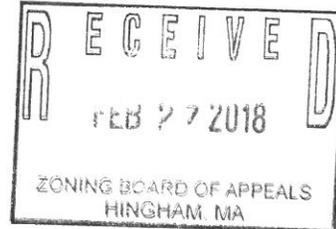


TOWN OF HINGHAM
CONSERVATION COMMISSION



Zoning Board of Appeals
210 Central Street
Hingham, MA 02043

February 27, 2018

RE: Viking Lane Conservation Questions

Dear Members of the Board,

In response to your conservation questions related to the proposed 40B development at Viking Lane, I offer the following guidance, additional information, and proposed conditions.

Regarding the 50-foot or “no disturb” buffer zone, Section 7.4(c) of the Hingham Wetland Regulations lists a number of prohibited activities, including clear cutting and grading, and structures. Sections 23.3 and 23.7 further specify that no new lawns or wall-type foundations may be constructed within the 50-foot buffer zone. A portion of the proposed patios/decks and wall-type foundations for buildings 10-13, as depicted on the latest plan set entitled “Comprehensive Permit Plan known as River Stone, Hingham, Massachusetts,” prepared by McKenzie Engineering Group, Inc. and revised February 2, 2018, fall within the 50-foot buffer zone. The plan set does not indicate how the land surrounding the proposed patios/decks behind buildings 10-13, within the 50-foot buffer zone, will be maintained, however it is assumed that it will be cleared and converted to lawn. Finally, a portion of the proposed grading for the largest stormwater basin also falls within the 50-foot buffer zone.

Article 22, Section 2B of the General By-Laws gives the Conservation Commission the discretion to allow prohibited activities within the 50-foot buffer zone “upon an express determination that the applicant has made a clear and convincing showing that the proposed work in the BUFFER STRIP and its natural and consequential impact and effects will not adversely affect the wetland values of [the] By-Law.” The Commission has exercised this discretion on a limited number of occasions during my tenure. In one instance, a wall-type foundation was approved 29.8 feet from a bordering vegetated wetland and in another, a concrete footing was approved 13.7 feet from the top of a coastal bank. In both of these cases, the area where the improvements were proposed was maintained as lawn and mitigation plantings, at a ratio of 2:1 or greater, were installed within the 50-foot buffer zone. It should be noted that the proposed wall-type foundation and patio/deck for building 12 are located approximately 15 feet and 5 feet, respectively, from the bordering vegetated wetland, in an area that is currently undisturbed. Based on the Preliminary Landscape Plan (Sheet LS-1), it does not appear as though any mitigation plantings are proposed.

The undisturbed, or natural, buffer behind proposed buildings 10-13 is currently at least 15 feet wide. Naturally vegetated buffers are more valuable and effective than disturbed buffers. Natural vegetation filters sediments, nutrients, pesticides, and other pollutants before they reach a resource area. A naturally vegetated buffer also slows runoff and, in turn, reduces erosion. Finally, the trees and shrubs in a natural buffer provide improved

aquatic habitat, through shading and cooling water-based resource areas, and wildlife habitat. These benefits, in particular, are even more critical for vernal pools.

If in fact the bordering vegetated wetland behind proposed buildings 10-13 is a vernal pool, as acknowledged by abutter comments and South River Environmental (letter dated February 23, 2018), the applicable local and state regulations are much stricter. Section 19.1 of the Hingham Wetland Regulations expands the “no disturb” zone around *potential and certified* vernal pools to 100 feet. The Massachusetts Wetlands Protection Act Regulations (310 CMR 10.00, specifically Sections 10.57 and 10.60) acknowledge the value of *certified* vernal pool habitat (only) and protect within 100 feet of said vernal pool. In addition, the Massachusetts Stormwater Handbook states that stormwater BMPs “must be set back 100’ from a *certified* vernal pool [emphasis added]” and explicitly prohibits the use of constructed stormwater wetlands, gravel wetlands, and wet basins “near” *certified* vernal pools.

Given this information, I offer the following recommendations related to the potential vernal pool:

1. The portion of the bordering vegetated wetland identified by flags A1-A11 should be observed by a Professional Wetland Scientist for the presence of obligate vernal pool species in March through May 2018. An inspection report and photographs should be generated for each site visit, a copy of which should be provided to the Board.
2. A final evaluation report, documenting whether or not the potential vernal pool should be considered a Massachusetts Natural Heritage & Endangered Species Program certifiable vernal pool and/or Town of Hingham Wetland Regulations vernal pool, should also be submitted to the Board.

Further, I offer the following proposed conditions for the Board’s consideration:

1. The undisturbed portion of the 50-foot buffer zone shall serve as the limit of work. No clearing, grading, or construction shall take place within this area.
2. All construction proposed within the disturbed portion of the 50-foot buffer zone shall be mitigated by native plantings, at a ratio of 2:1 or greater, within the 50-foot buffer zone. (*Note: the Commission reviews and accepts mitigation plantings based on the area of the planting bed in relation to the area of disturbance.*)
3. Based on the contents of the final evaluation report, and prior to the start of work, the applicant shall submit all data collected on the potential vernal pool to the Massachusetts Natural Heritage & Endangered Species Program so that it may be certified. A copy of the submitted material shall be provided to the Zoning Board of Appeals.

Should the Board have any immediate questions or require additional information, please feel free to contact me.

Sincerely,



Loni M. Fournier
Senior Planner: Conservation/GIS

Cc: Emily Wentworth, Senior Planner: Zoning/Special Projects