

CONSERVATION COMMISSION MINUTES

November 1, 2023

APPROVED: March 6, 2024

AGENDA: **23SUP07 - LIBBY - 110/036 - Holiday Hills**
23SUP08 - SWISS VIEW - 111-105 - 1330 Lake Street
23SUP09 - HANNON - 111-093 - 1101 North Main Street
2024 Meeting Schedule

ATTENDING: Richard Batchelder (Chair), Elizabeth Miller (Vice Chair), Janet Cote, Richard Metcalf and Chip Carleton (Alternate)

ABSENT: Carroll Brown and Bill Haskell (Alternate)

OTHER: **Staff:** Donna Sullivan (Land Use Administrative Assistant), Joanne Bailey (Land Use Manager), and Christina Goodwin (Town Administrator) **via Zoom;**

Public: James Libby, Randall Shuey (Northpoint Engineering for James Libby), Matt Barnard (Barnard Enterprises), Alan Barnard (Barnard Survey Assoc), Bernie Gallagher (Swiss View Condo Assoc), Aaron Thibeault (Northpoint Engineering for Swiss View), JP Morrison Jr., Scott and Janice Hannon (**via Zoom**)

Chair Batchelder called the meeting to order at 5:57 pm with a quorum present and roll call. Alternate Chip Carleton was not seated as voting member for this meeting.

MINUTES:

The meeting minutes of October 4, 2023, were reviewed. Mr. Metcalf motioned to approve the minutes as presented. Mr. Batchelder seconded. The motion carried by roll call vote 4-0-0.

NEW BUSINESS:

23SUP09 - Hannan - #111-093 - 1101 North Main Street

Ms. Sullivan read the Scott and Janice Hannon Special Permit application #23SUP09 to continue to live in their RV during construction of their house at 1101 North Main Street into the record. She noted the notifications to abutters and postings. She read comments from Department Heads. She indicated that this application is before the Commission because the Conservation Commission is listed to review the Special Use Permit applications for this in the Ordinance but there are no impacts to wetlands or other issues within the Commission's purview which would warrant review. She indicated that this process will be an administrative change to the Zoning Ordinance changing the request for Special Use of RV to a Special Exception process with the Zoning Board.

Following a brief discussion about process, Ms. Cote motioned to forgo any recommendation on this application because this project does not fall within the purview for Conservation related impacts and is just a matter for the Planning Board. Ms. Miller seconded. The motion carried by roll call vote 4-0-0.

23SUP07 – Libby – #110/036 – Holiday Hills

Ms. Sullivan stated that there was new information for Special Use Permit Application #23SUP07 with updated plans and a Wetlands Report. She reviewed the information and history of Planning Board review

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on this application citing comments from the Water Department and Highway Department. Ms. Bailey read these comments into the record. Ms. Sullivan stated that the Planning Board continued this application so that the Conservation Commission could review and comment on the newly added information.

Mr. Alan Barnard, agent for Mr. Libby, spoke about the history of this lot noting it as buildable and citing activities taken with culvert installations and fill for the ability to store a trailer on site. He shared new plans which adjusted the placement of the home further from the wetlands and changed some other features from the previous plans. He indicated that the question about the lot being buildable was due to a request and court case filed by a previous owner to abate taxes. He reiterated the argument that this was a buildable lot in an approved subdivision with a current State approved septic design. The new plans indicate the home will now be about 27 feet from the wetlands and the septic system will be about 62 feet away at its closest point. He indicated use of pervious pavers and drip edges and plant buffers to help minimize impacts.

Mr. Randall Shuey, Wetlands Scientist, presented findings from a report he submitted after conducting partial wetlands assessment on the lot in December 2022 and his revisit to the site recently. He also shared his further research regarding the history of wetlands and fill area on the lot.

The Commission asked questions of the applicant James Libby and his agents, Alan Barnard, Matt Barnard, Randall Shuey and others present. Mr. J. P. Morrison, Jr. was present and commented on the previous fill and culvert work done on this property, although he stated he didn't do the work, but his brother did.

Ms. Cote spoke to the issues at hand for wetland setbacks and the history of a previous owner's court case to determine the lot as unbuildable. Mr. Barnard stated that the court case was for abatement of taxes and that there was no wetlands delineation done at that time to prove it unbuildable. Ms. Cote asked if there was a current wetlands delineation of the wetland now.

Mr. Metcalf asked specific questions about Mr. Shuey's determinations of wetlands on the site.

Discussion included historic information about runoff issues over the road onto the property, and the evident filling of the original wetland area to install a culvert and driveway area for parking a trailer. Mr. Shuey addressed questions about the wetlands indicating that it had very poorly drained soils and wetland vegetation. He indicated the fill line was evident and the proper way to conduct a full wetlands delineation would be to follow the Army Corp. or Engineers guidelines for disturbed sites. He commented that he did some investigation of aerial photos, the date of subdivision approval, and other information to come to an assumption the fill and original culvert may have been installed prior to the wetland's regulations being enacted and later updated.

Mr. Libby shared photos of the runoff coming across Crodem Road causing damage to the road and running onto the property. He stated that the original culvert under Holiday Hills Road had collapsed causing water to back up onto his property. He indicated he addressed these issues with the Town, and it was corrected with the culvert and catch basin system indicated on his plans. He indicated that the Town corrected the roadway issues, and he took on the expense of replacing the culvert on his property which travels from the wetland in question to a catch basin on Holiday Hills Road at the same time.

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Mr. Metcalf stated that although he understood the limitations with the size of the lot and the work that was proposed to address this, he was concerned that the original and updated plans encroached heavily on setbacks that the Town approved for septic and development near wetlands. In his description he indicated that the applicant's plans would impact the 125-foot setback required for septic systems and the 50-foot setback for construction by basically cutting these setbacks in half. Others had the same concern for the encroachment into the setbacks.

There was some more discussion about the type of septic system and its location. Based on the Wetlands Report presented, Mr. Metcalf asked if the State was aware that the wetland had very poorly drained soils at the time of submittal of the septic design application. It was understood prior to tonight's information presentation that only poorly drained soils were mentioned for the septic application to the State. Mr. Barnard and Mr. Shuey stated this could be updated with the State but would not change the design or the waiver granted. Mr. Shuey confirmed that the soils are mostly very poorly drained. Ms. Cote asked if the new information shared would now indicate the need for a Wetlands Permit for this project. Mr. Shuey addressed this question by stating that a small area of about 20 square feet near the culvert would require this but not for plantings and other work.

Mr. Carlton asked if this lot would be grandfathered from restrictions of the Ordinance. Ms. Goodwin stated that it was not grandfathered from the requirements of the Wetlands Ordinance but as an approved subdivision lot it is grandfathered for things like frontage and lot size. Ms. Goodwin indicated the Wetlands Ordinance was in place with the construction and septic setbacks since 2007 with a change to septic setbacks in 2010.

Following review of updates to original plans and added information presented by the applicant's agents, and discussion by the Commission, Ms. Cote made a motion that the Conservation Commission notify the Planning Board that it does not recommend this project to go forward due to the major encroachment of the building and septic system into the required wetlands setbacks. Ms. Miller seconded. The motion carried by roll call vote 4-0-0.

23SUP08 - Swiss View - #111-105 - 1330 Lake Street

Ms. Sullivan read the 23SUP08 application for Swiss View Condo Association to make waterfront improvements that include retaining wall renovations, installation of a pervious ramp and new fencing and sand at its beach. She indicated the public notice and abutter information and comments from Department Heads. The Water/Sewer Department comments requested the ramp proposed be moved because it was currently located by a curb stop for water service and they also had concern for digging in areas where water pipes and other utilities are located.

Mr. Bernie Gallagher of Swiss View Condo Association and his agent, Aaron Thibeault of Northpoint Engineering presented the plans for the work to be conducted. Mr. Thibeault stated that this was an erosion mitigation project. They are currently in process with NH DES for Shoreland, Wetlands Permits and a DOT Excavation Permit for these plans. He stated that they would be using a pervious concrete material for the ramp as requested by DES.

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Discussion followed with both Mr. Gallagher and Mr. Thibeault addressing questions from the Commission. The plans were reviewed. These indicated the new 4-foot fence will be extended a few feet with a gate at the access ramp. This ramp will be relocated as requested and approved by the Water Department Superintendent. There will be planters and grass landscaping on the roadside of the fence. The beach will get some new sand and the retaining walls will be low and of stone in keeping with a natural look for the Newfound area. The work will begin when all permits are in place with plans to be completed before next summer.

Following review and discussion, Mr. Metcalf motioned that the Conservation Commission recommends this project go forward with conditions that all State permits for Wetlands, Shoreland and DOT Excavation are obtained and that the proposed ramp is relocated to a place approved by the Bristol Water/Sewer Department. Ms. Cote seconded. The motion carried by roll call vote 4-0-0.

2024 Meeting Schedule

Ms. Sullivan presented the proposed 2024 Conservation Commission meeting and application deadline schedule. Following a brief discussion of the deadline dates for cases to come before the Commission, Chair Batchelder motioned to accept the schedule as presented. Ms. Cote seconded. The motion carried by roll call vote 4-0-0.

OLD BUSINESS:

Breck-Plankey Spring Maintenance and Testing

The recent grading and fill of the parking area at the Spring was discussed. The cost of \$150 was shared and payment would come from the 2023 budget. It was determined that this should be a periodic maintenance item for the Commission. Ms. Goodwin reported that the Conservation Commission 2024 proposed budget was increased \$400 by the Select Board to help cover the cost of regrading at the Spring twice a year if approved by the Budget Committee.

There was additional discussion about the scheduled water testing for November 6th and that Mr. Brown would not be available to do this. Another date was discussed and November 7th at 9 am was confirmed. Members were concerned about this getting done and others not having the experience to complete the testing. Ms. Cote shared that she had originally typed up the instructions for cleaning and testing the Spring some years ago and had conducted the testing a couple of times. She will look through her files for these cleaning and testing instructions and share them with the Commission and Land Use Office if found. Mr. Metcalf agreed to participate in the testing and to drop off the sample to the State Lab in Concord. Others will try to participate as well. Ms. Goodwin also suggested that the Water & Sewer Department may have the testing vials. Ms. Bailey offered to contact Jeff Chartier about this and would let the Commission know the next morning.

After a brief discussion about types of testing that could be considered in addition to ecoli and other contaminants, It was decided that the 2024 Spring Testing Schedule will be discussed at the next meeting.

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COMMUNICATIONS: COMMISSION MEMBER ITEMS:

Ms. Sullivan reminded the Commission about the New Hampshire Association of Conservation Commissions (NHACC) Annual Meeting coming up on November 4, 2023. She and Chair Batchelder were scheduled to attend this.

COMMISSION MEMBER ITEMS:

Ms. Cote shared some information about a New Hampshire Department of Environmental Services (NH DES) "COMMUNITIES THAT REQUIRE LOCAL APPROVAL PRIOR TO RSA 485-A;32, I & II" List which the Land Use Office is looking into to see if Bristol qualifies to be listed due to its Wetlands Zoning requirements. Ms. Bailey commented that the research into any community requirements to be listed is continuing and once completed this will be shared with the Land Use Boards and Commissions.

NEXT MEETING: December 6, 2023, at 6 pm

ADJOURNMENT:

With no other business, Ms. Cote motioned to adjourn. Chair Batchelder seconded. The motion carried 4-0-0. The meeting adjourned at 8:26 pm.

Respectfully submitted,

Janet Cote
Land Use Associate