

DEERFIELD CONSERVATION COMMISSION

1967 - FIFTY YEARS AND COUNTING - 2017

Meeting Minutes – November 9, 2020

Roll Call Attendance: Brian Adams, Haley Andreozzi, Erick Berglund, Serita Frey, Wes Golomb
Members Absent: None
Visitors & Guests: Sylvia von Aulock, Fred McGarry, Errol Rhodes, Alan Perkins

Pursuant to Governor Sununu's *Emergency Order #12*, the Deerfield Conservation Commission met electronically and did not provide a physical location for the public to attend. In order to provide access to the public, a conference phone line and meeting ID number were established and posted in the official Meeting Notice.

PHONE NUMBER: 312-626-6799 Meeting ID: 634 101 4902

Serita Frey opened the meeting at 7:05 pm.

Wetlands Zoning:

After extensive discussions between the DCC and Planning Board over a period of 2 years, **amendments to the Deerfield Zoning Ordinance Section 210 - Wetlands Conservation District were approved by vote of the Town in 2020.** The revisions served to clarify the language, bring the ordinance in line with the definition used by the State of New Hampshire (i.e. as defined in the Army Corps of Engineers manual), and increase protection of wetlands and adjacent areas.

Sylvia von Aulock and Fred McGarry informed DCC members that the Planning Board is discussing the possibility of again amending the Wetland Zoning to *exclude* wetlands less than ¼ acre in size from the requirements of the ordinance. The issue is that the restriction can significantly reduce the buildable area of a lot and has posed problems in the subdivision approval process.

In spite of detailed dialogues with the Planning Board to the contrary prior to the adoption of the 2020 amendment, Planning Board members state that it was their understanding that small, isolated wetlands were never intended to be regulated in the same manner as larger wetlands. At the time, the proposed edits to the zoning appeared to be well received by the majority of the Planning Board, and were presented to the residents of the Town in public hearings prior to the creation of the warrant article that was ultimately placed on the ballot.

Given the Planning Board's proposal to reinstate the exemption by putting forth an amendment to the ordinance, Ms. von Aulock and Mr. McGarry are asking DCC for its recommendations for modification of the restriction as a compromise to a total reversal of the provision. Ms. von Aulock suggested either entirely excluding small wetlands of a specific size, or reducing the 100-foot setback currently required, to a lesser distance, provided the wetland is 100 feet from any other wetland. An argument that agricultural ponds, depressions or drainage systems become wetlands over time was refuted, inasmuch as an agricultural pond would not become (develop the characteristics of) a wetland in our lifetime. Furthermore, these areas were intentionally waived in the 2020 amendment.

Another suggestion by Ms. Von Aulock was to have the Planning Board grant an exception (on an individual basis), similar to what the Zoning Board does, without the need to involve the ZBA. The Planning Board could issue a *Conditional Use Permit* to reduce the setback from 100 feet to 75 or 50 feet, depending on the circumstances, after a review by a knowledgeable professional and in consultation with the DCC. A landowner could make a presentation to the DCC to explain why an exception should be allowed. Mr. McGarry recommended establishing a base line distance which would be helpful to the Planning Board in the waiver process.

Although members conceded that the above suggested modifications would offer at least some level of protection, they found the situation to be disappointing, in that the 2020 zoning provided real protection. The primary concern was that the old ordinance provided *no* protection for small wetlands. DCC members noted

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that ¼ acre is actually pretty large, and the fact that it may be *viewed* as small, wetland size is not an indication of wetland function and value. Additionally, the 100-foot setback is not an arbitrary figure; rather it is research and science based.

Deerfield has well cared-for natural resources that are recognized statewide, and the Town's Master Plan calls out avoiding environmentally sensitive areas. The preservation of *open space*, and the protection of the Town's wetlands through zoning regulations, are objectives stated throughout Deerfield's *Master Plan*, and are vital to maintaining Deerfield's *rural character*. Ms. von Aulock requested that DCC be represented at the time the proposed arguments are presented to the Planning Board, indicating that the Planning Board is really looking for a change.

Related to the above was a matter taken up at a meeting of a subcommittee, authorized by the Planning Board, and attended by Serita Frey. Ms. von Aulock and Mr. McGarry wished to provide some clarification. A local developer is seeking an exception to the long-standing requirements for the development of multiple house lots under the *Open Space Subdivision* regulations which in part require a 100-foot landscape buffer and construction of a road to service the subdivision. Amending the ordinance would eliminate the existing road requirement, and allow individual driveways to cut across the 100-foot buffer. The result would be undesirable fragmentation of the buffer.

The existing ordinance was designed to provide *open space, traditional rural character, and uninterrupted wildlife habitat and corridors*. The fragmentation of the buffers would result in *interrupted sections*, which was not the intent of the ordinance. Members were firm with their conviction that the desires of one or two developers should not be allowed to drive the conversation and chip away at zoning regulations that have been working and to which other developers have been adhering over many years. Additionally, it was felt that the subcommittee meeting lacked the transparency that would have been afforded had the matter been taken up in a regular meeting of the Planning Board, with members and the public in attendance.

Stewardship/Easement Monitoring:

Lindsey-Flanders: The situation at Lindsey-Flanders has worsened since 2017 when Alan Perkins, Frank Mitchell and former member Deb Campelia blocked breaches in the stone walls and cleaned up debris. The property was posted against motorized vehicles, and abutters, the BOS and Deerfield Police were notified. More recently, Mr. Perkins, accompanied by Rue Teal from Bear-Paw, made a site visit to follow up on the ongoing violations being reported. They found evidence of heavy ATV activity, especially along Nicholls Brook, with extreme damage near the pond, campfires in and around a lean-to blocking a trail, and of special concern, target practice being directed into the forest, posing a serious safety threat to trail-users. The parcel's proximity to the ball field is also of concern. Bear-Paw recently reported the violations to Fish and Game.

Suggested next steps include the installation of a woods camera to surveil the property, replacement of signs indicating accepted/prohibited uses, erecting barriers and blocking breaches in the stone walls. Erick Berglund will notify Deerfield Police about the safety issues associated with the target practice. DCC will request guidance from Bear-Paw and extend an invitation to join Mr. Perkins and DCC members on a visit to the site.

McNeil Conservation Area:

Will Frey has completed the monitoring and submitted the report for 2020.

Great Brook Trail:

2020 monitoring of the parcels comprising the Great Brook Trail is under way by Al Jaeger and Will Frey.

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Easements and Land Protection:

Marston 128-Acre LCIP Parcel – CE & Town Forest Warrant Article:

Serita Frey will forward the proposed warrant article to John Harrington after the language is reviewed and approved by Attorney Jim Raymond. The deadline for final submission of the warrant article is January 12th. Members should continue to formulate ideas and language for the informational articles to be submitted to the FORUM and the Voters' Guide. Serita Frey will verify the deadline for publication.

Deerfield Map 414 Lots 37, 38 39 and 40

Erick Berglund is exploring the status of the four, town-owned lots located off Putnam Ln.

Approval of Minutes:

Due to the absence of a quorum in October, **Serita Frey moved to approve the minutes of both the September and October minutes. The motion was seconded by Haley Andreozzi.** Brian Adams, Haley Andreozzi, Erick Berglund, Wes Golomb and Serita Frey voted to accept the minutes as written by roll call vote.

Finance:

The October bank statement was not available at the time of the meeting; however, the **unofficial statement balance in the conservation fund at the end of September was \$244,952.80** including interest of \$50.18. Erick Berglund reported that the 50% portion of the 3rd quarter Land Use Change Tax is anticipated to be \$11,167.34.

Mr. Berglund moved to approve payment of three invoices: *NH Association of Conservation Commissions* for 2021 dues in the amount of \$325, *Bear-Paw Regional Greenways* for 2021 dues in the amount of \$100, and *Lamprey River Watershed Association* for 2021 dues in the amount of \$100. **The motion was seconded by Serita Frey.** Brian Adams, Haley Andreozzi, Erick Berglund, Wes Golomb and Serita Frey voted to approve payment of the three invoices by roll call vote.

Regulated Wetlands & Shorelands:

DCC Review #2020-04
DES File# 2020-0248

DCC Review #2020-02

No additional correspondence from NH DES was available on either of these reviews.

The meeting adjourned at 8:50 pm.

The next regular meeting is scheduled for Monday, December 14, 2020

(Please check the website townofdeerfieldnh.com for scheduling changes)

These minutes were prepared and submitted by Judy Marshall. Revisions, if any, will be contained in the minutes of the next meeting and posted to the Town website, after approval by the Deerfield Conservation Commission