

TOWN OF SOMERS
Conservation Commission
600 Main Street

REGULAR MEETING
WEDNESDAY, JANUARY 6, 2021

7:00 PM – VIRTUAL MEETING VIA TELECONFERENCE (ZOOM)
MINUTES

- I. CALL TO ORDER Meeting called to order by Chairperson Joan Formeister at 7:04pm. Commissioners in attendance were Candace Aleks, Daniel Fraro, Drew Kukucka, and Karl Walton. Also in attendance were recording secretary Tara Comrie and Wetland Agent Shapiro.

- II. PUBLIC HEARING – **Application #740:** 50 Hangdog Lane. Construct Driveway and Repair Drainage in Upland Review Area. Roulier Family Limited Partnership/Daniel R. Roulier.
Applicant has requested that the hearing be continued to the February 3, 2021 meeting.
Joan Formeister asked the commission if the public hearing should be opened and then be continued. Agent Shapiro stated that the Commission has 35 days from the application receipt to open the hearing. The commission should receive the Applicant’s request and then motion for a continuation and extension.
Joan Formeister opened the public hearing acknowledged that the applicant sent a letter requesting a continuation. Agent Shapiro stated that the 35 day extension granted by the applicant allows the commission to keep the hearing open beyond the Feb 3 meeting if necessary.

Drew Kukucka made a motion to continue the public hearing until February 3rd.
Karl Walton seconded. All in favor. Motion carried.

- III. OLD BUSINESS
 1. **Discussion/Possible Decision Application #739:** 23 Eleanor Road. 25-Unit Housing Development in the Upland Review Area. Gingras Development II LLC/Tom Carengo.

Agent Shapiro stated that there’s been a lot of revision to the plans since they were first received at the November meeting. She stated that she gave extensive comments and suggestions to the developer and most were incorporated. A new E&S plan was received on January 5. Now there exists a wetland report with a functions assessment and items of that nature. The wetland was also redelineated by soil scientist Wes Wentworth. Layout changes to the plan have resulted from the delineation. New E&S plan has phasing and an additional sediment basin with a planting plan for the basin. There is also a revised stormwater plan. Agent Shapiro believes there are still a few outstanding issues to be discussed and that the commission can possibly act tonight with conditions. Karl Walton asked if Agent Shapiro had a chance to review all of the new documents and if so do they satisfy all of the requirements. Agent Shapiro replied that she had time to review everything and that most requests were incorporated. She took notes on some of the outstanding issues and has some items to pose to the commission.
Agent Shapiro stated that her recommendations were based on fact that the current plan

being reviewed has 50% more units and more impervious coverage than the previous plan. She suggested that they might possibly look at wetland buffer planting and invasive plant control. The applicant and the engineer wanted to discuss the ideas with the commission. In addition, Agent Shapiro stated that the commission should discuss to water quality basin, hydrology to the upgradient portion of the wetland, and the impact from lost shade.

George Schober asked if the commission members have more questions. Drew Kukucka requested a review of the changes to the new plan. Mr. Schober stated he will turn the conversation over to Wes Wentworth the soil scientist, who is responsible for changes. Wes Wentworth was in attendance representing the applicant. He stated that the wetlands delineation reviewed in 2006 was last done in 1987. The delineation was updated, flagged and reaugered within 100 feet of any proposed activity. One major change that resulted is that the wetlands now come up into the property a little farther. As a result they relocated a unit to the end of the cul-de-sac to keep a distance from the wetlands. That's the major change.

Mr. Wentworth stated that they have a site specific planning plan for the water quality basin. The detention basin is also for water quality. There are 900 plugs of wetland plans on the basin water, side, and slopes; basically mimicking what was designed in 2006. Mr. Wentworth prepared detailed wetlands assessment using the Army corps guidelines to do the analysis of the wetlands. He evaluated the impact that the development will have, including direct impact from the modified rip rap outlet.

Mr. Wentworth stated that he feels very strongly that adverse impact will not result from the proposed development. The impervious portion is 1.8 acres, which indicates coverage of 7.9% in 2006. In 2020 2.0 acres are impervious indicating 9% impervious coverage. 91% of the property remains wooded, landscaped or lawn.

Mr. Wentworth stated that he corrected the E&S plan. He relocated the silt fence along the newly delineated wetland area and added a second temporary sediment basin. As soon as the storm pipes and drainage are in, everything will go to the main basin.

Mr. Wentworth stated that that's everything that has been changed and submitted. He said that the hydrology will not change due to the development. There are still large areas of open space. There will be no ponding or puddling as it all goes into the ground. They will keep the recharge going even where it's abutting the body of the basin.

Mr. Wentworth stated that he feels that there are enough trees in the wetlands, not wide open spaces. There is a wooded buffer area with high tree canopies. Near the edge of the wetlands there is a slight change. In the area of the detention basin there will be expanding and increasing size of wetland as the meadowy marsh transitions from the wooded wetland area.

Mr. Wentworth stated that Agent Shapiro mentioned additional plantings or management of basin species. He would not find it necessary to remove invasive species as it is a huge endeavor. They could physically pull out invasive species for a few seasons in a row while other plants are getting established. Bittersweet is currently on the trees. He stated that it is not a good idea to brushhog in the area. The buffer has heavier invasives but in the wetland are few invasives. Wildlife can thrive in invasive species and a physical barrier between developed area and wetlands is a good thing. He stated that he doesn't necessarily agree with removing them.

Agent Shapiro stated that alternatives had been discussed. Since it's not a public hearing and the commission didn't find significant impact, the burden of proving that a feasible and prudent alternative with less impact is not as great, but alternatives must still be considered. The development is now more impervious and closer to the wetland. It will need mitigative measures and alternatives.

Mr. Schober stated that the only direct impact is related to drainage.

Agent Shapiro stated that grading also has an indirect impact.

Mr. Schober referenced a case limiting where commissions can regulate. The CT court said there has to be impacts to the wetlands by what is done in upland and that the commission doesn't have jurisdiction over upland review area work. Mr. Schober stated that not impacting wetlands indicates that the applicant isn't required to come up with alternatives. The detention basin is the only thing causing potential impact and it will be there whether the development is scaled back or not. Since there is no impact in the wetlands according to the commission, the applicant is not required to provide alternatives for the development. Client could spend money and time coming up with plans but Mr. Schober stated that it is unnecessary.

Agent Shapiro stated that according to the town wetland regulations, 11-7E5 alternatives are not just for significant impact. There are additional requirements in the case of a public hearing. Applicants are always supposed to consider and strive toward a plan of least impact. The plan has grading that is closer than typical in residential area. Although there will be no push from homeowners for sheds, garages, pools, etc., alternatives should always be considered.

Mr. Schober stated that his point is that the alternatives in the wetlands drainage leading to the detention basin doesn't require alternative placement for houses because they're not in the wetlands. The only thing that creates disturbance is the drainage. The applicant is entitled to build in 100 ft.

Agent Shapiro stated that nobody has suggested that all activity be 100 ft from the wetland. She explained that the commission must consider possible impacts to the wetland from the upland review area. The grading and removal of vegetation is as close as 11 ft. to the wetland. The commission always wants to consider alternatives. The riprap apron isn't a significant impact. The commission has seen an alternative that was less impervious, back in 2006. More impervious results in more impact to the water quality. There is a 13.6% increase in impervious coverage. Applicants should look at alternatives to lessen the impact. Agent Shapiro stated that she's looking for thought to mitigation or how the impact could be reduced. She suggested they could consider hooded catch basins or permeable pavement ideas for mitigating.

Mr. Wentworth stated that the applicant does have unique situation in that there is an alternative in 2006 plan that was approved and that it was very similar to the current plan. He asked if the commission has direct concerns about the design so that the concerns can be addressed specifically.

Karl Walton stated that he doesn't see any grave impact to the wetland from the plan. Joan Formeister stated that even though there aren't going to be sheds it should still be made known where the wetland is so that people know. There should be markings to protect as much as possible.

Mr. Wentworth stated that this is a very reasonable and easy thing to do but that specific requirements might need some leniency. He stated that typically they use small metal disks at 6-7 feet from the ground on trees every 50-74 feet.

Drew Kukucka stated that he believes the marking recommendation is excellent given the close proximity. He has concerns with signage suggested. Since there will be no maintenance of the signage, that type of marker isn't permanent. He stated that the plan shows the boundary of trees and asked if that is currently cleared or if it's the proposed clearing.

Mr. Wentworth responds and says that it's all wooded and now that's the proposed limit of clearing.

Joan Formeister stated that the commission should ask for a more permanent method.

Mr. Wentworth stated that the wetland line is 1600 feet long which would require 40 stone monuments that are one hundred and fifty pounds each plus the work of digging

holes. It would require machinery and lot of monuments. It would not be easy work. He asked if there is there middle ground solution.

Karl Walton stated that the middle ground includes reasonable spacing and a combination of the two. In the past applications have been approved and the marking wasn't enforced so major issues were caused by the future homeowners. People need to be reminded that there is a special area of land that they should not play in.

Mr. Wentworth stated that 42" monuments vs 48" monuments would make a big difference. Agent Shapiro stated that on some applications, lally columns are approved if that would be easier.

Joan Formeister stated that straight areas could have less monuments and that contoured sections of wetlands would need more monuments.

Mr. Wentworth suggested that every 100' on the 800' stretch they would put lally columns or bollards closest to the units. Then there would be tin signs on the 50' point all the way through.

Karl Walton stated that that would really satisfy his concerns ad that 6' high is sufficiently visible.

Joan Formeister stated that they have to make sure any sort of yard maintenance debris would be kept away from the basin area.

Mr. Wentworth stated that they would also put markers in that area.

Agent Shapiro stated that according to commission standards, straight segments require monuments only every 50'. The monument line can be straight line that encompasses the entire wetland without following the contour.

Mr. Wentworth stated that they will just follow clearing limit for the monument line.

Joan Formeister stated that there have been repeated issues with markings and that they need to be strict to protect the wetlands. She asked if Agent Shapiro had any additional concerns. She replied that Mr. Wentworth had addressed them. She stated that there was an additional concern after she walked the site and saw invasive plants. Her concern is that they tend to gravitate toward the wood's edge, and the wetland may end up overrun by invasive plants.

Mr. Wentworth says the real concern with the invasive plants is based on the soil types. There's just a little finer soil present, but near wetlands it is sandier and as a result the invasive plants are not near the wetlands. The soil type doesn't support them.

Agent Shapiro states that one condition of approval should include control of the invasive plants from at least the stormwater basin in the maintenance plan. Another could be a condition for permanent delineation. Maintenance instructions in the plan should be extracted as a standalone document for post-construction reference.

The commissioners agree that a maintenance document including the management of invasive plants is important to include.

Drew Kukucka asked to see the operation and maintenance plan. Mr. Wentworth directed him to it. Agent Shapiro stated that it is mostly related to stormwater, infrastructure, sweeping paved areas for sand, and a note about limiting use of chemicals on landscape.

Joan Formeister stated that it's kind of general. She'd like to have info about controlling invasive plants in there.

Candace Aleks would like to see it added in as well.

Mr. Wentworth states that this will be no problem at all.

Karl Walton asked Agent Shapiro if she is satisfied with everything provided. Agent Shapiro replies that she is and she can understand where they're coming from. She stated that the commission should decide if maintaining the basin is sufficient or if further invasive control is necessary. There is not a lot of direct impact and all comments were addressed in some fashion.

Joan Formeister asked the commission how they could enforce the things in the

maintenance plan. Agent Shapiro said they could request an annual report from a consultant regarding activities. She stated that she can also inspect the basin and along the edge.

Karl Walton stated that the HOA would be ultimately responsible.

Joan Formeister stated that the commission should add a note that the HOA would be responsible for following the plan.

Mr. Schober stated that this can be included that the homeowners documents.

George Schober offered to draft a set of conditions based on the conversation that had taken place for the commissioners to discuss and edit as needed and it was agreed that he would do so.

Agent Shapiro presented the draft of the conditions to the commissioners.

The commissioners then discussed the wording of the conditions and edited them until all were satisfied.

Karl Walton motioned to approve application #739 23 Eleanor Road. 25-Unit Housing Development in the Upland Review Area with the following conditions:

1. The Applicant/Developer shall install permanent markers along the limit of disturbance adjacent to the wetlands boundary. Said markers shall be attached to trees at a height of six feet, and lally column markers at a height of 24 inches, alternating every 50 feet.
2. The Applicant/Developer shall be responsible for the control and removal of invasive species in the detention basin, which shall be specified within the Operation and Maintenance Plan both within the site plans and as a stand-alone document, until such time as the Homeowner's Association takes control of the Operation and Maintenance Plan, which shall be maintained on-site as a stand-alone document post-construction.
3. The Homeowner's Association Operation and Maintenance Plan shall contain instructions for the management, control, and removal of invasive species, including but not limited to, multiflora rose, phragmites australis, asiatic bittersweet, Japanese barberry, Japanese knotweed, winged euonymus in the detention basin and the wetlands.

Candace Aleks seconded

Discussion: Drew Kukucka commented that he wasn't quite satisfied with the wording related to the responsibility of the future Homeowner's Association and again the commissioners discussed and amended the conditions, agreeing on the following conditions:

1. The Applicant/Developer shall install permanent markers along the limit of disturbance adjacent to the wetlands boundary. Said markers shall be attached to trees at a height of six feet, and lally column markers at a height of 24 inches, alternating every 50 feet.
2. The Applicant/Developer shall be responsible for the control and removal of invasive species in the detention basin, which shall be specified within the Operation and Maintenance Plan both within the site plans and as a stand-alone document, until such time as the Homeowner's Association takes control of the Operation and Maintenance Plan, which shall be maintained on-site as a stand-alone document post-construction.
3. The Homeowner's Association Documents will incorporate the Operation and Maintenance Plan and shall contain instructions for the management, control, and removal of invasive species, including but not limited to, multiflora rose, phragmites australis, asiatic bittersweet, Japanese barberry, Japanese knotweed, winged euonymus in the detention basin and the wetlands.

All in favor. Motion carried.

2. **Discussion/Possible Decision Application #740:** 50 Hangdog Lane. Construct Driveway and Repair Drainage in Upland Review Area. Roulier Family Limited Partnership/Daniel Fraroiel R. Roulier. – *Tabled*

3. **Discussion/Possible Decision Application #741:** 183 Root Road. Construction of driveway with watercourse and wetland crossing, associated with construction of new house. David Fontaine.

Agent Shapiro stated that she received new erosion and sediment control notes that have been revised, and also a 2-page pdf addendum to the plans showing details for the crossing.

Mike Mocko stated that they need two days to set the culvert and pump around the site. Detail for that includes sandbagging the street and creating a pool upstream of the site for the duration of the work. There will be erosion control at the pipe outlet. The cross sectional detail on the erosion control notes shows how they can accomplish filling in and stabilizing the slope even though it's winter. He stated they will cover the slope with non-woven filter fabric and will lay stone on the lower slope. They will be making a temporary construction access driving surface. Six inches of processed gravel would be placed on top of the fill on top of the culvert to avoid making muddy ruts and create a stable surface. Once the culvert is set the water flow can be reset to culvert once minimal headwalls established and protecting of the slope can proceed. He stated that there's a little more narrative on the erosion control notes that speaks for itself on details of the construction down to the final installment of permanent vegetation.

Agent Shapiro suggested that there might be one condition to consider. The condition would require an environmental consultant to be onsite just before construction to approve the conditions and measures, and during the construction of the crossing.

Mike Mocko stated that he is willing and able to perform that duty.

Drew Kukucka made a motion to approve application #741 183 Root Road. Construction of driveway with watercourse and wetland crossing, associated with construction of new house with the condition of environmental consultant oversight before and during construction of the crossing.

Daniel Fraro seconded

All in favor. Motion approved.

IV. NEW BUSINESS

1. **Request to Modify Application #716:** Lake Drive. Construction of an additional residential unit with associated grading and septic within the upland review area (consistent with original development approval, expired in 2016). Shady Lake LLC.

Agent Shapiro stated that in 2018, Shady Lake LLC came back to the commission because their original permit had expired. At that time there were still a few sites in the upland review area to be built. The commission reissued a new permit.

Agent Shapiro stated that one unit on the opposite side of the street in the upland review (Unit 11 which is 4 Lake Drive) was accidentally not included on its latest wetland permit. Shady Lake LLC is requesting to modify the 2018 permit #716 to include this unit.

Agent Shapiro stated that Unit 11 is standard with all other units there. There is a silt fence in the drawing and the infrastructure the same as the rest of the development.

Joan Formeister asked for confirmation that Unit 11 was included in the expired permit and previously approved but inadvertently left off in the new permit.

Agent Shapiro confirmed that it slipped through accidentally.

Karl Walton stated that technically the first approval was for more bedrooms, which is more like the most recent version of the plan.

Agent Shapiro stated that Roger Frangimore had sent updated plans.

Candace Aleks made a motion to satisfy the request to modify the approval to include Unit 11, which was accidentally left out.

Daniel Fraro seconded.

All in favor. Motion carried.

2. Application #742: 56 Durkee Road. Construction of two sheds within a wetland. Heber Alvarenga.

Agent Shapiro reminded the commission that this lot is virtually all wetland and flood plane. There have been many inquiries about the property in the past. The lot doesn't have much use except recreation. The current owner wants to make two sheds for recreation equipment. Most of the lot is in the flood way, where you can't put anything at all. A portion of the lot is in the flood plane, where you can put something but has to be anchored.

Agent Shapiro stated that the owner is working with a surveyor to show that the sheds will be out of the flood way but that more detail is needed.

Karl Walton asks if it even makes sense to accept an application that may end up having conflict.

Agent Shapiro replied that not receiving the application wouldn't cause a lot of hardship because they have a lot of work still ahead, and that the application is incomplete right now.

Karl Walton made a motion to amend the agenda and add the selection of officers.

Drew Kukucka seconded. All in favor. Motion carried.

V. ELECTION OF OFFICERS

Karl Walton made motion to put up the current board of officers with Joan Formeister as chairperson, Drew Kukucka as vice chairperson, and Candace Aleks as secretary.

Daniel Fraro seconded.

All in favor. Motion carried.

VI. AUDIENCE PARTICIPATION

NONE

VII. STAFF REPORT

Agent Shapiro stated that there were two possible violations that had come up recently. She is working with the property owners and has not formally sent letters.

On 9th District Rd along the Gulf stream, new property owners were doing significant clearing of the understory. Only mature trees remain. The homeowner has several ideas for what they want to do there. They want to plant trees. They will not have a manicured lawn up to stream and instead want shrubs. The homeowner agreed to stabilize the area with straw and mulch.

Agent Shapiro stated that there are also two sheds right at the stream. This is an issue for wetlands and they are in the in flood way. The homeowner will need to move them. He knows this and says that he will. Agent Shapiro suggested that he come to the commission with a plan and for now plant groundcover to stabilize the area. The homeowner stated that Eversource started the work, along their easement.

Candace Aleks suggests that the commission send a letter to reiterate the instructions

given by Agent Shapiro. Agent Shapiro stated that the homeowner says that the sheds are portable. She will write the letter suggesting that the homeowner come to commission with plans and reminding them to move the sheds.

Agent Shapiro stated that there is another possible violation at 18 Harvest Hill, the first house on the right. A neighbor made a complaint about clearing taking place near wetlands. A conservation easement is shown on the plans, but not on the deed for the property, and there is a new owner. There were tons of blown down trees on the property. The property is steep. The lawn is steep down to the wetland area. Schenade Brook runs within the wetland, parallel to Turnpike Road. Agent Shapiro stated that it does seem like the intent was tree work for dead and hazardous trees but they hired a logging company due to the extent. Some of the trees were threatening their small detached garage which is outside of the conservation easement. They did get a minimal impact permit for the garage. They are not clear cutting and not cutting far past the garage on edge of wetland. Perhaps it could be considered a jurisdictional ruling. There are maybe 30 trees being taken down along the wetland edge.

Drew Kukucka asked if all of the clearing is targeting damage. Agent Shapiro stated that some mature trees within striking distance of the garage and house were taken down and that they just have a few trees left near the road. The logger stated that no more trees near the brook will be taken down.

Joan Formeister suggests mitigation to make up for what they've taken out. Agent Shapiro suggests that the commission could have the homeowner come to a meeting to discuss mitigation. She stated that it's possible to send an enforcement letter. Agent Shapiro said that the logger called on December 30 and started the work soon after. Agent Shapiro gave the logger an application form for future reference. She recommends stabilization, installing wetland markers on the property, and planting of new trees.

Drew Kukucka asked how the commission can identify wrongdoing and handle it more efficiently. He suggests possible involvement of other town departments, the creation of a pamphlet or literature about the matter and spreading the word on social media. Joan Formeister suggested looking at the literature that another town may have come up with. Daniel Fraro suggested framing the information as a way to keep the town beautiful.

VIII. CORRESPONDENCE AND BILLS
NONE

IX. MINUTES APPROVAL: December 2, 2020
Candace Aleks made a motion to approve the minutes from December 2, 2020
Daniel Fraro seconded.
All in favor. Minutes were approved.

X. ADJOURNMENT
Karl Walton made the motion to Adjourn.
Candace Aleks seconded.
All in Favor. Motion carried. Meeting was adjourned at 10:07 P.M.

Respectfully Submitted,

Tara Comrie, Recording Secretary

MINUTES ARE NOT OFFICIAL UNTIL APPROVED AT A SUBSEQUENT MEETING