

From: [Diana Carroll](#)
To: [Karen Edwards](#)
Subject: Letter to Conservation Commission--Gerrish development application
Date: Thursday, February 04, 2021 10:13:19 AM

Karen--Kindly send out to members of the Conservation Commission.

Thank you. Diana

To: Durham Conservation Commission

From: Diana Carroll

Re: Gerrish development application

February 5, 2021

Dear Members of the Conservation Commission:

At the last Commission meeting (January 25th) I found myself taking notes on what was being said with plans to address them at the next Commission meeting. Towards the end of the Commission meeting it was decided that the next meeting would be dedicated to a discussion on the application for the Gerrish Development and would not include comments from the public. In light of this, I hope that you will kindly read my letter and thus hear my response to the issues that arose at the January 25th meeting.

Salt: I have never attended a Town or other public meeting when human safety did not receive the highest priority. Thus I was surprised to hear Mike Sievert say that the Conservation Commission could recommend that salt not be used on the entrance road to the proposed development. The steepness of the road going over the ravine loomed into view for me and I could not believe that the Planning Board would write such a statement into The Conditions of Approval that would then bind future homeowners in the development. And if they did (which they will not) the homeowners would simply ask for salt after anyone even skidded on the road. Thus what is left of the wetland plants or other plants growing there will have to deal with toxic salt.....and also sand.

New salt information---Public Works Director Rich Reine informed Michael Behrendt that some Public Works employees have received training and become certified in the Green SnowPro program. This program trains road maintenance workers to apply salt and deicing materials in a way that keeps people safe during winter snow and ice while minimizing the negative effects of salt on the environment. To insure this program is used by the Gerrish development the Planning Board would need to include in their Conditions of Approval that the Gerrish Home Owners Association must use a certified Green SnowPro worker to apply deicing materials. And, of course, the Gerrish

development Home Owners Association would need to follow this Condition year after year even though such a certified worker may be more expensive. This Condition would need to be followed/enforced every year. But it should be noted that the Town does not have the staff to monitor such a condition (or any “in perpetuity” condition). In this case, the Town can only respond to a complaint. And there is still the question of salt that would still be used and still impact the wetland ecosystem.

Private Road VS Town Road: During the 10 years that I served on the Council and the 3 years I served as Council Rep to the Planning Board, I, along with many other Councilors and certainly Town staff heard from homeowners who lived on Private Roads. These homeowners were angry that they had to pay for road maintenance and garbage pick-up. Yet they were paying the same amount of taxes as other homeowners in Durham. They did not find this fair and wanted it changed. But it couldn’t be changed. This “uprising” led to a mantra of no more private roads. So I was very curious to find out how the Town would deal with the proposed road through the Gerrish wetland and development. As you have heard, Public Works Director Rich Raine; Engineer April Talon; Town Administrator Todd Selig; Town Planner, Michael Behrendt met to discuss the ROW road and decided that the road should be a private road not be a public road.

The following is a summary of that discussion/decision written by Michael Behrendt:

- **Roads.** Our assumption from the beginning was that the loop road situated on the subject property (two cul de sacs in the earlier design) would be a private road, owned and maintained by the Homeowners Association. We had been in discussions at that same time about who should own the straight section of road extending from Gerrish/Ambler to the loop road, whether the Town or the Homeowners Association. Rich Reine, the new public works director; April Talon; Todd Selig; and I discussed this issue the other day. Rich followed up with Mike Sievert today. The staff believes that the straight section should also be a private road, i.e. owned by the Homeowners Association. Conventional roads almost always are conveyed to the Town for ownership.

However, this road is not typical due to the two wetland crossings and in particular the substantial infrastructure needed for the first crossing. The Town is concerned about inordinate long term maintenance and

replacement costs for this infrastructure and therefore we believe this should be a private road. My understanding is that the applicant appears to find this acceptable. By making this section of road private it is possible the road could be built to a somewhat more flexible standard possibly saving some on development costs.

So the Town has opted out of making the road over the wetlands a public road because of the potential “inordinate long term maintenance and replacement costs for this infrastructure”. And the Town has lots of resources---i.e., property taxes and a large Public Works staff. With this decision ***the maintenance and replacement costs will fall on 15 households, just 15 households.*** That is likely quite a bit of money per household. Buyer Beware!

The 4 WCOD Criteria:

#1. “There is no alternative location on the parcel that is outside of the WCOD”

The proposed application would completely destroy the Gerrish wetland (wetland #1) where the road would be constructed. Alternatively, if the Bagdad entry was used, the road would cross a wetland buffer area but would not directly destroy a wetland (#3). This situation, I think, should be evaluated by a scientist to see which is the least harmful to the environment—to cross a buffer or to destroy a wetland and replace it with culverts, etc.

In the application there are buffers that are built on. And the applicant feels this infringement on those buffers is justified. I don't believe buffers should be infringed upon. But if this application is to be taken seriously then it is important to know which entry is the least harmful to wetlands and buffers----to destroy Wetland #1 or to have a road crossing the buffer associated w/wetland #3.

#2 “The amount of soil disturbance will be the minimum necessary for the construction and operation of the facilities as determined by the Planning Board.”

The “minimum”, as seen in the application, is the complete destruction of the Gerrish wetland. The first thing that would happen in the

construction process as related by Mr. Sievert is that the trees, shrubs, etc. would be cut down and hauled away. Then 2 feet of soil would be dug out of the area that would become the road. When there are no more vegetated roots, etc. to be removed---and they all must be removed---the area would be filled with gravel and then 6 feet of soil fill would be brought in to create the road bed. And thus most people looking on this road would never know that a wetland existed there.

#3 "The location, design, construction, and maintenance of the facilities will minimize any detrimental impact on the wetland, and mitigation activities will be undertaken to counterbalance any adverse impacts;"

The only way to do this project according to the application is to obliterate the Gerrish wetland. There is no way to "minimize any detrimental impact on the wetland".

#4 Restoration activities will leave the site, as nearly as possible, in its existing condition and grades at the time of application."

The existing condition is a streambed and a floodplain wetland. This ecosystem would become a road and the grade would change to 6 feet higher than it currently is.

Respectfully submitted,

Diana Carroll

Addendum: Is this the way a Conditional Use Application should be processed? Throughout this process I have felt that it has been backwards. If this is the way conditional use applications are dealt with, I suggest that a review be undertaken.

According to Town Zoning the conditional use of wetlands is the basis for making the ultimate decision whether the application will be acceptable or not. Yet, along with presentations and discussions on the Gerrish and other wetlands at every Planning Board meeting there has also been planning for the residential buildings, roads, landscape, etc. I asked myself why is all this planning taking place, why is the applicant spending so much money on the planning for the entire development when a decision on the basics---i.e., wetlands---has not yet been

determined?