

DEERFIELD CONSERVATION COMMISSION

1967 - FIFTY YEARS AND COUNTING - 2017

Meeting Minutes – August 9, 2021

Roll Call Attendance: Brian Adams, Haley Andreozzi, Josh Freed, Serita Frey, Chloe Gross, Wes Golomb, Erroll Rhodes, Jo Anne Bradbury (Alternate)
Members Absent: None
Visitors & Guests: Sylvia von Aulock, Cameron Prolman, Al Jaeger, Ed Cross

Serita Frey opened the meeting at 7:00 pm.

Planning/Zoning: The recent Planning Board discussions toward revising the newly-adopted 2020 Wetland Zoning prompted a visit from Sylvia von Aulock (Deerfield Town Planner) and Cameron Prolman, both from the Southern NH Planning Commission, to open a conversation with the DCC about potential changes.

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. During those discussions, the proposed amendments to the zoning appeared to be well received by the majority of the Planning Board; however, the **Planning Board has recently begun to discuss possible revisions and/or exceptions to the Wetland zoning, specifically sections 602 (definitions), 210.2, 210.5 and 210.8.**

In 2019, the DCC spent a substantial amount of time discussing the amendments with the Planning Board whose members voted 4 to 0 in favor of the revisions incorporated into the current zoning. **The Planning Board now argues that the regulations are restrictive and not flexible enough.** DCC responded that zoning should NOT be flexible; regulations need to be structured, enforceable, rational, defensible, and apply across the board.

The Planning Board's main focus is on Section 210.8, suggesting that an exception for *isolated wetlands less than one quarter acre in area* could be granted, reducing the setback to not less than 50 feet, after consultation with DCC and consideration of the Commission's recommendations. Evaluation of the wetland claiming the exception would include "*its protection, unique or unusual natural features; its impact on groundwater recharge and flood protection, unique or unusual natural features, and surrounding vegetation, topography and soil conditions which might offset a reduction in the buffer.*" **The Planning Board also suggests defining "Low Impact Accessory Structures" and allowing low impact structures, uncovered decks, or garden-style structures to be located within the wetland set-back.**

In evaluating various approaches, **DCC intentionally kept the 2020 amendments straightforward, using a standard 100-foot setback for all size wetlands in order to simplify the process and to minimize the need for landowners to secure the services of a certified wetland scientist.** DCC has consistently insisted that *the size of the wetland is not the sole determinant of its function and value*, noting also the important role that uplands play in protecting wildlife habitat

Other considerations are: adding a definition for *isolated wetland* (what proximity to other water sources renders it isolated), the **treatment of *vernal pools*** (reduced setback despite having high function and value?), **the inability of the Planning Board to evaluate wetlands** (not qualified to assess for function and value; not addressed in the regulations), and the possibility of **requiring applicants to obtain an environmental impact assessment** to address that inability (cited in 210.7 C).

The Planning Board also suggested adding *lakes and ponds* to the current definition of wetlands, regulating it under section 210.2, and removing it from section 305 (*Set-Back from Water Bodies*). Lakes and ponds are generally considered *wetlands* in the State of NH Wetlands Regulations as defined by the Army Corps of Engineers, but are not defined as wetlands in Deerfield's current Wetland zoning. This would eliminate a contradiction in the current zoning which only requires a 75-foot setback from *rivers, streams, lakes and ponds*. **Haley Andreozzi suggested changing the setback in section 305 from 75 feet to 100 feet for rivers and streams, as well as for lakes and ponds.**

Given the substantial majority of the electorate who approved the 2020 zoning amendment, and who would have voted NO had they not understood the amendment, **DCC members questioned the nature and number of issues encountered by the Board** (asking whether the issues were perceived or actual), and requested data supporting the need for new revisions. According to member Josh Freed, the ZBA has adjudicated roughly less than a half-dozen variances for the

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placement of decks or sheds within wetland setbacks. **Of greater concern is what may be stored within those enclosures (gasoline, oil, chemicals; gas-powered mowers, tractors, vehicles).**

Serita Frey inquired about the Planning Board committee that was to have been created to review the wetland zoning. A study group is currently in place and Brian Adams and Erroll Rhodes have volunteered to represent the DCC on a committee if formed. DCC will request a place on the Planning Board agenda for its 8/25 meeting in order to participate in the discussion. Sylvia von Aulock noted that per NH State statutes, it is within the Planning Board's purview and statutory duty to create zoning ordinances to be accepted or rejected by the Town. The timeline to present new ordinances begins in September.

Easements and Land Protection:

Harvey Rd. – Map 409 Lot 16

Resident Al Jaeger requested that DCC consider the possibility of purchasing the development rights to a 10.5-acre property on Harvey Rd. which lies within an area comprising the *Great Brook Corridor*, a system of individual, linked parcels that together form the second largest water source in Deerfield. The Great Brook Trails begin at Harvey and Coffeetown roads. The tract features a 30, to 45-foot-high chasm with a wetland at the bottom

The parcel's connectivity to the Great Brook parcels and its potential for development are the primary considerations for securing an easement; however, the cost of conserving and stewardship of such a small piece would be prohibitive. Serita Frey suggested that there might be an interest if the parcel were part of a larger project, possibly encompassing additional parcels not currently in CE, located between it and the UNH-owned Saddleback Mountain property. Bear-Paw involvement and grant funding would need to be explored.

McCarron Rd. – Map 413 Lot 7

On June 1, 2021 DCC received an email from Mark West, West Environmental, Inc. who is currently working on the stream/wetland restoration project on McCarron Rd. As required by the Deerfield Planning Board and the conditions noted in NHDES Permit #2011-02869 dated February 11, 2019 (with a name change date of May 14, 2021), a **3.8-acre conservation easement was approved by the DES as mitigation for wetland violations.** Issuance of the permit was contingent upon the execution of the CE. The original plan was for the Rockingham County Conservation District (RCCD) to hold the easement; however, RCCD no longer accepts these conservation easements.

In July **Mr. West reached out to the DCC to determine if there would be any interest in holding the easement.** Neither DCC nor Bear-Paw wished to take on the expense of conservation and future stewardship, but DCC was willing to meet with Mr. West to obtain more information. In response to an invitation to DCC's August meeting, Mr. West responded that ***"...the Conservation Easement will not be required for this project due to the fact that it was the Deerfield Planning Board that required it and they have voted to merge it back into an existing lot in the subdivision."*** The above-referenced correspondence, however, does indicate that the CE was required as mitigation. Serita Frey will contact Mr. West to clarify the matter.

Marston Family Town Forest:

On June 8th, the **Marston warrant article was approved by a vote of 589 to 139 and became the Marston Family Town Forest.** On July 6th, the BOS signed the Bear-Paw and LCHIP easement deeds, paving the way for reimbursement to the Conservation Fund of \$50,000 previously paid into the project. Serita Frey was informed by Katrina Amaral of Bear-Paw that LCHIP is processing the paperwork.

Projects 38, 39, and 40:

No updates were currently available from Bear-Paw on these projects.

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Stewardship:

Lindsay-Flanders Conservation Area:

Erroll Rhodes volunteered to be the point person to coordinate a site visit to the property. Mr. Rhodes will arrange a time with Alan Perkins. Brian Adams has the game cameras and will follow up with Mr. Perkins about installation. Repair of the breaches in the stone walls will be delayed till after the site visit.

Geddes Property - 409-60 and 61, 415-49, 50 and 51 (Adams Hill and Nottingham Rds.)

Serita Frey will follow up with Andy Robertson for an update on the reported excavation on the property. It is possible that the excavation was taking place on the exclusion area of the easement. Erroll Rhodes confirmed that the parcels have changed ownership and that the new owners are aware that the property is conserved.

Merrill/Kay Williams Easement:

DCC last visited this CE in 2019 and will schedule monitoring for this fall. Serita Frey will contact Frank Mitchell.

Great Brook Corridor Photo Shoot:

No details were available for the drone flight over *Great Brook Corridor* to obtain photos of the area. The *Marston Family Town Forest* was to be included in the project.

Approval of Minutes:

Motion: *Serita Frey moved to approve the minutes of the July meeting. The motion was seconded by Haley Andreozzi and approved unanimously by the members.*

Finance:

Haley Andreozzi reported that **no information was available for July**. The *statement* balance in the conservation fund at the **end of June** was \$276,767.10.

Motion: *Josh Freed moved to accept the proposed 2022 budget totaling \$3,298.80, which is based on the 2021 budget, adjusted to reflect the current pay rate for the part time secretary. The motion was seconded by Wes Golomb and approved unanimously by the members.*

Motion: *Josh Freed moved to purchase two copies of the 2021 Handbook for NH Municipal Conservation Commissions from NHACC at a cost of \$20 per copy. The motion was seconded by Wes Golomb and approved unanimously by the members. NHAC will invoice for the purchase.*

Public Outreach:

ZOOM Meetings: **Members agreed that a hybrid model of the Zoom meetings, allowing the public to participate remotely, would significantly increase resident involvement.** The ability to successfully meet electronically, however, would require a significant improvement in the technology currently being used by the Town. It is believed that the Town may be able to use *Cares Act* funds for that purpose. Serita Frey will make a recommendation to the BOS to consider the upgrade.

Old Home Days:

Chloe Gross is putting together DCC's display for Old Home Days (August 21st). DCC's Mission Statement, maps with photos of conservation land, and member contact information will be part of the exhibit. Ms. Gross would like to include DCC's top three accomplishments and to introduce the DCC members using photos and short bios. *Walking Deerfield* zipper pulls will be available as hand-outs. A pamphlet can be considered for next year's display. Members volunteered to assist in manning the booth.

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Board & Committee Questionnaire:

Serita Frey will work with the clerk to complete a questionnaire generated by the Town Clerk's Office that will provide general information about Deerfield's Boards and Committees. The information will become part of an informational packet. The data should be returned to the Town Clerk's Office by November 30, 2021.

Regulated Wetlands & Shorelands – Permits/Applications/Potential Violations:

Thurston Pond Dam:

Thurston Pond is the result of a combination of both beaver activity and a manmade dam dating back to 1772. This past spring, Brian Adams observed signs of undermining in the stone bridge work and contacted the owner of the land on the which the dam is located. The owner informed the BOS at which time the Town contacted the NHDES Dam Bureau. The result was a site visit by the State Dam Safety Engineer who recommended management of the beavers and the beaver dam.

The Deerfield Road Agent was also asked to "take a look" at the dam; however, instead, removed the dam completely, causing significant destruction of the structure by removing the vegetation, the rock "collar", and the stones and earthwork on either side of the outlet, which now threatens to undermine the entire structure. As a result, the level of Thurston Pond has dropped approximately 4 feet. Mr. Adams was urged by the BOS to file a complaint with the DES and has since received confirmation that his report of the violation was received. Rebuilding the dam will require restoration of the rock collar and repairs to the bridge buttress. Installation of a "beaver deceiver" may be needed to manage future beaver activity. Restoration will require both funding and manpower.

DCC Review #2021-02

Francis Road and South Road – Map 413 Lot 30

DCC was contacted by an individual who observed what appeared to be a vernal pool being drained. Erroll Rhodes spoke with a worker at the site who explained that the water was being pumped from the basement of a previous structure into the area described as a vernal pool. There was a pipe running from the structure to the pond area, which may have been the referenced vernal pool, or conversely, the drainage may have created the wet area. The project was permitted by the Town. Serita Frey will follow up on the correspondence.

DCC Review #2020-02

145 South Rd – Map 420 Lots 57, 57.1 & 57.2

Wes Golomb was not successful in contacting the abutter to determine if they were still experiencing flooding from the alterations.

New Notifications Received:

DES File# 2021-01520 – Standard Dredge & Fill Application – Request for More Information
NH Department of Transportation – Bridge Replacement – Route 107 Freese's Pond

Serita Frey, with the unanimous approval of the members, moved to adjourn the meeting at 8:58 pm.

The next regular meeting is scheduled for Monday, September 12, 2021

(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