

**Hampton Conservation Commission  
Draft Minutes  
Tuesday, November 26, 2019**

1 **Present:**           **Jay Diener, Chair**  
2                           **Diane Shaw**  
3                           **Pete Tilton**  
4                           **Sharon Raymond**  
5                           **Pat Swank**  
6                           **Bob Fox, Alternate**  
7                           **Deborah Wrobel, Alternate**  
8

9 **Also Present:**      **Rayann Dionne, Conservation Coordinator**  
10                           **Fran McMahan, Planning Board**  
11

12 **I.      Call to Order:**

13 The meeting was called to order by Chair Diener at 6:59 PM in the Town Hall Selectmen's  
14 Meeting Room. Chair Diener noted that alternates, Ms. Wrobel and Mr. Fox, would be active  
15 for this meeting.

16 **II.     Review Minutes**

17 **1.      October 22, 2019**

18 **MOTION:**   Ms. Shaw motioned to approve the October 22, 2019 minutes, as amended.

19 **SECOND:**   Ms. Wrobel seconded the motion.

20 **VOTE:** 6-0-1 (Chair Diener abstained)

**MOTION PASSED**

21 **III.    Appointments**

22 **IV.    Applications**

23 **1. 6 Vrylena's Way (Map 209, Lot 112)**

**Town Wetlands Permit**

24     **Owner:** Brent 16175 Parking Trust

25     **Agent:** Attorney James Scully  
26

27 Attorney Scully from Morris Law Office, representing the applicant, indicated the property  
28 owners had gone before the ZBA and were approved for front setback relief and would be going  
29 before the Planning Board on December 4<sup>th</sup> with the September 24<sup>th</sup> plan. They are back before  
30 the Commission to obtain a formal recommendation on the September 24<sup>th</sup> plan which was not  
31 previously voted on by the Commission. Attorney Scully recognized that the third version of  
32 this plan which had less impact was not supported by the Commission, so he felt it was unlikely  
33 that the Commission would support this version. Attorney Scully reviewed how the plans have  
34 changed from 700 SF of house and deck/stairs in the buffer to 400 SF which is the plan they are  
35 going with. The plan which had 200 SF of impact with the structure shifted into the side setback  
36 was not recommended by the Conservation Commission as there was still part of the structure in  
37 the buffer.  
38

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39 Mr. McMahan noted there is a wetland buffer enhancement program through this process. Chair  
40 Diener noted the enhancement plan was not considered to be mitigation for the proposed  
41 permanent impacts to the undeveloped and naturally vegetated buffer: it enhanced the existing  
42 buffer but did not offset the proposed impacts to the buffer. Attorney Scully indicated the  
43 planting plan is in the process of being revised with additional plantings but was not ready for  
44 tonight's meeting.

45  
46 Mr. Tilton indicated the plan was worse than he saw before and didn't like the previous one.

47  
48 Ms. Raymond noted that new permanent impacts to an undeveloped buffer are not consistent  
49 with what the Conservation Commission is trying to do.

50  
51 Ms. Swank indicated she watched the Planning and Zoning Board of Adjustment meetings and  
52 hoped for a building footprint change and there was none. The square shape on this lot doesn't  
53 work. The Conservation Commission was never approached with the 12' primary building  
54 setback. The Commission has argued that the building must be outside of 50' buffer but has not  
55 required that the building meet the 12' primary setback. She was also not pleased to hear it  
56 referred to as a "buffer to a buffer." That 12' primary building setback is only a setback and the  
57 area does not have any Wetland Conservation District restrictions. She also noted that the  
58 Applicant argued it was an unbuildable lot and it is buildable in her opinion and would like to see  
59 a redesign. This house is larger, square footage wise, than others in the neighborhood. A lot of  
60 options were not pursued. Hoped she would redesign the footprint of the house.

61  
62 Ms. Wrobel noted wetlands play a critical role in Hampton. The planting schedule did not  
63 address the role of the wetlands. So many buffers were impacted and this Commission needs to  
64 be strong in the protection of the wetlands and we are reluctant to permit intrusion into the  
65 buffers with new construction. There is not enough attention, when you are taking that away, to  
66 replace the loss of function.

67  
68 Mr. Fox asked if there were a basement and Mr. Scully answered no. Mr. Fox indicated he had  
69 hoped the owner would be here. Global warming and sea-level rise are concerns and the  
70 wetlands and buffer on this property will change the groundwater and what can grow on this  
71 property. Sorry to see you are not doing the 5' side setback which would have pulled more of  
72 the property out of the buffer. Mitigation of the impacts to the buffer is critical with things in the  
73 future. The foundation is significant in the buffer and then there will be grading. The Town of  
74 Hampton got a grant to study rising water and to go approving something that creates a problem.

75  
76 Ms. Dionne noted the original subdivision plan that delineated the edge of very poorly drained  
77 soils and the 50' buffer appears to be almost identical to what is shown on this new plan. So the  
78 location of the wetlands and buffer is not new information. This subdivision plan is also  
79 referenced in the property deed. The subdivision was in 1995 and there is probably a reason this  
80 was not developed. She also pointed out that this wetland area is part of the Meadow Pond

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81 system. The 2006 Prime Wetland Study identified the Meadow Pond system as a candidate and  
82 this pond is also regulated by the NHDES Shoreland Protection act.

83

84 Mr. Fox noted this is the last lot of Vrylena's Way and someone said maybe this one might be a  
85 problem lot.

86

87 Ms. Dionne shared that she did a comparison of the first-floor square footages of 36 Huckleberry  
88 and the proposed structure at 6 Vrylena's Way. There were a lot of similarities. The square  
89 footage of the Vrylena's first floor of living space outside of the 50' buffer is 760 sq. ft.  
90 (includes 3-seasoned porch) whereas 36 Huckleberry is 708 sq. ft. If the front porch at 6  
91 Vrylena's way was converted to living space it would add another 108 sq. ft. of living space.  
92 She felt this helped to address the comment made by Mr. Boyd at both the ZBA and Planning  
93 Board meetings that only a single-wide trailer could be placed on this lot as opposed to a  
94 reasonably-sized home.

95

96 Ms. Shaw asked the function of the bulkhead shown on the plan since there was no basement and  
97 Attorney Scully noted he would talk to Henry Boyd about that.

98

99 Attorney Scully explained that he always tries to challenge his clients and is interested in the  
100 community that he lives in and admitted there is an impact in the buffer but believes it would  
101 outweigh the alternatives.

102

103 Chair Diener noted he appreciated that and understands that he has to look at what his client  
104 wants but does not know what their commitment will be to maintain the issue with the Japanese  
105 Knotweed and the vegetative buffer. The maintenance requirements are pretty stiff and it would  
106 be unfair to assume any homeowner would be willing to take this on.

107

108 Chair Diener noted he knows ordinances don't allow us to look at one wetland as being more  
109 valuable than another or say that this wetland is degraded. Enhancing a buffer that is already  
110 there which is maybe not magnificent but is functioning, and to take that away is not good when  
111 there is nothing to replace the loss of function and values.

112

113 Ms. Dionne added we are looking to reduce impacts to the buffer by removing impervious  
114 surfaces, not increasing them, the math doesn't work. This plan is not alleviating what is lost.  
115 Most situations end up with improvement and that is not the case here.

116

117 Attorney Scully clarified that he understood the Wetland Ordinance does not rank wetlands by  
118 value and knows the law. Chair Diener noted the reason this is directed at you it is because you  
119 are the only one here.

120

121 Attorney Scully noted the development potential presented to the owner by the former owner  
122 was not representative of what is actually there.

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123 Chair Diener opened the hearing to the public for questions and comments at 7:30 PM and being  
124 none entered deliberations.

125

126 **MOTION:** Mr. Tilton motioned not to recommend the Town wetlands permit.

127

128 **SECOND:** Ms. Raymond seconded the motion

129 **VOTE:** 6-0-1 (Chair Diener abstained)

**MOTION PASSED**

130 **2. 31 Langdale** (Map 87, Lot 3)

**Town Wetlands Permit**

131 **Owner:** Timothy Hamilton

132

133 Install a new 8'x12' shed, remove an existing deck (6'x6') and stairs and construct a new  
134 12'x18' deck with stairs, 8'2" off the ground. Remove an existing stone walkway (204 SF) and  
135 allow a 270 SF section of lawn to return to being naturally vegetated with some native plantings.  
136 Direct rear roof drain spouts to two new drywells (24" diameter). Install additional plantings  
137 along two property boundaries in the buffer to improve privacy and increase vegetation along the  
138 boundary closest to the wetland.

139

140 Mr. Fox noted the Site Walk and vegetated wetland and asked if they were on or affected by his  
141 property and Mr. Hamilton indicated they were on his land but would like to improve upon the  
142 Town property behind his land which is mostly leaves. Mountain Laurel and Winterberry bushes  
143 would be on his property and he would like to work with Ms. Dionne on native, non-invasive  
144 plants.

145

146 Ms. Swank asked if the shed could go 12' from the rear and put arborvitaes and Mr. Sullivan was  
147 agreeable to that.

148

149 **MOTION:** Ms. Swank motioned to recommend the Town wetlands permit for a new 8'x12'  
150 shed with the removal of the existing deck and existing stairs and to construct a new 12'x18'  
151 deck with stairs that are 8'2" off the ground. The shed will be 12' from the rear rather than 8.5.'

152 **SECOND:** Mr. Tilton seconded the motion

153 The conditions are:

154 1. Installation of Wetlands Conservation District markers along the wetland buffer edge on  
155 both sides. The markers must be permanently affixed to a structure such as a dwelling, fence  
156 or a post cemented into the ground. Wetland markers can be purchased at the Hampton  
157 Planning Office.

158 2. Any deck shall be open above and below and shall not be enclosed.

159 3. The application of fertilizer, pesticides, insecticides, or herbicides is prohibited in any

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160 tidal or inland wetland, areas of poorly and very poorly drained soils, vernal pools, or their  
161 buffers. However, the application of limestone is permitted within the buffer.

162 4. No storage of grass clippings or yard waste in the wetland or its buffer.

163 5. Removal of dead, diseased or unsafe trees is permitted. The stumps and root systems  
164 shall be left intact in the ground.

165 6. All proposed plantings shall have at least 75% success after two (2) growing seasons.  
166 Any plants that do not survive shall be replanted or replaced with another suitable plant  
167 species.

168 7. The buffer should remain undisturbed to the degree possible in the process of construction  
169 and elevations not be changed. No additional fill is allowed.

170 8. There shall be no additional structures or impervious surfaces in the buffer, other than  
171 those shown on the proposed plan. A new Wetlands Permit is required for the construction  
172 of any additional structure(s) or impervious surface(s) in the buffer.

173 9. The Conservation Commission shall be notified in writing upon commencement and  
174 completion of the project. A final inspection shall also be scheduled with the Conservation  
175 Coordinator upon completion of the project.

176 10. This permit will expire two years from the date that it is granted by the Planning Board.  
177 Refer to Hampton Zoning Ordinance Section 2.3.5 for information on permit extensions.

178

179 **V. New Business**

180 **1. 343-379 Exeter Road – Conservation Easement donation**

181

182 Ms. Dionne reviewed this is the property with the driveway around back for truck access with an  
183 easement of the Old River system. The previous owners did not want to allow public access but  
184 now that they own that piece as well. Ms. Dionne indicated she would like the Commission's  
185 feelings whether there should be public access or no easement if public access is not allowed.

186

187 Mr. Tilton asked if it was an easement – yes.

188

189 Ms. Shaw asked what's out there for the public to access? Canoeing? Birding? Fishing?

190

191 Mr. Tilton added if it is not posted it is allowed.

192

193 Chair Diener indicated he did not know of an easement where we haven't advocated for access  
194 and restricted motorized vehicles.

195

196 Mr. Fox asked how large a parcel and Ms. Dionne indicated it was less than 4 acres – wet. There  
197 could be an issue on the smaller if people walk onto the developed piece as to privacy. It would  
198 be great to have public access unless it impinges on the owner's rights. Some don't allow if

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199 access is by their private driveway. Ms. Swank asked if you had to go through the driveway and  
200 Chair Diener noted if only the four-acre parcel had public access you would have to.

201  
202 Ms. Raymond was in favor of having public access and noted the Commission could revisit the  
203 discussions next month if the owner wanted something different but not to offer no access.

204  
205 Mr. Tilton noted if the easement is to be monitored you would have to have access.

206  
207 **MOTION:** Mr. Tilton motioned to require the easements to allow public access.

208  
209 **SECOND:** Ms. Wrobel seconded the motion

210  
211 **VOTING:** 6-0-1 (Chair Diener abstained) **MOTION PASSED**

212  
213 **2. Town Forest Activities**

214  
215 Mr. Tilton indicated he received a call a couple of weeks ago first that there was someone  
216 digging with a shovel on Town Forest property who claimed to be from the Conservation  
217 Commission and then another with a chainsaw and rake who claimed to be clearing trails for  
218 Gus' Bike Shop. Mr. Tilton ran into another person on a bike who said they were fixing moguls.  
219 They don't know whose property they are on. Don't want people on the property with a  
220 chainsaw without a waiver in case someone gets hurt. Mr. Tilton noted he kept a journal and in  
221 2011 noted someone was bushwhacking the trail which is not wildlife-friendly. People need to  
222 stay on the trails.

223  
224 Ms. Dionne indicated she went to Gus' Bike Shop and had a conversation and they were not  
225 condoning the work but noted Seacoast Bike Riders was active out there. In 2020 the  
226 Commission, which is also the Town Forest Committee, could develop a more formal trail  
227 system. There have been no issues with target shooting. Need to remind people it wasn't  
228 purchased for this use. Having a formal trail system will help.

229  
230 Ms. Shaw noted a friendly article in the newspaper might help to educate parents so they know  
231 that Conservation is not endorsing this activity, in a friendly manner while alerting the parents  
232 what is intended for use in the Town Forest. Abutting owners get liability conscious.

233  
234 Mr. Tilton noted there is no alteration of terrain without the express permission of the  
235 Conservation Commission.

236  
237 Ms. Dionne noted they appeared to be making ramps and she had a conversation with the Town  
238 Manager to see if there could be more patrol possibly with the assistance of Fish & Game. Chair  
239 Diener agreed it would be great to have someone walk out there once in a while.

240

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241 **3. Treasurer's Report (Diane Shaw)**

242

243 Ms. Shaw indicated the operating budget was presented to the Board of Selectmen and will go to  
244 the Budget Committee on December 10, 2019

245

246 Ms. Shaw provided the Commission with a Quarterly Activity Recap for the period ending  
247 September 30, 2019. Ms. Shaw indicated the beginning balance as of June 30, 2019 was  
248 \$120,007.70 with an ending balance as of September 30, 2019 of \$120,035.60, \$28.00 increase.

249

250 Ms. Shaw noted there was \$178 in interest last quarter and a \$50.00 donation from the Garden  
251 Club.

252

253 Ms. Shaw noted there was a payment of \$200 to the Winnacunnet High School Sustainability  
254 Club for rain barrels.

255

256 Mr. Tilton noted the Warrant Article will be to add \$20,000 to the Conservation Fund to build  
257 for acquisitions in the future. Ms. Shaw questioned whether the Commission wanted to request  
258 the amount be increased and the Commission was in favor of considering that in a year or two.

259

260 **VI. Old Business**

261 1. 2020 Warrant Articles

262 Ms. Dionne indicated there was feedback from the Town Attorney who recommended  
263 combining two as one after the public notice. There is a total of five articles. They were  
264 presented to the ZBA last week. Three will be discussed at the Planning Board hearing next  
265 week.

266 The mitigation definition will be updated and language for repair, replacing structures in the  
267 buffer. 2.3.3 will be consolidated and moving impervious. December 18<sup>th</sup> is the Planning Board  
268 meeting. Ms. Swank asked if a summary of the Warrant Articles could be sent to everyone.

269 2. Ice Pond Kiosk construction

270 Ms. Dionne noted the Kiosk has been constructed and the signage concerning the history is being  
271 approved and finalized. They are working with Infinite Imaging.

272 Ms. Swank noted North Hampton Historical Society has old photos of the ice pond being  
273 operated by Leavitt and Lamprey. Ms. Dionne indicated the two old photos on the sign were  
274 obtained from Joanne Lamprey.

275 3. Master Plan – Natural Resource Chapter

276 Ms. Dionne indicated they were in good shape with the Natural Resource Inventory and Master  
277 Plan Chapter and sent a link out. Ms. Dionne will reach out to Amanda Stone and see what else

278

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279 is missing or needed. The Commission should start having conversations and form a  
280 subcommittee to work on so that 3-4 people can make progress.

281 Chair Diener noted it could be more user-friendly. Mr. Tilton agreed it was a tough read. Ms.  
282 Dionne noted Sunapee had a nice layout. Mr. Tilton recommended removable laminated  
283 sections. Ms. Dionne noted the Commission should be going back to the Master Plan with  
284 Warrant Articles and using that resource more often. Mr. Fox indicated there needs to be a  
285 stand-alone chapter of the Master Plan as the multiple inserts have you needing to read through  
286 the whole thing and pull out portions concerning your topic. Ms. Raymond agreed there were  
287 too many authors and not one single voice. Ms. Wroebel indicated she enjoyed finding all the  
288 answers to the questions she had about Hampton and recommends forming it as a foundation you  
289 can jump off.

290 Chair Diener noted they will look at it before the next meeting and see about next year as the  
291 Commission has until June and take advantage of the help with Amanda Stone.

292 **VII. Conservation Coordinator and Chair update**

293 **VIII. Adjourn**

294

295 **MOTION:** Ms. Raymond motioned to adjourn the meeting at 8:22 PM.

296 **SECOND:** Ms. Shaw seconded the motion.

297

298 **VOTE:** 6-0-1 (Chair Diener abstained)

**MOTION PASSED**

299

300 Respectfully submitted,

301

302 Nancy J. Hoijer,

303 Recording Secretary