

## **Shutesbury Conservation Commission**

Minutes – May 22, 2025

Approved – June 12, 2025

*Virtual Meeting*

**Commissioners Present:** Beth Willson (Chair), Mare Fox, Janice Rowan, Bob Douglas  
(6:23pm)

**Commissioners Absent:** Scott Kahan

**Other Staff Present:** Matteo Pangallo (Land Use Clerk)

**Others Present:** Tom Siefert, Michael Murphy, Ron Essig

**Call to Order:** 6:03pm

This meeting is being recorded.

### **Bylaw Regulations Revisions**

Willson shares the draft Bylaw Regulations and discussion begins with section 11, Coordination with Other Boards and Offices.

Rowan observes she often gets questions from people who have gone through a process with another board or entity, like FRCOG for a Building Permit, and want to know if they also need to submit that paperwork to the Conservation Commission. She notes that this section of the Regulations does not seem to address how applicants should handle something that crosses multiple permitting authorities. Willson notes that this part of the Regulations is about how the Commission shares applications it receives with other Boards, not how applicants should navigate permitting that involves more than just the Commission. She suggests that it should be on FRCOG, as the initial point of contact, to direct applicants to the Commission or other boards as required and she indicates that she believes they are trying to do that. Fox asks how most potential applicants approach the Commission. Rowan states that she usually directs people to contact the Land Use Clerk for applications and instructions. Willson notes that the Commission website provides instructions and has all the documents as well as the contact information for the Commission and Land Use Clerk.

In section 12, Decisions, Willson proposes deleting a sentence instructing the Commission to consider past and future activity impact in other places in the community beyond the work site. The others agree.

Willson proposes deleting 12.3.2 because it is redundant with other parts of 12.3. The others agree. Willson also proposes deleting 12.9 because it is redundant with 12.5.

In section 14, Security, Willson proposes deleting 14.1 because it is a definition and not a rule.

Willson notes some confusion in 14.2.2. Fox identifies the problematic wording as “performed” and points out that it seems unnecessary to use it in this context. Willson does not think this paragraph would necessarily require someone to follow their permit conditions. Fox considers part of 14.2 as potentially redundant. Douglas suggests this is a way for the Commission to have leverage over a project in the event a property owner tries to abandon a project. Rowan suggests deleting the paragraph because restrictions and easements are attached to the property, not the applicant. Willson will check to see if this appears in other towns’ regulations.

In section 15, Rowan inquires whether the extensions allowed for ORADs and DOAs were originally limited to the context of the pandemic and Willson indicates that the Bylaw does allow them beyond what the State requires.

Douglas suggests allowing an extension request but requiring a review or update of the delineation that would not impose on the applicant a new series of notifications.

Willson revises the language to require that a request to extend a permit be contingent on submittal by the applicant, a site visit, and approval by the Commission.

Rowan inquires why Small Project Permits are limited to one year. Willson answers that it is likely because there is no requirement for notification with those permits so it involves less investigation. Rowan notes that, in combination with the small buoy requirement, this would involve people needing to submit for a small buoy every year, which might mean people will be less inclined to submit for a permit, which obviates the protection purpose of the permit. Willson agrees that the buoy question needs to be revisited but still thinks the one-year limit on Small Project Permits makes sense. Rowan is reluctant to move buoys into a higher permit category and suggests creating a separate rule for the review of an annual buoy permit. Willson notes that the fact that buoys are annual makes it seem more like a license than a permit and suggests returning to that section of the regulations later.

The Commission discusses the relative merits of allowing certain periods of time for extensions on other permits. Willson asks if the limit of six years for a permit was acceptable to the Commission and Douglas notes that there are situations, such as the application of an herbicide, where an extension beyond six years might be needed. Willson will check the State regulations for what they provide but will remove the six year limit from the Town’s regulations.

In 16.3.6, Rowan asks if the paragraph will be made less punitive by removing the “under no circumstances” sentence. Willson notes that it is in regard to an amendment, not an extension; the State uses this allowance and the Town cannot be less restrictive than the State.

Discussion will continue next time with Section 17 on enforcement.

### **Comments from the Chair**

All the required signatures for the Wightman Conservation Restriction are being collected. The Select Board and its Chair have signed, as have a majority of the Conservation Commission.

Other Commissioners still have a week more to sign it. Once it is ready, Willson will give the Land Use Clerk the information on where to send it to the State.

Willson reminds the Commission that Town Meeting is on May 31 and the Commission's Community Preservation Act grant requests are about halfway through the warrant. Pangallo reports that there are 46 articles on the warrant.

### **Review and vote on minutes of May 8, 2025**

Motion to approve the minutes of May 8, 2025: Rowan; second: Douglas. Vote: Rowan - Aye; Fox - Aye; Douglas - Aye; Willson - Aye. Motion approved unanimously.

### **Site Visits Update**

Rowan reports that on May 13, she visited the new library site and saw cloudiness in one of the settling ponds apparently as a result of mixing concrete in it. Grass seed is sprouting but the wattles on the western boundary are again at risk. The strip of land alongside the building is mostly mud and grass does not seem to be coming up there. Rowan suggested it be dug out again and the wattle replaced. Willson asks when they will be getting to landscaping and Rowan notes that this week they began digging the drainage channels toward the road so they must be starting, but the installation of electrical lines still needs to happen and that will require more digging. Fox offers to join Rowan on a site visit to check the site on Tuesday at 3pm. Willson reminds the Commission that if there is a catastrophic event and sediment breaches the wattles into the wetland, the Commission can issue an enforcement order.

Rowan reports on the site visit on May 13 to 98 Lake Drive and notes that Fox sent photos of the property to the Commission. She will defer discussion until the public hearing.

### **Land Management Update**

Pangallo reports that Kahan has been in communication with the Highway Department about building the parking area at the West Quabbin Conservation Area.

### **7:15pm - Public Hearing for RDA 98 Lake Drive Deck**

Willson calls the public hearing to order at 7:15pm and recognizes Michael Murphy. Murphy describes the project as expanding the lake-side deck attached to the house. The deck currently ends about 78 feet from the lake and the request is to expand it an additional 12 feet toward the lake and to move the stairwell from the lake side to the side of the house instead. The project would use helical piles and would keep the oak tree located about 15 feet from the deck and about 60 feet from the lake.. The new deck will end about 60 to 65 feet from the lake shore.

Rowan notes that all the work is outside the 50 foot buffer but within the 100 foot buffer. Willson asks about the nature and placement of equipment that would be used. Murphy explains that there is a driveway that comes to the end of the deck and would be used to bring the equipment into place. Rowan thinks there would be little soil churning and it could be done safely.

Willson asks if any erosion control will be used. Murphy answers that he will be speaking with his contractor about it but they are planning to put down some protection below the construction area. Willson notes that the Determination will include a condition that requires an erosion control and allows the Commission to do an inspection of the controls before work starts.

Willson shares the photographs of the work area and invites Murphy to submit questions about the erosion controls to the Commission. Murphy describes the photographs and how the project would fit within the images.

Douglas notes that the project is *de minimus* and is a considerable distance from the lake.

Willson invites questions and comments from the public. There are none.

At 7:26pm, motion to close the public hearing: Rowan; second: Fox. Vote: Rowan - Aye; Fox - Aye; Douglas - Aye; Willson - Aye. Motion approved unanimously.

Motion to issue the Determination of Applicability for 98 Lake Drive with the condition that erosion control is installed and inspected: Rowan; second: Fox. Vote: Rowan - Aye; Fox - Aye; Douglas - Aye; Willson - Aye. Motion approved unanimously.

Willson explains that the written permit will be sent to Murphy next week.

### **Administrative Approval Request for 681 Wendell Road Tree Removal**

Willson recognizes Ron Essig and invites him to describe the request. Essig explains that their plan is to remove five large pine trees that are extremely close to the house and within the buffer zone of a wetland. One tree is dead but the other four are not clearly compromised, but if they were to become compromised it would require a crane to safely take them down given their proximity to the house.

Willson reports she did a site visit to the property and notes that the trees are elevated on a slope far above the wetland and there are many trees between these and the wetland.

Essig explains that they would be removed with a 75-foot lift and by manual climbing involving removal section by section by hand.

Willson does not think erosion controls are necessarily needed given that the trees are being taken down by hand. Douglas notes that large pines can cause a tremendous amount of damage and he would defer to the safety requirements and encourage their removal promptly.

Willson notes the difficulty of installing erosion controls given the wooded nature of the lot and the distance between the trees and the slope to the wetland.

None of the other Commissioners think that erosion controls are needed given the vegetated buffer that already exists as long as the workers stay on the project-side of the buffer.

Willson asks Essig to let the Commission know when the work is done so it can be inspected.

Motion to issue the Administrative Approval for 681 Wendell Road: Rowan; second: Fox. Vote: Rowan - Aye; Fox - Aye; Douglas - Aye; Willson - Aye. Motion approved unanimously.

### **Unanticipated Business**

Willson explains that the Highway Department submitted an Emergency Certification for a rock culvert collapse on Baked Road, near West Pelham Road, that had been reported by a resident. Rowan did a site visit and took a photograph on Tuesday and Willson sent the Emergency Certification on Wednesday so the work could be done. The stream is perennial and merges with another perennial stream to become Dean Brook. Willson describes with approval the repair and rebuilding work done by the Highway Department. Rowan confirms that the Department did a good job. Douglas concurs and thanks Willson for moving quickly on it before the heavy rain that was in the forecast for today.

Motion to ratify the Emergency Certification for the Baker Road culvert repair: Rowan; second: Fox. Vote: Rowan - Aye; Fox - Aye; Douglas - Aye; Willson - Aye. Motion approved unanimously.

Willson asks to return to the Regulations for the remaining time and the Commission concurs. Discussion begins with section 17, Enforcement.

Rowan asks if there is any provision for warning someone if there is a problem before imposing a fine as a punishment. Willson notes that the Commission can issue a written Enforcement Order requiring that the party appears before the Commission and the Commission can choose to resort to monetary fines if those Enforcement Orders are ignored.

Fox asks how often the Commission has imposed a fine and Willson answers that Shutesbury has not done it since she joined the Commission. In Amherst, it has happened three times over the past eight years, but they get more applications; it is not common. Douglas reports that in Andover it happens about once every six months but only in the event of a flagrant violation.

The Commission discusses the logistical and legal complications implied in paragraph 17.13 involving the treatment of properties that are purchased or inherited with work that has been done on it in violation of the Bylaw. Rowan asks if the Commission has a follow-up system for ensuring anyone who got a permit has received a final Certificate of Compliance. Willson notes that there should be follow-up on outstanding Orders of Conditions, especially because many people do not realize they need to apply to extend their permit.

Rowan asks if an applicant can remove erosion controls when they see grass growing back or if they need to wait for the Commission's approval. Willson explains that they should only remove the controls after the Commission has confirmed that the vegetation has sufficiently grown in.

Discussion of the Regulations will commence with section 19, Emergency Projects. The Commission will next meet at 6:00pm on June 12.

Fox asks if the Commission will meet on July 3. Willson notes that it will meet on July 10 and 24, on the second and fourth Thursdays, and asks Commissioners to let her know if they will be going away on vacation.

### **Adjournment**

Motion to adjourn: Fox; second: Rowan. Vote: Rowan - Aye; Fox - Aye; Douglas - Aye; Willson - Aye. Motion approved unanimously.

**Adjourned:** 8:14pm

### **List of Documents Used:**

- Draft Bylaw Regulations
- Request for Determination of Applicability for 98 Lake Drive and accompanying photographs
- Administrative Approval Request for 681 Wendell Road