



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 – August 11, 2021 Final MINUTES

MEMBERS PRESENT: Andy Fulton, Mike Camacho, Ray Lemay, Marc Phillips

Absent: Steve Najjar, Bill Bolton, Sherry Burdick

GUESTS: Town Administrator Naomi Bolton, Janet Curcio Wilson, Neal Kurk

Chairman Fulton called the meeting to order at 7:09 pm., welcomed those present to the August 11, 2021 Weare Conservation Commission meeting. Confirming his four-member quorum in attendance, Michael Camacho, Secretary, Chairman Fulton himself, Ray Lemay and Marc Phillips, along with Town Administrator Bolton and guests.

I. SHORE LAND COMPLAINT:

Janet Curcio Wilson, 126 Pondview Road, stated in May 2021 she and several neighbors became aware 12+ healthy trees were cut down on the shoreline of 116 Martin Road, owner, Bryan Caplan. She shared this has caused significant erosion and some of the trees were 120 years old. Directly across the pond is the property of Lori Maguire, 159 Pondview Road, her son filed a complaint with NHDES. Notably, this pond is only one of two potable ponds in the entire state. Part of what keeps this body of water so pristine is there are no motorized vehicles allowed.

NHDES came out to view, but Janet has no idea what they did. Residents are outraged and are looking to the Conservation Commission to investigate this matter. Janet has filled out a Weare Complaint Form and has hired a lawyer. Having submitted before and after pictures to the NHDES, WMUR, Antioch NE Graduate School Environmental Studies Program, and soon UNH, she submitted copies to the Conservation Commission. Recently, Janet received a letter from NHDES indicating the case is closed. This prompted her to hire Attorney Kevin O'Neill. She then formally made a second complaint asking to reopen the case as she stated they did not follow the letter of the law. She is interested in knowing what NHDES found and consequently what was told to Mr. Caplan. Ultimately, her first concern is enforcement on following the letter of the law regarding the removal of trees along the shoreline. If not, others will turn their backs on the environment abrading lakefront.

Chairman Fulton responded clearing land down to the water's edge does create erosion. He asked if she had drone pictures showing sediment plumes. Janet did not have those types of photos, but passed to the Commission the pictures she did have. Her neighbors told her that NHDES revealed the cut down trees were sickly. She stated only one of the trees had a hole in it, the rest were healthy. Also, she was told Mr. Caplan will be removing the boathouse and bringing in truckloads of sand. Resulting from her second complaint, NHDES is to review again.

Mike Camacho responded NHDES sent a letter May 28, 2021 stating vegetation was to be planted along the shoreline, work to combat erosion with the gravel driveway. The letter also noted the waterfront structure is in need of repair. Recommending contacting the NHDES Wetland Bureau, specifically, a Wetland Permitting Specialist before any work is done. No more additional crushed stone gravel or sand to be put down, to hire a professional landscaper to consider removing existing gravel and stone. Instead, loaming the area and planting

native vegetation along with a rain garden. No completion date, recommendations only, to contact NHDES Wetland Bureau before doing anything else to the property. Shore lands are protected within 250'. Letter to be forwarded to Janet.

Janet expressed she would need copies of the names and numbers of environmental ordinances for the Town of Weare for her attorney. Chairman Fulton explained Weare's Zoning Article #29 relates to wetland buffers, 25' ground disturbances for jurisdictional wetlands. This pond's border is jurisdictional wetlands, varying on different lots.

Janet's second concern is the deconstruction of the boathouse as it projects out over the water. What is the environmental impact? Will the area be screened? Is the boathouse considered historic to Weare? Chairman Fulton replied a structure; hanging over the pond, within the wetland buffer zone, may be construed as ground disturbance. A variance would be needed approved by the Zoning Board. Perhaps State level permitting needed as well.

Janet asked the Commission what are the rights of abutting homeowners whom share the pond. Chairman Fulton stated there are public and private rights. The body of water is public, State owned, shared by all. There are limited opportunities to influence a neighbor, not advisable. The State having measured resources are not often able to enforce the laws, they look to the Town. Some Commission members live nearby. When a neighbor sees destruction taking place they need to contact the Town for a possible Cease and Desist Order. Neighbors have to be diligent taking pictures and gathering detailed evidence to present in a timely fashion. Janet replied she now understands she can call as soon as she sees the boathouse destruction begin.

Ray Lemay explained normally one hires an engineer for shore land work. Maneuvering within 50' of the shoreline has a lot of gray area. Leaving a stump is not ground disturbance. A backhoe on the other hand cleaning up the ground would be considered a disturbance. Silt fence and socks would be required. Ray asserts lawsuits are costly and will not replace the taken trees. NHDES has a point system based on the size of the tree, diseased trees worth less. In restitution, each tree is granted a point value based on size. For example, a large tree could be worth 100 points. In which case, the equivalent could be 10 bushes at a value of 10 points each would suffice. Ray continued influencing the shoreline is a completely different issue than the cutting down of old large trees. Adding soil to make a beach is not allowed.

Chairman Fulton stated it has happened when earth products had been added illegally, the people had to pay for the removal of the material. Invested third parties make great watchdogs.

Janet reiterated the plan to remove the boathouse. Ray Lemay responded NHDES would most likely be in favor of removing, it may be considered better for nature impacting the shoreline. But, if the owner chose to replace the boathouse that could be difficult. If it is declared a historic structure, it could not be removed. If the owner could show it is unsafe, NHDES may be agreeable to its removal. Chairman Fulton suggested seeking out the State for historical resources. No local protections in place.

Mike Camacho suggested taking sediment disturbance pictures while boating near the shoreline would be helpful to NHDES. He also added for Janet to reach out to NH Fish & Game as the pond is stocked. Chairman Fulton stated he would venture out in his canoe.

Chairman Fulton explained the Conservation Commission might not be able to do anything, but at the State level, there are people whose job it is to get involved, when Janet asked what the Commission could do. He thanked her for her time.

II. MINUTES:

July 14, 2021 Minutes: **Mike Camacho moved, Marc Phillips seconded to accept the minutes of July 14th as written, passed 4-0-0.**

III. OTHER BUSINESS

A. **Planning/Zoning Board** Conservation Commission reviewed the Francis & Nancy Burl Family Trust Plans, Rockland Road & Route 77, Tax Map 202, Lot 94. The purpose of this plan is to depict a two (2) lot subdivision. Considerations as follows:

1. where is proposed access for 202-94.3? State, Variance if in the wetland buffer
2. wetland stamp on final plan
3. neighbors well location to 4K area of proposed septic

B. **NHDES Mail Received**

- Ronald & Jacquelyn Perron, 186 Dudley Brook Rd, complaint of possible violation on the property having removed vegetation beyond the permissible limits with the protected shoreland of Horace Lake.
- Mark W. Bailey, 55 Winter Rd, complaint alleges having impacted the protected shoreland of Horace Lake beyond what was permitted.
- Richard Hamel, 93 Hodgdon Rd, disturbance to Peacock Brook, no precautions, possibly no permits. Chairman Fulton recommends to file with NHDES with pictures.

C. **Poor Farm County Lot Acquisition Application** shared funding request for Mildred Hall, Chairman Fulton to sign the cover letter.

Marc Phillips moved, Ray Lemay seconded to put forth request to Mildred Hall Advisory for \$40,000. Passed 4-0-0

D. **NH Forest Society Reminder** SNHPF reminder submission deadline is January 22, 2022 for monitoring reports with Collins Ledge, 146 acres, Meadowsend Timberlands to assist.

E. **2021/2022 NHTOA** - membership renewal \$30.00, ok to pay

F. **FSA 2021-006** forestry work on Tobey Hill town forest timber sale. **Ray Lemay moved, Mike Camacho seconded to authorize the Chair to sign the FSA 2021-006FF. Passed 4-0-0**

G. **TMS Diesel** work done on the corner of Concord Stage and Rockland Road, wetlands violation of the site plan, to follow through with NHDES letter.

H. **Jeremy Turner MTL Contract** resend, make edits and send to both

- September item for the CC
- Weare Winter Wanderers easement

IV. DISCUSSION

Neal Kurk expressed interest in joining the Conservation Commission. Forest Society member for decades, PWA member, previous PB member involved in several master plans, interested in preserving the rural character. Applauded use of money to purchase land.

Chairman Fulton stated an alternate position, with equal participation, is open. CC recommends Neal Kurk.

V. NEXT MEETING

September 8, 2021 @ 7 PM.

Being there was no further business to come before the Board, Marc Phillips made a motion, Ray Lemay seconded to adjourn at 9:00 PM. Passed 4-0-0

ADJOURNMENT

A True Record.

Karen Nelson

Karen Nelson transcribed from

TA Bolton notes & You Tube recording