

TOWN OF SOMERS
Conservation Commission
600 Main Street

REGULAR MEETING
WEDNESDAY, JUNE 4, 2025
7:00 PM TOWN HALL
MINUTES

I. CALL TO ORDER

Chairperson Joan Formeister called the meeting to order at 7:00 p.m. The commissioners in attendance were Dan Fraro, Candace Aleks, and Sydney Flowers. Joanna Shapiro, the Town of Somers Wetlands Agent, was also present.

Chairperson Formeister seated Lise Wood for Drew Kukucka.

II. OLD BUSINESS

1. **SHOW CAUSE HEARING - ORDER TO CEASE VIOLATION (continued). 183 King Road.** Regulated activity within 100 feet of a wetland or watercourse. Nicholas Turnberg.

Nicholas Turnberg was not present. Joanna Shapiro stated she received new site photographs today, which she passed around. Pictures showed that the stockpiles were hydroseeded again, and the vegetation started taking root. The Commission decided that the order to cease violation will stay in effect until the stockpiles are completely stabilized and Joanna Shapiro conducts a site visit to ensure they are stabilized.

2. **Discussion/Possible Decision: Application #816:** 378 Gulf Road. Construction of gravel driveway in the Upland Review Area, associated with subdivision of property and construction of new home and garage. Daniel Halpin.

The applicant was in attendance, and the Commission members had no further questions since this was last presented in May.

Candace Aleks motioned to approve Application #816: 378 Gulf Road. Construction of gravel driveway in the Upland Review Area, associated with subdivision of property and construction of new home and garage based on the following:

- The Commission finds that the Applicant has submitted all necessary application materials pursuant to Section 211-7 of the Wetlands Regulations, including but not limited to Section 211-7(E)(5), "Alternatives considered and rejected."
- The Commission did not find the proposed activities "significant."
- The Commission finds that the criteria set forth in Section 211-10B have been met by the Applicant.

Lise Wood seconded. All were in favor, and the motion carried.

Joanna Shapiro informed the property owner that this has to be publicly posted that it was approved, and that there is a required 15-day appeal period. Joanna will email them the permit next week.

III. NEW BUSINESS

1. **Application #817:** 42 Dillenback Road. Grading and installation of septic system in the Upland Review Area, associated with construction of new home and barn. David Luginbuhl.

Joanna Shapiro stated that she has not visited this proposed house site specifically, but she is familiar with the site because the Commission had approved some work regarding forestry and pond dredging recently. Joanna stated they are requesting to build a house which will not be in the upland review area, but the septic will be. David Luginbuhl was present and said they don't have many options for the septic tank location because the other possible area is agricultural, and they have installed many flower gardens. Since it is a gravity-fed septic, it has to be downhill of the house. The septic would be installed about 50' from the wetland. Once installed, they will restore the area with topsoil and do some grading. Sydney Flowers asked if the Commission needed to review the type of septic being installed. Joanna Shapiro stated that the town sanitarian will have to inspect that aspect. Tim Coon from JR Russo & Associates, who developed the building plans, was present and noted that the health department code requires septic tanks to be at least 50' from the wetland which it is. Joan Formeister mentioned that we can discuss the buffer vegetation at the time of the motion for next month's meeting. Joanna Shapiro stated she would send the owner a list of conservation plant mixes that can be used.

Lise Wood made a motion to move New Business agenda item #3 ahead of agenda item #2. Candace Aleks seconded. All were in favor, and the motion carried.

2. **Application #818:** 75 Brittany Lane. Vegetation removal and minor grading for home construction, per prior subdivision approval (expired). Roulier & Associates.

Joanna Shapiro stated that a couple of building lots left in this subdivision were never built on; they both have wetlands on them, and the wetland permits have since expired. The applicant was at the town hall yesterday and did not realize they would need to apply for a new wetland permit. They provided an application with a rough plan, but will provide something more updated at the next meeting. They mostly plan to mimic the current building plans and do not plan to do much grading. The current wetland delineation is from the 1990s, which will need to be updated along with a soil scientist's signature. The current building plans have no construction in the upland review area, but some grading and vegetation clearing. Rick Granger of Dan Roulier and Associates, Inc. stated they hope to build something soon, that the footprint of the new house will be a bit narrower, that the garage will be wider than the current plans, and that they will be working with the topography. Joan Formeister informed Mr. Granger that we can most likely approve this next month with the updated plans.

3. **SHOW CAUSE HEARING - ORDER TO CEASE VIOLATION. 122 Watchaug Road.** Site work causing erosion and sedimentation of watercourse. Oakridge Dairy, LLC.

Joanna Shapiro attempted to call the town attorney so he could be on the phone for guidance if needed, but she could not reach him at the start of this discussion. Joanna began by stating that the Commission had approved a jurisdictional ruling for this site in February 2025 that exempted the grading of the stormwater pond, uphill from the airstrip and along the road. Joanna then reported that the swale had been trenched before the water was drained from the pond. When the pond was

drained, a lot of sediment was discharged directly into Watchaug Brook, violating the Town of Somers Inland Wetlands and Watercourses Regulations. Joan Formeister explained that Somers Conservation Commission members spoke directly with Seth Bahler about this violation, and a Notice of Violation was issued on May 23, 2025 (see letter). The notice stated that water should not be allowed to drain over the disturbed swale without sufficient measures and permanent stabilization, and that the failure to prevent a discharge of sediment is a violation. Following the notice of violation, the owners attempted to temporarily stabilize the swale by installing stone and straw bale check dams and laying down chopped straw in certain portions of the swale. This did prevent some erosion; however, there were still large areas of the swale that were not stabilized, and water continued to be discharged over the recently trenched swale, and sediment continued to discharge into Watchaug Brook. Commission members viewed and took pictures of a small culvert that runs under a farm entrance, which was half clogged with sediment. The small culvert runs between the disturbed swale and a riprap channel, which leads to a catch basin and culvert connected to Watchaug Brook. Therefore, on May 27, 2025, an Order to Cease and Desist was issued to Oakridge Dairy (see letter, date of May 23, 2025 was incorrect on the order and should have read May 27, 2025). This order states that any further site work, either within or near the pond or swale, is to cease immediately. The order also states that the owners must stabilize all exposed soils on-site and install sediment barriers downgradient of the disturbed soils.

The owners were requested to attend this hearing today to allow them to be heard and show cause why this order should not remain in effect. Seth Bahler asked what they could do if they had completed this project already. He then mentioned they have 600 acres of land in Somers and want to be good neighbors. Joan Formeister stated that there isn't much you can do now that the damage has been done. She stated they should not have polluted the waters, and she was surprised they continued to do the work after she spoke with them about what needed to be done, and the notice of violation was issued. She mentioned that Dave Moser had told Drew Kukucka they would continue their work regardless, even if they were asked to stop by the Conservation Commission. (The town attorney, Carl Landolina, called in during the meeting at this time.) Joan stated that if we could issue a fine to Oakridge, we would. Joanna Shapiro stated this could have been prevented had they had a plan and communicated it to the town. She stated there are better ways to discharge water, and she could have assisted with coming up with that plan if she had been made aware, for example, that dewatering the pond before trenching the swale would have prevented much of the erosion. Water could also have been temporarily pumped around the disturbed swale.

Seth reported that grass is now growing on both sides of the road. Tim Coons from JR Russo & Associates stated there are numerous check dams installed in the swale and he has never seen so many in one area. Seth Bahler mentioned many drainage issues in the area that need to be worked on by them, the other property owners, and the town. There was a lot of discussion about the drainage issues, but Joanna Shapiro stated we can discuss this at another meeting because our focus is the show cause hearing. Carl asked if the area had been stabilized, and Joanna informed him that measures had been put in place and the grass was starting to germinate; however, there is still a large amount of sediment in the culvert. For now, the Commission wants the owners to continue stabilizing the soil and not do any more

site work on the property until it is stabilized. Joan Formeister stated we can keep the order open for the next month to see how things progress. Also, the owners are to come forward with a plan one week from tonight on how they will clean the sediment out of the culvert without discharging most of it into Watchaug Brook. The owner agreed to take pictures of the culvert the following morning because he stated there is not a lot of sediment in it currently, and will send those to Joanna. The Commission agreed that once Joanna Shapiro sees the pictures, she can decide whether a plan should be made to clean the culvert of sediment or not. The owners offered to either replace or clean the culvert right away, rather than waiting another week. It was agreed that they would clean the culvert to the best of their ability and keep Joanna updated. The owners also agreed to seed the area and put more straw down. Joan Formeister told the owners that she did not understand why they did this, and asked them if they thought the Commission members would not care if they continued to do the work, and that it should not have gotten to this point. Sydney Flowers mentioned that if you want to be good neighbors, you need to follow the town's rules because people are paying attention.

Candace Aleks made a motion to modify the current Cease and Desist Order to include and authorize the removal of sediment within the small culvert to prevent more sediment from reaching Watchaug Brook. Lise Wood seconded. All were in favor, and the motion carried.

IV. AUDIENCE PARTICIPATION

N/A

V. STAFF REPORT

1. 88 Winwood Road, foundation installation that involves a wetland and stream near the edge of the property. Joanna will work with them on a plan.
2. Minimal impact permit issued for 43 Suncrest Drive, small shed, 200 square feet, near driveway.
3. 17 White Birch Circle, above ground pool installation, no grading, minimal impact permit issued.
4. 39 Pheasant Road, wetland permit issued a year ago, pond close by, house is being built now, some erosion control issues which they have worked on, lots of invasive plants on the property, and Joanna is providing them with guidance on eradication.

Lise Wood moved to approve the Staff Report. Dan Fraro seconded. All were in favor.

VI. CORRESPONDENCE AND BILLS – None

VII. MINUTES APPROVAL: May 7, 2025

Candace Aleks moved to approve the May 07, 2025 minutes. Candace Aleks seconded. All were in favor, and the motion carried.

VIII. ADJOURNMENT

Candace Aleks moved to adjourn the June 04, 2025, meeting. Dan Fraro seconded. All were in favor, and the motion carried. The meeting was adjourned at 8:22 p.m.

Respectfully Submitted, Commissioner Sydney Flowers, Secretary

MINUTES ARE NOT OFFICIAL UNTIL APPROVED AT A SUBSEQUENT MEETING