

Shutesbury Conservation Commission Meeting Minutes
November 12, 2020 Virtual Meeting Platform

Conservation Commissioners present: Penny Jaques/Chair, Robin Harrington, Miriam DeFant, and Liam Cregan, Mary David

Staff present: Tessa Dowling/ Land Use Clerk

Guests: Maria Firstenberg, Emily Stockman, Don Wakoluk, Evan Turner, Michael DeChiara, Robert Seletsky, Richard R. Gerri Strangman, Dan Nitsche

Jaques calls the meeting to order at 7:01pm.

Statement relative to conducting virtual meetings following the Governor's restrictions on public meetings is read into the record by Dowling.

- At 7:03pm, Cregan moves and Harrington seconds a motion to approve the 10.22.20 meeting minutes with the following amendment: On the top of the first page "Agenda" is changed to "Minutes". Roll call vote: Cregan: aye, Harrington: aye, DeFant: aye, and Jaques: aye; the motion carries.

Jaques welcomes Mary David to the Commission.

Jaques introduces the ANRAD projects. The ANRAD at ZG-2 has been continued since the beginning of the year and has undergone peer-review by Emily Stockman, a wetland biologist. The ANRAD hearings at ZF-15 and ZU-2 are opened for the first time at this meeting. Jaques explains that first she will introduce the scope of the ANRAD process, then the applicant's representative (TRC) gives background information on the parcel, and then the Chair takes comments and questions from Commission members and the public.

Per Jaques, the scope of an ANRAD (Abbreviated Notice of Resource Area Delineation) is the applicant and the Conservation Commission reach an agreement on where the wetland boundaries are located on a parcel. For large parcels the Commission hires an independent wetland biologist at the applicant's expense to review the mapped wetlands on the parcel. The Shutesbury Conservation Commission has hired Emily Stockman to conduct the reviews. After all information concerning the wetland boundaries has been discussed the hearing is closed and the Commission votes and issues an ORAD (Order of Resource Area Delineation). No projects are presented with the ANRADs.

Per Jaques, DEP (Department of Environmental Protection) has not received the filing fees for ANRADs at ZF-15 and ZU-2.

Per Firstenberg, the checks were sent but might not be processed by DEP yet.

Per Jaques, without the checks DEP has not issued file numbers for those two ANRADs.

Public Hearing for ANRAD at ZF-15 (Leverett West)

At 7:10pm, Jaques opens the hearing for ANRAD at ZF-15.

Per Firstenberg, ZF-15 is a 300-acre parcel. The focus applicant is interested in delineating the wetlands on 25 acres within the parcel.

Per Cregan, ZF-15 is adjacent to the Paul Jones Working Forest Conservation Restriction.

Firstenberg shares her screen to show the mapped wetlands on the parcel.

Per Firstenberg, there is a 200ft buffer around the intermittent stream. The delineation was completed during the normal growing season.

DeFant asks if the stream is part of Roaring Brook.

Per Jaques, yes.

Jaques asks what methods were used for the delineations.

Per Firstenberg, both the Massachusetts and the Army Corps manuals were used.

Jaques asks why some of the maps have aerial base layer and some show topography.

Per Firstenberg, the original ANRADs started with aerial photographs then the Commission asked for topography.

DeFant expresses preference for topography base layer.

Per Jaques, with the overview map of the project it is important to get a sense of the elevation.

Per Jaques, the applicant information on the first page of the ANRAD is incorrect. Cowls, not Evan Turner, needs to be the contact. Requests a correction for the first page for both ZF-15 and ZU-2.

Per Jaques, photographs are labeled "Carver Rd West" instead of "Leverett West".

Per Jaques, the peer-review proposal was sent out this afternoon. Did Commission members get a chance to look at it?

Per Cregan, familiar with them, skimmed the proposal.

Jaques asks if the proposal is similar to the ones submitted for the last four ANRADs.

Per Stockman, yes, the scope is similar for both new ANRADs. The allotted field time is based on the acreage of the parcel.

Jaques asks if follow-up visits are allowed in response to the revised maps created by TRC after the initial wetland boundary review.

Per Stockman, follow up visits were not part of initial proposal but a field day could be paused to allow TRC to make changes.

DeFant asks about the impact on delineating the wetlands at this time of the year.

Per Stockman, we are outside of the growing season. When areas are not frozen, we can do an assessment. Woody vegetation is still present although forbs and sedges have senesced. A review could be put on hold if the delineation was challenging.

DeFant asks if the Commission can continue the hearing if there are challenges to delineating the wetland due to time of year.

Per Jaques, yes, the Commission can continue until they are confident that they have all the information they need to make a decision. Weather is a factor.

Per Firstenberg, TRC would like to move forward if possible.

Per Jaques, weather is a factor but also the proposal needs to be signed, money needs to be sent to the town to pay for the review process.

Stockman says she will do her best with the delineations at this time of year.

Jaques asks for comments from the public on the ANRAD process.

Per Wakoluk, abutter at 215 Leverett Rd, read ANRAD and it is incomplete. Wetlands lack hydrologic connections that are shown on state GIS map. The parcel was harvested and a pond and connected stream was removed. Looks like upland but is wetland connection. Why are the maps different than from GIS map?

Per Firstenberg, from the layers we looked at we found more wetlands than the DEP had mapped.

Per Jaques, the email and information Wakoluk sent can be shared with TRC and Stockman.

Dowling agrees to forward Wakoluk's e-mail with attachments.

Per Strangman, abutter at 87 Leverett Rd, is there a project associated with the ANRAD?

Per Jaques, likely there will be a solar farm, but right now there is just the ANRAD for mapping the wetlands.

Strangman asks if there is a hearing for the Wightman project.

Dowling explains that Wightman will be submitting an ANRAD, but that the Wightman parcel is on the agenda for this meeting to notify the Commission about the project and decide whether a site visit is required before the ANRAD hearing which will take place at the December meeting.

Per Jaques, the ANRAD at ZF-15 needs to be continued to a future date. The Stockman report would need to be sent in to the Commission a month ahead of the hearing.

Per Firstenberg, the hearing could be continued to February.

- At 7:39pm, Jaques moves and Cregan seconds a motion to continue the hearing for ANRAD at ZF-15 to the February 11, 2021 meeting at 7:30pm. Roll call vote: Cregan: aye, Harrington: aye, DeFant: aye, David: aye, and Jaques: aye; the motion carries.

Public Hearing for ANRAD at ZU-2 (Pratt South)

At 7:40pm, Jaques opens the public hearing for ANRAD at ZU-2.

Jaques checks with Dowling that all the paperwork for the ANRAD has been submitted to the town.

Dowling says that it has.

Jaques reminds TRC that the first page of the ANRAD needs to be corrected with Cowl's contact information and that DEP is waiting on the filing fee check.

Per Firstenberg, ZU-2 is a 140 acre parcel. The applicant is interested in mapping the wetlands on a 92 acre area within the parcel.

Jaques ask if the acreage continue across the border into the Town of Pelham.

Per Firstenberg, no the project is separate but Pelham land is also owned by Cows.

Per Firstenberg, the ZU-2 (Pratt South) ANRAD is larger than ZF-15 (Leverett West) ANRAD. There are multiple streams. The same methods were used to delineating wetlands, using both Massachusetts and Army Corps manuals.

Firstenberg shares her screen to show the mapped wetlands on the parcel.

Jaques asks Firstenberg to explain the map legend.

Per Firstenberg, green equals wetland name, Blue equals stream names

DeFant asks if maps can be submitted with topography.

Per Firstenberg, yes.

Jaques ask if the stream on the property is a tributary of Dean Brook.

Per Cregan, yes it is part of the Atkins Reservoir/ Atkins watershed near Pratt Corner Junction.

Per Jaques, the Commission will need to review Stockman's proposal.

Jaques asks for comments and questions from the public.

DeChiara is looking for an aerial map that sites the ZU-2 parcel in the contexts of the town.

Per Firstenberg, a zoomed-out town map was part of the original ANRAD submission.

Per Wakoluk, does not see hydrological connections on the map and they are important.

Per Jaques, the ANRAD at ZU-2 needs to be continued to a future date.

Per Firstenberg, the site is larger which could make the review process take longer, the hearing could be continued to March.

- At 7:53pm, Jaques moves and Harrington seconds a motion to continue the hearing for ANRAD at ZU-2 to the March 11, 2021 meeting at 8:00pm. Roll call vote: Cregan: aye, Harrington: aye, DeFant: aye, David: aye, and Jaques: aye; the motion carries.

Continue Public Hearing for ANRAD at ZG-2 (Pratt Corner Road East)

At 7:54pm, Jaques opens the continued hearing for the ANRAD at ZG-2.

Per Jaques, this ANRAD hearing was opened on January 9, 2020. Three other ANRADs on Cows property were also opened around that time. A site visit to the parcel was conducted by Stockman and Greg Russo as the peer-review wetland biologists, on May 6, 2020. Stockman returned to the parcel on June 25, 2020 and sent her review comments to the Commission and to TRC. TRC responded with revised wetland maps created on October 16, 2020. On November 2, 2020, Stockman sent follow-up comments on the revisions to the Commission and TRC.

The Commission first hears from Firstenberg (TRC), then Stockman and the Commission members, and then the public.

Stockman clarifies that there was an additional site visit on April 17, 2020. At this site visit a wetland was noted toward the center of the parcel. The first review letter was sent April 22, 2020 and, after TRC made some adjustments, another review letter was sent on June 25, 2020.

Firstenberg shares her screen to show the mapped wetlands on the parcel. The map shows the original mapped wetlands and the revised wetland boundaries.

DeFant asks where the location of the current solar array in connection to the parcel.

Per Firstenberg, the current solar array is north of the property.

DeFant believes there is a wetland, a retention pond, near the parcel boundary on the western side.

Firstenberg points out the off-site wetlands (110 to 120 ft away from delineation area) that are marked with dots on the map. The wetlands are not fully delineated as they fall outside of the wetland buffer zone around the delineation area. Stockman and Russo checked that these wetlands were outside of the scope of the ANRAD.

Firstenberg screen-shares the final version of the map (dated October 16, 2020). She notes that the isolated wetland, which is protected under town wetland bylaws, is colored differently from the other wetland, and that the legend includes the dates of site visits.

Stockman goes through comments from June review letter. The outstanding item is comment #3 concerning flag 4.6. Stockman recommends that in the ORAD paperwork the Commission chose not to approve the flag as it is “floating” and not connected to the marked wetland boundary line on the map on sheet 7 of 10.

Firstenberg supports the recommendation and agrees to having the wetland boundary line go from flag 3 to flag 4.5 and omitting flag 4.6.

Dowling refers to review comment #2 regarding the renumbering the flags so that they follow numerical order. Flag numbering could be confusing as the numbering around part of the border of wetland W-GR-1 goes 5, 4, 4.2, 4.3, 4.4, 4.1, 4.5, 4.6, 3.

Per Stockman, due to the significant changes that were made on-site, flags were added to mark the revised wetland boundaries. The flag numbering system as is could be approved by the Commission because it

would only be challenging it follow if someone was in the field without the map showing how the numbered flags are connected.

Per Firstenberg, flags are often refreshed before construction begins so it would not be necessary to renumber them now. Renumbering usually only occurs when there are more significant changes to make than for this parcel. Anyone on-site would have the wetland map.

Per Stockman, the Commission could approve the numbering for this parcel, but could consider requiring renumbering the flags for other ANRADs, particularly Baker Rd.

Jaques asks if it is typical to add flag numbers in this way.

Stockman says no.

Jaques asks about review comment #10 regarding the accuracy of the GPS waypoints marking the wetland boundaries.

Per Firstenberg, the Trimble GPS units respond in the field with real-time confidence intervals for each waypoint. Field employees wait at a waypoint until they receive less than 1-meter standard deviation. Generally, they wait for a 1 ft accuracy for each waypoint. There is a minimum number of satellites requires to conform a waypoint. After a fifteen minute wait the error for a waypoint is down at least to three feet and generally down to 1 ft.

Per Stockman, in regards to review comment #11, the parcel is part of the Atkins Reservoir watershed.

Per Stockman, in regards to review comment#12, TRC used a mixture of data forms for their field work both from the Massachusetts DEP and Army Corps. The forms used for the revisions have not been submitted.

Per Firstenberg, Stockman agrees with the revised placement of the wetland boundary flags, so the Commission does not need to see the forms to make a decision. TRC can send copies of the forms after the hearing closes.

Per Firstenberg, the ANRAD/ORAD takes the place of the delineation report in the Notice of Intent. Future projects will try to avoid wetlands.

Per Stockman, the ORAD approves the wetland boundaries for three years. For other parcels it might be important to critically review the delineation forms, but I have walked all the lines and concur with the depiction of the boundaries.

Stockman says she can help with completing the ORAD form as it is different from an Order of Conditions.

Per Dowling, is there an issue with the fact that the number of linear feet described in the original ANRAD does not match the new wetland boundaries.

Per Stockman, no, as the ORAD does not ask for specific number of linear feet. The linear feet is used to calculate the ANRAD fee but is not a part of the permitting. What is important is to reference the latest revision to the wetland boundaries by date and check "B. Modified" on the ORAD form. The ORAD findings are similar to the conditions for an Order of Conditions. There you can explain the omission of flag 4.6 and explain which wetlands are protected under the state Wetlands Protection Act and which wetlands are protected under town bylaws.

Dowling shares screen and shows the ORAD form. Under "B. Modified" there are empty lines that can direct the applicant to read an attached page of findings.

Jaques checks whether there are comments from the public.

There are none.

Per Turner, requests a vote on the hearing. The general goal is to avoid wetlands and would only work in a wetland if there was a compelling reason, such as needing to cross a stream to access upland areas.

Dowling asks if erosion control would be used even if the project was outside the buffer zone.
Per Turner, general practice is to install erosion control where needed.
Per DeFant, stormwater issues would be part of the review by the planning board.

DeFant asks if a wildlife assessment can be done as part of the planning board review of a project.
Per Firstenberg, yes, planning board can request a wildlife assessment.

Jaques asks the Commission members whether they feel ready to close the hearing.
Members agree.

Cregan will draft the ORAD findings based on recommendations Stockman will send through an e-mail.

- At 9:24pm, Jaques moves and Harrington seconds a motion to close the hearing for the ANRAD at ZG-2. Roll call vote: Cregan: aye, Harrington: aye, and Jaques: aye; the motion carries.

Lot 151 ANRAD

Per Nitsche, Lot 151 is an 18-acre lot west of the town hall. It has a single-family home.
Per Jaques, the landowner is interested in an open space design for the property and is starting the processes with an ANRAD. There are no project plans submitted yet. The Commission needs to decide whether they want to conduct a site visit or require a peer-reviewer to check the delineation.
Nitsche says that he could lead the Commission on a site visit.
Jaques expresses concern about the identification of wetland boundaries this late in the season with the dieback of wetland herbaceous plants.
Per Dowling, the hearing for the ANRAD is scheduled for December 10, 2020 at 7:30pm.
Nitsche asks if the Commission will discuss peer-reviewing the ANRAD at the December meeting. The Commission agrees.

South Brook Conservation Area

No movement on this project yet.

Top of the Lake Conservation Area

The fence installation is scheduled for November 14, 2020.

Town Budget Requests

Per Dowling, last year's budget request was \$1,164. There were no Capital Budget requests. Per Jaques, the Commission could consider reimbursement for printer cartridges. Harrington adds that she has been printing Commission materials such as site forms from her own printer. Per Dowling, all future reimbursements need to be requested in writing and approved at a Commission meeting before they can be submitted to the Town Treasurer.

ZBA Special Permit for 80 Shore Dr

At the upcoming December ZBA meeting there will be a hearing for the Special Permit for 80 Shore Dr. concerning the building of a shed that does not conform to town bylaw setbacks. The shed would not be placed in a Wetland Protection Act jurisdictional area.

Draft General Wetlands Bylaw
Moved to a future meeting.

Site visits to schedule

- 37 Shore Drive/Brooks-tree cutting: David and DeFant volunteer to visit 37 Shore Dr. on December 14, 2020 at 11am. Harrington will share the site visit form with the Commission through e-mail.

At 9:54pm, Jaques announces that she will be stepping down as Commission Chair and that December will be her last meeting. There will be an opening for a new member. Per Jaques, members can spread the word to residents who might be interested in joining the Commission.

- At 9:56pm, Cregan moves and Harrington seconds a motion to adjourn the meeting. Roll call vote: Cregan: aye, Harrington: aye, DeFant: aye, David: aye, and Jaques: aye; the motion carries.

Respectfully submitted,
Tessa Dowling
Land Use Clerk