

Exeter Conservation Commission
September 8, 2020
Virtual Meeting
Draft Minutes

Call to Order

1. Introduction of Members Present (by Roll Call)

Present at tonight's meeting were by roll call, Chair Andrew Koff, Vice-Chair Trevor Mattera, Bill Campbell, Carlos Guindon, Ginny Raub, Donald Clement, (Alternate), Alyson Eberhardt, Lindsey White (Alternate), Nick Campion (Alternate), Kristen Osterwood (Alternate), and Kristen Murphy, Natural Resource Planner.

Members present indicated there was no one else present in the room with them during this meeting.

Absent: Julie Gilman (Select Board Liaison), Sally Ward, Clerk, Dave Short, Treasurer, Daryl Browne, Select Board Alternate Liaison

Mr. Koff called the meeting to order at 7 PM.

Mr. Koff read the meeting preamble indicated that an emergency exists and the provisions of RSA 91-A:2 III (b) are being invoked. As federal, state and local officials have determined gatherings of ten or more people pose a substantial risk to the community and the meeting imperative to the continued operation of Town and government and services which are vital to public, health, safety and confidence. This meeting will be conducted without a quorum physically present in the same location and welcome members of the public accessing the meeting remotely.

2. Public Comment (7:09 PM)

None.

Action Items

1. Wetland Conditional Use Permit application for a 40'x60' single-family home with 38'x38' detached barn on an existing lot of record on Nelson Drive (Tax Map 83/Lot 56).

Alternate Lindsey White recused herself. Mr. Koff indicated Alternate Don Clement would be active for this application.

Thomas Scanlon presented the proposal for a two-bedroom ranch and 38'x38' 1800s barn which will have minimum buffer impacts. Mr. Scanlon posted the plan which showed prime wetlands in blue, the 40' setback from poorly drained soils in yellow and the 100' setback in pink. Mr. Scanlon noted

he tried to pull the structure from the buffer to mitigate the impact. Mr. Scanlon noted he has a Shoreland Protection permit from the State of NH.

Mr. Campbell questioned the dotted line shown in the middle. Mr. Scanlon noted that depicts the area where a soil sock construction barrier is installed.

Mr. Campbell noted that and the heavy dark dashed lines where the shoreland permit are depicted are not referenced on the key. Mr. Campbell asked if he has permission to cut vegetation and Mr. Scanlon indicated the DES permit allows him to alter the earth.

Mr. Clement asked the lot dimensions and Mr. Scanlon indicated 3 acres. Mr. Clement asked how much upland and how much wetland? Bruce Scanlon indicated roughly 75% wetland/25% upland.

Mr. Campbell indicated the colored map shows two streams? Not indicated on the map. Mr. Scanlon indicated the squiggly lines are the swales that come out of the culvert. Prior to being a church, there was likely farm drainage.

Stephanie Marshall of 7 Nelson Drive expressed concerns about the project adding to their existing water problems. She questioned how originally the building permit was issued without a CUP. The morning after the property was cleared by a lumber company and some large trees were removed. Ms. Marshall indicated she was not sure what changed the interpretation and questions the tie in to water and sewer prior to Planning Board approvals. Ms. Marshall indicated the house location is satisfactory. Having a sewer line near #4 was not desirable. Ms. Marshall indicated she believes the barn should not be included as a structure and questioned the proposed use of the barn as a residence or future residence since there is water and sewer connections and a garage attached. Ms. Marshall indicated she would like to see the Town be responsible for restoration of no cut buffers at its expense due to its error and would like to know why the error was made and insurances that it will not be made again. Ms. Marshall did not believe the lot should ever have been a buildable lot and opined the Town's position gravitates to revenues.

Ms. Marshall indicated she hopes the Commission will vote to delay or not recommend. Ms. Marshall indicated her letter was signed by herself and the owners of 6 Nelson Drive.

Dawn Jelley of 4 Nelson Drive indicated she submitted a letter and spoke at the hearing on May 12, 2020. She appreciates the adjustments but expressed concerns about water displacement on her property. The whole street is incredibly wet and she has sump pumps running all the time. Feels this will impact their home and has already had to mitigate black mold when she moved in. Ms. Jelley believes this lot should not have been designated buildable by the Town.

Mr. Clement asked why if the State Shoreland was already issued, why not the Exeter Shoreland? Ms. Murphy noted Exeter has a provision that exempts an existing lot of record.

Mr. Clement indicated with 32,500 SF of upland and a 10-12,000 SF building envelope, it will be taking 1/3 upland for impervious surfaces. Mr. Clement noted he did not see a drainage plan to

show how it affects abutters on Nelson Drive. As to the sewer connection prior to approval by the Planning Board this is the second time in a year and a half and the Town needs to address this out of consideration for the cost to the applicant.

Mr. Campbell read from RSA 482:A:15(1)(a) about the significance of prime wetlands. It goes against the goals we have set up.

Ms. Raub asked what portion of the property was cleared and how much into the wetland? Ms. Murphy noted she contacted Eben Lewis at NH DES and they used GPS and saw no impact. Ms. Raub questioned whether any abutters have noticed water flow changes as a result of the clearing? Bruce Scanlon noted the entire piece had wetland delineation and there was no cutting in the wetlands whatsoever. Out of liability large pines that were at an overgrown height were removed along the property line.

Ms. White also questioned grading. Mr. Campbell noted the piece between the house and garage would be impacted on both sides and described it as a finger wetland in the middle and questioned how it would not lose its value with impact. Mr. Koff agreed the grading plan was not available. Mr. Scanlon noted he did a grading plan and a small retention wall in the barn area along the driveway. The area is intact and the flow will not be impacted.

Ms. White asked about tree cutting in the wetland, within 150' of Little River and cited RSA 483-b. Mr. Scanlon indicated there were none.

Alison Eberhardt indicated there was a narrative supplied by Gove Environmental but no field data sheet.

Mr. Campbell asked if the vegetated buffer was to remain, would there be no grass/lawn? Mr. Scanlon indicated he proposed to use the existing grades and landscape, ½ way down the side of the house, 20' front and the rear would be left in a natural state. The barn site between the house would be natural with natural slopes to the front. Mr. Campbell asked no lawn? – up front? Mr. Scanlon indicated in front. Mr. Koff asked about the back, near the porch. Mr. Scanlon indicated it was grass right now.

Mr. Koff asked to describe the use of the barn. Mr. Scanlon indicated he thought it would be a good fit with some of the older homes in the area that had barns and would use it as a hobby shop but had no plans at this point.

Mr. Mattera noted he could not see how this property got designated with so much of it in the buffer zone. ½ in buffer, ½ in prime wetland buffer. It is disappointing to see.

Mr. Guindon noted riparian buffers are key for the long-term health. The barn should not be included. It is not the right place for further structures.

Ms. White noted there are two primary resource areas, primer wetland and Tier 3 stream. The applicant did a great job avoiding direct impacts but this is Exeter's prime wetland buffer and very highly ranked wetland in the state.

Ms. Eberhardt suggested stepping through the CUP conditions to hep the process move forward.

Ms. Murphy read out loud 9.1.6 b and the response which was it was a single family residence and detached barn permitted in R-2.

Mr. Koff noted multi-family use is a PB question.

Ms. Murphy continued...use cannot be carried out in portion outside, best feasible locations both buildings.

Mr. Campbell noted this is a different plan, the old shape barn in the left corner wouldn't fit now. The house before was more narrow. Would have provided southwest corner but people like the house where it is.

Mr. Clement noted the second large structure, even though barns are permitted, question meeting requirement number 2. A barn is not a requirement of a single-family residence. The applicant could just do the garage. Mr. Mattera noted there is a garage attached to the house already.

Ms. Murphy continued reading, #3 and the response which referenced the Gove letter/report.

Ms. Eberhardt indicated she did not feel prepared to comment with an incomplete report, with just the narrative. Mr. Clement agreed. Mr. Koff agreed adding the further impact to the finger wetland which buffer is impacted on both sides and will have sediment reduction with structures within 10-20.'

Ms. Murphy read #4 design, construction and maintenance. The response of the applicant was the site plan provides the least impact of fill required to access. The foundation is the best to reduce carbon footprint.

Mr. Koff noted removing the barn area would certainly lessen impact.

Ms. Murphy read out loud #5 and the response which was there was no hazardous impact created or to public health. Mr. Campbell indicated that was the answer to #6. Ms. Murphy indicated she had the wrong question sheet in the packet. The applicants answers corresponded to the new sheet.

Ms. Murphy read out loud #6 and Mr. Scanlon indicated he had no problem with restorations.

Mr. Koff indicated public comment expressed concerns with creating public health hazards in the neighborhood. Little River is part of the drinking water source.

Mr. Clement noted not having septic is a plus but lawn area, fertilizer and pesticides are concerns without a drainage plan as well as flooding toward the neighbors. Mr. Koff agreed. There is no way to evaluate potential drainage issues without a plan or statement of a civil engineer. Bruce ___ noted he is a professional engineer and reviewed the existing drainage. Little River would remain intact and continue to flow.

Mr. Clement asked how much water was leaving pre and post? Mr. Scanlon noted they were not asked to do an analysis due to the small impact. With a 2400 SF home, two driveways of 1,000 SF and a 1,600 SF barn the impervious would be roughly 5,000 SF. Most towns have a minimum 20,000 SF before requesting this and it is not something the Building Inspector requested.

Mr. Koff noted grading and drainage is also the purview of the Planning Board.

Ms. Murphy continued reading #7 and the response which discussed foundations grass and back grading and seeding.

Mr. Campbell noted #6 there was no plan to mitigate construction in the buffers. Mr. Koff indicated some silt fencing. Mr. Campbell indicated mitigation. Mr. Clement noted equipment coming in and out makes a temporary impact and requires some sort of restoration plan. The finger wetland will have quite a bit of disturbance. The applicant said he would restore but that needs to be on paper.

Mr. Campbell noted with permanent impact of 670 SF on prime wetland buffer and 3160 SF on poorly drained soil and temporary impact of 963 SF on prime wetland buffer and 21762 SF on poorly drained soil it will be a long time to bring that back. There needs to be a restoration plan. Mr. Koff agreed the response was some will be restored, some different, some lawn area. Mr. Scanlon noted had been a lawn. Mr. Campbell indicated today he saw no sign of any lawn anywhere, just goldenrod.

Ms. Murphy read out loud the section about required permits and the response which was to see attached shoreland permit.

Mr. Scanlon indicated it would be helpful if the Board would specify or make suggestions on plantings.

Mr. Campbell noted it was a square peg in a round hole. Mr. Mattera questioned how the process went wonky having the sewer line installed and acknowledged that expense put Mr. Scanlon in a touch position. There is 75% impervious surface in the buffer, 13% in the prime buffer. Can't see myself supporting that. Mr. Koff agreed. Ms. Murphy explained the applicant has not connected to any sewer structure and what he has done is at the applicant's risk. Mr. Campbell noted it puts pressure on us, maybe the Town should help with that. Mr. Koff agreed it was somewhat unique, not typical.

Mr. Clement motioned to deny recommendation to the Planning Board for the following reasons: the barn located in the prime wetland buffer is not feasible. Mr. Guindon seconded the motion.

Ms. Murphy noted even with additional information if the Commission would still vote to deny it would be in the same place. Mr. Koff agreed the grading plan would be nice to look at but wouldn't affect the decision.

Mr. Koff referenced #3 impact to the buffer, environmental sensitivity, value and function of the wetland. It is not met through this design. Mr. Mattera agreed. Don't think #3 has been met.

Mr. Mattera noted there is not enough information to determine if there is a hazard to the public. Has concern about impact to adjacent parcels.

Mr. Mattera noted #4 design doesn't need barn and that would reduce extent of impact. #4 is not met. Mr. Guindon agreed. Impact is hard to justify. The house with a garage and a barn with a garage.

Mr. Campbell amended his motion:

MOTION: Mr. Campbell motioned to not recommend approval of the CUP to the Planning Board based on the following reasons:

#2 – the location of the barn site is not feasible given the prime wetland buffer impact;

#3 – functions and values impact;

#4 – design extent feasible use could be achieved without barn and second garage;

#5 – hazard to public health and safety – potential impact to adjacent parcels.

Mr. Guindon seconded.

A roll call vote was taken Koff – aye, Mattera – aye, Eberhardt – aye, Campbell – aye, Guindon – aye, Raub – aye and Clement -aye. The motion passed 7-0-0.

Mr. Koff noted he will work with Ms. Murphy to prepare a memo to the Planning Board and will provide a copy to Mr. Scanlon. Mr. Scanlon thanked the Board and noted he appreciated their input.

2. Shoreland Conditional Use Permit application for subdivision at 10 John West Road for impacts within the Exeter Shoreland Protection District associated with Perkins Brook, a perennial brook within the Exeter River watershed (Tax Map 114/Lot 1).

Mr. Koff indicated Alternate Lindsey White would be active for this application.

Dennis Quintel presented the proposal to subdivide two lots and install two new septic systems. Mr. Quintel posted the HISS plan and indicated the areas of moderate to poorly drained soils. Mr. Quintel noted the only feasible location for the septic systems was at the area depicted on the plan after doing four witnessed test pits.

Mr. Quintel noted the dark line was the 150' setback to highest water mark of the brook. The dark solid line is the 100' setback and the 75' edge of wetland is shown. The homes will be four-bedroom using 600 gallons per day, totaling 1,200 gallons per day. A nitrate setback of 60' is required by the state, and has been met.

Mr. Clement noted Perkins Brook is a significant stream with natural brook trout and is concerned about nitrates leaching.

Mr. Quintel reviewed the criteria of 9.3.4.g and noted the use will not detrimentally affect the buffer and the list allows residential subsurface disposal systems. This is the only available location due to existing soil.

Mr. Koff opened the hearing to the public for comments and questions at 9:35 PM and being none closed the hearing to the public for deliberations.

Mr. Koff indicated it sounds like the criteria has been met.

Mr. Clement asked where the nearest municipal connection is? Mr. Quintel noted beyond Powder Mill but such a small lot would not be feasible to travel such a distance. Mr. Clement noted tying into municipal would be preferable to a sensitive area.

MOTION: Mr. Koff motioned to recommend to not object to approval of the Shoreland CUP. Mr. Campbell seconded the motion. A roll call vote was taken Koff – aye, Mattera – aye, Campbell – aye, Guindon – aye, Eberthardt – aye, Raub – aye, White – aye. The motion passed 7-0-0.

Mr. Quintel will check with Mr. Sharples for the Planning Board schedule.

3. Discussion of e-bike use in Town Forest - Tabled

4. Letter of Support: ESRLAC Watershed Plan Update

Mr. Clement noted he is a member of the Exeter Squamscott RLAC and explained they are applying for a grant to update the watershed management plan and it is required to update the chapter and will include climate change, sustainability and MS4 compliance.

Mr. Koff noted there is a typo in the 2nd to last paragraph the word “river” is missing. Mr. Mattera noted it is a good letter. Mr. Clement noted he approved, they will reach out to the Commission for input.

MOTION: Mr. Koff motioned to approve the letter of support for ESRLAC. Mr. Mattera seconded the motion. A roll call vote was taken Koff – aye, Mattera -aye, Campbell – aye, Guindon – aye, Eberthardt – aye, White – aye, Raub – aye. The motion passed 7-0-0.

5. Committee Reports

a. Property Management

b. Trails

c. Outreach Events

Ms. Murphy indicated Parks & Recreation is doing an afterschool hiking activity with Grades 6-8 on Thursdays from 3 to 4:15 PM beginning September 24th for seven weeks. There will be a maximum of 16 participants. Anyone who is interested in leading walks can reach out to Ms. Murphy. Mr. Campion noted he would be willing. Ms. Murphy recommended hikes to:

- Fresh River
- Jolly Rand starting at Kimball Reserve
- Oaklands from Wason Road
- Raynes Farm
- Morrisette
- Little River and
- Swasey

6. Approval of Minutes: August 11, 2020

Edits were recommended.

MOTION: Mr. Koff motioned to accept the August 11, 2020 minutes as amended. Mr. Guindon seconded the motion. A roll call vote was taken Koff – aye, Mattera – aye, Campbell – aye, Guindon – aye, Eberhardt – aye, Raub – aye, Clement – aye. Motion passed 6-0-1.

7. Correspondence

a. Stone Leighton Mowing

Ms. Murphy noted she and Mr. Guindon and Ms. Gilman walked the area after the adjacent owner reached out with concerns about not haying the property. An active beaver dam was observed and the southeast portion was quite wet. Mr. Guindon is willing to remove the Autumn Olive and Buckthorn by hand.

Mr. Clement noted this is near Perkins Brook and would like to mow a portion and keep it as a meadow and if not urgent work with someone to mow it next year.

Mr. Guindon noted he checked Google Earth and the beaver dam has been present for years and is probably keeping water out of the field, with minor seepage, a lot is not wet. Mr. Koff noted it would be helpful to have a map of wet and dry areas.

Ms. Murphy will discuss it with the Marstons and confirm for next year. An agreement should be in place with someone over the winter for next year.

8. Other Business

9. Next Meeting: Date Scheduled: October 13, 2020, Submission Deadline: October 2, 2020.

Adjournment

MOTION: Mr. Koff moved to adjourn at 10:03 PM. Mr. Campbell seconded the motion. A roll call vote was taken, all were in favor, the motion passed unanimously.

Respectfully submitted,

Daniel Hoijer, Recording Secretary