



Town of Weare
Conservation Commission
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Commission Members:
Andy Fulton, Chairman
Steve Najjar, Vice Chairman
Sherry Burdick
Bill Bolton
Mike Camacho
Ray Lemay
Marc Phillips

CONSERVATION COMMISSION – May 12, 2021 Final MINUTES

MEMBERS PRESENT VIA ZOOM: Andy Fulton, Steve Najjar, Mike Camacho, Sherry Burdick, Ray Lemay, Marc Phillips

Absent: Bill Bolton

GUESTS: Ralph Fellbaum, Jeremy Turner

Town Administrator Zoom Host: Naomi Bolton

Chairman Fulton called the meeting to order at 7:09 pm., welcomed those via zoom to the May 12, 2021 Weare Conservation Commission meeting. Confirming his members in attendance, six present, along with two guests.

I. DISCUSSION

Ralph Fellbaum, Weare Winter Wanderers, trail reroute

Weare Winter Wanderers snowmobile Trail Master, Ralph Fellbaum, stated the club no longer has access to Luke Drake's property, previously used for 15 years. Without this landowner's property, one third of their trail system is lost. He is here to ask the Commission permission to reroute their trail through a right of way on the westside of the Duck Pond Development, Tax Map 405, Lot 062-062 owned by the Town, managed by the CC. The Society for the Protection of NH Forests community relations manager, Matt Scaccia and managing forester, Wendy Weisiger, along with Meadowsend Timberlands Limited forester, Jeremy Turner, have all granted permission to use their land, these two parcels, along with the Town's ROW will reconnect the club's trail system.

Chairman Fulton asked if there was a plan/drawing to share with the Board. Ralph Fellbaum stated he emailed the Commission, had trouble with transmission, only Vice Chairman Najjar and Sherry Burdick received a copy. Ray Lemay emailed a copy to the Chair.

The Chair, after reviewing the plan, asked Ralph Fellbaum about Town land that extends from the other side of the Duck Pond Development, Lot 062-063. Ralph stated he would like to use it late this year or early next year. He has a verbal agreement with property owners Dino & Kristen Rossi, Lot 63, which would connect the two Town properties. Ralph continued, explaining his trail plans to the Board. He stated Wendy Weisiger told him to travel low on SPNHF land, Map 408, Lot 14, as Mount Wallingford would create a noise buffer for the residents on Maplewold Road.

Vice Chairman Najjar asked the Chair to share the map so all Board members, and the viewing audience, could follow along with the discussion. Once the plan was shared, Chairman Fulton explained the Weare Winter Wanderers are requesting permission to use an existing roadbed on Town land, Map 405, Lot 062-062. The club's trail already crosses through some of this land; they are looking to extend the access.

The Chair asked the Board if they had any comments.

Sherry Burdick asked if they plan is to enter “below 90 on Duck Pond Rd, where the old ski tow was?” Ralph Fellbaum asked for clarification. Sherry asked where would vehicles be parked. Ralph responded they don’t park any vehicles, they cross Rte. 114. Chairman Fulton stated it is a property traverse, no amenities/road access.

Sherry Burdick asked how many miles would make up this loop of trail. Ralph Fellbaum answered approximately two miles of rerouted trail. Ray Lemay added this would take them out to Hillsborough and Deering.

Vice Chairman Najjar stated the deed makes provisions for a snowmobile trail. He suggests the snowmobile club acquire an easement or license/contract, something permanent. There is reference to two different easements on this parcel. A legal document should be drawn up to ensure the granting of semi/permanent use. The subdivision has not been monumented. Legal Counsel should review. Chairman Fulton agrees, can an agreement be formalized with an easement on top of an existing easement, Lot 062-062. Vice Chairman Najjar added, yes, a license or contract declaring use and authorization.

Ralph Fellbaum asked whom should they follow through with to set that in motion. Vice Chairman Najjar replied with the Conservation Commission and the Board of Selectmen. This would provide a permanent solution. Marc Phillips asked, if the deed states no motorized vehicles except snowmobiles, why is an easement needed. If the commission grants permission. Vice Chairman Najjar explained the subdivision book and page references two easements that do allow motorized vehicles. Earlier, it may have benefitted the forestry society. This allowance is permanent. What the club is asking to do is to put another easement on top of an existing easement. This needs to be granted as a license, permission or agreement. Once in place, the snowmobile club would never have uncertainty in accessing the land.

Town Administrator Bolton asked should Town Attorney Laura Spector-Morgan be sent the book and page to review. Vice Chairman Najjar responded yes, the rights in the easement need declaration with the goal being the club has permanent use of the property. A long-term agreement, showing the Board of Selectmen and the Conservation Commission are in support of this trail relocation. Though legally complex, establishing a permanent easement with the current benefactors would be advantageous to the club.

Ralph Fellbaum questioned why couldn’t the Town, as current legal owners of the land, just issue an easement. As the existing easements were put in place before the Town owned the land. Vice Chairman Najjar replied this is for Town Counsel to decide. Ray Lemay added establishing a legal easement would ensure the abutters on the new subdivision could never have recourse in the future.

Ralph Fellbaum continued to question the Commission, as governors of the land, for a third easement regardless of the previously established easements. Chairman Fulton stated having a legal easement with an affirmed purpose would negate the potential for future conflicts. Prior easements could be used to invalidate future agreements, many years later. Town Counsel will dispel any restrictions.

Vice Chairman Najjar moved, Marc Phillips seconded to draft the document for Town Administrator Bolton to present to Town Counsel Laura Spector-Morgan. Discussion: Sherry Burdick agreed a permanent solution is best. Mike Comacho stated getting legal counsel involved is the way to go. **Passed 6-0-0**

Chairman Fulton and Marc Phillips thanked Vice Chairman Najjar for offering to write the dissertation. The Chair reiterates the Commission is in support of the request for confirmation so the club’s plan can move forward.

Chairman Fulton asked Ralph Fellbaum if he needed anything else. Ralph asked if the Commission needed the club to do anything further. The Chair responded no, hopefully, legal counsel’s reply will be in time for the Commission’s next meeting. Ralph commented the club would like to discuss in the future using both Town Lots, 062-062 and 062-063.

Sherry Burdick asked if the trail is to be moved thirty feet shouldn't this be established before moving ahead. Chairman Fulton responded that would not be necessary, the plan is to keep the trail in the same corridor.

II. MINUTES:

April 14, 2021 Minutes: Vice Chairman Najjar moved, Sherry Burdick seconded to approve the April 14, 2021 minutes as written. Passed 6-0-0

III. OTHER BUSINESS

A. Planning/Zoning Board:

1. Alfred B. Lauder, 3 lot subdivision, 238 Quaker Street & John Connor Road, Tax Map 405-001. Application is to subdivide existing lot 405-001 located on Quaker Street and John Connor Road into 3 lots (6.15 w/existing home; 11.52 and 10 acre vacant lots).

The Commission discussed the proposal in detail, ensuring proper acreage, buffers, and setbacks. The proper wetlands stamp is missing. The Commission encouraged the requirement for the plan to include the wetlands stamp.

2. Merrill Shepard, Timothy Farmer Revoc. Trust & Kurt & Debora Makarian, lot line adjustment, Misty Lane & Waterman Rd, Tax Map 101-128; 101-060 & 401-001. Application is to eliminate tax map 101-128 by annexing 3.16 acres to 101-060 and 1.85 acres to 401-001.

Marc Phillips asked Chairman Fulton what are the negative effects of the proposed lot line adjustment. Without the depth of a study, the Chair responded he did not know of one. There is no declaration of why, sometimes it is a stepped approach to a subdivision.

The Commission's conclusion is no comment.

(To continue with additional Planning/Zoning agenda after MTL report)

B. Reporting from Meadowsend Timberlands Ltd. forester, Jeremy Turner:

1. Poor Farm Rd. RFPs for survey research on boundary dispute between the Town and Eugene Steven Caggiano. Vice Chairman Najjar stated following the Town's purchasing policy for RFPs, the public was noticed. Having received two proposals, Jeremy Turner to review and the Commission can authorize and award. Jeremy Turner stated the proposals are from New England Forestry Consultants, Inc. and Forest Resource Consultants, both regionally licensed foresters/surveyors. The Town's unrecorded survey performed by Bob Todd provides legal evidence that the property, having been blazed, painted, and boundaries maintained for decades is accurate. Both proposals declare there may be no need for fieldwork. New England Forestry Consultants had an estimated cost between \$4600.00 and \$5000.00, to research justifying Bob Todd's work and additionally, if needed, \$110.00/hour for a Boundary Line Agreement draft. Forest Resource Consultants' estimate was vague at an hourly base rate of \$50.00/hour, not to exceed \$19,500.00.

Vice Chairman Najjar commented he just sent the Commission a copy of the two proposals. The goal is to confirm Bob Todd's work, a firm legal foundation. A Boundary line Agreement with the abutter may not happen. He could side with either bid.

Town Administrator Bolton explained a better comparison could be made if a request is made to Forest Resource Consultants to delineate the task's cost definitively, plan and deed research. Vice Chairman Najjar commented that is a great suggestion.

Jeremy Turner stated if Forest Resource Consultants comes back with a price under New England Forestry

Consultants could it be approved now to move forward. Additionally, if it comes back higher could New England Forestry then be approved? Hypothetically, using New England Forestry Consultant's hourly rate the cost could potentially be much higher.

Mike Camacho points out there is not a *cost would not exceed* on New England Forestry Consultant's bid. Worst-case scenario means it could be significantly higher.

Vice Chairman Najjar suggested asking both companies for clarification, NEFCO for their worst-case survey, etc. and FORECO for their cost breakdown on research and full survey. For further review at next CC meeting. The Chair agrees.

Sherry Burdick suggested getting clarification as to whether Bob Todd's survey stands. Jeremy Turner agrees.

Vice Chairman Najjar reminds the Commission based on the dollar amount of the proposed bids being in excess of what the warrant article covers using the Forestry Account, the Conservation Account will need to be utilized. Chairman Fulton agrees.

Jeremy Turner to handle the inquiry for both companies. To regroup next month with the new information.

2. Meadowsend Timberland billing needs to be straightened out. Jeremy Turner to follow-up with his office and report back to the Town. Forestry and Conservation cannot be on the same invoice. To expedite using invoice numbers that correlate with a date and FSAs.

The Chair thanked Jeremy Turner for his presentation and Vice Chairman Najjar for setting it up.

C. Finances:

Chairman Fulton reviewed the accounts provided by Finance Administrator Beth Rouse for all funds and explained their purposes.

Continuation of Planning/Zoning:

3. Lanctot's Center of Weare, Expedited Site Plan Review 421, 425, & 427 So. Stark Highway, Tax Map 109-007. Application is for rehabilitating the parking lot to improve traffic circulation, pedestrian safety, parking layout, lighting and associated drainage improvements. No change to existing buildings.

After review, the Commission's conclusion is no comment.

4. ENI 55 B&B Lane, Site Plan Review & Conditional Use Permit, 55 B&B Lane, Tax Map 411-197. Application is for the addition of 2 above ground liquid propane fuel storage tanks & a subsurface waste disposal system. The property is currently improved with a diesel fueling area and 2 bay mechanic shop which will remain.

After review, the Commission's conclusion is no comment, same as conceptual.

IV. CORRESPONDENCE:

A. Chairman Fulton read a letter dated April 17, 2021 from Collins Landing Board of Directors' Secretary, Natalie LaBonte, acknowledging the removal of their sand structure on Conservation Land will take place by June 15, 2021.

B. NHDES Mail Received

1. Meadowsend Timberlands – Incomplete Forestry Permit-By-Notification, Tax Map 202-60

2. 104 Pondview Road, Tax Map 108-073, Joel Lehrer & Robyn Parets, Expedited Minimum Impact Wetlands Application.

Vice Chairman Najjar is concerned that Brittany Weeks, Landscape Designer, did not meet the State's exemptions for a certified Wetland Scientist, nor is she a Wetland Scientist. How is she able to move forward with the Zoning Board of Adjustments without that certification complete?

Mike Camacho asked if the ZBA will require a Wetland Stamp. Chairman Fulton responded no, he suggested communication with Brittany noting the missing stamp.

Vice Chairman Najjar stated Brittany could ignore the CC's notification and the ZBA would have no knowledge. Town Administrator Bolton to address the CC's concerns with the ZBA. When applying for a Variance with a Wetland Buffer Ordinance, the expectation is wetlands delineated by appropriate authority on Wetlands.

Mike Camacho added the major concern is with runoff as Brittany Weeks stated she would be bringing in 6 cu. yds. of sand.

Vice Chairman Najjar commented he is more concerned with the regulatory prospective, certified Wetland Scientist, or meets acceptance for NH, identify the boundary of the wetland, this would identify the buffer location and the amount of buffer that is disturbed. In seeking the variance, the plan needs to be well documented and adequately described so the ZBA can approve. This contractor is not understanding the regulatory process. The Chair agrees, Vice Chairman Najjar to draft notation for the ZBA.

NONPUBLIC SESSION:

Vice Chairman Najjar moved, Sherry Burdick seconded to enter into nonpublic session @ 9:11 p.m. pursuant to the authority granted in RSA 91-A: 3II (c). A roll call vote was taken, Chairman Fulton – yes; Vice Chairman Najjar – yes; Marc Phillips – yes; Sherry Burdick – yes; Ray Lemay – yes; Mike Camacho - yes. Passed 6-0-0

Marc Phillips moved, Ray Lemay seconded to exit this nonpublic session @ 10:00 p.m. A roll call vote was taken Chairman Fulton – yes; Vice Chairman Najjar – yes; Marc Phillips – yes; Sherry Burdick – yes; Ray Lemay – yes; Mike Camacho - yes. Passed 6-0-0

Vice Chairman Najjar moved, Ray Lemay seconded to seal and restrict these nonpublic session minutes. Passed 6-0-0

Mike Camacho – trails rebuild, send to/for Covid money. Chairman Fulton to find and send to Mike.

V. NEXT MEETING

June 9, 2021 @ 7 PM.

Being there was no further business to come before the Board, Marc Phillips made a motion, Sherry Burdick seconded to adjourn at 10:04 PM. Passed 6-0-0

ADJOURNMENT

A True Record.

Karen Nelson

Karen Nelson transcribed from

TA Bolton notes & You Tube recording