



# Bolton Conservation Commission

## Meeting Minutes



<b>Date:</b>	Tuesday, March 1 <sup>st</sup> 2022
<b>Time/Location</b>	7:00 p.m. Zoom (remote participation)
<b>Commissioners Present:</b>	Chair Brian Berube, William Payne, Gillian Glassanos, Lori Stephenson, Emily Winner (Conservation Agent, Rebecca Longvall)
<b>Guests:</b>	Ryan Proctor, Jack Maloney (Dillis & Roy), Richard Davis, Rachel Watsky, Matthew Watsky, Tom Schutz, Robert potential buyer of 0 Butternut), Peter Nesbeitt, Pamela Duggan
<b>Next Meeting:</b>	Tuesday, March 15 <sup>th</sup> 2022 7:00pm via Zoom

**1. 0 Butternut Lane – Notice of Intent – DEP File# 112-0705**

*The applicant's representative Tom Schutz of Goddard consulting along with commission members and Conservation Agent conducted a site visit on 3/24/2022. The Chair provided initial thoughts regarding the parcel and existing drainage into pond on adjacent property. He further noted the drainage swale on the parcel, and inquired once developed where will the runoff be directed. Tom stated the pitch will be removed and have the area leveled to remove sheet flow to the low area on plans. Tom highlighted areas of concern on site and areas of potential mitigation. Commission requested further information or nature-based solutions that would accommodate flooding or stormwater. Chair requested the swale be removed and the ground not pitched toward the swale on the other side, mitigation plantings along the property line towards the southwestern side of the parcel, to stop runoff, capture some on site. Conservation Agent noted the driveway is within Adjacent Upland Resource Area where the bylaw only allows for temporary or limited disturbance which then is required to be restored to at least the original state and noted other relevant portions of the bylaw and associated regulations. Tom stated the orientation on site and required setbacks from other department limitations. Chair Brian highlighted the potential opportunity to swap the well and septic area to accommodate the driveway, therefore pulling all except grading outside of the AURA. The Commission requested the applicant review the configuration with associated regulations to pull the driveway out of the resource areas, and swap the septic and well locations proposed on site. Conservation Agent summarized that the commission requested an alternative orientation She further highlighted the time constraints of the applicant, but reminded the applicant that this timeline is not specified within the regulations and bylaw. The applicant requested a continuation to provide the plans and requested information.*

**Chair Brian made a motion to continue the Notice of Intent for the proposed project located at 0 Butternut Lane Dep file# 112-0705 for the proposed construction of a single-family house with two porches, a driveway, a septic system, retaining wall, well and a fence to be located at Assessor's Map 6.E Parcel 37, until the March 15<sup>th</sup> 2022 public meeting of the conservation commission at 7:00pm. Emily seconded, all unanimously, AYE.**  
**Roll Call Vote: BB, WP, EW, GG, LS, AYE**

2.	<p><b>662 &amp; 664 Main Street – Notice of Intent – DEP File# 112-0706</b>  <i>The applicant's representative Jack Maloney of Dillis and Roy provided a summary of an existing failed leach field system. Conservation agent provided a summary of the site visit conducted by her and a commission member. Jack stated the applicants were comfortable with the proposed plantings at the top of the proposed slope, but were concerned with the removal of the landscaping mat as there is knot weed in this area. He further provided clarification of the fabric being successful thus far with the woodchips. Native seed mix and plantings be utilized on site. He expressed a concern about regular maintenance for knotweed and the species within the seed mix.</i></p> <p><b>Chair Brian made a motion to close the public hearing regarding the Notice of Intent for the proposed project located at 662 &amp; 664 Main Street Dep file# 112-0706 for the proposed replacement of a shared septic system, to be located at Assessor's Map 2 Parcel 23; Assessor's Map 2 Parcel 24. William seconded, all unanimously, AYE. Roll Call Vote: BB, WP, EW, GG, LS, AYE</b></p> <p><b>Chair Brian made a motion to issue an order of conditions as drafted and the following special conditions:</b>  <b>1) 4-6 native plantings be planted on the top of the slope between proposed contour lines 94-95.</b>  <b>2) landscaping mat to be removed, overseeded with native conservation/wetland mix, and a native planted barrier along existing contour line 90 between the existing shed and play structure.</b>  <b>regarding the Notice of Intent for the proposed project located at 662 &amp; 664 Main Street Dep file# 112-0706 for the proposed replacement of a shared septic system, to be located at Assessor's Map 2 Parcel 23; Assessor's Map 2 Parcel 24. Gillian seconded, all unanimously, AYE. Roll Call Vote: BB, WP, EW, GG, LS, AYE</b></p>
3.	<p><b>Notice of Intent – Lot 5 Meadow Road – DEP#112-0703</b>  <i>The applicant's representative Ryan Proctor of Dillis and Roy was present. The Chair provided a site visit summary. The Conservation Agent provided an update and read the DEP# and associated comment into the record: It appears that five or more residential lots have been created by the property owner within the last 6 years. Housing developments of give or more units require the applicant to demonstrate that the Massachusetts Stormwater Standards have been met to the maximum extent practicable. MassDEP recommends that additional measures (roof infiltration, check dams, settling basin, etc.) be incorporated into the site design to achieve compliance with the standards. In addition, a signed and stamped stormwater checklist should be submitted to the commission and MassDEP. The applicant should also demonstrate that changes in the site hydrology will not adversely impact the hydrology of the Potential Vernal Pool adjacent to the Meadow Road. Ryan provided a summary of the memorandum sent to the commission stating how the current design relates to Storm Water Standards. Chair Brian Requested a continuation to see if DEP has any additional comments on information submitted.</i></p> <p><b>Chair Brian made a motion to continue the Notice of Intent for the proposed project located at Lot 5 Meadow Road, Dep file# 112-0703, until March 15<sup>th</sup> 2022 at 7:15pm. Lori seconded, all unanimously, AYE. Roll Call Vote: BB, WP, EW, GG, LS, AYE</b></p>
4.	<p><b>Notice of Intent – Lot 6 Meadow Road – DEPfile#112-0704</b>  <i>The applicant's representative Ryan Proctor of Dillis and Roy was present. The Chair provided a site visit summary. The Conservation Agent provided an update and read the DEP# and associated comment into the record: It appears that five or more residential lots have been created by the property owner within the last 6 years. Housing developments of give or more units require the applicant to demonstrate that the Massachusetts Stormwater Standards have been met to the maximum extent practicable. MassDEP recommends that additional measures (roof infiltration, check dams, settling basin, etc.) be incorporated into the site design to achieve compliance with the standards. In addition, a signed and stamped stormwater checklist should be submitted to the commission and MassDEP. The applicant should also demonstrate that changes in the site hydrology will not adversely impact the hydrology of the Potential Vernal Pool adjacent to the Meadow Road. Ryan provided a summary of the memorandum sent to the commission stating how the current design relates to Storm Water Standards. Chair Brian Requested a continuation to see if DEP has any additional comments on information submitted.</i></p> <p><b>Chair Brian made a motion to continue the Notice of Intent for the proposed project located at Lot 5 Meadow Road, Dep file# 112-0704, until March 15<sup>th</sup> 2022 at 7:20pm. Lori seconded, all unanimously, AYE. Roll Call Vote: BB, WP, EW, GG, LS, AYE</b></p>

**5. Vote – Notice of Intent – Century Mill Road Map 3D Parcel 75 – *proposed construction of three single family homes and widen and pave an existing gravel driveway – DEPfile# 112-0693***

The Commission reviewed the draft documents provided by the Conservation Agent and before deliberating on the information provided the applicant's representatives present Rachel and Matthew Watsky respectfully interjected that they had submitted comments on the draft via email. The Conservation stated she had not been aware that comments were provided or what they may entail. The Chair reiterated the public hearing was closed at the last meeting of the conservation commission at the request of the applicant. Therefore, the commission is unable to take any further information from the public. The Chair asked the applicant to summarize the context without further information. Matthew Watsky stated that because they are Counsel, they are not offering testimony, they are not offering evidence, the Conservation Agent sent the draft of the decision, and they sent back their comments on it given their interpretation and responding to the legal analysis and facts discussed in the findings. They are not testifying or offering new evidence and would like the information to be incorporated into the record for deliberation. Conservation Agent stated the draft was provided so that the applicant could be looking at the same document that the commission was during this meeting and that it was explicitly a draft and changes may be made upon deliberation by the commission during the meeting this evening. She further expressed those comments provided and being requested that it be put into the record, is a new submittal of information that did not meet the required deadline. She has yet to see this email and had received a prior email from the applicant's representative that confirmed the receipt of the draft. This email did not include any comments or statement that comments were anticipated to be provided later on. The applicant stated they only received the document that afternoon and the conservation agent stated the commission members did as well to assure there was no prior deliberation. To the conservation agent's understanding this additional email, may be new information after the public meeting has closed. Matthew Watsky expressed his opinion that this is a common practice that emails and comments are shared between staff and the applicant when drafting documents. He further stated that was the purpose of the email and that the email was submitted before 6:00pm, well before the hearing this evening. [Actual email timestamp at 6:20pm, and received by Conservation Agent 3/2/2022] The Conservation Agent expressed that the applicant has the ability to extend the 21-day period for a vote and deliberation. Chair Brian expressed the issue where the public is no longer allowed to comment as the meeting has closed. The Conservation Agent stated it is typical for the commission to deliberate after the public hearing has closed and vote all at one meeting. The commission must determine that the email is not new comments, that it is solely based on information that has been submitted, and solely based on what is being discussed this evening in the draft document. The commission must determine that this email is not considered new information. Chair Brian stressed if the public cannot comment then the applicants should not be able to provide further comment. The Chair inquired to the applicant if he would be amendable to an extension for the timeline associated with the issuance of the order so that the commission is able to review comments until the next meeting. The applicant was amendable to this. Conservation Agent stated there has been two years' worth of information been submitted, discussed during public hearings, along with continuances, she understands the commissions interest in the comments provided via email tonight, but she is concerned about the content and whether or not it is able to be considered. Unless the email is just grammatical, if more than that the concern is that it may be considered new information. Furthermore, if it has already been considered in these documents then the purpose of the comments. Matthew clarified the comments are not merely typographical, comments on interpretation of the bylaw and standards, and they disagree with the interpretation set forth in the written documents. Matthew stated the information is nothing new. The Chair polled the commission members all ok to review comments and extend until next meeting to read through comments submitted today. The Applicants representative clearly stated that they are extending the Commission's 21days to deliberate and issue a vote at the March 15<sup>th</sup> 2022 meeting. The Applicants representative clearly stated that they hereby extend the deadline by the two weeks (14days after March 8<sup>th</sup> 2022) to review comments, that date to end on March 22<sup>nd</sup> 2022. The Applicant's representative will be memorializing this authorization via email by 3/2/2022 morning.

**The Chair made a statement saying that no vote is taken this evening, the issuance and deliberation shall be tabled until the next meeting of the conservation commission on March 15<sup>th</sup> 2022 at the authorization and request of the applicant's representative here this evening.**

The Conservation Agent reiterated no further public comment at this time.

6.	<p><b>Enforcement Orders:</b>  <i>Conservation Agent provided a summary of both enforcement orders.</i>  <b>Century Mill Estates – expired Order of Conditions and uncompleted work 112-0526</b></p> <p><b>Chair Brian made a motion to issue an Enforcement Order requiring the applicant to Cease and Desist all work on site and under DEP 112-0526 as the order has expired 12/26/2022, the applicant is hereby required to submit a new Notice of Intent for all remaining and ongoing work. All unanimously AYE.</b>  <b>Roll Call Vote: WP, BB, GG, EW, LS, AYE</b></p> <p><b>3 John Powers Lane - (Lot 4) ratify enforcement order issued for encroachment into Town owned open space and through multiple resource areas under the Wetland Protection Act and Local Wetland Bylaw.</b></p> <p><b>Chair Brian made a motion to issue an Enforcement Order requiring the applicant to Cease and Desist all work on site (Lot 4) 3 John Powers Lane, the applicant is hereby required to submit a restoration plan and Notice of Intent for all work. The alterations must be restored within the jurisdictional areas of the conservation commission and fence must be removed from town owned open space. All unanimously AYE.</b>  <b>Roll Call Vote: WP, BB, GG, EW, LS, AYE</b></p> <p>Peter Nesbeitt was present to inquire about the enforcement process and restoration associated timelines.</p>
7.	<p><b>Minutes – Chair Brian made a motion to accept the minutes as drafted for the public meeting of February 15<sup>th</sup> 2022. Gillian second; all Aye Roll Call Vote: BB, WP, GG, EW, LS AYE</b></p>
8.	<p><b>Conservation Property Updates:</b> Maintenance and management items  <b>Guided Trail Walk – Zink Northwoods Conservation Area Tuesday, March 22<sup>nd</sup> 2022, 12:00pm starting at trail head (off of Ledgewood Circle)</b></p> <p><b>Bowers Springs Conservation Area – Earthen Dam assessment – need for remediation and repair, Conservation commission authorize Conservation Agent to pursue notice of intent for recommended work.</b></p> <p><b><u>MVP Program</u></b>  <b>Current FY21-FY22: Nashua River Communities Resilient Lands Management Project</b>  <i>Community members interested in learning more or interested in participating in this project please contact the Conservation Agent.</i>  <a href="https://climateresilient.wixsite.com/nashuariver">https://climateresilient.wixsite.com/nashuariver</a></p> <p><b>Opportunity:</b> Volunteer Land Steward position  For all inquiries regarding this position please contact the Conservation Agent,  call 978-779-3304 or email <a href="mailto:rlongvall@townofbolton.com">rlongvall@townofbolton.com</a></p>
9.	<p><b>Chair Brian made a motion to adjourn the public meeting of the Conservation Commission Tuesday, March 1<sup>st</sup> 2022. William seconded; all unanimously AYE.</b>  <b>Roll Call Vote: WP, BB, GG, EW, LS, AYE</b></p>