



City of Westfield Municipal Conservation Commission

OCTOBER 24, 2023, AT 6:30PM
WESTFIELD CONSERVATION COMMISSION
MEETING MINUTES

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

1. CALL TO ORDER

All Commissioners are 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 explains that there are none and moves onto item 4, Public Hearings.

4. PUBLIC HEARINGS (NOIs)

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

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

Robert Levesque, from RLA is present as representative.

Mr. Levesque explains there was a site visit with Director Meassick and a few of the Commissioners. He discusses a conversation with Director Meassick about a proposed conservation restriction on the remainder of the parcel and that he doesn't think the parcel fits the requirements for a conservation restriction. He instead recommends the standard declaration of restrictions required by the Commission on most Order of Conditions. He asks if there are any further questions from the Commission.

Vice Chairman addresses that Ryan Nelson, of R. Levesque Associates, sent some information to the Director Meassick about the properties of the soil in concerns to the septic system. He asks Mr. Levesque to explain deeper into that and about the flow of water underground.

Mr. Levesque explains the soil logs were completed by Ryan Nelson who uses the soil samples to decide what and where is considered a wetland and the soil types present.

Vice Chairman Murphy asks Mr. Levesque to relate that to the underground flow of water that nourish the existing wetlands, pre-construction.

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Mr. Levesque explains that there are two different components to the wetland. They are fed by a watershed through surficial sheet flow and ground water flow. Mr. Nelson found seasonal high water varies but in the test pits ground water was very shallow. The leach field is mounded, required under Title V to have a minimum separation of 4ft between seasonal high ground water and the bottom of the leach field. He explains how the septic system will be built.

Vice Chairman Murphy asks how many hand borings were done.

Mr. Levesque explains he is unsure but could be 3-4, Mr. Nelson did the perc testing for the septic system which is done differently. Hand boring is done with an auger which goes down about 18 inches to 2 feet.

Vice Chairman Murphy explains that there is some knowledge now were the water underground is flowing to nourish the resource area. He asks when Mr. Nelson did the hand borings where they done at the same time or over the course of several days.

Mr. Levesque answers that the perc testing was done one day and the wetland delineation another. The seasonal high ground water and flow of ground water is determined by those soil features.

Vice Chairman Murphy explains the concern is hydraulic nourishing of the wetland, what impacts any proposed structures or alterations would have. He asks what data Mr. Levesque has to represent current water levels and post construction levels.

Mr. Levesque explains that there is standing water in the wetland, the wetland is at the ground water elevation for a lot of it, as it transitions towards upland its less of an emergent wetland.

Vice Chairman Murphy asks if the height of the water in the wetland the same as the height throughout the soil profile.

Mr. Levesque explains yes in general; the wetland is fed by ground water. He believes that the surface flow won't change, he explains that single family homes are not subject to stormwater standards. The proposed amount of impervious surface will probably increase the water a little bit to the wetland. The only thing that would intercept ground water would be the foundation itself, which the water would eventually flow around.

Vice Chairman Murphy explains that another concern is the proposed area for the driveway, even if they went with gravel, they would still have to pull up some of it and put down a deeper gravel foundation to stabilize it. The compaction over time will reduce the flow of water. He asks Mr. Levesque to prove over time that it won't impact the viability of that wetland.

Mr. Levesque says that the question proposed doesn't address any performance standards for the flow or percolation of groundwater within bordering vegetated wetland. Any alterations to a buffer zone will change the groundwater flow. The gravel driveway will

be more porous allowing for water to continue flowing to the wetland. Groundwater will not be inhibited. The compact surface of the driveway would increase flow, but that is not a requirement under the act for single family homes. He suggests a foundation drain around the home for a conduit but does not think it is necessary. The septic system is designed to follow Title V and there should be no concerns about leaching. The system will be designed at minimum for three bedrooms, potentially more.

Vice Chairman Murphy inquires to the site access by construction vehicles and equipment without damaging other property or the no disturb zone.

Mr. Levesque walks through the site plan, explaining it is hardly sloped, and recommends an orange construction fence in addition to the silt fence and core logs to highlight the limit of work and prevent erosion.

Vice Chairman Murphy requests a hydrologic study. Mr. Levesque explains that is not a requirement under the Act or Ordinance and he knows they meet or exceed the performance standards. He understands the concerns, but it is not required or necessary.

Commissioner Florek asks if the homeowner could set up a system to harvest the rainwater off the roof to keep excess water from running off. Mr. Levesque thinks it is a good idea but it contradicts the concerns for water supply to the wetland and would limit the amount of water available to the wetland.

Mr. Levesque points out that additional vegetation will be allowed to grow within the buffer zone as it is currently sparsely vegetated, a benefit immediately adjacent to the wetland as required under the ordinance.

Commissioner Grobe raises the question on how the septic will be installed and cleaned. Mr. Levesque explains that the trucks are well equipped with long enough hoses. In the case of failure, there is a reserve area on either side of the trench for containment.

Commissioner Grobe asks the distance between monuments and their location. Mr. Levesque explains that geometry is set up to follow a linear path, but that can be modified accordingly if it is troublesome for the Commission. No work will be done beyond the monuments.

Chairman Doc asks again if there will be a slab or basement. Mr. Levesque said the applicant would prefer a basement. This raises concerns for groundwater again flowing around the foundation. Mr. Levesque says every home anywhere intercepts and messes with groundwater.

The specifications of the mounded leach system are discussed. The system measures five feet high, 70 feet long, and 50 feet wide, without the gradient. With grading, it measures 60 feet wide by 115 feet long. Chairman Doe is concerned water will be trapped by the mound and not infiltrate, causing ponding. Mr. Levesque explains the flow pattern based upon contours; there will be flow around the back of the system. The slope is at 8 percent. He expects a surplus of top soil and an import of Title V material.

Vice Chairman Murphy asks if the house can be moved further from the 50 foot No Disturb Zone. Mr. Levesque says no, they are on the edge of the building setback distance.

Mr. Levesque points out that they are trying to respect the fifty foot no disturb zone, which is why the site is so tight and specific. Under the Act, they could fill in 5,000 square feet of the wetland itself, but locally it is prevented by the 50-foot buffer zone.

Director Meassick inquires about the staging area location for materials. Mr. Levesque explains all materials will be within the limit of work. The septic will be constructed last. He would be happy to have the contractor provide a construction sequence and present it at a meeting so the Commission can ask questions.

Chairman Doe states that it has been recommended to continue for a review of a grant of restrictions. Mr. Levesque explains they do not wish to do a conservation restriction because it is redundant. Director Meassick explains that the declaration of restriction typically required would suffice with special conditions associated to the Order.

Chairman Doe asks if there are additional questions from the Commission. Seeing none, he asks if there are questions and concerns from the audience.

Mr. DiSanto asks how the water running off will have an impact on his property.

Mr. Liptak asks if the septic system will be set back 10 feet from his property line. Mr. Levesque clarifies that the leach field itself is 20 feet off his property line and explains the flow of water across the properties given the contours.

Mike Ugolik of Whitaker Road. He points out that Mr. Levesque said peak flow would increase from the driveway, water problems already persist, and a basement will cause more water damage to the surrounding property. Mr. Levesque answers the water would be flowing around the basement. Mr. Ugolik asks for the failure rate of septic systems. Mr. Levesque has not had a septic system fail that they have designed, but several have had to be upgraded due to change of regulations. Typically, systems do not fail unless they are misused. This home has a reserve so if it does fail the initial flow would occur there. Mr. Ugolik reads from the wetlands protection ordinance to point out that the work does not qualify for any exemptions and causes extreme alteration and no benefit. He asks how there will be an improvement to the wetland. Mr. Levesque explains that the area that is going undisturbed within the 50ft no disturb zone will naturally revegetate and it is currently deprived of vegetation. This is the proposed benefit to the site than be continuously altered as it has been in the past.

An audience member Tyler, 36 Fox Hill Drive, asks how the property was delineated. He wants to know what variation is for the flagging of the wetland. He questions how the septic system just so happens to fit within the property. Mr. Levesque explains that there were no questions asked at either site visit on if the delineation was accurate or not and says that there is plenty of room. Tyler is still suspicious that the flags are inaccurate and are modified so that the work may fit on the site. Director Meassick explains the flagging process and how she had no questions on the delineation or its accuracy when she visited the site both times.

Mr. Sanford asks who regulates the restrictions. Director Meassick answers through the chair that she is responsible for monitoring the work. She explains that she drives around the city and conducts site visits every Friday to check on projects and enforcement orders and takes the work very seriously.

Mrs. Dasso asks how many times she finds a violation on these drives. Director Meassick explains the most recent projects that have had violations in the past month, the type of violation, and the process she takes to alert the applicant to the violation. Mrs. DiSanto asks how many sites are currently under construction similar to this one. Director Meassick explains there are 87 applications active within the past year and 15 of them have been single family homes within a jurisdictional area, none within a wetland. All single-family homes for application have been approved in the past year. Mrs. DiSanto asks is once has ever been denied. Director Meassick answers yes, in 2017 a single-family home was denied for work within the 50ft buffer zone and at the time there was no disturb zone.

A member of the audience accuses the Commission of conspiracy to allow people to do whatever they want within the wetlands.

Mrs. Dasso argues that her backyard floods all the time. Chairman Doe says she should have known the water was there when she bought her home because it is deed recorded. She says she was not aware.

The same member of the audience continues to interrupt while Chairman Doe explains that if the project follows the regulations, then it must be permitted if there is no reason for denial. The audience members think the Commission is not protecting what they claim to protect.

Mr. Ruda says that he has restrictions on his home because of the amount of water in his home. His basement always floods and so does his yard. He is upset no one can guarantee water won't change on his property and questions why the Whitaker homes were even permitted knowing these problems.

Another audience member asks how the construction vehicles will travel across the site. Mr. Levesque explains that there are track machines being used and a track pad at the construction entrance. There is plenty of room on site and any damage to the ground will be restored.

Mike Burns, 19 Kylie Lane, Ward 4 City Councilor asks where the property line is located. Director Meassick explains the purple line is the limit of work. He thinks that the property owner will encroach onto the 50 foot no disturb zone. Mr. Levesque points out that they are proposing to stay out of the 50 foot no disturb zone and the applicant would have to come back and file before the commission. They are doing the minimum amount of impact as possible. Mr. Burns still alleges that the owner will fill in the no disturb zone and encroach on the buffer and wetland regardless of the law and conditions.

Maryann DiSanto recalls a comment that all the good lots in Westfield are gone. She says everyone is just here for the money and nothing should be done at all with the property,

and it lacks common sense. She says the commission needs to consider the better good and common sense, not the regulations.

An audience member asks if any of the Commissioners would like to live in the house. Several others provide input to the height of the water table. Director Meassick explains they have forms which say how high the water table is.

65 Whitaker Road speaks to the environment and that her home continues to flood. She wants to enjoy the wildlife and protect her home. She was told to leave the land alone and she would like everyone else to as well.

Mr. Ugolik brings up again the ordinance, referencing the section on permits and conditions. Director Meassick pulls the ordinance up on the screen. He reviews the language for denial of a permit.

Chairman Doe asks for additional comments from the audience. Seeing none, he entertains a motion to close the public hearing. Commissioner Grobe motions to close the public hearing. Commissioner Prystowski seconds. Chairman Doe asks for additional comments from the Commission.

Chairman Doe still has concerns about the groundwater and what will happen. He is unsure if he will vote for or against. Vice Chairman Murphy echoes the chair. Commissioner Grobe points out that they are not the preservation commission which restricts them to what is a viable property under the law versus their personal feelings on a project. Commissioner Florek thinks the audience will monitor the project closely if approved. Vice Chairman Murphy points out that Director Meassick keeps a close eye on projects, and they must file a bond among completing other items to get the go ahead from her prior to beginning work.

Chairman Doe calls the vote to close the public hearing. EF=yes, JP=yes, CG=yes, JM=yes, LD=yes, RF=yes, DD=yes.

The motion passes.

Chairman Doe asks for a motion pursuant to the Act. Commissioner Grobe motions to issue an Order of Conditions for approval under the Act. Commissioner Finnie seconds. Chairman Doe asks for discussion. Vice Chairman Murphy asks for clarification on the process. Director Meassick explains they can deny under one regulation and approve under the other, the applicant can't do work until they get approval on both. Chairman Doe calls the vote EF=yes, JP=yes, CG=yes, JM=no, LD=yes, RF=yes, DD=no

The motion passes 5-2.

Special conditions are reviewed. Commissioner Finnie motions to approve the special conditions. Commissioner Grobe seconds. EF=yes, JP=yes, CG=yes, JM=no, LD=yes, RF=yes, DD=no

The motion passes 5-2.

Commissioner Grobe motions to deny the project pursuant to the ordinance. Vice Chairman Murphy seconds. Chairman Doe asks for further discussion. Commission Finnie asks for further clarification on the process. Director Meassick explains if denied, the project is appealed to superior court, and anyone can appeal who is aggrieved.

Chairman Doe calls the vote EF-yes, JP-yes, CG-yes, JM-yes, LD-yes, RF-yes, DD-yes.

The motion passes, the project is denied under the municipal ordinance.

A majority of the public exit the meeting at this time.

- B. 65 Sherwood Ave – David Guyott – DEP File #333-0842
Proposal: Construction of garage within Riverfront Area

Director Meassick has no updates, and a proponent is not present.

Commissioner DiCarlo motions to continue to November 14, 2023. Commissioner Florek seconds. EF-yes, JP-yes, CG-yes, JM-yes, LD-yes, RF-yes, DD-yes.

The motion passes.

5. COMMISSION DISCUSSION

- A. Regulations & Procedures Q&A
a. Specific needs of approvals, denials, or continuances

Director Meassick reviews a document with the Commission which walks them through their decision-making processes and 310 CMR 10.05.

- b. Community Preservation Committee Appointment

Vice Chairman Murphy motions to appoint Carl Grobe to the Community Preservation Committee. Commissioner Finnie seconds. EF-yes, JP-yes, CG-yes, JM-yes, LD-yes, RF-yes, DD-yes.

The motion passes.

- B. 300 Union Street – DEP File #333-820
Director Meassick would like to discuss the Order with the applicant at the next meeting to require deadlines.

- C. Pitoniak Fields Updates
Director Meassick provides an update on the students' work. Additional site visits will be held on October 31, 2023, and the Commission is invited to attend.

- D. Brochures and Flyers

Director Meassick asks for clarification on what to print and what not to print. Vice Chairman Murphy would like to see additional photos in the brochure. The flyers are good to print. Commissioner Florek would like to see a flyer for landscapers and tree cutting.

E. Review and approval minutes

a. September 12, 2023

Commissioner DiCarlo motions to approve the minutes of September 12, 2023. Commissioner Grobe seconds. EF=yes, JP=yes, CG=yes, JM=yes, LD=yes, RF=yes, DD=yes.

The motion passes.

b. September 26, 2023

Not complete for review/vote

c. October 10, 2023

Not complete for review/vote

F. Review of any additional administrative items

6. MOTION TO ADJORN

Commissioner Grobe motions to adjourn at 8:45pm. Commissioner DiCarlo seconds. EF=yes, JP=yes, CG=yes, JM=yes, LD=yes, RF=yes, DD=yes.

The motion passes.

A true record, Attest:
Director of Conservation Anna Meassick