

CONSERVATION COMMISSION MEETING MINUTES  
December 11, 2019  
TOWN ROOM, TOWN HALL  
7:00 PM

Conservation Commission members present: Brett Butler, Chair; Fletcher Clark, Laura Pagliarulo, and Ana Devlin Gauthier.

7:00 PM

*Comments from the Chair (Brett Butler)*

Butler asked board members to attend site visits if possible, and reply to the doodle pole for site visit dates with availability.

*Director's Report (Dave Ziomek)*

- Ziomek stated that into the New Year with multiple night meetings a week, he may just attend Conservation Commission meetings briefly at the start of the meeting to provide an update.
- Budget planning: capital planning, equipment requests, trucks.
- CPA: Deadline for proposals a weeks ago – no land acquisition. Pending projects (1) Due diligence funds \$25k (2) \$25k Trails, bridges, parking areas.
- Hickory ridge – no new information, Monday December 16<sup>th</sup> Town Council vote.
- Brad and Tyler presentation on work done & work planned. Dave would like them to come in quarterly.
- In 2020 there will be a lot of land use discussions; Ag licenses, Kestrel Trust CRs, Land Management Plans.
- Stephanie and Dave Z. are putting together a presentation on food security, food deserts, ag. Licenses, outreach.
- Handed out brochures examples of agricultural projects working with immigrants, MACC brochure best management for dog owners.
- Fearing Brook floodplain restoration project.

*Wetland Administrator's Report (Erin Jacque)*

- Jacque will present report after hearings.

*Minutes: 10/9/2019, 11/13/2019*

Butler noted on 10/9 Minutes there is an error in the motion, it was seconded by Clark not Butler.

**Moved by Devlin Gauthier to approve the 10/9/19 minutes with noted changes. Seconded by Clark. 4/0.**

Butler asked Jacque to add attendance to the minutes.

**Moved by Clark to approve the 11/13/19 minutes with noted changes. Seconded by Devlin Gauthier. Vote 4/0.**

*7:10 PM Agricultural License – Amethyst Brook Conservation Area – Memo: Review and approval needed*

Ryan Karb presented his Agricultural License application.

Butler asked how the board wanted to proceed: review all of the application materials in detail, or take the recommendation of the Agricultural Commission and proceed as recommended with the assistance of town staff. Pagliarulo is comfortable with proceeding.

Ziomek recommend the board issue a 3-year license with the option to continue.

**Moved by Clark to recommend that Ryan Karb work with the town to draft a 3-year agricultural license at the Amethyst Brook Conservation Area. Seconded Pagliarulo. Vote 4/0.**

*7:30 PM Abbreviated Notice of Resource Area Delineation (cont'd from 10/09/19) – UMASS Campus Planning for confirmation of resource area boundaries on Massachusetts Avenue (Map 8C, Parcel 13A).*

Mickey Marcus provided abutter notifications. Marcus provided background details on the evaluation of the perennial stream. Noted that if the stream is less than a ½ square mile it is deemed intermittent, more than a ½ square mile and 75% stratified drift or sufficient flow, it can be deemed perennial. Marcus explained that streams with greater than 200 feet of culvert cannot have riverfront. Marcus explained that there is a complex drainage system that contributes to the stream, but it is all developed, and at some point it will need to be modified.

Jacque noted both she and Fair ran stream stats and came up with greater than ½ square mile of watershed. Jacque calculated stratified drift manually and came up with 22%. Jacque said Fair recommended that we get flow calculations, but based on stratified drift it does not meet the definition of perennial.

Butler asked where the point was dropped in stream stats. Jacque said both her and Fair placed point at Mass Ave (edge of the property). Jacque said that the stream is picking up drainage from the north that the stream wouldn't otherwise due to stormwater. Marcus said the stream is intermittent up to the headwall, and from the headwall on the stream is perennial.

Clark asked Ziomek about historic determinations. Ziomek said that the stream is extensive going under the high school ball fields, up to wildwood cemetery and strong street.

Jacque presented the stream stats report, stratified drift calculations, and a topographic map from 1940.

Pagliarulo has a question about flow, and is uncomfortable due to the different numbers being presented.

Marcus stated downstream of the headwall it is perennial, but it is irrelevant because the river is in a culvert over 200-feet long.

Butler invited comments from the public. No public comments.

Butler noted that the flags are in the right place, and at the headwall the stream watershed size is less than .45 square miles. It will be hard to argue that upstream of the headwall that the stream is perennial because the watershed gets smaller.

**Moved by Clark to accept the confirmation of the resource area boundary of the stream and BVW. Seconded by Pagliarulo. 4/0.**

Jacque asked about the status of the stream in the ORAD. Butler said the stream is intermittent to the headwall.

*7:35 PM Notice of Intent (cont'd from 10/09/19) – Tofino Associates Inc. for construction of a single family house with associated driveway, utilities, and landscaping within buffer zone to bordering vegetated wetlands at Lot #1 Concord Way (Map 21D, Parcel 139).*

*Notice of Intent (cont'd from 10/09/19) – Tofino Associates Inc. for construction of a single family house with associated driveway, utilities, and landscaping within buffer zone to bordering vegetated wetlands at Lot #2 Concord Way (Map 21D, Parcel 138).*

*Notice of Intent (cont'd from 10/09/19) – Tofino Associates Inc. for construction of a single family house with associated driveway, utilities, and landscaping within buffer zone to bordering vegetated wetlands at Lot #5 Concord Way (Map 21D, Parcel 135).*

*Notice of Intent (cont'd from 10/09/19) – Tofino Associates Inc. for construction of a single family house with associated driveway, utilities, and landscaping within buffer zone to bordering vegetated wetlands at Lot #6 Concord Way (Map 21D, Parcel 134).*

*Notice of Intent (cont'd from 10/09/19) – Tofino Associates Inc. for construction of a single family house with associated driveway, utilities, and landscaping within buffer zone to bordering vegetated wetlands at Lot #7 Concord Way (Map 21D, Parcel 133).*

*Notice of Intent (cont'd from 10/09/19) – Tofino Associates Inc. for construction of a single family house with associated driveway, utilities, and landscaping within buffer zone to bordering vegetated wetlands at Lot #8 Concord Way (Map 21D, Parcel 132).*

Requested a continuation to January 22<sup>nd</sup>.

**Moved by Devlin Gauthier to continue the public hearings for Tofino lots 1, 2, 5, 6, 7 & 8 to January 22<sup>nd</sup> at 7:30 pm. Seconded by Clark. 3/0/1 (Pagliarulo recused).**

*7:40 PM Request for Determination – Confirm whether resource area boundaries depicted on the submitted plans are accurate under the MA Wetlands Protection Act and Town of Amherst Wetlands Protection Bylaw Regulations at 84 East Leverett Road (Map 3C, Parcel 14).*

Thomas Rule of Goddard Consulting was present representing Jeffrey Dykes for East Leverett Road. A Request for Determination was submitted to confirm resource area boundaries on the site. Butler stated that he and Jacque were on site looking at the boundaries. Jacque provided update stating there were no issues with the flagging. Jacque pulled up pictures off the site to share with the board. Jacque stated that she was comfortable with the delineation but that the board only approve the delineation on Lot 2, because some flagging was left off of lot 1. Butler asked to confirm the flag numbers, Jacque noted C series flags on lot 2, and riverfront flags “mean high water”.

Neighbor at 66 East Leverett Road – Brian Beck stated that he lives next door, and had a wetland survey already. Beck provided a letter from previous wetlands professional.

Butler stated that the wetlands extend past the property boundary boundaries, but we are only looking at lot 2.

Jacque said any work would need to come back before the board and would need to meet the performance standards.

Neighbor (not audible) asked questions about what was being proposed and where the property was located.

**Moved by Devlin Gauthier to confirm resource area boundaries checking Box 2A and 5. Seconded by Clark. Vote 4/0.**

*7:55 PM Request for Determination – Confirm whether resource area boundaries depicted on the submitted plans are accurate under the MA Wetlands Protection Act and Town of Amherst Wetlands Protection Bylaw Regulations at 214 Pomeroy Lane (20C, Parcel 22 & 23).*

Sabina Cournoyer introduced herself and explained that she purchased a property to be preserved as conservation. Michael Liu Berkshire Design Group noted that the wetlands on the property were flagged in 2015, and a permit was filed at that time and was withdrawn.

Jacque noted that there were several areas of standing water beyond the wetland boundary, and several patches of sensitive fern (an obligate species) beyond the wetland flagging. Jacque said that she thinks Ward Smith needs to take a closer look at where the wetland may have expanded since 2015. Clark asked if Jacque would be comfortable with Ward going back out to take another look and reflag the areas of concern. Jacque said yes.

Coynoier noted that the land is not being developed, it is being preserved as conservation land, but they do need to learn more about the land in order to plan.

Jacque said she wants to prevent back and forth and multiple trips out there. She suggested that Ward go out and adjust flagging and contact her to do a follow up review.

Several Members of the public commented. Names and addresses are not audible. One member of the public said the plan for the property sounded great.

**Moved by Pagliarulo to continue the public hearing until January 8<sup>th</sup> at 7:30 pm. Seconded by Clark. Vote 4/0.**

Wetland Administrator's Report (Erin Jacque)

*Irrigation: Bramble Hill Farm/Old Friends Farm – 593 South Pleasant St:* Jacque noted that the owners are working toward a long term plan for water access. Jacque noted that both ponds on the property have been being used for irrigation. The well on site is not functional. The upper pond was constructed as an irrigation pond, but never used for irrigation. The lower pond is man-made but was never used as irrigation. Jacque is not suggesting enforcement, she wanted to put it on the record what was happening. Casey reached out suggesting dredging the ponds might help with water access. Jacque recommended they contact UMass or Conway school of design, Jacque suggested wells, or the

construction of a new rain fed irrigation pond in the upland. Butler asked about the quantities of water withdrawal. Butler asked about their long term plan. Pagliarulo said they need to find a solution. Jacque said she will ask for an update from Casey in the next 6-months.

*Jacque updated the commission on the Groff Park erosion controls.*

*Butler asked about the side walk construction on East Hadley Road.*

*DEP #089-0657 – 0 Potwine Ln:* Jacque explained that she went out to look at the erosion controls. Jacque said that they have been cutting trees, and there are no compliance issues.

Jacque said she is concerned about the proposed wetland replication area that requires carving out a hillside, and removal of mature trees. Jacque spoke to the landowner and the landowner is open to plantings as an alternative to the proposed replication area. Jacque reviewed the proposed plantings.

The replication was designed to compensate for the road crossing. Jacque said the project meets the letter of the law, however this is a situation where she sees a problem and had to say something. Jacque initially suggested restoring the swale, but since the swale is owned by the town that is not possible. Jacque said the owner is fine with the project as permitted and does not want to spend more money.

Clark asked about the legal aspects of it. Butler said it is the commission's jurisdiction to change the plan. Jacque said from a regulatory standpoint the only thing the commission can do is approve it as an administrative change.

Jacque said the second discussion item related to this project is the proposed stream crossing. The owner wants to use a temporary stream crossing because the permanent one cannot be safely installed at this time of year due to the proximity to water lines. The owner wanted to use a closed bottom temporary culvert. Jacque suggested an open bottom temporary crossing using timber mats and rip-rap to stabilize.

Jacque asked for a motion to address the two issues.

**Devlin Gauthier moved to make an administrative change to the original wetland replication area into non-invasive plantings and a permanent no touch zone. Seconded by Pagliarulo. 4/0.**

**Devlin Gauthier moved to approve the use of open bottom temporary stream crossing measures, with timber mats recommended for winter stream crossing access. Seconded by Clark. 4/0.**

*Jacque noted Eversource change to footings previously approved, photos were received.*

*Enforcement Follow up: DEP #089-0644 – 133-145 South East Street:* Jacque noted that a preconstruction meeting is scheduled for tomorrow. An erosion control monitor was hired, Jacque noted that her credentials were checked. Jacque explained that while going through the permitting process with the Planning Board the plan previously approved by the Conservation Commission changed. Butler noted that in the conditions the commission must approve all changes to the plan. The Commission reviewed the changes.

Beth Willson the former Wetlands Administrator approved some plan changes in early October via email. Additional plan changes were made after that time. The Commission asked that the applicant submit the plan changes in writing and in plan form for review.

*Request for Certificate of Compliance: DEP #089-0586 – 417 West Street* \*Item tabled to the 1/8/2020 meeting.

*State Street Mitigation Plan* – Commission did not have any comments or concerns on the proposed plan.

*Monitoring Reports* – Weekly monitoring reports. Jacque asked Eversource to mulch the EV charging station area at 70 University Drive.