depression” referred to the fire pit area.

The proposed condition that ¾” stone be placed under the deck was a response to an earlier plan iteration that called for removal of the existing patio. The new and current plan retains the existing patio under the deck. Consequently, the condition is no longer applicable. There is currently no design for capture of the patio runoff. Board members suggested placing native buffer plantings at the edge of the deck as an alternative way to capture deck/patio runoff.

Acting Chair Murray opened the Public Hearing for comment at 7:53 p.m., and hearing none, closed it at 7:54 p.m.

***Mr. Rich Landry made a motion to approve the application for a Conditional Use Permit submitted by Penhallow NC LLC, for the property at 157 Little Harbor Road, Map 2, Lot 24 for alterations/disturbance within the 100’ tidal wetland buffer (Section 9.2.5) with the following conditions:***

- 1. 2 foot buffer of native plants along the south side (ocean facing) of the deck.***
- 2. The tree with a 4” diameter trunk be native and salt water tolerant***
- 3. A 2.5’ X 30’ buffer of native plants on the southern of the fire pit area (oceanside)***
- 4. No heavy equipment shall be utilized in the back area of the house***
- 5. A performance bond of \$5000 will be posted to assure the landscape plan is executed as shown on the plans and in accordance with these conditions.***
- 6. Commission members will be permitted to return at any time within two years prior to release of the bond, after the completion of the work, to evaluate the landscape plan.***

***Mr. Lorne Jones seconded the motion. The motion carried unanimously.***

**3. Review and approve the minutes of the June 26, 2019 meeting of the Planning Board**

***Mr. Landry motioned to approve the June 26, 2019 minutes of Planning Board meeting as amended. Mr. Tom Hammer seconded the motion. Motion carried, unanimously.***

#### **4. Jet Ski Update**

Acting Chair Murray updated the Board on state efforts to regulate motorized watercraft near sensitive wetlands, including Lavenger's Creek. The town of Rye, NH has similar concerns. NH Department of Safety's Commissioner Quinn is concerned about jet ski safety and plans to convene the stakeholders, including the Coast Guard, Marine Patrol, Fire Departments, and NH DES to determine how to protect the estuaries. Hampton and Seabrook are currently covered by a Department of Safety rule. Enactment of a similar rule to protect Rye and New Castle would require a hearing process. Acting Chair and State Representative Murray, also plans to draft state legislation to protect Rye and New Castle estuaries from disturbance by jet skis and similar watercraft. She will incorporate the accurate definition of jet ski-like watercraft. The proposed legislation can be pulled if the Department of Safety rule is enacted first.

#### **5. Educational Conference on October 4th**

Members who are interested in attending the educational conference should speak to Chair Darcy Horgan and Mr. Stewart about reimbursement.

#### **6. Discuss Possible Lavenger Creek Designation as a Prime Wetland**

The NCCC has proposed revisiting the state-level designation of Lavenger's Creek as a Prime Wetland. While the designation wouldn't change setback lines, it would create more sensitivity for applications with a stronger focus on impacts.

Mr. Bill Stewart indicated that he supports the effort. The designation requires the Public Hearing process and Town Meeting approval. Acting Chair Murray will advise Chair Darcy Horgan that the Board wants to move forward.

#### **7. Adjourn**

***Mr. Stewart moved to adjourn the meeting, Mr. Hammer seconded, and motion carried unanimously.***

The meeting adjourned at 8:24 p.m.

Respectfully Submitted,

Anne Miller, Secretary