

**Hampton Conservation Commission  
Draft Meeting  
Minutes Tuesday, August 23rd, 2022**

**I. Call to Order: (6:59 PM)**

Deborah Wrobel, Chair  
Jay Diener  
Pat Swank  
Sharon Raymond  
Casey Whalen  
Marc Hiller  
Alex Loiseau, Planning Board Representative, *Left at 7:45 PM.*  
Robert Fox, *arrive at 7:07 PM*

**Staff Present:**

Brianna O'Brien, Conservation Coordinator

**II. Review Minutes (7:00 PM)**

**1. July 28, 2022**

Mr. Whalen suggested that the minutes be revised to clarify “prime” versus “tidal” wetlands in the conversation with the New Hampshire Liquor Commission.

Mr. Whalen suggested that “Worbel” be replaced with “Wrobel” throughout the minutes to reflect the accurate spelling of the chair person’s name.

Mr. Whalen noted that in the conversation about sampling he did not mean to suggest that the town create parking placards for the group inquiring about using the land. He was only sharing a previous experience. He would like this to be clarified in the minutes.

Mr. Whalen MOTIONED to accept the July 28th, 2022 minutes with the suggested edits. SECONDED by Ms. Raymond. Vote: 4-0-2. Mr. Diener and Ms. Swank abstained.

**III. Applications (7:03 PM)**

**1. 501-503 Winnacunnet Rd. (22-032) [Town Wetlands Permit](#)**

Applicant: David and Elizabeth Cargill  
Agent: N/A

Property Owner: David and Elizabeth Cargill and Jenna Jerrett (503 Winnacunnet Rd #A)

The applicant is seeking approval for an After-The-Fact Town Wetlands Permit for a vinyl fence after miscommunication from the Building Department. The applicant is also seeking to add 50’ of additional fence on the westerly side of the property, within the 50 ft buffer at a later date.

Mr. Cargil noted that he would like to keep the fence, but he would also like to add an additional

50 foot fence on the westerly side of the property parallel to the existing fence.

Ms. Raymond asked for further clarification regarding After-The-Fact applications.

- Ms. Wrobel explained that the town issued a building permit, and it was later realized that the project extended into the wetland buffer.
- Ms. O'Brien added that although the existing fence goes into the buffer, it does not go into the wetland.

Ms. Wrobel noted that on the site walk it was clear that the portions of the fence within the buffer were 6 inches above the ground.

Mr. Whalen asked if there is a fine for an After-The-Fact application.

- Ms. Wrobel explained that there is normally an additional fee, but this applicant is not considered to be at fault by the town so there will be no fee.
- Ms. O'Brien noted that waiving the fee is an administrative portion handled by the town planner and the town hall.

*Mr. Fox entered the meeting at 7:07 PM.*

Ms. Raymond asked how the impact was calculated. She followed up by asking how many posts there are and how they were installed.

- There will be 8 posts.
- Ms. O'Brien noted that the requirements for fencing say that the holes must be hand dug and there needs to be at least a 6-inch gap under the fence.

Ms. Raymond asked if there can be something to differentiate the lawn from the buffer.

- Ms. O'Brien noted that buffer markers are in the standard stipulations.

Mr. Whalen asked for clarification on where the wetland buffer starts and suggested opening a discussion about mitigation that could reduce the amount of manicured lawn within the buffer.

- Mr. Cargill noted that he has been taking care of his lawn for decades.
- Mr. Diener noted that traditionally if a lawn has been historically maintained it is allowed to continue. He added that it would be reasonable to stress the stipulations that prohibit lawn clippings and chemical agents within the buffer.
- Ms. Raymond felt that there should be some attempt to regain some of the buffer and she is not in favor of mowing all the way up to the wetland just because it has been done for a long time.
- Mr. Whalen asked about other options for mitigations that could improve the buffer. Mr. Diener is unsure if the 8 square foot impact gives the commission a lot to ask for.

***Public Comment:***

Judith Holder of 72 Island Path stated that she lives in a similar area and she would think that the grass would hold the soil so that it doesn't go into the marsh.

Closed public comment: 7:16 PM

Mr. Fox asked about the use of chemicals within the buffer. The owner stated that he has not used

chemicals within the buffer.

Mr. Diener MOTIONED to not oppose the After-The-Fact application for a Town Wetlands Permit for 501-503 Winnacunnet Road with an emphasis on stipulations about no grass clippings allowed within the buffer, no chemicals within the buffer, and the buffer markers must be attached to existing and future fence. SECONDED by Ms. Swank. Vote: 5-1-1. Opposed: Ms. Raymond. Abstained: Mr. Fox.

Ms. Wrobel noted that in the letter they will include encouragement to change grass within the buffer over to natural vegetation.

Brianna reads the rest of the stipulations.

1. Install one Wetlands Conservation District Buffer marker at the wetland buffer edge on the existing fence. When/if the second fence is installed, a second marker should be installed on the wetland buffer edge. The markers must be permanently affixed to the fence. Wetland markers can be purchased at the Hampton Planning Office.
2. The application of fertilizer, pesticides, insecticides, or herbicides is prohibited in any tidal or inland wetland, areas of poorly and very poorly drained soils, vernal pools, or their buffers. However, the application of limestone is permitted within the buffer.
3. No storage of grass clippings or yard waste is permitted in the wetland or its buffer.
4. The buffer should remain undisturbed to the degree possible in the process of construction and elevations not be changed. No additional fill is allowed.
5. There are to be no additional structures such as sheds, swimming pools, gazeboes, patios or other sealed surface, etc. in the buffer, other than that shown on the approved plan. A new Wetlands Permit is required for the erection of any additional structure(s) in the buffer.
6. The Conservation Coordinator shall be notified in writing upon commencement and completion of the installation of the second fence. A final inspection shall also be scheduled with the Conservation Coordinator upon completion of the project.
7. This permit will expire two years from the date that it is granted by the Planning Board. Refer to Hampton Zoning Ordinance Section 2.3.5 for information on permit extensions

Ms. Swank noted that she agreed with Ms. Raymond's point to restore previously mowed buffer lands. She asked if it could be added as a discussion for a future agenda. Mr. Diener voiced agreement and thinks that a consistent policy needs to be established.

## **2. 72 Island Path (22-033) [Town Wetlands Permit](#)**

Applicant: Robert and Judith Holder

Agent: Brenda Kolbow, TFMoran

Property Owner: Robert and Judith Holder

The applicant is seeking approval for an After-The-Fact Town Wetlands permit for the elevation of their single-family dwelling to comply with floodplain management ordinances (construction completed). There was a 2018 Town Wetlands Permit for reconstruction of a different structure on the property as well as a seawall repair.

Brenda Kolbow, TFMoran and Bob Holder, homeowner, spoke to this application.

Ms. O'Brien noted that these applicants were given a building permit to elevate and repair their home after a flood. They were not aware that they would need a wetland application and the town is recognizing this as a no fault application.

Ms. Kolbow gave an overview of the project:

- The property is in the seasonal zoning district and largely within the 50 ft wetland buffer.
- Certificate of Occupancy is when it was realized they needed a Wetland permit.
- This project has a calculated 104 sqft of increased impact.

Ms. O'Brien clarified the impervious coverage calculations. She stated that the total proposed impervious coverage on the lot is 45%, which is a reduction from previous calculations.

Ms. Raymond asked about proposed mitigation for the proposed impact to the buffer. She also noted that a gravel driveway cannot be considered pervious unless the commission defines that to be maintained pervious.

- Ms. O'Brien noted that the driveway is considered impervious and no mitigation is proposed.
- Ms. Wrobel noted that there is a drop in impervious surface with the raising of the house and elevation of the deck.

Ms. Swank mentioned a garden.

- Ms. O'Brien noted that it is a raised bed vegetable garden.

Ms. Swank asked how close the garden is to the wetland.

- Ms. Holder noted that there is film on the inside at the base so that no soil can leave.
- Mr. Holder estimated that the garden is about 30 ft from the buffer. Ms. Swank believes it may be closer than that.

Ms. Swank asked if it is typically ok to maintain gardens within a buffer.

- Mr. Diener stated that it depends on the definition of maintenance. He noted the stipulations.

Mr. Whalen noted that he is glad that it is an overall reduction in impervious areas. He noted that he would like to recommend that natural vegetation be incorporated instead of manicured lawn.

Mr. Whalen asked for clarification on why the owner and the project manager are not being held responsible for the after the fact application fee.

- Ms. O'Brien noted that this type of project does not trigger a state permit, so she does not think it's fair to put the blame on TFMoran. She added that it is the town's responsibility to make sure everything is correct before issuing a building permit.
- Ms. Wrobel noted that these applicants did a good thing, and if they had applied for the Town Wetlands Permit it would have been approved.
- Mr. Diener added that the work is not complete, so the commission still has the opportunity to ask questions.
- Ms. Kolbow noted that TFMoran was not involved in the building permit process. Ms.

O'Brien stated that she thinks this was an honest mistake.

- Mr. Holder added that there were 6-8 inspections before the Certificate of Occupancy was denied.
- Ms. Raymond stated that she feels that homeowners have a certain level of responsibility and they should be held accountable.

Mr. Diener asked what mitigations are being proposed and what is proposed by way of landscaping and/or planting in the area within the 50 ft buffer.

- Ms. Holder asked about using riverstone for mitigation. The Commission members said no.

There will be 98 sqft of additional impervious surface.

Ms. O'Brien asked if the owners would be open to doing planting.

- Mr. Holder stated that he was open to it but pointed out that unit #1 was previously instructed to put in plantings and they are all dead. Ms. O'Brien noted that they will have to replant them. She added that there are options that are suitable for this type of habitat.

Ms. O'Brien recommended plantings be done under the decking (which is 15-20 ft in the air). She will describe the area in the letter.

Mr. Diener MOTIONED to not oppose the After-The-Fact application for a Town Wetlands Permit for 72 Island Path with the stipulations that from the house line to the easterly edge of the side yard and to the stone wall there be a planting plan agreed upon by the conservation coordinator and the property owner. SECONDED by Mr. Hiller. Vote: Unanimous.

Brianna reads standard stipulations:

1. Install two Wetlands Conservation District markers at the wetland buffer edge along either side of the structure. The markers must be permanently affixed to a structure such as a dwelling, fence or a post cemented into the ground. Wetland markers can be purchased at the Hampton Planning Office.
2. The application of fertilizer, pesticides, insecticides, or herbicides is prohibited in any tidal or inland wetland, areas of poorly and very poorly drained soils, vernal pools, or their buffers. However, the application of limestone is permitted within the buffer.
3. Decks, stairs and landings shall not be enclosed.
4. No storage of grass clippings or yard waste is permitted in the wetland or its buffer.
5. Proper erosion control will be in place before construction begins and remain in place until the area is stabilized and removed after construction is complete.
6. The buffer should remain undisturbed to the degree possible in the process of construction and elevations not be changed other than what is indicated on the approved plan. No additional fill is allowed.
7. There are to be no additional structures such as sheds, swimming pools, gazebos, patios or other sealed surface, etc. in the buffer, other than that shown on the approved plan. A new Wetlands Permit is required for the erection of any additional structure(s) in the buffer.

8. The Conservation Commission shall be notified in writing (letter or email) upon commencement and completion of the project. A final inspection shall also be scheduled with the Conservation Coordinator upon completion of the project.
9. This permit will expire two years from the date that it is granted by the Planning Board.

*Mr. Loiseau leaves at 7:45 PM.*

#### **IV. New Business (7:56 PM)**

1. Q2 Financial Report
  - a. Ms. Swank:
    - i. The \$20,000 land fund that passed last year was put in the operating budget by error, and has been moved to the Conservation Fund.
    - ii. An extra \$10,000 land use change tax from Smuttynose was put in the operating budget, and has also been moved to the Conservation Fund.
    - iii. There was a receipt for \$740 for the rain barrels.

2. 2023 Proposed Budget

Ms. Wrobel would like for the Commission to vote on the 2023 budget.

The budget includes:

- A 2% increase for the Conservation Coordinator, which is recommended for all non-union Town employees.
- Added funding for professional development.
- An increased hourly rate for interns next year.

Ms. O'Brien noted that anyone outside of the commission will just look at wages and operating expenses, not the line items. The commission can change the way the information is presented to the town and the voters if they want.

- Mr. Diener stated that he thinks it is important to continue presenting the information to the town in the way that they are used to seeing it.
- Mr. Hiller asked where the budget for the rain barrels falls in the overall budget.
- Ms. Wrobel stated that the money from the rain barrels goes into the operating budget. She added that the Board of Selectmen need to approve all donations before they are deposited into the Conservation Commission account.
- Ms. Swank asked why there are two lines for Green Infrastructure in the budget.
- Mr. Diener suggested that it may operate this way because it makes it easier to see what revenue is received from the green infrastructure projects.
- Mr. Diener noted that there are line items for mileage and seminars/training, and he encouraged everyone to put in for them when applicable.

Mr. Diener MOTIONED to support the operating budget. SECONDED by Ms. Raymond.  
Vote: Unanimous.

Ms. O'Brien would like to purchase high-vis hats with the Conservation Commission Logo on it to raise awareness about safety on Conservation Land during hunting season. She also suggested the purchase of trail cameras.

Ms. O'Brien proposed that the conservation commission spend up to \$250 for 2 trail cams.

- Mr. Fox suggested looking into insurance for the trail cams.
- Ms. Raymond suggested starting with one.
- Ms. O'Brien noted that another town had one available at the library for people to rent and then they created a collaborative of wildlife.

- Ms. Raymond stated that she feels that the best spent money right now would be outreach.

Ms. O'Brien will get quotes on the hats and bring that back for more discussion at the next meeting.

Ms. Raymond asked what the plan would be for the hats.

- Ms. O'Brien stated that Mr. Tilton had suggested selling them.
- Mr. Whalen recommended giving them as a gift for a donation to the Conservation Commission.
- Mr. Diener suggested that they find out how much they cost. If the goal is to distribute then the commission can give them away, see how it goes, and adjust for the future.

Mr. Hiller asked about permanent signage for the turtle crossings. Ms. Wrobel stated that they have the money to pay for the permanent signs.

Ms. SWANK MOTIONED to approve up to \$250 for 1-2 trail cameras. SECONDED by Mr. Diener. Vote: Unanimous.

Mr. Diener will get Ms. O'Brien the contact information for people at the Great Bay Reserve who have installed trail cams.

### 3. 2023 Warrant Articles

Ms. O'Brien reviewed proposed warrant articles:

Pervious hardscape proposal:

- Simplified it to a definition of pervious surfaces with examples with criteria (taken verbatim from the state's regulations).
- The word "effectively" was removed.
- The word "maintained" is used instead of "installed".
- The examples are removed and replaced with "permeable hardscape systems".

Section 'B' was taken from DES

- Ms. O'Brien will check the UNH specification sheet and direct people to reference the most recent version in the ordinance.

Section 'C'

- Is taken from the state's conditions for wetlands permits. The State asks that a cross section be shown and ask what the long term maintenance plan is, and in their permit conditions they often ask that photo documentation of the installation be submitted
- Ms. Raymond cited her field experience with inspections and suggested that an engineer certify that the inspections are done.
  1. Ms. O'Brien agrees, but is concerned about the feasibility of requiring private residents to hire a third-party engineer.
  2. Ms. O'Brien will gather information on what the cost would be to the applicant if there were an engineer under contract with the town. She will present this information at the next meeting.
- If it's not a wetlands permit, why will the conservation coordinator review the permits?
  1. Ms. O'Brien checks the impervious coverage form, even if it's not a wetlands permit. She plans to keep a log in a binder.
  2. Ms. Raymond suggested that the permit be submitted on the department level, instead of to the Conservation Coordinator.

Section 'D'

- Ms. O'Brien will explore third party engineer options and bring the costs back to the commission for discussion.
- In addition to the definition of Pervious Surfaces, there is a proposal to add vegetated space minimums per zone to the Dimensional Requirement table
- Ms. O'Brien will come back next month with language that gets rid of the ambiguity regarding the permeability of decks in the Impervious Surface definition.

#### 2.3.3 Permitted Uses:

- Ms. O'Brien would like comments, questions, and concerns related to this item at the next meeting
- Added "or temporary".

#### Landscaping

- Mr. Hiller asked if someone wants to put up a fence to ensure that their dog does not get out of the yard, is there any mechanism that could be used in the 6 inch to ensure that the dog is not going to get out of the yard.
  - This would be considered on a case by case basis.
- Eliminated condition that said "if a deck is elevated less than 6 ft off the ground" because there are already decks under 6 ft.

#### 2.3.4 Wetlands Permit Only (open to change that title)

- Prohibited uses
- Other Standards
  - Replaced the word tidal wetlands conservation district with 'tidal wetlands and/or their 50 ft Town buffer' If the town makes a stricter regulation than what FEMA requires, they will hold us to that requirement when evaluating eligibility for the Community Rating System.

Ms. O'Brien sent out her thoughts on existing ordinances and she will send out her proposed solutions to the problems she saw.

Mr. Whalen noted that the title for restricted uses was confusing and recommended it be changed to "Uses that Require Permits".

#### 4. Fall edition of Conservation Talks- 50<sup>th</sup> Anniversary of the Clean Water Act

Ms. Raymond recommended that the Conservation Commission do something to recognize the 50th Anniversary of the clean water act. She suggested putting something in the newsletter.

Mr. Hiller recommended sending educational supplemental material to the high school.

#### 5. Impervious Coverage Calculation Form

- Ms. O'Brien sent this out via email.
- Reformatted the form to simplify it. Included link to town map to help people find their zone.

## V. Old Business

### 1. ARM Grant

- To move forward with this grant, the Conservation Commission needs a seller who is willing to sell.
- The Hampton Boat Club is not ready to sell, and the parcel isn't a great option because they have already committed to donating that land when the club disbands.
- Ms. O'Brien has organized a list of every landowner in town and sent out letters to those

who have high priority land. That way she can reach out to ready sellers when an opportunity comes up.

## 2. DOT Hampton-Seabrook Bridge Mitigation

- Ms. Wrobel was contacted because this project will impact wetlands.
- Ms. Wrobel told them that there were some parcels that they could purchase and sent a list of properties near the town forest and wetlands.
- The DOT sent a letter yesterday and explained that the state will not allow them to purchase parcels in wetlands because they're already protected, but they are interested in the town forest.
- If they don't move forward on these recommendations, they will be required to put money in the ARM fund.
- Ms. Wrobel will be in touch with Ms. O'Brien to talk about a response.
- Mr. Diener asked when they needed a decision. Deb does not know. NHDOT gave the date they needed a reply. It took NHDOT about a week to get back to us. He did not put a deadline on the newest letter.

## 3. Standard Stipulations

- Deferred to next month in the interest of time.

## VI. Old Business

### 1. CHAT Update

### 2. Victory Garden Update

- The cooerage will be taken down in the next week.

### 3. Other

- a. Brianna explained a recent meeting she had with the town:
  - Through CHAT there was a grant opportunity to obtain funding to hire a coastal resilience coordinator for the town.
  - The money is coming through and that process has begun. Ms. O'Brien will send out a job description and the outline of the roles and responsibilities.
  - One of the roles of this coordinator will be to make sure that there is cohesive conservation between departments
  - The coordinator will be reviewing building permit applications and will work with the building department to make sure nothing is missed, especially related to flooding.

Ms. Raymond stated that homeowners and property owners have a responsibility not to depend on the town to figure out what to do for permits. She suggested that the commission have a one-page handout with information on permitting that would require permits from the conservation commission.

- Ms. Wrobel noted that when she first moved to Hampton, she applied for a building permit and they automatically sent a letter directing people to contact the Conservation Coordinator for answers.
- Currently, Ms. O'Brien sends letters to new homeowners and lets them know that if they are thinking about doing anything on their lot to reach out to her.
- The commission discussed what the building department currently asks on their permit applications.
- Ms. O'Brien noted that the new building department is sending people to her or asking her to call someone.
- Mr. Diener noted that if we think there is a blatant violation, we can require restoration. If they do that and then want to come back and reapply they can do

that.

Ms. O'Brien asked about areas with poorly drained soils- which don't always show up on the town GIS.

- Ms. Raymond would be more understanding of a harder to identify wetland.
- Ms. Raymond noted that she feels they need to start looking at trying to recoup part of the buffer.

### **VIII. Adjourn**

Mr. Diener MOTIONED to adjourn the meeting at 10:05 PM. SECONDED by Mr. Whalen. Vote: Unanimous.