

Shutesbury Conservation Commission

Minutes – 6/16/22

Approved – (7/28/22)

Virtual Meeting

Meeting Start: 7:00 p.m.

Commissioners Present: Miriam DeFant, Mary David, Beth Willson, Robin Harrington

Commissioners Absent: Scott Kahan

Other Staff: Carey Marshall (Land Use Clerk)

Other present: Janice Stone, Don Wakoluk, Sean McGrath, Joseph Salvador, Catherine Hilton (Chair of Board of Health), Michael Vinskey, Rebecca Torres, Jack Visniewski, Ashley Ocaña, Scott Poulin, and all other unidentified individuals.

Chair's Call to Order at 7:03pm

Meeting is being recorded

Consider draft minutes for 5/12/22, 5/26/22

05/12/2022 - DeFant: any comments on the minutes for the 05.12.2022 minutes? Stone corrects 'conversation mix' to 'conservation mix' on page 9. **Motion: David moves to approve the 05.12.2022 minutes with the one correction, Willson seconds. Vote: David- Aye, DeFant- Aye, Harrington- Aye, and Willson- Aye. So moved.**

05/26/2022 - DeFant: any comments on the minutes for the 05.26.2022 minutes? SCC has no comments. **Motion: David moves to approve the 05.26.2022 minutes with the one correction, DeFant seconds. Vote: David- Aye, DeFant- Aye, Harrington- Aye, and Willson- Aye. So moved.**

Discuss summer Highway Department projects

DeFant: met with Town Administrator, Becky Torres, and Tim Hunting to look at a location where the Highway Department is wanting to do a summer project. They have already started doing the road work on Locks Pond and Wendell Road – they are resurfacing (not tearing up the existing pavement). There will be limited amount of grading on the shoulders – about 2 ft in some areas. They have already started work; do they need a permit for this? Willson: where are the resource areas? DeFant: unsure of exact locations but there are culverts and intermittent streams near or crossing under both Locks Pond and Wendell Roads. Some are stormwater culverts, but she once counted about 25 culverts along that stretch of road. Willson: under the Wetlands Protection Act, WPA, resurfacing without widening the road is exempt. DeFant: they are not enlarging on stormwater features or tearing up existing pavement. Wakoluk: If they were going to resurface but grad below the current surface or pave the swales, adding more discharge into the stormwater features, then it would be more concerning. DeFant, Willson and David agree that do not require a permit. DeFant will send the Highway Department an email explaining the discussion and decision to not require a permit but emphasizing that they will need a permit if they plan to start any other projects that require further work than this one. Willson: agrees especially if they plan to alter the drainage structures or swales, widening the road and adding a sidewalk; anything of that sort would require a permit from SCC.

DeFant: also looked at the Sand Hill Road location where they want to widen road towards the Pratt Corner end of Sand Hill Road. The location has powerlines with a gate, and Highway Department wants to widen road starting there and go up about a few 100 feet uphill; all upland; some steep banks that they want to bring down/flatten out. The wetland(s) in that area are more than 100 feet from the gate. Wakoluk: was able to look at it; saw where the water discharges and where the swales are now; it's country drainage and ditches on the side of a dirt road. Further up the hill about 100-90 ft where it is really steep, he sees wetlands that are interacting with the sides of the road– an area that could use swales. DeFant: the question she has for Sand Hill Road is should SCC require an RDA? SCC agrees no permit is required. DeFant will email them confirming the Sand Hill Road project doesn't need an RDA.

387 Locks Pond Road NOI/McGrath-DEP File 286-0290 pending-retaining wall, deck, and stormwater drainage work

DeFant shares the site plan for 387 Locks Pond Road via screenshare. McGrath: landowners are looking to add a concrete slab underneath the preexisting addition; the slab will not go farther than the addition to avoid being closer to the lake and adding more impervious surface to the site. The footings on the posts of the addition should be changed even though they do not pose a safety risk yet - but they are not sized correctly. They are looking to remove the footing and add a beam to create a LVL beam which would allow them to use less post. The footings being changed would be replaced in the same location but two of the four along with their posts would be removed. For drainage, the space between the home and the shed has a problem with drainage. To solve this, they are proposing a perforated pipe that would be placed starting on the left side of the home, turn right to outline the edge of the home and end at a dry well would be placed on the left side of the home/ slighted towards the lake (roughly 12ft from the bank). Landowners are interested in putting in gutters on the home that would also drain into the dry well. DeFant: what if the dry well were to be placed on the other side of home? That way it would be further away from the bank of the lake. McGrath: they did not think of placing the dry well on the opposite side because the right side of the home is wet due to the flat topography as shown whereas the left side of the home has more a slope. DeFant: concerned with placing the dry well in the location as proposed because of a tree in that area – concerned added moisture may stress and kill the tree (losing stability of the soil near the bank). McGrath: The dry well is self-contained so it wouldn't overflow out of the dry well. David: what are you planning to do with the shower? McGrath: the shower is gone – he had spoken to Chair via email where they cross referenced the state law which stated the outdoor shower illegal. The shower will be removed. Willson: even digging that out may affect the roots of the tree. How you discussed the idea of using rain barrels or rain garden(s) to manage the stormwater from the gutters? McGrath: homeowners are open to that idea – he had asked homeowners about rain barrels during a consultation where they were requesting all digging to be done by hand because they had planted new grass that has recently taken root (wanted no disturbance). DeFant: is the pitch of the roof a shed roof? McGrath: yes, it is a flat rubber roof. The drainage line is currently parallel with the line of footings/ proposed drainage pipe. DeFant: if there is going to be gutter it will be along that same line? McGrath: yes. DeFant: if you don't do the rain barrel then the water captured in the pipe, is it water from the bottom of the steps? McGrath: yes, because it will catch the water that flows between the home and those stairs. DeFant: and you are adding a retaining wall there too? McGrath: yes so the water doesn't flow at the current pitch – retaining wall will

reduce the slope - allowing the pipe to run under it and catch a majority of the water flowing in that space. DeFant: DEP has given two comments; the site plan doesn't show where erosion control, stock piles, or any dumpster used for demolition and there is no characterization of Bordering Land Subject to Flooding, BLSF. Some of this land may be Bordering Land Subject to Flooding. McGrath: he looked at the regulations; BLSF is an area with low, flat topography adjacent to inundated by floodwater from water rising in rivers, lakes, streams, etc. He doesn't know if the site is considered low flat topography based on topography survey done on the site – it's a steep drop-off to the lake in the area of work being done. DeFant: there are other areas along that area of road where there is BLSF. McGrath: in the areas where it shows the greenhouse – the lower right of the property may be BLSF. Stone: the BLSF is based on the Flood Plain maps, FEMA Maps. She has not looked at those maps for this area, so she is unsure what is shown for this site. Those maps are normally used unless a correction has been made. DeFant: did you look at the FEMA maps? McGrath: yes, but he did not see any of the floodplains on the property. DeFant: SCC has seen floodplains in this area on Lake Drive. McGrath: is the concern for that for the erosion controls during the excavation process? DeFant: Part of the NOI process, SCC lists findings about the resource areas and approves them – aim to have an accurate map that reflects Conditions or state in Findings what is approved; in some cases can state in the Findings that a particular Resource Area was not delineated or approved. McGrath: there is currently a dumpster that the homeowners are using to clean out the home that is located in the front of the home on the highest elevation point – there will be no stock piles. The materials needed for the new footings and posts will be coming from their shop and once they arrive to the site they will be installed. DeFant: What erosion controls will you be using? McGrath: wattles are recommended by previous Conservation Commissions. DeFant: outside shower is illegal; SCC could cite in the findings that we are not approving the outside shower and leave the rest to BOH to order removal and inspect it as discussed. DeFant asks SCC about the dry well. Willson: are we discussing not having it at all or not taking the roof drainage? McGrath: if the roof drainage isn't going to the dry well, then the perforated pipe wouldn't have enough water in it to require a dry well. Wakoluk: one recommendation that has been consistent with SCC is that by replacing the perforated pipe with a rain garden it allows the water to slowly percolate through the ground and will not uproot trees – trying to retain bank with vegetation. He believes that SCC needs to be consistent in stating that properties close to the bank, such as this property, need to have slow percolation into the soils and to retain as much vegetation. DeFant: during site visit, SCC noted the water present near the greenhouse could be an issue for stormwater runoff but it ends 44 feet from the lake; good distance for stormwater to settle out sediments before getting into lake. McGrath: the gutter drainage can flow that way if placed in that direction as well; what the definition of a rain garden is and what SCC recommends. Willson: was discussing the rain garden around the proposed dry well but agrees that if the drainage were to face the other direction it would allow more distance between the start of drainage and the lake – just past the steps to the right of the building. A rain garden is sized based on the estimated volume of water it would take on and is composed of a shallow dip in the ground with wetlands plantings/grasses to allow the water sit, infiltrate, and be used by the plants. McGrath: he confirms that he had that planned for around the dry well. DeFant: would dry well be bottomless? McGrath: no, it would have bottom; based on conversation with SCC; knows SCC was concerned about it flooding out the tree roots; he describes it as a rain barrel underground. DeFant: one option would to be not to add as much water to it; you are saying if you weren't putting in the downspouts you could do without the dry well? McGrath: yes, based

on our conversations and the more he reads the laws he believes it is an unnecessary feature. Willson: suggests a combination of rain garden at the end of the perforated pipe along with a rain barrel for the gutters. McGrath and SCC agrees. Willson: DEP mentioned in comments that original NOI said 40 feet of Bank being impacted but there is not. McGrath: that is the length of the perforated pipe which is what he believed impacted the bank but understands now that is not true in this case – wanted to be sure if it was considered bank that it was covered. It should be scratched. DeFant: yes, it is all buffer zone and but suggests before SCC closes the public hearing reviewing the OOC with applicant. Willson shares the FEMA map for the site via screenshare but because it is an older map it is not legible – inconclusive. DeFant: could we put in our Conditions we are not approving or issuing a finding about BLSF? SCC agrees. DeFant shares the drafted OOC via screenshare for SCC and applicant to review. Due to SCC requesting McGrath come back with an updated site plan, (including the removal of the outdoor shower and dry well, and the additions of the rain garden(s), and erosion controls), they will not issue the OOC tonight but will review the revised site plan during the next meeting, June 23, 2022 at 7 pm. SCC sets the erosion controls to be no further than the limit of work which should be as far away from the bank as is possible. DeFant shares SCC’s recommendation to homeowners on Lake Wyola to implement vegetated buffer strips along the bank to reduce sedimentation in the lake, stabilize the bank and is more aesthetically pleasing than a retaining wall. McGrath understands and agrees. **Motion: David moves to close the Public Meeting for 387 Locks Pond Road, Willson seconds. Vote: David- Aye, DeFant- Aye, Harrington- Aye, and Willson- Aye. So moved.**

14 Lake Drive Order of Conditions concern

DeFant: After OOC was issued, Donna McCallum emailed SCC inquiring about a typo in the findings section of the OOC. From her understanding, SCC can fix the typo by reviewing it with SCC and reissuing it. DeFant shares the OOC for 14 Lake Drive via screenshare for SCC to review correction. The typo is a sentence that was cut short – changed from ‘. . . setback will increase to achieve the required 15’ . . . ’ to ‘. . . setback will increase to achieve the required 15’ at the southeast and reduce 10.3’ at the northwest’. SCC agrees that change is minor and due to a clerical error; therefore, no Amended OOC is required. **Motion: David moves to approve the special OOC for 14 Lake Drive as corrected, Harrington seconds. Vote: David- Aye, DeFant- Aye, Harrington- Aye, and Willson- Aye. So moved.**

DCR Abutter Notification Waive for Rocky Run Bridge NOI

DeFant: DCR had reached out and asked SCC to the waive the requirement of abutter notification via certified mail due to the large size of the site. SCC did not waive abutter notification require for Kestrel Trust’s NOI for Ames Pond NOI - does SCC want to be consistent or waive it? David: SCC should be consistent and not waive the require and in past meetings there has been residents who have spoken up about the importance of notification. Harrington and Willson agrees. SCC agrees to not waive the require of abutter notification.

Review Conservation Restriction Language for Lot R-15 Conservation Land Acquisition

DeFant: SCC received Conversation Restriction Draft for the Lot R- 15 Conversation Land Acquisition. DeFant shares the Conversation Restriction Draft via screenshare for SCC to review. Stone: on page 4, item 11 discusses impacts to stone walls and boundary markers – she believes it should include cultural stone features which is mentioned in the forestry section on

page 6, item 6. DeFant adds language about cultural stone features to reflect discussion. Stone: on page 5, section 7 A it describes treadway being 4ft in width – 8ft trail width overall. She is concerned about the sizing as it may promote ATV use on the trails. DeFant leaves a note on section 7 A reflecting SCC concern about the width of the overall trail. Stone: page 5, item 5 it discusses green energy. Even though she agrees with green energy, she is concerned about this item because it appears to be open-ended, and she doesn't understand what they are envisioning. DeFant leaves a note on section 5 reflecting SCC concern. Stone: on page 14, section 14 it discusses the Baseline Documentation Report – she wonders if SCC should suggest to also document stone cultural features (mill foundation, old home foundation, etc.). DeFant leaves a note on section page 14, section 14 reflecting the discussion with Stone. SCC appreciates and thanks Stone for her suggestions.

Updates

Top of Lake Conservation Area construction and signage – DeFant: Harrington, David, and DeFant went to the Top of Lake Conservation Area and had a conversation with Penny Jaques afterwards – Jaques wants to come back to SCC with information on signage for this area as part of the project. Jaques could not attend tonight thus further discussion will be withheld until Jaques is in attendance.

South Brook Conservation Area – SCC discussed earlier this year about visiting the site to look at the trails – did not receive the updated site maps from Liam Cregan. Does SCC want to schedule a site visit? SCC agrees. DeFant will email commissioners to plan date for the site visit – will also email Jaques to find out if Cregan would also attend site visit.

Enforcement Order (678 Pratt Corner Road) – DeFant: had a few email exchanges inquiring about a time and date for a follow up site visit but have not receive a response; DeFant consulted with Mary Grover, Mass DEP Circuit Rider, who expressed willingness to attend the follow up site visit. In the Enforcement Order, the homeowner needs to give SCC an update and a plan by July 2nd – SCC will schedule an Enforcement Order update during the July 14th meeting; according to Town Counsel, Donna MacNicol, if homeowner refuses a site visit, a civil warrant can be obtained with help from MacNicol if needed.

Request from Town of Granby Conservation Commission to support extension of virtual meetings authorization by legislature

Stone: works for Granby Conservation Commission, GCC, part-time and they are currently working with their Board of Health to request the Governor to expend the approval for Public Meetings and Hearings to continue remotely – letter written by GCC explains why they are requesting the extension use of zoom. **Motion: David moves to support the extension of virtual meetings with a letter written by the Chair Miriam DeFant to the state legislature, Harrington seconds. Vote: David- Aye, DeFant- Aye, Harrington- Aye, and Willson- Aye. So moved.**

Schedule Site Visits

David: she requests that SCC do a site visit on the culvert on Pine Drive that she had discussed with DeFant – culvert is being blocked by tree roots. SCC has looked at the tree roots before but now they are being pushed into the culvert – LWA as requested that SCC look into it because it

has resulted in flooding in the past. LWA considers this issue a conservation violation and David offered to inform SCC about this culvert.

Site visits to be schedule:

- Pine Drive culvert
- Ames Pond (Kestrel NOI project, hearing being held on July 14th)
- Rocky Run Bridge (DCR NOI)
- Tree Removal Site on North Beach
- South Brook Conservation Trail(s)

421 West Pelham Road/Visniewski, RDA: driveway for new construction home -

Jack Visniewski: he is a registered, professional engineer who owns J.A Visniewski, LLC and is representing his son, Michael Visniewski, and son's wife, Ashley Ocaña. They had recently purchased the 421 West Pelham Road property that is about 33.6 acres – the proposed construction is about 300 feet away from the road. There is a large Bordering Vegetated Wetland, BVW, that had been flagged and delineated in the rear of the lot (Lot 3) – closest distance from the proposed construction to this BVW is 183 feet. To the left of the proposed construction is an Isolated Wetland – subject of tonight's meeting. The Isolated Wetland has been delineated and flagged (indicated by an aqua coloring) along with an identified 100' Buffer Zone line (highlighted in the same aqua coloring). The site is a knoll that is flat on the top and forested with a pine grove that turns into a hardwood forest with a thick undergrowth – indicating it has not been touched in many years. The soils on the top of the hill are sand as discovered during testing for a septic system. Part of the proposed construction is a driveway that starts on West Pelham Rd, comes up the lot and ends at the proposed garage detached from the home. About halfway up the proposed driveway is a purple indicator to show a culvert that he wants to place under the driveway because it is a low area (prevent flooding or freezing over). Left to the driveway is a proposed well line and utility pole connecting to the proposed home – run underground and parallel to the driveway. In front of the proposed home is a sewage disposal system that has been approved by the Board of Health. Minor grading will be done in the back of the home. Part of the driveway has a back-up/ turn around area with minor grading behind it that slightly enters into the Buffer Zone along with a small portion of the proposed tree line – reasoning for the submission of RDA. One thing he would like to change on the plan is a foundation drain coming from underneath the house going east towards the isolated wetlands. It will not be needed but would be willing to keep it as planned just in case. Along with foundation drain, he would place a radon system with the drain as a sump under the slab that would lead out to the backyard and surface in the ground heading north of the property line. DeFant: will the driveway be gravel or paved? Visniewski: it might be gravel at first, but the plan is for it to be paved. David: the only part of this proposal that is within the Buffer Zone is that small strip of driveway correct? DeFant: yes, but the drain would have also been part of the RDA. Visniewski: he was going to remove it from the plan but it was on there when he presented the proposal to the Board of Health for the sewage disposal system, so he left it. DeFant asks about his plans for erosion controls. Visniewski: in his previous projects he has used silt fencing and wattles but for this project because the area is generally flat, has sandy soils and is heavily vegetated, he did not feel it is needed – is willing to put in erosion controls if SCC recommends so. DeFant ask Commission on thoughts of no erosion controls. Willson: she is comfortable with no erosion controls. SCC agrees. DeFant: there is tree removal occurring on site and behind the driveway in

that same section of buffer zone. Are the stumps being pulled or will they be left in the ground? Visniewski: the trees that need to be removed in that section will be accurately located using instrument surveys – will flag the direct tree line and will also act as a limit of work. Willson: what is the distance of the tree line to the wetland? Does that say 82 feet? Visniewski confirms it is 82 feet. There are no further questions. DeFant share the drafted special OOC for SCC and applicant to review via screenshare. **Motion: David moves to close the Public Hearing for 421 West Pelham Rd RDA, Harrington seconds. Vote: David- Aye, DeFant- Aye, Harrington- Aye, and Willson- Aye. So moved.** DeFant share the DOA for SCC to review via screenshare. SCC approves DOA and gives DeFant permission to sign for them electronically. DeFant share the Shutesbury Bylaw DOA for SCC to review via screenshare.

Motion to Adjourn: David moves to adjourn, Willson seconds. Vote: David- Aye, DeFant- Aye, Harrington- Aye, and Willson- Aye.

Meeting Closed: 9:30 pm

Next Meeting: Thursday, June 23 @ 6 pm

Documents Used:

- Email from Chair to Highway Department regarding Summer Projects
- 387 Locks Pond Road RDA
- 387 Locks Pond Road Site Plan
- 387 Locks Pond Road Draft OOC
- Email(s) from Chair to 387 Locks Pond Road Applicant regarding illegal outdoor shower
- Email(s) from Chair to 387 Locks Pond Road Applicant regarding drywell
- 14 Lake Drive OOC
- 14 Lake Drive Corrected OOC
- Email from DCR to SCC requesting requirement for butter notification waive
- Lot R- 15Conversation Restriction Draft Conversation Land Acquisition
- Email(s) from Penny Jaques to Chair regarding Top of Lake Conservation Area Signage
- Email(s) from Chair to 678 Pratt Corner Rd regarding follow up site visit
- Email(s) from Chair to Mary Grover regarding follow up site visit @ 678 Pratt Corner Rd
- Letter Request from Town of Granby Conservation Commission regarding zoom
- 421 West Pelham Road RDA
- 421 West Pelham Road Site Plan
- 421 West Pelham Road special OOC
- 421 West Pelham Road DOA

Respectfully submitted by Miriam DeFant, Commmissioner, 7/29/22