



TOWN OF DURHAM
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Town Planner's Review
Wednesday, February 24, 2016

- IX. ***Public Hearing – Perley Lane Amendment.*** Proposed amendment to landscaping and hardscape plan for site plan for existing residential development and conditional use for activity within the Wetland and Shoreland Overlay Districts. Joseph Caldarola, Perley Lane LLC Manager. Map 1, Lot 16-22 and 16-23. Residence A Zoning District. *Recommended action:* Final action if all is in order.

➤ I recommend approval, as stated further below, if all is in order.

Please note the following:

- **Conditional Use.** A conditional use will be needed for the activity within the buffers – the construction of the walls and slopes. This approval will require an affirmative vote of 5 Planning Board members. The Commission provided its comments on the general plan and the conditional use on November 12, 2015.
- **Packet.** The variance, letter from the Conservation Commission, and plan for the site are included in the packets.
- **Sewer easement.** The slope/rock wall built by the applicant encroaches into the sewer easement. Durham Department of Public Works inspected the line and the staff – Mike Lynch, Director; April Talon, Town Engineer; and Daniel Peterson, Wastewater Superintendent; and Max Driscoll Wastewater Plant Chief Operator - determined that this is not problematic, that the situation will not compromise the integrity of the line nor the ability of the department to service the line. The line is situated securely and conveniently in relation to the slope. The pipe is solid – 12” diameter reinforced concrete and probably 1” thick. The wall beyond seems structurally very solid. If the line needs to be repaired or replaced this could be accomplished in standard fashion (through slip lining or “pipe bursting” or another technique) from the adjacent manholes.
- **Railings.** Should any railings be required at the top of Units 6-9 for the upgradient properties on Edgewood Road? Former Building Official Tom Johnson questioned whether there should be a railing there. He said this cannot be required under the Building Code so it would be up to the Planning Board to determine. I understand, however, that the approved plans showed a 2-1 slope which is also quite steep, though no railings were required with the original site plans. According to the applicant, the approved slopes would have brought the toe of slope right to the rear of the new units. Tom Johnson also

questioned whether there should be a railing behind units 2 and 3 where there is a new retaining wall.

Tom Johnson stated: “This drop in elevation on the Madbury Road/Edgewood Road side creates a landscaped bank/retaining wall that although not a fall hazard for Perley Lane residents do create a potential fall hazard for common areas or backyards at the 4 dwellings at 38-44 Edgewood Road backyards. There were trees planted on top; however consideration should be given to those affected property owners on top of the wall as to whether the retaining walls or landscaping is sufficient for mitigating the hazard. This used to be a natural sloped grade until the blasting and lowering of the Perley Lane site.”

Tom Johnson stated: “The drop in elevation behind the other side of Perley Lane (units 3-6 I believe) also had a gradual natural grade, but due to the elevated structures the final grading included building a retaining wall that has a very high drop at one end down to the natural grade at the upper end. This creates a fall hazard for the common areas behind these units for both the 55+ residents and visitors not familiar with the property.”

- Stability of slopes. I have proposed language in the prospective approval. Is this sufficient? Tom Johnson stated: “Neither of these retaining walls were professionally designed by a NH engineer. They were erected by Joe and his site contractor; and both have many years of experience in site work and landscaping. Stacking boulders and backfilling with dirt may or may not work in the long term. Drainage, erosion and wash out between boulders may create pockets, sliding failures or hazards in the future for the property owners.”

\Tom Johnson conveyed: “...I just took a call from Larry (and Elizabeth) Zeis of 44 Edgewood... He has concerns with the rock retaining wall behind the Perley Lane dwellings directly behind his house which is elevated above that rock retaining wall. He is concerned that his property is slowly eroding down the bank’s slope due to the nature of the new foundation cut and the new rock retaining wall (unengineered) with its loose dirt backfill of his new neighbor. The new Perley Lane neighbor has also had to do some remediation and restacking of the plantings on that retaining wall slope to keep them from sliding down the slope...”

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NOTICE OF DECISION

Project Name:	Perley Lane
Project Description:	Site Plan Amendment and Conditional Use for site changes and activity within the buffers.
Applicant:	Joe Caldarola
Map and Lot:	Map 1, Lot 16-22 and 16-23
Zoning:	Residence A
Date of approval:	February 24, 2016

The changes to the site are approved as presented and as depicted on the Landscaping Plan (See the colored rendering on the Town's website) dated September 14, 2015 and the As Built Landscape Plan dated November 2015 with the following terms and conditions:

- 1) Site plan amendment and conditional use. The original site plan approval of June 11, 2003 is amended and a conditional use for construction activity within the buffers is granted for the changes to the site as presented and as depicted on the two drawings referenced above, except as stated in specific conditions contained herein. These changes include regrading of the site, construction of walls/slopes, planting of grass and gardens, installation of decks and patios, installation of footpaths, installation of rain gardens.
- 2) Revised plans. Make the changes to the site required herein and submit a revised drawing, to be labeled "Revised Site Plan."
- 3) Buffer locations. Show corrected lines for the Wetland and Shoreland Buffers as 75 feet and label accordingly on the revised plans (The pertinent line along Little Hale is presently measured at 75 feet distance).
- 4) Treatment of buffer. In accordance with the 2003 approval, no fertilizer, herbicides, or pesticides may be used in the wetland or shoreland buffer. In particular, fertilizer use on the lawn at Unit 1 is prohibited, as fertilizer has been applied here by a lawn care service.
- 5) Grass at Lot 1. The non-grassed area near Lot 1 shall be extended as requested by the Conservation Commission to the southeast corner of the lot. This change shall be noted on the revised plans.
- 6) Sewer. The slope and wall for units 1 through 4 encroach into the sewer easement. The Durham Department of Public Works has inspected the sewer line and determined that the encroachment is not problematic based on the size and stability of the pipe, its apparent location relative to the slope, the apparent stability of the slope, and the standard methods available for repairing and replacing pipes. Per the request of DPW the 2 manholes must be added to the November 2015 plan.
- 7) Areas to be replanted. Provide planting information for areas marked on the November plan and the September 14, 2015 plan, as appropriate, as "area to be replanted." The Town Planner shall review and approve the plan with input from the Conservation Commission/chair.
- 8) Slope stability. Confirm with the Town Building Official and Town Engineer that the slopes with the boulders are structurally sound and not subject to erosion. If any defects are revealed, fix the defects to the satisfaction of the Town Building Official and Town Engineer (See November 8, 2015 letter from Turgeon's Construction).
- 9) Original approval. All conditions of the June 11, 2003 site plan approval for Perley Lane apply, unless otherwise superseded.

- 10) Merging of lots. The applicant is encouraged (but not required) to combine Map 1, Lot 16-22 and 16-23. This would make management of the parcel easier for both the Town Assessor and the condominium association. This is recommended by the Town Assessor.
- 11) Timeframe for completion. The tasks required in this approval must be completed by September 30, 2016 of this approval will be deemed null and void.
- 12) Findings of fact. As part of this review and approval the Durham Planning Board finds the following: **A)** A Planning Board site walk was held on October 30, 2015. **B)** The Conservation Commission met with the applicant several times and provided recommendations to the Planning Board on November 12, 2015. **C)** The applicant met with the Technical Review Group on November 10, 2015. **D)** A variance was granted on February 9, 2015 for the planting of grass in the Shoreland and Wetland buffers as depicted in the November 2015 plan. **E)** The Department of Public Works inspected the sewer line carefully and determined that the encroachment is not problematic.