

# TOWN OF SHERBORN CONSERVATION COMMISSION

## Minutes

### Conservation Commission Virtual Meeting

February 16, 2023

**Commissioners Present:** Co-Chair Michael Lesser (ML), Co-Chair Courtney Ek (CE), Carol McGarry (CM), Jacob Strauss (JS), Matthew Oleyer (MO), Steve Scrimshaw (SS), Kurt Stiegel (KS)

**Staff Present:** Joyce Hastings (Interim Agent), Debra Takacs (Administrative Assistant)

**Guests:** Karon Skinner Catrone, Desheng Wang, Lee Cavallo, Matt Burne

#### **Meeting Called to Order**

ML opened the Conservation Commission meeting at 7:16 PM.

Roll Call: JS-present, ML-present, KS-present, CE-present, CM-present, MO-present, SS-present

#### **Review Agenda (add topics not reasonably anticipated by the Chair 48 hours in advance)**

A **MOTION** was made and seconded to add discussion of the solar bylaw to the agenda. ML-aye, CE-aye, CM-aye, JS-aye, MO-aye, SS-aye, KS-aye. APPROVED 7-0 by roll call vote.

#### **Conservation Annual Report for 2022**

The Commission discussed edits to the draft Annual Report.

A **MOTION** was made and seconded to accept the Annual Report as edited and authorize ML, CE, and JH to make any further minor clerical edits. ML-aye, CE-aye, CM-aye, JS-aye, MO-aye, SS-aye, KS-aye. APPROVED 7-0 by roll call vote.

**NEW Public Hearing: Request for Determination of Applicability: 22 Ash Lane (Map 8, Lot 45) for the proposal to perform soil testing to upgrade a failed septic system. - Karon Skinner Catrone *representing Jane Sieswerda.***

Ms. Skinner Catrone confirmed that soil testing would take place outside of the 50' buffer, with no tree removal.

JH stated that conditions would include no tree removal, no stockpiling and no construction equipment storage within jurisdictional areas.

A **MOTION** was made and seconded approve the project with a Negative 3 determination, with no impacts to the wetlands, and conditioning as mentioned. ML-aye, CE-aye, CM-aye, JS-aye, MO-aye, SS-aye, KS-aye. APPROVED 7-0 by roll call vote.

**NEW Public Hearing: Request to Amend Existing Order of Conditions for DEP #283-425: 0 Maple Street (Map 7, Lot 163A) for the proposal to revise the proposed house and grading. – *Creative Land & Water Engineering, LLC, representing Lee Cavallo***

Mr. Wang addressed:

- Changes with the retaining wall and driveway area
- Added stormwater measures
- Planting plan

ML suggested planting a groundcover in buffer zone area what was previously to be lawn and now a walkway to address infiltration of wetlands and protect wildlife. Mr. Cavallo was in agreement.

Commissioners asked questions regarding the amended OOC. CM mentioned that avoidance was preferable to the 300 square feet requiring mitigation. CE agreed with the avoidance aspect.

ML suggested less lawn area near the dry well to resume a more natural buffer.

A **MOTION** was made and seconded to continue the hearing for 0 Maple Street to the March 9, 2023 Conservation Commission hearing at 8:00 PM. ML-aye, CE-aye, CM-aye, JS-aye, MO-aye, SS-aye, KS-aye. APPROVED 7-0 by roll call vote.

**Continued Public Hearing: Sherborn Wetland Regulations - Discussion of possible amendments to the Sherborn Wetland Regulations.**

[This hearing will be the first of two separate hearings. This first hearing will discuss possible amendments to all parts of the Regulations in order to help draft specific changes. A second subsequent public hearing will be held after the publication of specific proposed draft changes for public review that will be available at least 48-hours in advance of this second public hearing; at this second hearing all proposed amendments will be discussed prior to Commission voting.]

ML reopening the Sherborn Wetland Regulations hearing at 8:33 PM.

CM stated that the Wetland Regulation draft document from the consultant was edited for clarity. She referenced Project Goals (Section 1 to 5), including:

1. Codify an expectation of avoidance of work within 100 feet of wetlands in the regulations
2. Propose performance standards for work proposed within 100 feet of wetlands
3. Require detailed evaluation including objective measures of the condition and functionality of wetlands and the 100 feet adjacent to wetlands, and of the proposed alterations
4. Provide an objective mechanism for allowing work when appropriate (poor condition of wetland resource or preferable conditions in the adjacent zone)
5. Require alternatives analysis when work proposed within 100 feet of wetlands meets a specific threshold of extent of alteration.

Consultant Matt Burne stressed the importance of gathering examples of other towns' bylaws and regulations, which assume the burden of proof is the responsibility of the applicant, and that proposed work will not have a bearing on wetland buffers. He commented that the buffer zone work is not prohibited, and the Commission needs appropriate language with focus on the 100-foot buffer zone.

Mr. Burne gave examples of 100-foot buffer zone bylaws in the towns of Arlington, Lexington, Bellingham, Bedford, Boston, Boxford, with strict 100-foot limit language intended to withstand appeal.

ML suggested the board might want to re-examine the Boxford regulations. Mr. Burne suggested that consideration of regulation language in Lincoln might also be helpful. Mr. Burne commented that it is common practice for towns to borrow regulatory language from each other.

ML acknowledged that many wetland/buffer applications involve existing homes with septic systems needing modification/replacement. He mentioned that new construction must be put to a more limited performance standard. Commissioners were in agreement.

Mr. Burne led discussion regarding sections of the Sherborn Wetland Regulations document:

### **Burden of Proof**

Mr. Burne presented some suggested language, in consideration of slope measures, soil composition and how that such factors affect wetland. Mr. Burne recommended that establishing expectations could be taken from the MACC Handbook.

### **Potential Language**

CM asked if references to the MACC Buffer Zone Guidebook could be included. Mr. Burne responded in the affirmative; though such citations are rarely seen. It was discussed that referencing material external to the regulations could cause some complications over time. Mr. Burne again stressed the importance of utilizing very specific language. ML mentioned Guidebook section 3.1.2 (Pg. 8)

ML confirmed that Town Counsel would review any recommendations included in a Sherborn Wetland Regulations draft.

Commissioners agreed with including very specific language in section 5 on buffer zone performance standards of any draft work.

ML recommended that Commissioners consider aspects within performance standards in preparation of the next meeting. CM mentioned having Mr. Burne help with the Preamble and Burden of Proof.

ML mentioned there was an existing contract with BSC Group. Mr. Burne noted there were some remaining hours on the existing contract.

A **MOTION** was made and seconded to continue the Sherborn Wetland Regulation hearing to March 9, 2023 at 8:30 PM. ML-aye, CE-aye, CM-aye, JS-aye, MO-aye, SS-aye, KS-aye. APPROVED 7-0 by roll call vote.

### **Site Issues/Questions** None

**Announcements** ML noted there would be a Planning Board meeting on Tuesday, February 21<sup>st</sup> regarding a revised large-scale solar by-law being proposed for Town Meeting.

**New Agent/Administrator Hire** ML noted that an interested Conservation Agent candidate responded to the posting and, while we were arranging to set up an interview, took another job.

## **Administrative Approvals**

JH presented the approved AAs as outside of jurisdiction:

- 20 Morse Road
- 263 Western Avenue
- 60 Brush Hill Road

**Minutes** – None

**Warrant** – None

## **Discussion – Large Scale Solar By-Law Discussion**

ML provided related background. CM noted that proposed bylaw changes would be far reaching, indicating that such an extensive solar array to be installed under the powerlines would create a major expansion of solar overlay district. She presented the “Sherborn Zoning Map,” which depicted the current overlay (approximately 4+ miles) and stressed that such increase would negatively impact the preservation of conservation values, including maintenance of natural habitat.

ML advocated for installation of solar arrays in other areas of Town. CE agreed and expounded on statements made by CM and ML.

ML recommended that interested Commissioners attend the solar discussion at the Planning Board meeting on February 21.

**Adjourn** A **MOTION** was made and seconded to adjourn the Conservation Commission meeting at 10:35pm. ML-aye, CE-aye, CM-aye, JS-aye, MO-aye, SS-aye, KS-aye. APPROVED 7-0 by roll call vote.

Documents referenced at the Conservation Commission February 16, 2023 Meeting:

### **RDA – 22 Ash Lane**

- WPA Form 2 – 2.16.23
- RFDA Special Conditions – 2.16.23
- RDA Cover Letter – 2.16.23

### **Amending Existing OOC – 0 Maple Street**

- Package of Request for Minor Amendment – 2.13.23

### **Sherborn Wetland Regulations**

- “Sherborn Wetland Regulation Review, 2023 – Guidance from Matt Burne, BSC Group”