



# City of Westfield Municipal Conservation Commission

OCTOBER 10, 2023, AT 6:30PM  
MEETING OF THE WESTFIELD CONSERVATION COMMISSION  
ROOM 201, 59 COURT STREET WESTFIELD, MA

Conservation Commission members in attendance: Chairman Doe (DD), Vice Chairman James Murphy (JM), Carl Grobe (CG), Edward Finnie (EF), James Prystowski (JP) and Robert Florek (RF) Also, in attendance: Anna Meassick, Director of Conservation and Christina Ramos, Conservation Clerk

## 1. CALL TO ORDER

Commissioner DiCarlo is not in attendance.

## 2. OPEN PARTICIPATION

Chairman Doe asks if there are any members of the public to address the Commission on items not subject to a public hearing. Seeing none, he moves onto item 3, Public Meetings.

## 3. PUBLIC MEETINGS (RDAs)

Chairman Doe reads that there are none currently and moves onto item 4, Public Hearings.

## 4. PUBLIC HEARINGS (NOIs)

### A. 0 Bayberry Lane – Serge Novenko – DEP File #333-0838

Proposal: Construction of single-family home within bordering vegetated wetland and associated buffer zone

Ryan Nelson of R. Levesque Associates is present to review the project. He provides a recap of the project and plan so far. He suggests that the site be left as it has grown in and not be re-graded. The curtain drain has been moved outside of the replication area. Mr. Nelson provides the Commission with photos of the site as of October 9, 2023.

Commissioner Grobe asks where the water will flow to. Mr. Nelson explains that the runoff will be 5-10ft from the replication area, providing it with water. It will be armored with riprap.

Commissioner Florek asks if there will still be the same number of plants. Mr. Nelson answers that the original plan for restoration outside the limit of work remains the same.

Vice Chairman Murphy asks what species will be planted and where. Mr. Nelson lists off the species, explaining the chosen plants were based upon stumps and what has grown back. All shrubs will be 5 gallons and trees 5-6ft tall.

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Chairman Doe asks if the Commission has any questions. Seeing none, he turns to Director Meassick. She lists her concerns for the closeness of the home to the replicated area and success rate.

Mr. Nelson explains the replication area will have a bench and dip to retain water. He explains the lot predates current zoning standards and the wetland ordinance. The 50ft no touch should not apply.

Vice Chairman Murphy asks Director Meassick to reiterate her questions so Mr. Nelson may answer. She does so. Mr. Nelson walks through again the flow of water and pitch downgrade toward the wetland.

Commissioner Finnie asks Director Meassick to review the language of the ordinance. She reads the 50ft No Disturbance Zone paragraph from the ordinance.

Chairman Doe asks Mr. Nelson to clarify his argument for disturbance of the 50ft Buffer. Mr. Nelson explains the lot is not conforming to all standards and explains the ways they are mitigating and minimizing work to the smallest extent possible.

Vice Chairman Murphy would like offsite mitigation to be considered.

Director Meassick reads an email from Mr. Nelson explaining the decision to leave the existing vegetation and not regrade the property. The property is not overrun with invasive species, and she agrees to leave the property as is, with additional plantings as proposed in the restoration plan. She does not have any additional locations for restoration around the city that she is aware of. Extra replication is being provided on site.

Chairman Doe presents the Commission with options for approval or denial. Director Meassick points out the language of "no other alternative" being an issue for denial. Commissioner Grobe agrees that the house being fully within the 50ft no disturb zone is against the ordinance.

Vice Chairman Murphy would like a continuance to see the applicant come up with alternative for mitigation elsewhere. Director Meassick explains it would have to be on city property due to ownership. Commissioner Grobe thinks a decision needs to be made this evening because off-site mitigation will not benefit the property in any way.

Chairman Doe asks if the Commission has any additional comments. Seeing none, he asks if any member of the public has any questions or comments. Seeing none, he entertains a motion to close the public hearing.

Vice Chairman Murphy motions to close the public hearing. Commissioner Grobe seconds.

Chairman Doe asks for additional comments from the Commission. Commissioner Grobe would like everyone's opinion of the project within the 50ft Buffer Zone and how to handle it.

Chairman Doe explains they are mitigating as much as they can, providing replication, and follow the state regulations to what is appropriate. Director Meassick carries on this statement by explaining the buffer zone is indirectly regulated by the Act and Regulations to the Act.

There are no additional comments or concerns from the Commission. Chairman Doe calls a vote for the motion to close the public hearing. EF- Yes, JP-Yes, CG-Yes, JM-Yes, RF-Yes, DD-Yes. The motion passes.

The special conditions are reviewed.

Commissioner Grobe motions to approve the order with special conditions. Vice Chairman Murphy seconds. EF- Yes, JP-Yes, CG-Yes, JM-Yes, RF- Yes, DD-Yes.

The motion passes.

B. 0 Fox Hill Drive - Yevgeniy Pomaznuk – DEP File #333-0841

Proposal: Construction of single-family home within buffer zone to bordering vegetated wetland

Ryan Nelson of R. Levesque Associates is present as the representative. Mr. Nelson reviews the project and site visit. The driveway cuts through the 50ft Buffer Zone. No trees are intended to be removed from the 50ft Buffer Zone. The leach field is located outside the 50ft Buffer Zone. Grading of the raised system goes into the 50ft Buffer Zone. All setback distances have been met. Most of the project is at grade.

Chairman Doe walks through the history of the lot not being buildable then land court made the road a public way. It is another unusual lot and situation. Mr. Nelson explains it is because all the land without wetlands is gone. Chairman Doe is concerned about the height of the system and grading going over the property line. He has additional concerns for water runoff across the property and would like to see a drain or swale constructed to convey water around the system. Mr. Nelson explains subsurface drains are not allowed under Title V without proper setbacks.

Commissioner Grobe asks how much of the driveway is within the 50ft. Mr. Nelson estimates 100 linear feet. There is no construction within the resource area. Commissioner Grobe asks how machinery will reach the site. Mr. Nelson says it is more costly but is possible.

Vice Chairman Murphy inquires to a slab or basement foundation. No basement is proposed because of the high groundwater table.

Chairman Doe asks where water will be conveyed from the rough. Mr. Nelson explains there is no room for drywell or rain gardens to provide mitigation for water so it will runoff down a gutter and into the wetland. Commissioner Florek asks if rainwater can be collected. Mr. Nelson says it is an option.

Chairman Doe asks if the Commission has any additional questions. Seeing none, he opens the discussion to the public.

Richard Sanford, abutter, expresses his frustration. He wants the Commission to stop the process completely. He speaks of his own experience installing basements and septic systems. He thinks that the leach field will leach into the ground water, contaminating the irrigation pond on his property that he spent a lot of money on to dredge. He reveals a vile of water and claims he will get a lawyer if he finds that it is contaminated. He says when it rains the stream floods. He admits to digging two holes on his property so the Commission can observe the ground water. He offers to take the Commission to see the ground water and his claims of leaching.

An additional abutter speaks up. He believes the driveway will flood his backyard and that of all the neighbors on Whitaker Road. He has removed the sump pump from his house and there is a foot of what 18 inches under the water. He thinks that the construction will flood his basement. He claims he will get a lawyer if it floods. Mr. Sanford butts in to say that the septic systems on Whitaker are in front of the home. The abutter continues saying that none of the information about the road possession was disclosed to any residents of Whitaker Road. He explains the property owner sent them a letter saying it is up for sale but never said how much. His concerns are that there will be more water in his yard. He addresses Mr. Nelson directly, aggressively, to say he should have the property lines marked of all the residents on Whitaker Road. Mr. Nelson responds saying they are not required to mark the pins of abutters but use the land court document as approved. The abutter claims it should have been done anyways. Chairman Doe cuts off the argument before it can proceed.

Director Meassick addresses through the chair, asking the abutter to state his name for the public record. The abutter reluctantly gives his name, Richard Ruda, believing they should already know what his name is. Director Meassick explains she wouldn't have asked his name if she knew it.

Mike Ugalik of 71 Whitaker Road, abutter, speaks next of his opposition to the project. He does not believe the project should be allowed based upon the city ordinance. He reads the ordinance language of the 50ft No Disturb Zone. He provides a packet of information to the Commission. It contains an outdated plot plan from 1996. Since the ordinance sites 1993, Mr. Ugalik believes the proposal is a moot point as this work is happening far after that. Mr. Ugalik reads another line from the ordinance regarding the 50ft No Disturb Zone, pointing out the language each time of "no disturbance." He feels the project does not qualify as "extremely unusual," does not provide a significant benefit, and can be avoided by not doing the work. He emphasizes again there is no benefit immediately adjacent to the resource area. He claims there is a game trail from

Surrey Lane to the corn field abutting the property that species migrate through and will be disturbed with construction of the home. Mr. Ugalik reads the language of the Burden of Proof article in the ordinance. He feels the applicant should be proving it won't effect the resource area and neighboring property, not the other way around.

Jon DeSanto of 69 City View Road, abutter, thinks it's convenient the house fits and that R. Levesque Associates fit the house in. He thinks it's odd it all fits in properly. Director Meassick and Chairman Doe point out it is the point of having a survey and site plans done and why a consultant is hired in the first place, Mr. Nelson is doing his job. Mr. DeSanto would like to know when the delineation was done. Mr. Nelson dates it to this past spring of 2023.

Joe Martin of 5 City View Boulevard speaks next about his land and claims if he tried to apply for a permit, it would get denied. He doesn't think a home should be built on a slab.

Maryann DeSanto of 69 City View Road, abutter, expresses concerns for damage to her property during construction due to how close it is to her property. She expects trees to be removed in the process, which they won't be allowed to do since they are on her property.

Mike Burns of 66 Kylie Lane, Ward 4 City Councilor, expresses his distaste for the project. He explains 2018 is when the applicant was "shot down" by planning board. Mr. Burns explains the property owner won in court last year to make the street a public way. He does not believe it is a place for a home. He says the owner did make an offer to the abutters, but he will not discuss that with the Commission because it is not to their purview. Mr. Burns thinks that the driveway will be the biggest issue for water.

Director Meassick explains that the ordinance language allows for the work. Mr. Nelson encourages the public to look into limited projects and that this project isn't out of the ordinary for approval as it goes through the buffer, not the wetland itself.

Mr. Sanford won't give his approval unless he gets it in writing that the septic system will not leak into his pond. Mr. Nelson tells him its not in his power to do that as a consultant. Director Meassick recommends monitoring wells, but it is not possible. Mr. Sanford mentions again he will be testing the water.

Mr. Ugalik points out again that he thinks this is all against the city ordinance. Mr. Nelson explains that in certain circumstances this work may be allowed. Director Meassick points out the language allows for the work.

Chelsie Ugalik of 71 Whitaker Road, abutter, wants to know how the work is unavoidable and how it is an improvement to the wetland. Mr. Nelson attempts to answer but she cuts him off and proceeds to argue her point. Mr. Nelson does not get a chance to answer.

Director Meassick explains that because the home is outside the 50ft, the driveway is to be considered the unavoidable alteration, not the entire project. Only the impacts to the 50ft buffer zone have to be unavoidable.

Mr. Sanford, Mr. Ruda, Mrs. Ugalik, Mr. Ugalik, and several other members of the public interrupt Director Meassick while she is trying to speak to the Commission. They begin to argue and be combative and question the point of the Commission.

Chairman Doe regains order.

Director Meassick continues speaking to the Commission about the language of the ordinance. She explains that the applicant could very well build in the wetland if they wanted to with replication, but they are respecting the 50ft Buffer Zone. It is on the applicant to prove to the Commission the work will not have an impact on the resource area, and they can approve or deny the project if they feel that has or has not been done. The phrase "OR" means one or the other, not both. She proposes an invasive species management plan as a significant improvement to the resource area immediately adjacent.

Mr. Sanford interrupts and demands the Commission go to his property to see the water table. Director Meassick states groundwater is at 2ft or 24inches and they are aware of the shallow depth.

Mr. Ruda addresses the restrictions on his property and why this home can be built but he can't build a pool or mow his lawn. Director Meassick explains that the restrictions he speaks of are set by the State, not the Commission.

Mr. Ugalik reads the ordinance again, referencing May 20, 1993 which he interprets to mean this work is not allowable.

Chairman Doe mentions a continuance to review the information provided that evening. A member of the public accuses the Commission of continuing so they can decide when no one shows up. Director Meassick explains the reason Commission can continue are for the purpose of reviewing additional information, which the public has given that evening, so that they have all the information to decide. The audience member expresses they will all be at every meeting and bring more. Director Meassick welcomes everyone to participate in whatever item they would like to discuss.

Commissioner Finnie would like to do a site visit.

Vice Chairman Murphy motions to continue to October 21, 2023. Commissioner Pystowski seconds. EF- Yes, JP-Yes, CG-Yes, JM-Yes, RF- Yes, DD-Yes.

The motion passes.

*\* The microphone cuts out at this time and audio is not recorded for 45 minutes. \**

- C. 65 Sherwood Ave – David Guyott  
Proposal: Construction of garage within Riverfront Area

John Flagg is present as the representative for the applicant.

Chairman Doe reads the legal language.

Mr. Flagg introduces the project. The DEP comments were received earlier in the day and are reviewed. DEP comments address the need for delineation and mitigation within riverfront area. There are still several outstanding items that must be addressed prior to the Commission issuing a determination.

Vice Chairman Murphy motions to continue to October 24, 2023. Commissioner Prystowski seconds. EF- Yes, JP-Yes, CG-Yes, JM-Yes, RF- Yes, DD-Yes.

The motion passes.

#### 5. ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION

##### *Commissioner Florek and Vice Chairman Murphy recuse themselves*

- A. Falley Drive, 0 Shaker Road (REAR) – Gezotis Realty Group – DEP File #333-0840  
Proposal: Delineation of stream from perennial to intermittent

Ryan Nelson of R Levesque Associates is present as the representative and Harold Murphy, applicant, is also present.

Mr. Nelson walks through the delineation of the stream. They are requesting that the stream be ruled as intermittent from flag BNK-1 to flag BNK-127. After BNK-127, the bank resumes its perennial status as presumed on the USGS topographic map which the applicant could not prove to be intermittent.

Director Meassick explains that while she originally recommended a peer review of the delineation, since being out on site it is very clear that the section marked as intermittent is so until flag BNK-128 where there is a four to five foot deep pool of ground water that is actively flowing towards the golf course where it then enters a culvert at the property line and is conveyed underground. Commissioner Finnie was also on the site visit and agrees with Director Meassick's statement.

Chairman Doe asks if the Commission has any additional comments. Seeing none, he asks if any member of the public has any questions or comments.

Nancy and Dan Kotowitz of 66 Shaker Road question how the work will impact their golf course. Director Meassick explains that there is no work proposed, this application is simply for stream classification. Mrs. Kotowitz insists that there must be a reason for the

classification. Mr. Murphy answers that there is an extreme erosion problem on the property and they need to know the jurisdiction of the Commission in order to fix it.

Chairman Doe asks if there are any additional questions from the audience. Seeing none, he entertains a motion to approve the ANRAD as depicted on the site plans.

Commissioner Grobe motions to issue an Order of Resource Area Delineation affirming the boundaries described within the application and site plans are accurate for bordering vegetated wetland and bank of the intermittent stream, then is presumed perennial. Commissioner Finnie seconds. EF- Yes, JP-Yes, CG-Yes, DD-Yes.

The motion passes.

*Vice Chairman Murphy returns.*

## 6. CERTIFICATE OF COMPLIANCE

*\* Director Meassick realizes the microphone was muted during the last two items discussed. She adjusts the settings and the meeting resumes recording. \**

### A. 0 Russell Road – DEP File #333-466

Proposal: construction of a single duplex structure within Riverfront Area in 1998

Ryan Nelson of Rob Lévesque Associates is present as the representative.

He explains the address is now 683 Russell Road, originally zero when the permit was issued in 1998. The project was located completely outside the flood zone and NHESP. The duplex was constructed in accordance with the site plans provided at that time. The original plans show a septic system but it was either abandoned or never implemented due to present public sewer connection.

Chairman Doe asks if there are any questions from the Commission. Seeing none, he entertains a motion to issue the certificate of compliance. Commissioner Grobe motions to issue a certificate of compliance. Commissioner Prystowski seconds. EF- Yes, JP-Yes, CG-Yes, JM-Yes, DD-Yes.

The motion passes.

*Commissioner Florek returns.*

### B. 92 Pequot Point Road – DEP File #333-810

Proposal: Construction of a single-family home within Buffer Zone

Jospeh Rogers of GZA Environmental is present as the representative.

Mr. Rogers presents the as-built plans and list of species planted. Work was completed in compliance with the order, but the shrubs were only recently planted. The plants must



survive two growing seasons prior to a complete certificate of compliance may be issued. Outstanding items included the signs, birdhouses, rubbish in the buffer zone, and removal of the silt fence. Those were all addressed, and photo evidence submitted to Director Meassick.

Director Meassick confirms receipt of the photos and recommends a partial certificate of compliance be issued as the plants need to survive and release of a portion of the bond. Mr. Rogers suggests that the plants be monitored for two years.

Vice Chairman Murphy is opposed to do a partial release of the bond. He feels it shall be held until the two growing seasons are over. Commissioner Florek agrees.

Chairman Doe asks if there are any questions from the Commission. Seeing none, he entertains a motion to issue a partial certificate of compliance. Vice Chairman Murphy motions to issue the partial certificate of compliance and to hold the bond until the shrubs survive two growing seasons. Commissioner Finnie seconds. EF- Yes, JP-Yes, CG-Yes, JM-Yes, RF-yes, DD-Yes.

The motion passes.

## 7. ENFORCEMENT ORDERS

### A. 44 Delancey Street – VRS Transpark, LLC

Violation: Clearing of vegetation and dumping debris within Riverfront Area .

Director Meassick explains all trees were planted and shows photo evidence of the trees on site. She recommends lifting the enforcement order.

Commissioner Grobe motions to lift the enforcement order. Commissioner Florek seconds. EF- Yes, JP-Yes, CG-Yes, JM-Yes, RF-yes, DD-Yes.

The motion passes.

### B. 246 Russellville Road – Jennifer Yanuk

Violation: Working in 50ft no disturb zone without a permit

Director Meassick explains R. Levesque Associates was nominated as the consultant. The Commission is satisfied with that nomination and will continue to November 14, 2023.

### C. 93 Sackett Road – Yuriy Kripakov

Violation: Clearing of vegetation along intermittent stream

Mr. Kripakov explains the vegetation in the stream is mostly poison ivy. He wants to remove it but wants to wait until its dormant to burn it so he won't have another allergic reaction. The Commission tells him to not burn it because inhaling it will cause damage.

They grant him permissions to remove the vegetation from the stream over the winter season and return in March. He will need to submit photos once work is complete.

D. 0 Bayberry Lane – Serge Novenko

Violation: Clearing of vegetation and disturbance of wetland

Director Meassick explains that the enforcement order shall remain open until restoration is completed. The Order was conditioned that restoration must be completed prior to construction of the home.

E. 63 Bayberry Lane – DEP File #333-818 – Samuel Shokov

Violation of Order of Conditions issued July 13, 2023

Samuel Shokov, the property owner, is present.

Mr. Shokov explains he submitted photos of the work completed to resolve the issue.

Director Meassick explains the cease and desist and provides photos of the violations of the Order. She dates items that were completed as of October 9, 2023 and what is still required under the enforcement order.

Mr. Shokov explains that the driveway will be moved and new site plans submitted.

Director Meassick inquires about the fill. Mr. Shokov explains its not excess, it is for grading. Director Meassick tells him in his construction sequence grading is meant to occur prior to the foundation being poured and he skipped a step. She suggests that grading be completed and excess soils removed to then stabilize the site. He needs to install the curtain drain prior to finalizing grading.

Director Meassick explains that the cut trees need to be removed from the wetland. Mr. Shokov agrees to do so. The Commission gives him till November 14, 2023 to complete the required work under the enforcement order.

Commissioner Grobe acknowledges no fines will be issued since progress is being made.

Chairman Doe asks if there are any questions from the Commission. Seeing none, he entertains a motion to ratify the enforcement order. Commissioner Grobe motions to ratify the enforcement order. Commissioner Finnie seconds. EF- Yes, JP-Yes, CG-Yes, JM-Yes, RF-yes, DD-Yes.

The motion passes

## 8. COMMISSION DISCUSSION

A. Regulations & Procedures Q&A

- a. Director Meassick explains that the ordinance does not allow her to issue fines, only the Chairman can. It is an issue because she won't be able to ticket within

the deadline. The ordinance must be amended to correct the language. Chairman Doe tells her to work on the language and meet with him next week.

B. Pitoniak Fields Updates

Director Meassick met with several Westfield State classes concerning trail design, networking, outreach, and costs. The next site visit will be on October 31, 2023, with a trail designer from New York. Audubon will be visiting October 18, 2023.

C. Brochures and Flyers

Director Meassick received quotes from Latka Printing for 200 brochures and 100 flyers. Vice Chairman Murphy would like to see a specific diagram included in the brochure prior to printing. She agrees to workshop the brochure and move forward with the flyers which will be distributed to realtor offices.

D. Review and approval minutes

a. July 11, 2023

Vice Chairman Murphy motions to approve the minutes of July 11, 2023. Commission Prystowski seconds. EF- Yes, JP-Yes, CG-abstained, JM-Yes, RF-yes, DD-Yes.

The motion passes.

b. July 28, 2023

Vice Chairman Murphy motions to approve the minutes of July 28, 2023. Commissioner Finnie seconds. EF- Yes, JP-abstained, CG-abstained, JM-Yes, RF-yes, DD-Yes.

The motion passes.

c. September 12, 2023, and September 26, 2023

The Commission was not provided these minutes to review.

9. MOTION TO ADJOURN

Commissioner Grobe motions to adjourn at 8:59pm. Commissioner Finnie seconds. EF- Yes, JP-Yes, CG-Yes, JM-Yes, RF-yes, DD-Yes.

The motion passes.

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A true record, Attest:  
Director of Conservation Anna Meassick

