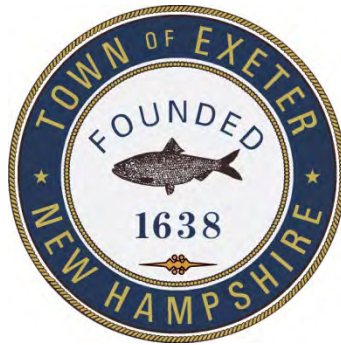


Town of Exeter



Planning Board Application for Conditional Use Permit: Wetlands Conservation Overlay District

July 2023



SUBMITTAL REQUIREMENTS:

- Required Fees:
- | | | |
|------------------------------------|-----------------------------|---|
| Planning Board Fee: \$50.00 | Abutter Fee: \$10.00 | Recording Fee (if applicable): \$25.00 |
|------------------------------------|-----------------------------|---|

APPLICANT	Name: Deirdre & Seth Robert
	Address: 26 Wadleigh Street (Exeter Rose Farm Subdivision Lot 2)
	Email Address: deirdrelrobert@gamil.com, sethjrobert@gmail.com
	Phone:
PROPOSAL	Address: 26 Wadleigh Street
	Tax Map # <u>54</u> Lot# <u>5-2</u> Zoning District: <u>R-2 SF Resident</u>
	Owner of Record: Deidre & Seth Robert
Person/Business performing work outlined in proposal	Name: Profile Homes c/o Matt Silva
	Address: 953 Islington St., Unit 21C, Portsmouth, NH 03801
	Phone: 603-433-2464
Professional that delineated wetlands	Name: Marc E Jacobs, NHCWS #090
	Address: 609 Portsmouth Ave., P.O. Box 417, Greenland, NH 03840
	Phone: 603-534-SOIL (7645)

Town of Exeter
Planning Board Application
Conditional Use Permit: Wetland Conservation Overlay District

Detailed Proposal including intent, project description, and use of property: (Use additional sheet as needed)

Please refer to the attached letter from Marc E. Jacobs, NHCWS dated July 8, 2026

Wetland Conservation Overlay District Impact (in square footage):

Temporary Impact	Wetland:	(SQ FT.)	Buffer:	(SQ FT.)
	☐ Prime Wetlands	_____	☐ Prime Wetlands	_____
	☐ Exemplary Wetlands	_____	☐ Exemplary Wetlands	_____
	☐ Vernal Pools (>200SF)	_____	☐ Vernal Pools (>200SF)	_____
	☐ VPD	_____	☐ VPD	_____
	☐ PD	_____	☒ PD	<u>839 SF</u>
	☐ Inland Stream	_____	☐ Inland Stream	_____
Permanent Impact	Wetland:		Buffer:	
	☐ Prime Wetlands	_____	☐ Prime Wetlands	_____
	☐ Exemplary Wetlands	_____	☐ Exemplary Wetlands	_____
	☐ Vernal Pools (>200SF)	_____	☐ Vernal Pools (>200SF)	_____
	☐ VPD	_____	☐ VPD	_____
	☐ PD	_____	☒ PD	<u>545 SF</u>
	☐ Inland Stream	_____	☐ Inland Stream	_____

List any variances/special exceptions granted by Zoning Board of Adjustment including dates:

NA NA

Describe how the proposal meets conditions in **Article 9.1.6.B** of the Zoning Ordinance (attached for reference).
Written justification for each criterion must be provided to be deemed administratively complete.

Please refer to the letter prepared by Marc Jacobs, NHCWS dated July 8, 2026

9.1.6.B. Prior to issuance of a conditional use permit, the Planning Board shall conclude and make a part of the record, compliance with the following criteria:

1. That the proposed use is permitted in the underlying zoning district;
2. No alternative design which does not impact a wetland or wetland buffer or which has less detrimental impact on the wetland or wetland buffer is feasible;
3. A wetland scientist has provided an impact evaluation that includes the “functions and values” of the wetland(s), an assessment of the potential project-related impacts and concluded to the extent feasible, the proposed impact is not detrimental to the value and function of the wetland(s) or the greater hydrologic system.
4. That the design, construction and maintenance of the proposed use will, to the extent feasible, minimize detrimental impact on the wetland or wetland buffer;
5. That the proposed use will not create a hazard to individual or public health, safety and welfare due to the loss of wetland, the contamination of groundwater, or other reasons;
6. The applicant may propose an increase in wetland buffers elsewhere on the site that surround a wetland of equal or greater size, and of equal or greater functional value than the impacted wetland
7. In cases where the proposed use is temporary or where construction activity disturbs areas adjacent to the immediate use, the applicant has included a restoration proposal revegetating any disturbed area within the buffer with the goal to restore the site as nearly as possible to its original grade and condition following construction.
8. That all required permits shall be obtained from the New Hampshire Department of Environmental Services Water Supply and Pollution Control Division under NH RSA §485-A: 17, the New Hampshire Wetlands Board under NH RSA §483-A, and the United States Army Corps of Engineers under Section 404 of the Clean Water Act.;



July 8, 2026

Mr. David Short, Chair
Exeter Conservation Commission
10 Front Street
Exeter, N.H. 03833

Re: Deirdre & Seth Robert
Assessors's Map 54, Lot 5-2
26 Wadleigh Street
Subdivision Lot 2
Exeter Rose Farm

Subject: Buffer Zone Encroachment &
Conditional Use Permit Application

Dear Mr. Short:

The letter is intended to accompany a conditional use permit (CUP) application for the above-referenced property. As you may recall, due to a series of misunderstandings between the property owner, building contractor and engineer of record for this subdivision, this lot became the subject of a buffer encroachment involving the removal of buffer vegetation, conversion to lawn and placement of a swing set (on a bark mulch pad) within the wetland buffer zone. Refer to the attached site plan dated/last revised July 29, 2026 as well as image 1-4 appended to the back of this letter.

Lot 2 is 87,581 square feet (SF), or ± 2.01 acres, in size. The encroachment totals 1,384 SF or 0.03 acres. The encroachment therefore represents 1.5% of the total lot area.

The landowner, through their building contractor, submitted a CUP application last fall and the Commission denied a request to retain the encroachment. This application thus seeks to rectify elements of the encroachment (so this could also be considered an after-the-fact application) and also seeks to install a fence, which was not part of the previous application. We have met with town staff at the property on several occasions regarding this situation since last fall. We want to express our appreciation for their useful and thoughtful guidance.

This CUP application proposes the following:

- Restore three areas of the buffer totaling 839 SF by removing lawn and installing buffer plantings as further specified below. This represents ± 60 percent of the total encroachment.

- Relocate the swingset and bark mulch pad out of the buffer zone.
- Retain 545 SF of lawn within the buffer. This represents ± 40 percent of the total encroachment.
- Install a fence as depicted on the attached drawing. (Refer to Image 1 for a sample of the fence proposed for installation.)

Where proposed for removal, lawn will be replaced with native shrubs according to the specifications in Table 1 below.

TABLE 1

STRATUM	SPECIES / MIX Common (<i>scientific</i>) name	SIZE / RATE	QUANTITY / LOCATION
Herbaceous	Red top (<i>Agrostis alba</i>) and switchgrass (<i>Panicum virgatum</i>)	1:1 mix applied at 20+ pounds per acre	Apply seed to exposed upland soils. Total of 0.5 pounds (minimum).
Shrub	Gray (or red-panicked) dogwood (<i>Cornus racemosa</i>)	4'-5' minimum height	Planted randomly 6-8 feet on center. Total of five (5) specimens.
	Beaked hazelnut (<i>Corylus cornuta</i>)	4'-5' minimum height	Planted randomly 6-8 feet on center. Total of five (5) specimens.
	High bush blueberry (<i>Vaccinium corymbosum</i>)	4'-5' minimum height	Planted randomly 6-8 feet on center. Total of five (5) specimens.
			Total of 15 shrubs.

After installation of the shrubs, bark mulch or wood chips will be placed in a circle, approximately 1-foot in diameter, around the base of each shrub. After shrub installation is complete, bare soils will be seeded and mulched with straw (not hay).

It is the intent of this restoration program that the native grasses to be planted in in the restored area, including between the shrubs, will not be mowed - in perpetuity. It is also the intent of this program that the area be left to mature and grow wild, free from maintenance.

Erosion is not expected, but the restoration areas will be monitored and customary perimeter siltation controls such as compost filter sock ('silt sock') will be installed if erosion is observed. (Cair logs and straw wattles are not an acceptable substitute for compost filter sock.)

Long-term Monitoring and Status Reports

Restoration will be performed by the building contractor of record under the supervision of a certified wetland scientist. Within 30 days of completion of the restoration and plant installation work, an initial status report, including photographs (taken during all phases of restoration construction), will be prepared and submitted to the ECC. Status reports will provide information regarding the following parameters (minimally):

- Date of the site inspection and any observations,
- an inventory and the general status (health) of herbaceous and shrub plantings,
- observations regarding the uniformity of vegetation,

- any plant substitutions (initial report only),
- the stability of site soils,
- the status of erosion and siltation controls,
- observations of erosion and/or siltation (entering, exiting or within restored areas and adjacent uplands),
- observations of any commonly accepted invasive vegetation species (with an emphasis on new infestations [area or species] or expansions of existing infestations),
- recommended remedial measures or corrective actions, if any and,
- the approximate date of the next inspection, if required by the ECC CUP approval.

As necessary to confirm the successful re-establishment of restored areas, additional inspections and status reports will be prepared and submitted to the Exeter Conservation Commission (ECC) by June 30th for two (2) additional growing seasons following completion of restoration activities. In addition to those items listed above, subsequent reports will document the following ecological performance standard: a minimum of 75 percent survival/establishment of the herb and shrub cover within restored uplands.

The percentage of herbaceous plant coverage or estimates of survival will be based upon a visual estimation of aerial coverage. The estimate of herbaceous aerial coverage and the woody stem count may also include suitable herbaceous and woody specimens / species that have colonized the restored areas from surrounding natural uplands and which were not represented in the original plant list specified in Table 1 above.

Where inspections and status reports demonstrate that the ecological performance standard stated above has not been achieved at the end of two (2) full growing seasons, or as soon as it may be apparent that site conditions may not result in a successful restoration of the buffer, the status report will identify any recommended corrective action(s), such as replanting or invasive species management, that may be necessary to bring the restored area into compliance with this narrative. The ECC will be consulted prior to initiating any remedial actions and to ascertain whether any additional long-term monitoring will be necessary after any remedial measures are implemented.

Upon demonstration that the area is a success and that all exposed soils are suitably vegetated and stabilized against erosion, any siltation barriers will be dispersed, removed and reused or properly disposed of as appropriate and as determined by the wetland scientist in coordination with the owner or their site work contractor as appropriate.

While it is anticipated that the wetland scientist of record or another suitably qualified individual will be conducting future inspections and preparing status reports, the property owner will ultimately be the party responsible for providing status reports as well as implementing any remedial measures or corrective actions which may be needed to bring the restored wetland areas into compliance with this program and ECC approval.

CUP Criteria for Approval

Regarding the criteria for approval of a CUP permit application according to §9.1.6.B, I offer the thoughts below for your consideration. A snapshot of the applicable zoning section is followed by my response.

B. Conditions: Prior to issuance of a conditional use permit, the Planning Board shall conclude and make a part of the record, compliance with the following criteria:

1. That the proposed use is permitted in the underlying zoning district;

The proposed use is permitted in the underlying zoning district.

2. No alternative design which does not impact a wetland or wetland buffer or which has less detrimental impact on the wetland or wetland buffer is feasible;

There is no alternative that does not adversely impact the owners reasonable use of the property and yard. The area that has been converted to yard is the flat part of the lot, which is surrounded on three sides by steep slopes, so this area lends itself to typical yard activities.

3. A wetland scientist has provided an impact evaluation that includes the "functions and values" of the wetland(s), an assessment of the potential project-related impacts and concluded to the extent feasible, the proposed impact is not detrimental to the value and function of the wetland(s) or the greater hydrologic system.

Reference is made to the wetland functional assessment issued by this office for the Exeter Rose Farm project on April 3, 2018 and updated in September 2021. Wetland functions and values (also known as ecosystem services) provided by the wetland adjacent to this buffer based upon observations made during delineation of site wetlands include:

- Streamflow maintenance (associated with groundwater discharge)
- Floodflow alteration
- Sediment retention
- Nutrient removal
- Wetland wildlife habitat
- Uniqueness

Regarding **stream flow maintenance**, the restored buffer will increase infiltration to groundwater and decrease thermal impacts which will aid in protecting the stream located within wetlands at the toe-of-slope.

Regarding **floodflow alteration**, a total loss of buffer would have a negligible effect on the ability of the wetland and stream at this location to desynchronize flood events.

Regarding **sediment retention**, studies have demonstrated that buffers of 25-feet are minimally required to filter sediments. However, this distance increases with increases in slope steepness. The distance between the wetland-upland boundary and closest edge of the lawn that is proposed to be removed is ± 28 feet. The slope between the current edge of lawn and the wetland here is ± 35 percent. The area proposed for restoration will add ± 10 -feet to the buffer, for a total of ± 38 -feet, which is adequate to filter sediments on this slope. It should be noted that, except for the period of time when the restoration is taking place, until the time the area is deemed to be permanently stabilized, a period of roughly 2-3 weeks (which could be shorter if mulch is used in lieu of establishing herbaceous vegetation cover), the area provides minimal opportunity for sediment loss.

Regarding **nutrient retention**, buffer science indicates that 75 percent nutrient removal can be achieved with buffers as narrow as 40-feet. The effectiveness of buffers to remove nutrients is influenced primarily by the composition of vegetation within the buffer and the steepness of the buffer. We would therefore expect that after adding ± 10 feet to the buffer after restoration, the effectiveness of the resulting 38-foot buffer to provide this function or augment the nutrient removal function provided by the adjacent wetland to increase, especially with time, although it may not function optimally or comparably to a 50-foot or wider buffer. The use of low nitrogen fertilizer on the remaining lawn could help to protect the wetland and stream. (A total prohibition on the use of fertilizer to maintain lawns has ramifications for sediment removal functions. Poor quality turf and thin lawns produce more sediment and increased runoff.)

Regarding **wetland wildlife habitat**, the unique landscape position of this lot and how it is ‘perched’ topographically above the adjacent wetland aids in decreasing noise and proximity impacts on wetland wildlife habitat functions. The wetland and slope provide natural corridor protection for migration of those species utilizing the stream. (The 5’ x 24’ box culvert at Wadleigh Street over the nearby Norris Brook was designed to encourage wildlife migration as well.) The proposed fence will further minimize proximity impacts, although this particular fence will not be able to provide any additional noise reduction. Buffers as narrow as 25-feet have significant benefits for noise reduction. Buffers of hundreds of feet are necessary, and the widths vary depending upon the species involved, to protect wildlife and core habitat functions. At 50-feet, the current required buffer is already inadequate to protect many wildlife species. The denial of the applicant’s request to retain lawn resulting in the permanent loss of 12-feet of buffer – after restoration is complete – is unlikely to have a meaningful impact of wetland wildlife in this habitat corridor. See also number 4 below.

Regarding **uniqueness**, this function is primarily attributable to the Norris Brook and the former man-made pond and weir (which has since been removed to provide compensatory wetland mitigation) which were also part of the study area. Lot 2 backs up on a stream that is tributary to Norris Brook, therefore impacts to buffer in this area will have no impacts for this function.

4. That the design, construction and maintenance of the proposed use will, to the extent feasible, minimize detrimental impact on the wetland or wetland buffer;

The conversion of lawn, especially such a small area of lawn, may alter, but will not eliminate or adversely effect the infiltration of precipitation and storm water back into the ground so impacts to stream flow maintenance functions should be de minimus. The fence will not be fixed to the ground between posts, allowing smaller wildlife fauna to easily pass. The proposed fence will not pose any risk to the other wetland functions discussed above.

5. That the proposed use will not create a hazard to individual or public health, safety and welfare due to the loss of wetland, the contamination of groundwater, or other reasons;

The lawn, swing set (which will be relocated out of the buffer) and fence pose no hazards to public health safety or welfare. The proposed uses will not result in the contamination of groundwater. Denial of a fence could result in a hazard to the owners, who have two small children.

Beyond the Roberts' two young children, the yard is a natural gathering space for visiting friends and neighborhood children. Given the lot's unique configuration — with steep slopes and a drainage easement and other flood prone areas on three sides — the fence provides an important safety boundary for all children using this yard, not just the property owners' children.

As you will note from the attached plan, the lot is surrounded on 3 sides by steep slopes and a drainage easement which supports a gravel wetland, which is designed to treat stormwater and therefore floods temporarily during larger storm events. The fence will keep young children safer by keeping them in the yard and adjacent to the dwelling. Note that the fence starts and stops at the dwelling.

Additionally, the fence can act to perform some of the same functions as a vegetated buffer such as by discouraging further encroachment and by discouraging the stockpiling of yard waste or other materials in the buffer.

6. The applicant may propose an increase in wetland buffers elsewhere on the site that surround a wetland of equal or greater size, and of equal or greater functional value than the impacted wetland.

Unfortunately, due to the unique configuration of this lot, as well as the steep slopes and drainage easement, there are no meaningful opportunities to provide compensatory buffers elsewhere on site.

7. In cases where the proposed use is temporary or where construction activity disturbs areas adjacent to the immediate use, the applicant has included a restoration proposal revegetating any disturbed area within the buffer with the goal to restore the site as nearly as possible to its original grade and condition following construction.

The proposed fence is not temporary. Presumably, the lawn was not intended to be temporary but 839 SF could be considered temporary by virtue of the restoration described above. Approximately 60 percent of the lawn will be removed from the buffer and restored with shrub plantings.

8. That all required permits shall be obtained from the New Hampshire Department of Environmental Services Water Supply and Pollution Control Division under NH RSA §485-A: 17, the New Hampshire Wetlands Board under NH RSA §483-A, and the United States Army Corps of Engineers under Section 404 of the Clean Water Act.;

The project results in no direct impacts to wetlands. The State of New Hampshire does not regulate buffers per se (unless activities adjacent to wetlands – such as grading – which results in erosion – cause impacts such as sedimentation to wetlands or waterways) therefore no wetland permit is needed from the State of NH.

Conclusions

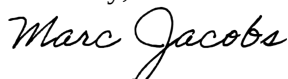
The 545 SF of lawn within the buffer that is proposed to be retained is the portion of the encroachment farthest from the wetland boundary and at the highest point on the slope, with the restored planting area serving as an additional ecological buffer between it and the wetland. It also represents some of the only level yard space on a lot otherwise constrained on three sides by steep slopes and a drainage easement. Requiring its full restoration would leave very limited functional outdoor area for ordinary residential use, a result disproportionate to the ecological benefit that removal of this small, elevated area of lawn would provide.

Finally, the Commission indicated a concern during the public meeting last fall about the previous application and any subsequent approval establishing a precedent, especially in a large new project with other properties that contain or back up against protected resources. (This application is materially different from the previous in that it is also proposing the fence.)

I submit to you that this is a unique situation that will not set a precedent. While there are other lots in the subdivision that possess wetland and/or wetland buffer, this lot has a combination of physical attributes that is lacking on any other lot in this subdivision. The lot possesses a unique configuration of wetlands, topography and a drainage easement (which supports a storm water control measure) on three sides. There is no other lot in the subdivision which has this circumstance.

I would like to thank you and the Commission for your thoughtful consideration in this matter. I look forward to discussing this application with you at your August 11, 2026 meeting.

Sincerely,



Marc Jacobs
NH Certified Soil Scientist
NH Certified Wetland Scientist
Certified Professional in Erosion and Sediment Control

Deirdre & Seth Robert
26 Wadleigh Street
Exeter, NH
July 8, 2026



Image 1 - Proposed fence segment (typical).

Deirdre & Seth Robert
26 Wadleigh Street
Exeter, NH
July 8, 2026



Image 2 – Lot 2 looking North. Note the grade stakes, which identify the wetland buffer.

Deirdre & Seth Robert
26 Wadleigh Street
Exeter, NH
July 8, 2026



Image 3 – Lot 2 looking South. Note the mulch in the foreground.

Deirdre & Seth Robert
26 Wadleigh Street
Exeter, NH
July 8, 2026



Image 4 – Looking north from the dwelling. Note the area of buffer altered by the swingset in red shade.

July 29, 2026

Deirdre L. Robert and Seth J. Robert of 26 Wadleigh Street, Exeter, NH (Assessors Map 54, Lot 5-2) hereby authorize Marc E. Jacobs, and Matt Silva to represent us before any and all Town of Exeter Representatives, Boards and Commissions for permitting our project.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'D Robert', written over a horizontal line.

Deirdre L. Robert

A handwritten signature in blue ink, appearing to read 'S J Robert', written over a horizontal line.

Seth J. Robert

