

**CONSERVATION COMMISSION
VIRTUAL MEETING
MEETING MINUTES
July 28, 2021
7:00 PM**

Members Present: Jenn Fair, LeRoy Gaynor, Lawrence Ambs, Fletcher Clark, Laura Pagliarulo, Ana Devlin Gauthier, Michelle Labbe.

Staff Present: Erin Jacque, Wetlands Administrator.

Comments from the Chair (Jenn Fair) None.

Director's Report (Dave) Away.

Wetland Administrator's Report (Erin) Jacque suggested jumping into other business since it is a busy night.

Land Use Applications

Amherst College Stream Sampling

Board suggested monitoring of Fearing Brook and Tan Brook.
Commission asked to have results shared with them.

Moved by Ambs to approve the Land Use Application. Seconded by Clark. All in favor.

7:30 PM Notice of Intent – GZA Geoenvironmental, Inc. on behalf of Lisa Kittredge for the construction of a tennis court and associated drainage at 29 Mill Lane (Map 17C, Parcel 174).

Adrienne Dunk, GZA and owner Lisa Kittredge present. Arthur Allen, EcoTech peer review was present. Allen stated he was satisfied with the revised wetland delineation and restoration plan.

Jacques recommended conditions:

- 1.) State and local boilerplate conditions
- 2.) All restoration work and work in resource areas must be overseen by a competent wetland professional.
- 3.) Monthly monitoring reports must be provided to the Conservation Commission from the start of work until the site is fully stabilized.
- 4.) Ongoing condition in perpetuity that no more wetland alteration is permitted on the site due to previous violation and restoration.
- 5.) Plantings must be monitored for 3-years and have 50% success.
- 6.) A certificate of compliance must be submitted when the Order of Conditions expires.
- 7.) Staff can enter property at any time to inspect the progress on the work and compliance with the permit.

Conditions were added that (1) in the sale of the property the new owner must be notified of the restoration and limits of wetland alteration on the site, (2) must provide a written acknowledgment of the limitations on the site. Both shall be ongoing conditions in the Certificate of Compliance.

Moved by Devlin Gauthier to approve the Order of Conditions for 29 Mill Lane with the noted conditions. Seconded by LeRoy. All in favor. Labbe abstained.

7:35 PM Notice of Intent – Town of Amherst proposes several new footbridges, bog bridges, replacement footbridges and replacement bog bridges as well as associated trail improvements in various locations along the Robert Frost Trail (Robert Frost Trail Right-of-Way).

Moved by Devlin Gauthier to continue the public hearing to August 11, 2021 at 7:35 PM. Seconded by Ambs. All in favor.

7:40 PM Notice of Intent (cont. from 3-24-21) – Haines Hydrogeologic Consulting for Amherst Poor Farm, LLC for wetland restoration in both the Riverfront and Bordering Vegetated Wetland resource areas and agricultural activities in the buffer zone of bordering vegetated wetlands. Located at 214 Pomeroy Lane (Map 20C, Parcel 23).

David Haines was present on behalf of the applicant. Sabina Coynoyer (owner) was also present. Haines presented the revised plan. Noted there is a Forest Stewardship Plan, and NRCS Farm Plan.

Jacque noted that as proposed the Commission needs to make a determination on the Limited Project Status of the proposed Agricultural Use. Jacque stated that the Commission will also have to issue variances for the 100-foot vernal pool no touch zone and the 30-foot no disturb under the local wetlands bylaw.

The applicant and town is still waiting for comments from NHESP on the rare & endangered species management plan.

Moved by Ambs to continue the public hearing to August 11, 2021 at 7:40 PM. Seconded by Devlin Gauthier. All in favor.

7:45 PM Notice of Intent – Town of Amherst for trail improvements, resource area improvements, and property maintenance at the Sweet Alice Conservation Area at 37 Bay Road (Map 25B, Lot 20 & 21)

Jacque presented the responses to the DEP File Number comments provided by David Ziomek. Jacque provided a list of recommended conditions.

- 1.) State and Local Boilerplate
- 2.) Phase 1 Dam Inspection Report must be completed prior to the dam maintenance work. The report must be provided to the Commission, DEP and DCR. Any deviation from the Report and Order of Conditions must be approved by the Conservation Commission in advance of work.
- 3.) Spillway work can only occur between Nov. 1st and March 15th. These time of year restrictions are proposed to avoid any possible impact to active Eastern Box Turtle.
- 4.) In stream work and drawdown for the weir board replacement must be handled separately. Bank and stream restoration sequence must be followed as outlined in responses to DEP comments.
- 5.) During in stream work, the entire work area must be swept for wildlife and wetland organisms.
- 6.) Prior to any invasive treatments the town and Kestrel Land Trust shall do an invasive species survey of the property, acquire a WM04 permit and identify a licensed applicator. A treatment plan will be submitted to the Conservation Commission for approval prior to any treatment.

Moved by Ambs to approve the Order of Conditions for 37 Bay Road with noted conditions. Seconded by Gaynor. All in favor.

Orders of Conditions for 4 NOI's (Tofino)

Jacque recommended the following Tofino Conditions to apply to:

Lot 5 DEP 89-0662

Lot 6 DEP 89-0663

Lot 7 DEP 89-0664

Lot 8 DEP 89-0665

Wetlands Protection Act Residential Boilerplate

Town of Amherst Wetlands Protection Bylaw Boilerplate

Additional Special Conditions:

Wildlife Sweeps must be completed on construction sites each day prior to the start of work. A sweep log must be kept on site and maintained for each and every work day: Log must include the date, time of inspection, name of person doing the inspection, a note of any organisms found, and a signature. Photos must be kept of any organisms that are found on the construction site (live or fatalities) Sweeps should be completed by a competent individual who is identified and trained by a wildlife biologist prior to the pre-construction meeting.

Weekly monitoring of vernal pool shall take place during construction period by a competent wildlife biologist. Inspections will assess the functions and values of the pool, identification of species using the pool, and impacts of the work to the BVW and vernal pool during construction.

Vernal pool monitoring reports must be submitted to the Conservation Commission on a monthly basis starting at the preconstruction meeting, until the site is fully stable and the erosion controls are approved for removal. Monitoring Reports must include the compiled written weekly report results, photos and copies of the daily "sweep" logs for the month.

The vernal pool on the site must be certified with the NHESP program.

During the migration of vernal pool species (first rain event/thaw of the spring season) a wildlife biologist shall be on site to transport any organisms from out of work areas safely to the pools. This condition applies while site work is underway until the site is fully stabilized. A final report from the migration shall be provided to the Conservation Commission.

The Vernal pool must be monitored for 3-years following the issuance of the Certificate of Compliance. In coordination with commission (2 spring, summer and fall)

Filter fabric (toed in) and staked straw bales must be used as erosion controls around the entire perimeter of each house site. Temporary straw waddle will be used at the close of each work day covering the construction access to fully circle and "button-up" the work area.

*Chemical treatments organic or inorganic of any kind are prohibited on the site. This includes deicing chemicals, herbicides, fertilizers, lawn spraying, mosquito/tick lawn spraying, pesticides, and rodenticides). This shall be written into the deed for the lot and shall be an ongoing condition in the Certificate of Compliance.

*No additional alteration of any kind is permitted on the lots beyond what is approved in the Order of Conditions. No additional tree removal, vegetation removal, excavation, expansion of lawn, decks, sheds, patios, pools, home additions, garages. This shall be written into the deed for the lot and shall be an ongoing condition in the Certificate of Compliance.

*Permanent wetland rebar markers shall be installed at the limit of the lawn/yard every 15-feet to identify a limit of work/alteration area. Site plan shall be recorded with the deed indicating the limits of lawn/yard. This shall be written into the deed for the lot and shall be an ongoing condition in the Certificate of Compliance.

Split rail fencing shall be installed at the limit of landscaped back yards and maintained in perpetuity. This shall be included on the site plan and recorded with the deed indicating the limits of lawn/yard. This shall be written into the deed for the lot and shall be an ongoing condition in the Certificate of Compliance.

Lots 5, 35-foot no disturb shall be permanently noted on the deed.

Lot 6, 100-foot vernal pool line and 35-foot no disturb shall be permanently noted on the deed.

Lot 7: 100-foot no disturb around the vernal pool shall be permanently noted on the deed.

Lot 8: Dashed purple line on overall plan and lot 8 site plan shall demarcate the limit of lawn/landscaped area on the proposed lot. This shall be a permanent limit of landscaped lawn. The remainder of the lot (post construction) must remain in an unlandscaped/natural condition.

Buyers must sign and submit to the Commission an acknowledgment to the resource restrictions on the property*. This shall be an ongoing condition in the certificate of compliance.

Realtors must include restrictions as a disclosure the sale of these properties*.

An additional condition was added by the Conservation Commission: If any of these conditions are not met an immediate cease & desist will be issued.

*Moved by Devlin Gauthier to issue Orders of Conditions for the Tofino project including Lot 5 DEP 89-0662, Lot 6 DEP 89-0663, Lot 7 DEP 89-0664, Lot 8 DEP 89-0665 and include the Wetlands Protect Act residential boilerplate, Town of Amherst Wetlands Protection Boilerplate, and the additional conditions as stated by the Wetlands Administrator. Seconded by Ambs.
Vote: Fair, Clark, Ambs, Devlin Gauthier in favor. Pagliarulo, Labbe, and Gaynor abstained.*

Emergency Certifications

16 Kestrel Lane

Moved by Ambs to ratify the Emergency Certification for 16 Kestrel Lane flooding. Seconded by Devlin Gauthier. All in favor.

Greenleaves

Moved by Devlin Gauthier to ratify the Emergency Certification at Greenleaves to stabilize the culvert headwall. Seconded by Pagliarulo. All in favor.

Wentworth Farm Conservation Area

Moved by Ambs to ratify the Emergency Certification for the Wentworth Farm Conservation Area to fill abandoned spillway with stone. Seconded by Devlin Gauthier. All in favor.

Compliance Issues/Enforcement

815 Main Street

Jacque noted the owner took actions to stabilize the site and come into compliance.

375 Potwine Lane

Jacque noted she is working with the owner to find a resolution.

121 Potwine Lane – Ratify Enforcement Order

Moved by Pagliarulo to ratify the Enforcement Order for 121 Pondview Drive. Seconded by Gaynor. Vote: Fair, Clark, Devlin Gauthier, Pagliarulo, Labbe, and Gaynor in favor. Ambs abstained.

Moved by Clark to adjourn at 9:46 PM. Seconded by Ambs. All in favor.