

Town of Newington, NH

CONSERVATION COMMISSION

Meeting Minutes, Thursday, November 14, 2019

- Call to Order:** Chair Jane Hislop called the November 14, 2019 meeting at 6:30 p.m.
- Present:** Chair Jane Hislop; Vice-Chair Weiner; Commissioner Jim Tucker; Alternates Sandra Devin and Jane Kendall; and Town Planner, Gerald Coogan
- Absent:** Commissioner Ann Morton and Alternate Bill Murray
- Public Guests:** Town Wetlands Scientist, Mark West with West Environmental; Chris Cross; Andrew Meigs; Brian Goetz, Director of City of Portsmouth Water Department; Britt Eckstrom and Darin Lary with Wright-Pierce Engineering; Sarah Barnum with Normandeau Associates; Edmund Rhodes

1) Wetlands Mapping Update for Wetlands Overlay District Ordinance Proposal

Town Wetlands Scientist, Mark West with West Environmental presented updates on the wetlands mapping he was commissioned to do for the Town. Mr. West said the goal was to have a discussion regarding the Planning Board public hearing, and how to move forward with the ordinance proposal.

Vice-Chair Weiner added that mapping the wetlands would serve as a tool for the building inspector, existing property owners and potential developers.

Mr. West stated that the existing ordinance still included the prime wetlands that had been previously designated for the New Hampshire Department of Environmental Services (DES). Mr. said that currently, all wetlands contiguous to surface waters required a 100 setback, but there were no limits, so it was the Commission's goal was to define the wetlands better. Mr. West said as a result, all the little streams, ditches, and swales in fields would no longer have 100 setbacks.

Mr. West said that the Commission had defined contiguous wetlands requiring a 100-foot setback more clearly, and specified them as those that flowed directly to Great Bay, including Knights and Pickering Brooks. Mr. West said that there was a 75-foot setback for a few intermittent wetlands that flowed to the bay and were still significant, and a 50-foot setback on vernal pools.

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Discussion ensued regarding setbacks for wetlands under 3,000 square feet. Vice-Chair Weiner commented that he thought there should be a buffer of ten to 25 feet to prevent disturbance up to wetlands. Mr. West replied that DES still didn't allow building in a wetland without a permit even if there wasn't a buffer to a smaller wetland. Mr. West added that isolated wetlands smaller than 3,000 square feet were uncommon in the marine silts in town and on the Seacoast, compared to landscape with ledge in other towns, and the rest were mostly smaller wetlands were fingers of old farm ditches and swales. Mr. West explained that a 10-foot buffer wouldn't take into account the variation from one wetland scientist to another, and he wouldn't split hairs if delineation was within five feet during a review. Mr. West recommended not having a setback for wetlands less than 3,000 square feet based on those reasons and discussions with the Planning Board and public comment as they were uncommon, and not as important in the big picture, noting that that setbacks for vernal pools and significant contiguous wetlands had already been called out.

Commissioner Kendall agreed with Mr. West, and asked Mr. West to explain what functions wetlands served, and reasons to preserve and protect them. Mr. West replied that wetlands were the most regulated resource, and they functioned as flood water storage, cleansing surface ground water discharge and streams for organisms, and providing wildlife habitat. Mr. West added that streams also assisted in the prevention of erosion, and provided wildlife stabilization. Mr. West added that it was easier to protect a resource if its location was known.

Chair Hislop asked Mr. West if he would add a legend key to the map. Mr. West replied that he had been hired to map the contiguous wetlands, but he could do more if the Conservation Commission or Town wanted him to do more.

Alternate Commissioner, Sandy Devins suggested doing more so the rest of the wetlands would be mapped for the Town's reference. Commissioner Kendall replied that wetlands could change, but anyone proposing to develop a property were already required to hire a wetlands scientist to delineate their wetlands, which would be reviewed by the Town's wetlands consultant. Vice-Chair Weiner added that the Commission had budgeted for this mapping project from aerial data, and while there were no guarantees that someone wouldn't violate wetlands, it was still up to property owners to hire wetlands scientists for subdivisions, and request DES wetlands permits for any encroachments.

Commissioner Devins asked why they weren't creating a setback for wetlands less than 5,000 square feet, and Vice-Chair Weiner replied that it was a concession in hopes of passing the amendment to protect the most valuable wetlands.

Planning Board member, Chris Cross of Nimble Hill Rd asked if the Commission would take public comment, and Chair Hislop replied that comments would be limited to five minutes.

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Mr. Cross stated that he had questions about setbacks for wetlands contiguous to surface waters, as well as wetlands near uplands, and wetlands that disappeared below someone's property.

Chair Hislop asked Mr. West if he was aware of any wetlands in town going underground, and then coming back up. Mr. West said he hadn't seen or heard of any, but noted that Boiling Springs was headwaters to Knights Brook, which was designated as important prime wetlands for one of the largest streams in town, as well as wetlands that fed Pickering Brook.

Mr. Cross commented that the map showed Pickering Brook crossing his property and going into the Town Forest, but the boundary of his property was 15 feet higher, and the water never flowed across his property. Mr. West said he was doing final edits on the map with additional Lidar review that would confirm connections to stream channels.

Vice-Chair Weiner noted that a wetlands map would not be permanent or perfect, but it was intended as a tool for anyone wanting to build. Vice-Chair Weiner added that no one was taking away anyone's property rights, and reiterated that anyone wanting to develop their property would hire a wetlands scientist for delineation, the delineation would be reviewed, and if there were no wetlands, then it wouldn't be an issue.

Andrew Meitz of Nimble Hill Road asked how many wetlands under 3,000 square feet were in town, and Mr. West replied that Lidar couldn't pick them up, and he would have to map the entire town to find them, but he couldn't map private property.

Mr. Cross left at 7:16 p.m. at this point in the meeting.

Vice-Chair Weiner said the next Planning Board meeting agenda available for a public hearing posting would be on Monday, December 9, 2019. Vice-Chair Weiner added someone could obtain 25 signatures on a petition to go before the annual Town Meeting in March 2020.

Jim Weiner moved to amend Section 7: Structural Setbacks in the Wetlands Overlay Ordinance that all wetlands under 5,000 square feet would not have a buffer. Jim Tucker seconded the motion, and all were in favor.

II) NHDES Permit Requests:

- A) Permit request for geotechnical investigation under Great Bay for
Subaqueous Water Main Replacement by Portsmouth Water Department

Brian Goetz, Director of City of Portsmouth Water Department appeared before the Commission with the same presentation done before the Durham Conservation Commission. Mr. Goetz stated that the water line that ran from the Bellamy River to Madbury, under Emery Farm to Wagon Hill, under Great Bay and past Town Hall to the

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booster tank on Pease, which carries 60% of the water that serves Portsmouth and part of Newington.

Vice-Chair Weiner asked what comments and concerns were raised in Durham. Darin Lary with Wright-Pierce Engineering Darin replied that no concerns were raised by Durham. Mr. Lary said they would be doing test borings on the east side of Great Bay, with plans to add a third pipe to address the aging, and deteriorating pipe that was 60 years old.

Mr. Goetz said the Army Corp of Engineers put laid the pipe 60 years ago, and they didn't know whether the pipe would last another 40 years or not, and were installing the third pipe so that they could inspect the pipes, but noted that they were not replacing the pipes

Britt Eckstrom with Wright-Pierce Engineers stated that they were doing eight, four-inch borings, 15 feet down on the Durham side and the same borings on the Newington side to get an idea of the soil conditions.

Mr. Eckstrom showed wetland impact plan, stating that borings were allowed on wetlands, but these were coastal wetlands, so they needed to file with DES. Mr. Eckstrom stated that they would put wetlands mats down, drop metal pipes, and mount their barge to keep it stable for boring during the lowest possible tides, away from the worst erosion at Fox Point.

Chair Hislop asked if they would bury the pipe. Mr. Lary replied that part of it would be dug in using curtains to manage the silt.

Chair Hislop said they took the gas line off the bridge, and put it under Little Bay. Chair Hislop asked if they had considered the gas line replacement when they built the new bridges. Mr. Lary said they looked at alternatives because the bridge was not constructed to hold a massive 24-inch water main.

Mr. Goetz said they talked to the New Hampshire Department of Transportation (DOT) about putting a smaller pipe on the pedestrian bridge so that Dover and Portsmouth could possibly get emergency water from one another source

Mr. Lary said they would lay fused, 2-inch-thick, high density polyethylene pipe for salt water crossings on concrete anchors.

Mr. Eckstrom said they would obtain more information over the winter, and then they would look at the look at the pipe design in the Spring of 2020, and then build in the Fall 2020.

Sandy Devins moved to recommend approval of DES Permit request for geotechnical investigation under Great Bay for subaqueous water main replacement by Portsmouth Water Department. Jim Weiner seconded the motion, and all were in favor.

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B) Permit Request by **Eversource** for **Utility Maintenance** for in-kind replacement of underground electrical distribution at Brickyard Circle, Newington, NH

Sarah Barnum, with Normandeau Associates stated that they submitted a permit by notification to DES, and it would be approved once it was posted online.

Edmund Rhodes with Normandeau Associates informed the Commission that the primary cables running to and from the transformer at Brickyard Circle had been there many years, and had failed numerous times over the last six months. Mr. Rhodes stated that the pad mounted transformer sat eight feet off the pavement, surrounded by a marshy area surrounded by reed grass. Mr. Rhodes stated that the lines were buried directly, and that they were proposing to remove all the direct cable, and laydown conduit for improved reliability.

Vice-Chair Weiner asked if residents had been informed of the work. Mr. Rhodes replied that only the property owner was aware of the work.

Chair Hislop asked if they were changing the transformer as well, and Mr. Rhodes replied that the transformer box was fine, but they would use an 18-inch-wide bucket to minimize the impact of digging through eight to twelve feet of marsh from the transformer to the resident's home.

Chair Hislop asked if there was any way to prevent water from entering the conduit, and Mr. Rhodes replied that there was not, but the cable was insulated, and it was not unusual to have water in a conduit.

Andrew Meigs of Nimble Hill Road asked if it would be possible to move the transformer out of the wetlands. Mr. Rhodes replied that people wanted to keep the transformer hidden behind the marsh grasses. He added that the disturbance would be a temporary impact because they were only shifting and replacing soil, and then growth would be restored.

Sarah Barnum with Normandeau Associates added that the natural marsh grass seed would regenerate itself. Mr. Rhodes added that they often peeled the top layer of grass with roots, did the work, and then replaced the top layer to maintain vegetation.

C) Permit Request by **Michael Barker and Kimberly Jacques** on property located at **518 Shattuck Way, Tax Map #, Lot #**

Michael Barker and Kimberly Jacques returned to the Commission with a revised wetland permit request, and presented the proposed changes. Mr. Barker stated that he had followed up with Dave Price with DES, and decided to remove the proposal for an above ground pool, and decided that they might put in a hot tub under the main deck instead.

Mr. Barker said that the temporary shed sat on an impervious surface now and that they would put their garage there. Mr. Barker showed the existing impervious, and

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proposed pervious surfaces, stating that their proposal kept them under the percentage of allowable impacts.

Vice-Chair Weiner said he had long conversation with Mr. Price, who said he had a good discussion with Mr. Barker, but advised them to discuss their plans further with the Town.

Vice-Chair Weiner went on to say that Mr. Price thought that the stairs good idea because of poison ivy. Chair Hislop added that stairs also helped prevent erosion.

Vice-Chair Weiner said he thought the 12-inch patio pavers were okay, but the concern was that they were placed on heavy clay that didn't drain. Mr. Barker responded that they would be placed on top of a mound, so he was not concerned.

Vice-Chair Weiner said he thought the rock pavers should be allowed to get from garage to home. Chair Hislop added that they would also help prevent erosion. Mr. Barker stated that Mr. Price had advised him on where to put the sidewalk so it wouldn't get into the tidal buffer zone.

Chair Hislop asked how much fill would be required for the garage, and Mr. Barker replied that it was already flat and covered in gravel.

Vice-Chair Weiner said he didn't not support their having a garage on that sized parcel. Mr. Barker asked if he would receive credit in percentages for moving or reducing the size of the garage. Chair Hislop said even gravel drive was considered impervious.

Discussion ensued regarding the placement and size of the garage to reduce the watershed. Mr. Barker said that the building inspector said there wouldn't be enough room to back in and out of the garage. Chair Hislop suggested that they consider a different angle, and seek relief from the setback if necessary. Mr. Barker said he might be able to make the garage wider and not as long.

Mr. Barker said another option was to remove the shed, and move the garage forward to reduce the impervious impacts. Vice-Chair Weiner responded that the shed was grandfathered, and so small that he didn't think it would make that much difference.

Jim Weiner moved to recommend the wetlands permit request by **Michael Barker and Kimberly Jacques** for stairs leading to the shore, 12 feet of that stairs, 12' patio block pavers, replacement of of rocks with wall pavers for 123 square feet of sidewalk, but that the applicant would return with new garage proposal on property located at **518 Shattuck Way, Tax Map #, Lot # 7**. Jane Hislop seconded the motion, and all were favor

Vice-Chair Weiner recommended that the applicants discuss the garage placement further with Town building inspector, Kevin Kelly to determine if they needed a variance for the 15-foot setback.

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III) Invoices

Vice-Chair Weiner stated that Town administrative assistant, Eleanor Boy had sent invoices via email. Chair Hislop replied that a copy of the invoice or a requisition for payment had not been provided for signature.

Jane Hislop moved to pay Town wetlands consultant, Mark West with West Environmental for the mapping of the wetlands. Jim Weiner seconded the motion, and all were in favor.

IV) Announcements:

Commissioner Devin announced that she was moving to Portsmouth and would need to resign her position. Chair Hebert asked her to send an email to Town administrator, Martha Roy.

Minutes: *Jim Tucker moved to approve the Minutes for the October 10, 2019 meeting. Sandy Devins seconded, and all were in favor.*

Adjournment: *The meeting adjourned at 8:31 p.m.*

Next Meeting: Thursday, December 12, 2019

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

These Minutes were approved and adopted at the December 12, 2019 Conservation Commission Meeting.