

DEERFIELD PLANNING BOARD
DEERFIELD, NEW HAMPSHIRE
MAY 26, 2021

MINUTES OF MEETING

PRESENT: Board members Peter Schibbelhute, Robert Cote, Harriet Cady (via zoom), Board of Selectmen's Representative Fred McGarry. Also present Cameron Prolman, SNHPC, and Jane Boucher, secretary.

7PM Chair Peter Schibbelhute called the meeting to order.

APPROVAL OF MANIFEST

Robert Cote moved to approve the manifest. (Time sheet for Jane Boucher, 22 Hours). Harriet Cady seconded. Voted in favor.

APPROVAL OF MINUTES

Harriet Cady moved to approve the minutes of May 12, 2021. Peter Schibbelhute seconded. Voted in favor with Robert Cote abstaining.

APPROVAL OF LOT MERGER

Fred McGarry moved to approve the request from Steven and Carol Sarro to combine Lots 0012.1 and 0012 on map 414. Robert Cote seconded. Voted in favor.

7:15PM CONTINUATION; PUBLIC HEARING; MAJOR SUBDIVISION; R & C EASTERN DEVELOPMENT; MCCARRON ROAD, DEERFIELD, NH
Ryan Taber, Scott Frankiewicz and Mark West were present.

Board members reviewed the submitted updated plans.

Scott Frankiewicz said they had added profiles, Driveways to be shown on the plan, approved location and wetland approval number for Lot 7-10, proposed culvert to cul de sac shown on plan.

Mr. Frankiewicz said they had a meeting with Dwight Andrews, Gregg Moss, Dave Price, Mark West, Ryan Taber and himself. They reviewed the project, the last phase prior to this one was in 2005, 2006. This Phase started in 2017. He said they are not required to get an AOT Permit.

Mark West reported that the Stream Restoration Work had been completed and submitted to David Price, NHDES. A copy of the report is attached to these minutes. They have received notification from NHDES, David Price that the site is in satisfactory condition. A copy of the letter is attached to these minutes. Mr. West said the restoration plans are prepared and will be submitted to the Planning Board and the State for approval.

Fred McGarry thanked the applicants for showing the location of bounds on the revised plans.

Fred McGarry noted that the size and material be identified on drainage shown on Station 75 and 1600 .

Mr. McGarry added that they need to contact Keach Nordstrom (KNA) to do an inspection in order to establish a bond amount and review the updated plans.

Fred McGarry noted that the following need to be provided:

- . Cost Estimate for work to be completed from KNA
- . Inspection Budget for work to be done
- . Requirement for foundation certification for lot 7.13 prior to building permit
- . Cross Section through wetlands for driveways for 7.10 and 7.11

Claudia Libis, an abutter, questioned the driveway crossing the wetlands on Lots 10 and 11.

Peter Schibbelhute said the crossing is in one location for both lots. Each will have their own driveways. There is a culvert splitting the driveway line.

Claudia Libis questioned if the wetlands setback of 75 feet, shown on the plans, would need to be changed.

Peter Schibbelhute replied that they had spoken with Town Counsel and the 75 will be adhered to.

Ms. Libis noted that houses on Lots 10, 11 and 12 are going to be close to stone walls, she suggested that trees be planted.

Errol Rhodes asked if opinions from Town Counsel could be shared regarding setback regulations and this project.

Sylvia von Aulock, participating via zoom, said they had several discussions with Attorney Raymond regarding the project and she reviewed the dates regarding work and action taken. A copy is attached to these minutes.

Mr. Rhodes asked if there was anything in writing from Attorney Raymond. Ms. von Aulock read an e-mail from Attorney Raymond dated 5/26/21, A copy of the e-mail is attached to these minutes.

Harriet Cady noted that when she came onto the Board the progress was a mess. When the new developer came, he was ready

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clean up the mess. She felt we should encourage the new developer.

At this time Fred McGarry moved to continue the public hearing for R & C Eastern Development to June 9, 2021 at 7:05PM. with the conditions previously stated to be provided. Robert Cote seconded. Voted in favor.

The meeting was adjourned at 8:30PM.

Recorded and transcribed by Jane Boucher
Pending Approval by the Planning Board



48 Stevens Hill Road, Nottingham, NH 03290
603-734-4298 ♦ mark@westenv.net

Dave Price
NHDES Land Resource Management
Pease Field Office
222 International Drive, Suite 175
Newington, NH 03801

May 17, 2021

RE: NHDES LRM18-070, McCarron Rd, Deerfield
SUBJ: 2021 Stream Restoration Monitoring Report

Dear Dave:

West Environmental, Inc. (WEI) submits this report to document the stream restoration work completed between April 24, 2021 and May 07, 2021, per the plan approved by NHDES. WEI conducted site inspection throughout the restoration to oversee all work and make modifications as needed. The restoration work was completed in two phases. Phase 1 included hand cleaning Stream Sections A and B over one day with a crew of workers. Phase 2 included Streamside cleaning of Stream Section C over two days. An extensive photolog of all the work is attached.

Phase 1

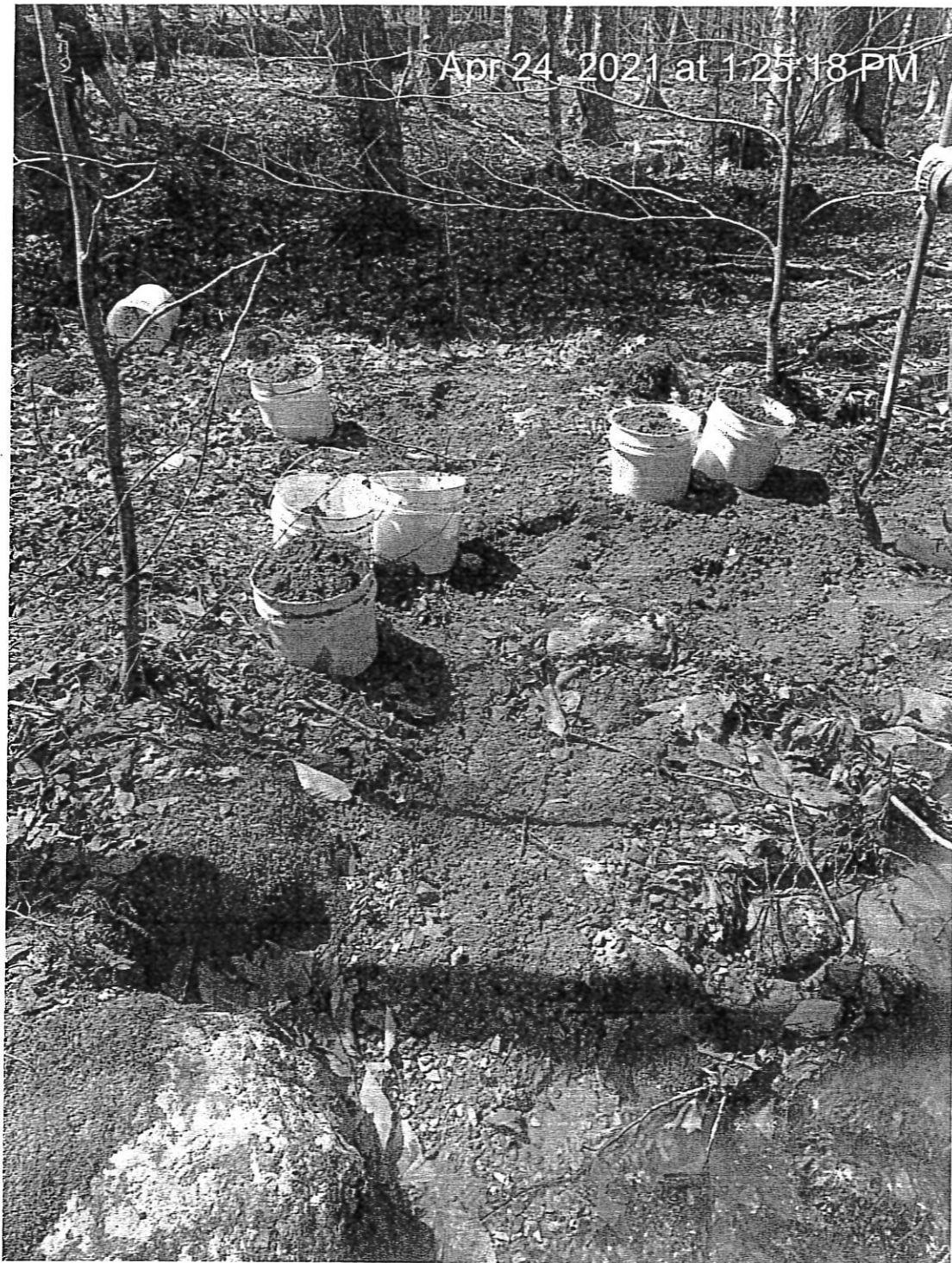
Wetland boundaries were refreshed to help make sure the removed sediments were placed over 25 feet outside the wetland associated with the stream. The sediment removal focused on areas outside of the stream channel and the stream had low flow due to the drought conditions. All removed sediment were located into uplands by raking the leaves away, placing the sediment on the ground and covering the same leaves. Exposed soils along the stream were also covered with leaves or clean hay. Sandbags were used in a few locations to control stream flow along the channel edges. See Photolog 1 attached.

Phase 2

This work included the mobilization of the Streamside vacuum SandWand system to remove the concentrated sediments at the stone culvert along the eastern boundary of the property. First, a location for the area to place the sediments in the upland was field located. This location was approximately 85 feet from the stream and 30 feet from a wetland finger in a flat area. Again, the leaves were removed from the ground and the sediments were deposited by the hose over an area that covers 1,400 SF. Leaves and clean hay were used to cover the sediments after deposition. Sandbags were deployed in front of the stone culvert to reduce sediment discharge downstream. All areas around the stream restoration work are stable. See Photolog 2 attached.

Erosion control and stabilization of portions of the site near the stream were deployed and monitored during a rain event. Additional diversions and sediment traps were also installed. Work was completed to install the culvert crossing prior to the stream restoration work. The culvert is in place but the grading for the road has not yet started.

A follow-up inspection will be conducted in the late summer to document the stream restoration and condition during very low flow.



1. Buckets being filled from stream area.



2. Sediment deposited in uplands away from stream,



3. Sandbags used to contain stream channel.



4. Streambank area Section B after leaf mulching (right) and hay mulching (left).



5. Stream Area A after leaf mulching.



1. Streamside sediment removal from Section C upstream of stone culvert.



2. This is a view of the stream during Streamside work below the stone culvert off site.



3. Sediment deposition area with stream in the far background



4. Most of the water in the sediments infiltrated and flowed clean 30 feet from the area.



5. Lower Restoration Area C after cleaning.



6. Lower Restoration Area C after clean up and mulch.



7. Stabilized sediments that were deposited in uplands.



8. This is a view of the area above the stone culvert after sediment removal.



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



May 26, 2021

R&C Eastern Development, LLC
Attn: Ryan Taber
Po Box 10018
Bedford NH 03110

RE: Land Resources Management File #2011-02869, McCarron Rd, Deerfield Tax Map 413/Lot # 7

Dear Mr. Taber:

On May 17, 2021, The Department of Environmental Services (NHDES) received the Initial Monitoring Report from your agent, West Environmental, Inc., with photo documentation of the stream/wetland restoration areas for the above referenced property.

At this time, NHDES finds the site is in satisfactory condition and no remedial measures are necessary to be carried out.

In accordance with NHDES Restoration Plan Approval Condition #16, please submit a follow up report to NHDES by **June 1, 2022** to evaluate the success of the restoration areas.

If you have questions, or need further assistance, please do not hesitate to contact me at (603) 559-1514 or e-mail me at David.Price@des.nh.gov.

Sincerely,

David Price
Compliance Specialist
Land Resource Management Program

cc: Deerfield Conservation Commission
Deerfield Code Enforcement
Deerfield Planning Board
West Environmental, Inc.
NH Land Consultants

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
NHDES Main Line: (603) 271-3503 • Subsurface Fax: (603) 271-6683 • Wetlands Fax: (603) 271-6588
TDD Access: Relay NH 1 (800) 735-2964

From: UptonHAT@snhpc.org,

To: svonaulock@snhpc.org, jraymond@uptonhatfield.com,

Cc: f5fy@aol.com,

Subject: RE: Deerfield PB this Wed. RE: Taber/Frankiewicz question regarding McCarron plan update

Date: Wed, May 26, 2021 3:20 pm

Attachments:

All,

Please see below. I had initially dated Ryan Taber's start in May, when it should read March 2021.

In 2006, the Deerfield Planning Board granted a conditional approval for the third Phase of the McCarron Subdivision. Throughout the years, the Planning Board granted extensions.

In Jan 2017, the Planning Board granted an extension of the conditional approval.

In June 2017, a new owner, Mr. Cole began construction on the road. During this time, Keach-Nordstrom Associates were inspecting the property and providing inspection reports to the Deerfield Planning Board.

In Jan 2018, the last extension had lapsed after the owner had started construction work on the road.

During this time, there were complaints regarding the failed erosion controls on the property.

In September 2018, Planning Board Chair and Vice Chair inspected the property and shortly after contacted DES regarding wetland impact concerns.

In December 2018, the Town of Deerfield sent a cease-and-desist letter to Mr. Cole, requiring a stop to all construction and to restore all erosion and sediment control structures on the property. Additionally, NHDES sent a notice of deficiency to the property owner.

In May 2019, the Deerfield Planning Board approved a Wetland Restoration Plan for the property and lifted the cease-and-desist order.

As of March 2021, the property is under a new owner, Ryan Taber, who is working with NHDES and is complying with the Wetland Restoration Plan as approved.

To: Sylvia von Aulock <svonaulock@snhpc.org>
Cc: Cameron Prolman <cprolman@snhpc.org>
Subject: Deerfield - McCarron Subdivision - Board options

Sylvia,

We have discussed the planning board's options on how to proceed with the McCarron subdivision. This development dates back to around 2000, with several phases. Two earlier phases were built out. A new developer wishes to complete the remainder of phase three under a conditional approval initially granted in 2013. Before it proceeds further with this application, though, the board must determine whether that conditional approval lapsed.

Cameron Prolman created a timeline for the major events for phase three. In quick summary, that timeline shows that the board granted conditional approval for the first part of phase three in 2006, for 8 lots, amended in 2011 to reduce the number of lots to six. The applicant, Cathleen Perron, then applied in 2013 for "step 2" of phase III, for six additional lots, which the board approved in January, 2013, with several conditions, including that the conditional approval would lapse in twelve months, on January 23, 2014. According to the timeline, the board may have granted additional extensions, and it granted a further extension in January, 2017, for an additional year.

In June, 2017, the then owner, a Mr. Cole, commenced road construction, which led to complaints about failed erosion controls, a cease and desist order from the town, and a notice of deficiency from DES. In May, 2019, the board approved a wetland restoration plan and lifted the cease and desist order. But the board did not expressly extend the conditional approval, which by the terms of the prior extension would have lapsed in January, 2018.

Zoning changes since the initial approval increased the wetlands setback and, if applied to this project, would require redesigning the lots. Accordingly, if the board were to find that the

prior conditional approval lapsed, then it may require the applicant to reapply under the new wetlands setback ordinance. Because of the extent of the improvements made by his predecessor in reliance on the prior approvals, the new developer may have an argument that it is still vested under the old ordinance. But under section V-1 B of the Subdivision Regulations, no construction of roadways or infrastructure improvements may commence until the applicant has a final approval, which never occurred on this phase. Therefore, the board could reasonably find that the prior developer made those improvements at his risk and that notwithstanding the road improvements, the project is not vested under the prior ordinance.

The record may, though, support a finding that the board intended to suspend further consideration of the application while the then developer was restoring the wetlands and that the "suspension" acted as an extension of the conditional approval. With that finding, the board could find that the conditional approval did not lapse and that the new developer may request a further extension of the conditional approval under the prior wetlands setback ordinance. The board may impose conditions on an extension of the conditional approval. Therefore, if the board chooses to grant a further extension, it may add conditions on, for example, erosion and sediment controls to meet current development standards.

In summary, this project has messy procedural history. The record could support a finding that the 2013 conditional approval lapsed. But if the board chooses, under these facts, it may also reasonably find that it had intended to allow the application to be continued while the developer was restoring the wetlands under the restoration plan, and it may grant a further extension, with additional conditions, to allow the completion of phase three.

Jim

JAMES F. RAYMOND