

Town of Newington, NH

CONSERVATION COMMISSION

Meeting Minutes, Thursday, June 10, 2021

Call to Order: Chair Jane Hislop called the June 10, 2021 meeting at 6:37 PM.

Present: Vice-Chair Derrick Wilson; Ann Morton; Jim Tucker; Alternate Member, Jane Kendall; John Krebs, Town Planner

Absent: Andrew Meigs; Alternate Members, Benjamin Hutchins; Bill Murray

Public Guests: Mike Garrepy with Nimble Hill Realty Investments, LLC; Jim Gove with Gove Environmental; Joseph Coronati with Jones and Beach Engineers; Town Wetlands consultant, Mark West with West Environmental; Planning Board Chair, Denis Hebert, and Planning Board member, Chris Cross; Robert “Guy” Young, Jr.

1) Wetlands and Drainage Review: Proposed subdivision application by Nimble Hill Realty Investments, LLC regarding property owned by Randal and Bren Watson located off Nimble Hill Road, Tax Map 6, Lot 1; property owned by Dean and Lorraine Cole of 30 Coleman Drive located on Tax Map 11, Lot 2; property owned by Dean Cole and Dulcie Donn Haas of 30 Coleman Drive located on Tax Map 11, Lot 3; property owned by Lucy and Robert “Guy” Young, Jr located at 92 Nimble Hill Road, Tax Map 12, Lots 4 and 6; and property owned by Robert “Guy” Young, Jr. located at 92 Nimble Hill Road, Tax Map 12, Lot 9.

Town Planner, John Krebs informed the Commissioners that it was premature for the applicants to present wetlands permit requests, and a landscape plan at this point, but they wanted to walk through their initial plans prior to the site walk and joint Planning Board meeting on the following Monday, June 14, 2021.

Mr. Krebs stated that the Planning Board had accepted the plans as substantially complete at their Monday, May 24, 2021 meeting, but there were a couple areas of concern, so they would walk the center line, and the wetlands crossings during the site walk to have better understanding of site.

Mike Garrepy with Nimble Hill Realty Investments, LLC stated that they were looking for initial comments and feedback,

Jim Gove of Gove Environmental stated that the critical Prime wetlands crossing off Nimble Hill Road had been designated by the Town, and involved the crossing of a large stream channel with a steep banking, and the flood plane associated with the stream channel.

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Mr. Gove stated that he had attended a pre-application meeting with the New Hampshire Department of Environmental Services (DES), and passed out the meeting minutes. Mr. Gove stated that there would be no impact to the tidal wetland area.

Mr. Gove stated that a lot of the discussion focused on crossing the Prime wetland area, and DES stressed that they didn't want any significant loss of function and value to the wetlands. Mr. Gove stated that it was incumbent on the applicant to show that the road crossing would not have any significant impact on the soil nutrient value or wildlife habitat. Mr. Krebs said sheet 2 of 8 at the back showed the proposed cross section that was 21-½ feet wide, and nearly nine feet from the ground to the top of the bridge structure.

Mr. Gove referred to an aerial overlay that showed that the designated prime wetland didn't line up with the wetland boundaries that had been flagged on the ground in all cases, and passed out a copy of RSA 482-A:15.

Mr. Gove said RSA 482-A:15 states that a prime wetland "...shall have at least 4 primary wetland functions, one of which shall be wildlife habitat, and shall have a width of at least 50 feet at its narrowest point." Mr. Gove said they were not debating the importance of the wildlife function, but Mr. Gove the bank ran five to nine feet wide, and the crossing was at narrowest point of the stream channel, not 50 feet, so they might not need a 20-foot-wide crossing.

Mr. Gove said that the legislative updates of August 17, 2012 talked about prime wetland boundaries, that shall coincide with the upland wetland. Mr. Gove said that DES told them that they could apply to Env-Wt 703:05 in concurrence to the Conservation Commission within 90 days to challenge the prime wetland:

(a) An applicant whose proposed project was adversely affected by a boundary of a prime wetlands, or who desires a more precise delineation of that boundary at a project site than provided pursuant to Env-Wt 703.02(c)(1), may present data, delineations, and other evidence to the department and to the local authority responsible for the initial delineation to show an alternative location of the boundary.

Mr. Gove said they would submit an application anyhow because they didn't want prime wetlands showing in the uplands, or miss wetlands that should be prime.

Town Planner, John Krebs said the Planning Board was concerned with the maintenance and replacement costs of the proposed aluminum arched crossing, and asked if they would consider large plastic culverts that they believed would last longer.

Mr. Coronati said they had provided alternate culvert alternate plans.

Mr. Gove said the conundrum was that they can design according to the Planning Board's wishes, but they were concerned that DES wouldn't approve a smaller culvert because it may restrict wildlife movement.

Mr. Garrepy added that they talked with Mr. Krebs and Town wetlands consultant, Mark West with West Environmental because they didn't want to challenge the prime wetland without the Town being on board.

Mr. Garrepy said they were proposing three additional wetland impacts for driveways that were shown on C5, and also showed the relocation of one drive. Mr. Krebs pointed out that driveway plan OV3 for Lots 11 and 12 that had been submitted to

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the Planning Board was now going away because shared driveways were prohibited, and now the two lots had their own driveways with a minor impact to the significant gully. Mr. Garrepy said the other crossings would utilize the old woods roads that already had culverts on Lot 12.

Mr. Gove stated that the site was fairly flat with lots of large trees on the site, and pretty flat except for several gullies with marine sediments on top of deep bedrock. Mr. Gove said marine sediments erode from water flow, and one of the gullies was 15 feet deep, but narrow at the bottom, and would've required a lot of fill.

Mr. West said there was another prime wetland closer to the driveways as shown on page C5, which also shows drainage.

Mr. West stated that he had originally done the wetlands mapping with aerial photos, and field checks in 2003. Mr. West said the State edited their regulations in 2012 for prime wetlands that hadn't existed in 2003 when he was mapping the prime wetlands.

Mr. West said he had been contacted by the applicants in November or December 2020, and he had done a preliminary review of their wetlands delineations on the ground, and asked if the subject of challenging the prime wetlands had come up during their application. Mr. Gove said they didn't know if they needed to at the time, but he had since learned that DES wouldn't make an adjustment unless they went through the challenge process if the Town wanted to consider a smaller crossing.

Alternate Commissioner Jane Kendall asked if droughts and heavy storms would cause shifts in the width of the stream channel. Mr. Gove replied that prime wetlands determinations had to do with the wetlands soil hydrology, which generally didn't change.

Chair Hislop stated that she thought that the wetlands boundaries should be grandfathered.

Mr. West said he didn't have a lot of experience with changing boundaries, and he thought that everyone needed more information on the subject, as this stream channel was very steep.

Mr. Gove agreed with Mr. West that shouldn't have to go through process when it was obvious, but DES had told them that they had to submit a challenge to the wetland if they wanted to correct the prime wetland distortions from the 2003 aerial photos that had been recorded on the Town tax maps.

Planning Board Chair, Denis Hebert how long the process would take, and Mr. Gove replied that it could take up to 90 days based if the Town didn't provide an opinion on the boundary changes. Mr. Gove added that they would already have comments on the dredge and fill application, however.

Mr. Hebert said road salt would affect an aluminum bridge, and the Planning Board was concerned with keeping infrastructure costs down, so he would rather see a culvert that lasted 200-300 years rather than disturb the area every 50 years by replacing a bridge.

Mr. Garrepy responded that Mr. Coronati had said the arched aluminum bridge would last 50 years at the last Planning Board meeting, but he had since learned that it

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would last more like 75 years from the manufacturer. Mr. Garrepy said they were also showing alternative designs such as a four-foot box culvert.

Chair Hislop asked how long a box culvert would last. Mr. Krebs said concrete pipe has been around since the 1950's.

Mr. Coronati said contractors usually didn't know so usually say 75 years. Mr. Gove added that round culverts can be slip lined.

Chair Hislop said culverts had more issues with obstructing wildlife. Mr. Gove agreed, that creatures didn't like going through round culverts, adding that they wouldn't be able to get approval for a culvert if it was a prime wetland.

Mr. West said it would be good to research what the longest lasting wildlife passages would be. Mr. Coronati noted that a four foot by four foot box was a big culvert, but box culverts hadn't been around that long.

Chair Hislop asked if there was any other way to access the site. Mr. Krebs said there was a construction access between Ken Latchaw and Suzanne Russell's properties further down on Nimble Hill Road, but it was too narrow for a road that met Town specifications. Mr. Garrepy added that there was more wetlands impact if they entered near the crossed by the Latchaws, and it would require three times the road length to access the property. Mr. Garrepy went on to say that they needed two access points to avoid dead-end road lengths, so they had also acquired a parcel off Coleman Drive.

Mr. Hebert commented that the State still looked at prime wetlands, but was no longer enforcing them. Mr. West said the State was no longer enforcing the 100-foot buffer, but they still considered prime wetlands.

Mr. Hebert commented that uplands were also important to support wildlife that was a part of prime wetlands. Mr. Gove agreed, and said that DES did consider the buffer areas 500-150 feet adjacent to prime wetlands, but then they did away with buffers in 2012.

Planning Board member, Chris Cross asked Mr. Gove and Mr. West why DES thought it was necessary to have a 20-foot opening across prime wetland, if the prime wetland ended 200-300 feet away, and drainage went through a 12-foot culvert under Coleman Drive.

Mr. West said wildlife and stream function corridors didn't go away just because a crossing was less than 50 feet narrow in a section.

Mr. Gove said the ultimate crossing might be a wide bridge, but they needed to show DES that here were no significant prime wetlands at the crossing, and he didn't think a 20-foot wide opening, or a four-by-four-foot culvert would make a significant impact.

Mr. Krebs asked if the Coleman Drive culvert had an impact on the prime wetlands. Mr. West replied that the narrow culverts near residents, and Mr. West the water flow was different from Coleman Drive to the school property. Mr. Coronati said the Coleman Drive culvert was 36 inches.

Mr. Cross asked about the value of a 20-foot opening. Mr. West said DES looked at all functions of stream channels and the prime wetland. Mr. Gove added that it was like a mini floodplain, so the 20-foot opening could also preserve the mini floodplain.

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Mr. Cross said three or four boxed culverts would still block light, and allow water to flow, but not deer or other game. Mr. West said DES wants to leave stream channel as much intact as possible. Mr. Cross asked if DES would consider two-to-three-foot piers as impacts.

Mr. West suggested that they consider an Aquatic Resources Mitigation (A.R.M.) fund application through Lori Summers at DES. Chair Hislop responded that she was not in favor of applying for an A.R.M. fund grant because they never returned the funds to the town.

Mr. Gove noted that the criteria for an A.R.M fund had to match the functions and values of the prime wetland. Mr. West agreed that DES was also particular who held easements, but said the Conservation Commission would be asked to weigh in on redesignating a 9,000 square foot section of prime wetland, and they should consider projects anyhow.

Mr. Krebs asked if mitigation fees could go directly to the Town, and Mr. Garrepy replied that the wetland impact fees might be around \$11,000, and they might consider it, but he wasn't sure if it would apply if they challenged and redesignated the prime wetland.

Mr. Hebert asked what Mr. Gove would recommend. Mr. Gove said he had also seen numerous A.R.M. fund proposals get rejected by DES. Mr. Gove said the easiest thing to do would be to challenge the prime wetlands for redesignation with the Conservation Commission's concurrence that the wetlands crossing was out of the prime wetlands. Mr. Gove said perhaps the applicant could then make an appropriate mitigation payment without going through A.R.M.

Mr. Krebs asked if the applicant would be willing to split the difference of a six-to-eight-inch culvert, the arched bridge, and an A.R.M. mitigation estimate. Mr. Garrepy said they would. Mr. Coronati estimated that it would cost \$80,000 for the bridge and abutments delivered. Mr. Krebs responded that adding installation would probably cost more like \$150,000.

Mr. Krebs commented that he was disappointed that more commissioners didn't attend so want to be sure to pass.

Mr. Krebs said he and Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering had done a preliminary site walk along the road center line, and back, and expected that the upcoming Planning Board and Conservation Commission site walk would take two hours.

Mr. Krebs said Mr. Garrepy said going to park vehicles at the Town Hall and carpool. Mr. Hebert asked if they could park along Coleman Drive. Mr. Krebs said they could also park at the Newington Public School.

2) Additional Discussions

Commissioner, Jim Tucker updated on the Town forest. Chair Hislop asked if Mr. Krebs sent students DVD report on the Town forest.

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Commissioner Tucker informed the Commission that he had attended the first Town Forest subcommittee as a representative. Commissioner Tucker said many on the committee were interested in multiuse, such as all-terrain vehicles (ATV's), biking, dog walking, and, hunting on the Pease side of Arboretum Drive, and many didn't want additional rules.

Chair Hislop pointed out that there were two waste dumps on the Pease side, and one on the Town side of Arboretum, and that the Commission included the Town Forest in two A.R.M.'s proposals, but were denied.

Commissioner Tucker said the subcommittee was thinking of placing a sign on Arboretum Drive in recognition of the historic Town Forest. As well as trail markers for emergency services to find anyone that might get hurt.

Commissioner Tucker said maintenance seemed to be taken care of by recreational users. Chris Cross, who was also on the subcommittee as a representative for the Planning Board said a Portsmouth group of bike riders have monitored graded, and cleared leaves from the narrow trails. Mr. Cross added that someone had put some bridges over wet areas, and they said they didn't want to tear the wetlands up. Commissioner Tucker noted that the Town had never given them permission before. Commissioner Tucker said the trails were arbitrary, so the recreation committee might want to establish a trail master. Mr. Cross said they might clear established trails, remove fallen trees, or they might leave larger trees for the Town to remove, and move the trail around them.

Chair Hislop asked Mr. Krebs about the wetlands buffer plaques that the Conservation Commission purchased. Mr. Krebs said he thought that they were in his office. Mr. Hebert commented that another developer had been given markers for placement as a condition of approval, but they have disappeared.

Mr. Hebert commented that a lot of storm collection ponds ended up as mud holes. Chair Hislop added that ponds might never go away, and could be a safety issue. Mr. Krebs said bioretention areas were often muddy, but seemed to work better than rain gardens that fell into disrepair.

Minutes:

*Jim Tucker made a motion to **approve** the Minutes of April 29, 2021. Ann Morton seconded and all were in favor.*

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Adjournment: *Jim Tucker moved to adjourn the meeting, and Jane Hislop seconded the motion. All were in favor and the meeting adjourned at 8:21 p.m.*

Next Meeting: Site walk at 92 Nimble Hill Road on Monday, June 14, 2021 at 5 p.m.
Regular meeting Thursday, July 8, 2021

**Respectfully
Submitted by:** Jane K. Kendall, Recording Secretary