

City of Keene
New Hampshire

CONSERVATION COMMISSION
MEETING MINUTES

Monday, January 16, 2024

4:30 PM

**2nd Floor Conference Room,
City Hall**

Members Present:

Alexander Von Plinsky, IV, Chair
Councilor Robert Williams
Eloise Clark (left at 5:41 PM)
Ken Bergman
Thomas Haynes, Alternate (Voting)
John Therriault, Alternate (Voting)
Lee Stanish, Alternate (Voting)
Deborah LeBlanc, Alternate (Voting)

Staff Present:

Mari Brunner, Senior Planner
Corinne Marcou, Administrative Assistant

Members Not Present:

Councilor Andrew Madison, Vice Chair
Art Walker
Steven Bill
Brian Reilly, Alternate

Mayor Jay V. Kahn (arrived at 4:47 PM &
left early)

1) Call to Order

Chair Von Plinsky called the meeting to order at 4:30 PM. The Chair welcomed Barbara Richter, Executive Director of the NH Association of Conservation Commissions. By the date of the February meeting, Ms. Richter would be confirmed by the City Council as a new regular member of the Keene Conservation Commission. Ms. Clark would also be confirmed as an alternate member as of the February meeting.

2) Election of Chair & Vice Chair

A motion by Mr. Haynes to nominate Sparky Von Plinsky and Councilor Andrew Madison as the 2024 Conservation Commission Chair and Vice Chair, respectively, was duly seconded by Mr. Therriault. The motion carried unanimously.

3) Approval of Meeting Minutes – December 18, 2023

Revision: line 155–156, strike the following: “*which had not progressed because of Covid.*”

A motion by Mr. Bergman to approve the December 18, 2023 meeting minutes as amended was duly seconded by Mr. Haynes. The motion carried unanimously.

- 4) **Planning Board Referral: Surface Water Conditional Use Permit Application, 186 Gunn Road – Applicants/owners Ashley & Peter Greene request a reduction in the Surface Water Protection buffer from 75’ to 30’ to allow for the future subdivision and development of the parcel at 186 Gunn Rd (TMP #205-013-000). The parcel is 11 ac and is located in the Rural District.**

Chair Von Plinsky welcomed the applicant/property owner, Peter Greene, as well as the Greene’s representative from Meridian Land Services, Inc., Jason Bolduc. Ms. Brunner noted that this application was a bit unusual because typically, a subdivision request would usually come forward concurrently with a Planning Board Surface Water Protection Conditional Use Permit (CUP). However, in this case, the applicant was requesting the CUP on its own; if approved, they would follow through with everything needed for the subdivision. Exhibit plans (*not* actual subdivision plans that would be recorded) were included in the meeting agenda packet.

Mr. Bolduc, a wetland scientist, explained that the Greenes were hoping to have a future subdivision of the eastern corner of their property at 186 Gunn Road. Mr. Bolduc was the first on site to delineate the wetlands over the entirety of this property. His survey was focused on the eastern corner of the lot. He said that due to the wetlands on site, he pursued the option to reduce the wetland buffer from 75’ to 30’. Mr. Bolduc showed the exhibit plans, which demonstrated the intent for a driveway coming off Gunn Road that would access a four-bedroom house with a septic system and well on the property; to the best of his knowledge, this would meet NH State regulations for stormwater management. Infiltration trenches were proposed along the front and rear of the proposed house, and Mr. Bolduc recommended spruce trees along the actual buffer for soil stability and to delineate the building lot. Mr. Bolduc said he also assessed wetlands functions on site. There is a stream over 400’ downslope of the proposed site that would remain forested. Mr. Bolduc said this stream that runs across the back of the property is a higher value wetland. He welcomed questions and a lengthy discussion ensued.

Mr. Bergman asked if the map Mr. Bolduc showed depicted the entire property or only the part intended for subdivision. Mr. Bolduc did not answer the question directly, but said that the goal was a subdivision, and he was trying to help the Greenes to avoid a full property survey by determining if a CUP would be awarded for the subdivision first. Thus, he focused his initial survey on the portion the owners want to subdivide and if it was a condition of approval, Mr. Bolduc would complete the remaining survey work to locate the lot improvements and the remainder of the wetlands on the property. Mr. Bergman questioned whether this location on the property was the easiest and safest to develop a subdivision without impacts to wetland buffers. Mr. Bolduc replied that he would have to do further assessments on the western side of the

property; the owners' goal was to subdivide a frontage lot. This eastern corner of the property was surveyed by Mr. Bolduc first to determine whether it was possible without surveying the whole 9 acres.

Ms. Clark noted that she is a member of the Ashuelot River Local Advisory Commission (ARLAC), which reviews wetland and shoreland CUPs. During those reviews, ARLAC asks about the impermeable surface ratio in relation to the rest of the lot (there is a permissible amount of impervious surface). Mr. Bolduc said there are 20% and 30% thresholds that require a certain level of stormwater management (he did not provide the specific calculations). Ms. Clark noticed that in the report, approximately 10,000 square feet of added impermeable surface was proposed. Mr. Bolduc thought those 10,000 square feet were the entirety of the impact (house, driveway, and front entryway), not just the impervious areas. Ms. Clark asked, if the applicant begins with a gravel driveway (i.e., permeable) and decides later to pave it (i.e., impermeable), whether the City would have any control over that. Mr. Bolduc thought that control could be a condition of the subdivision approval. Ms. Clark noted that Mr. Bolduc did well accounting for drainage from the eaves of the house, but she did not see any provisions for driveway drainage. Mr. Bolduc said he could look into drainage (e.g., swales on both sides) along the driveway and add that to the plans.

Chair Von Plinsky expressed concern that this plan would impose on the wetland buffer, without knowing whether there is a more apt location on the applicant's property that would not impact a wetland buffer. Mr. Bolduc said he would need to conduct further assessments and delineations to apply offsets and see building envelopes. Chair Von Plinsky questioned if Mr. Bolduc or the applicants knew whether there is another 2-acre section of the property that would have zero impact on the wetland buffer. Mr. Bolduc agreed that he did not know that at this time. While no one wanted the Greenes to spend more money than needed, Chair Von Plinsky was concerned that there could be a better spot on this property to subdivide without impacting the wetland buffer.

Mr. Therriault said it appeared—based on the elevation lines—that there would be a 24' drop from the road to the front of the house, as well as a 17' drop from the back of the house to the border of the first wetland. Mr. Bolduc confirmed those numbers. Thus, Mr. Therriault said it was clear that any water would flow toward the back wetland, which Mr. Bolduc said was correct, noting that water flows toward that wetland currently. The existing home is on a high spot that drops off in all directions, so the water runs in both directions from that point. In response to Mr. Therriault, Mr. Bolduc said the entirety of the proposed subdivision would be within the wetland buffer. Ms. Brunner added that with a 75' buffer, the whole development would be in the buffer. Conversely, if the 30' buffer was approved, only 10,000 square feet of the development would impact the buffer.

Mr. Bergman noted that a septic system was proposed behind/downslope of the house but above the wetlands; was there a straightforward way to protect the wetlands from septic leeching into surface or groundwater? Mr. Bolduc replied that NH has a 50' setback to poorly drained

wetlands, which is what the wetlands in question were. There needs to be 2.5' above either the seasonal highwater table or ledge. Thus, Mr. Bolduc used the 50% rule to ensure the septic system would be at least 2' above the water table. Ms. Brunner added that the City of Keene prohibits septic systems within the surface water buffer. So, if the buffer was reduced to 30', the applicant could place the septic system where proposed. Ms. Brunner reminded the Commission that they were reviewing exhibit plans (i.e., proof of concept) and not the actual development proposed. This was a way to see how the site *could* be developed and still meet NH requirements and setbacks between the well and septic system. Any design in the future would still have the same quality of being entirely within the 75' buffer, which Mr. Bolduc confirmed. Mr. Bolduc said his intent in asking for the buffer reduction to 30' in the exhibit plans was to show a "glorified septic design," proving that the necessary utilities for a house were possible. Anyone who builds a house there would not be able to build a much larger house than what was in the exhibit plan because of the buffer restrictions.

Ms. Clark said the primary issue was whether the Commission should set a precedent of granting a clear exception to the 75' buffer. The Chair and Mr. Haynes agreed. Chair Von Plinsky was still concerned that there could be a perfectly acceptable place on the property that would have zero impact on the wetland buffers.

Mr. Bergman wondered if there was a recent example in the City of the buffer restrictions being waived for development. Ms. Brunner said this exception to the 75' buffer was just added as an option in the City in 2021. Granting the buffer reduction is allowed when: "*In specific cases, the Surface Water Protection District buffer area may be reduced to 30 feet in zoning districts requiring a 75 foot buffer and to 10 feet in zoning districts requiring a 30 foot buffer at the discretion of the Planning Board and if the applicant provides extraordinary mitigation, replication, or restoration of surface waters and wetlands and/or open space preservation measures.*" Ms. Brunner was not positive, but she thought this might be the first application for this exception.

Councilor Williams questioned what counts as "*extraordinary measures.*" Were there any criteria the Commission was supposed to evaluate? Ms. Brunner replied that the Planning Board ultimately makes the decision, and they would likely rely heavily on the Conservation Commission's recommendations for mitigation measures (e.g., surface water management along the driveway) when deciding what conditions to impose on the plan. Ms. Brunner thought this was a tricky situation with a subdivision that would create a lot for developing a single-family home. Historically, the Planning Board had approved subdivisions with conditions like submitting a stormwater management plan to receive the permit. Otherwise, the building permit review would be strictly focused on whether the plan meets the Building Code.

Chair Von Plinsky was struggling to consider mitigation measures. He wondered if the Commission had ever faced a plan for developing a building that would essentially be an island in the middle of the wetland buffer. Councilor Williams wondered what harm the Commission was trying to mitigate; to stay away from the wetland entirely? The Chair thought the goal was to

keep development effects out of wetlands, which is why the buffers exist. If carving out a whole section of the buffer, Chair Von Plinsky was unsure how to keep the house from impacting the wetland 30' away. Councilor Williams agreed and said another impact is from runoff, which can be mitigated, but he was unsure how. Mr. Bolduc said that infiltration trenches were proposed for runoff from the house. He said there were no more impervious areas proposed. He said he could put together a stormwater plan for the driveway runoff, whether impervious or pervious. Mr. Bolduc recently had a project in Hillsboro, NH, which was approved with stormwater management plans (e.g., detention basins) submitted with the building applications.

Councilor Williams was also concerned with this whole parcel being turned into lawn, which would increase the runoff impacts. He wondered if there was a way to prevent that. Chair Von Plinsky agreed that lawns can have negative impacts, especially this close to a wetland. Mr. Bolduc said his goal was siltation control on site, which would also manage the people on site; silt fences, for example, could keep construction workers contained on the site as well as the silt. His intent was also for the red spruces to act as a sort of natural buffer along the fence line. Once the site is completed, Mr. Bolduc would also create a landscaping plan to guide new owners on what/where lawns could be. Proving that required plantings are completed is a condition of receiving a Certificate of Occupancy. Ms. Brunner added that the Planning Board could require a no-cut buffer for a portion of the site, which she thought the Commission had recommended for the 30' wetland buffer in the past, but tracking and enforcement is challenging. If listed on the plans, future owners would have access to those requirements. Chair Von Plinsky was still concerned that any lawn in this plan would be within the buffer, including any lawn care materials/products. The City chose a 75' buffer for many important reasons.

Mr. Bergman asked if there were any obvious deterrents to subdividing a different part of this property; was there anything like soil ledges or slope issues preventing a different location? Mr. Bolduc replied that he would need to complete the wetland delineation for the rest of the property. Mr. Greene said the location was chosen based on how his family uses the property, and he thought this plan would have the least impact on how his family uses the land now.

Ms. Clark asked whether there was a way for the Commission to reject this plan. Ms. Brunner said the Commission could recommend that the Planning Board deny this application, but it would ultimately be at their discretion.

As a homeowner and with experience buying/selling homes, Mr. Therriault did not see why this application should be rejected if it is allowed by law and there is proper mitigation. He recommended approving the application with mitigation, especially around the driveway and the area closest to the wetland. He was comfortable approving the 30' buffer if properly mitigated. He thought the proposed driveway was very close to the wetland boundary and would need to be well mitigated. Ms. LeBlanc suggested that the driveway could possibly be moved to a different location.

Mr. Haynes asked if the Planning Board would decide on the mitigation measures. Ms. Brunner said yes, but the Planning Board would rely heavily on the Commission's advice.

Mr. Bergman was struggling with this because he wanted to be flexible where it is useful in the community, but he wondered how the Commission and Planning Board should maintain the 75' buffer if there are no guidelines for deviating. The concern remained about setting a precedent. Mr. Therriault thought that if the mitigation was sufficient, then the law allows for a 30' buffer in the City of Keene. He did not think that approving mitigation would hurt the environment. Chair Von Plinsky respectfully disagreed, noting that in his experience, changing an area that is all wetland/buffer into a development was different than a house encroaching on the buffer by a few hundred feet.

The Commission discussed possible mitigation measures, especially given that this would be an unprecedented situation with an island of development within the wetland buffer. Mr. Therriault recommended a drainage trench off the base of the driveway that carries the runoff into the lower portion of the wetland approximately 20'–50' downhill. Further concerns were mentioned about nutrients, erosion, settlement, and road salt. Councilor Williams was concerned that there would be a pulse of water runoff that would not normally happen in this area, where it is naturally mitigated by the forest. Mr. Therriault thought detention basins would solve that problem. Councilor Williams also suggested an engineered marsh area or something else that would enhance the wildlife on site; still, no development at all would be the best way to preserve wildlife on the property. Mr. Greene showed on the exhibit plans where a few detention basins existed on the property already. Mr. Bolduc said he could explore a detention pond that collects suspended solids. Mr. Therriault provided an example of his home in Amherst, MA, which is bordered by wetlands on 3 sides and the detention pond became a favorite place for wildlife.

Ms. Richter echoed concerns about setting a precedent. She thought it was worth the Commission's time to do a site visit and look at the slopes and how close the wetlands are to the proposed building site to make a well-informed recommendation, as there would likely be more of these applications. She and Chair Von Plinsky agreed it was worth avoiding this pressure and rush to not delay the application. There was time to do this right.

Ms. LeBlanc asked if Mr. Bolduc had investigated alternatives for the site yet. Mr. Bolduc said he had not. However, he had flagged all the wetlands on the property. Ultimately though, he pursued the owners' intent for this eastern corner. He said there were wetlands throughout the property, but he had not surveyed the whole property because of winter weather.

Discussion ensued on if and when the Commission should reschedule the site visit to this property. Given that the Planning Board hearing would be on January 22, the Commission weighed rescheduling the site visit and holding a special meeting to vote on a recommendation before the Planning Board hearing. Ultimately, the Commission decided not to reschedule the site visit during this time frame and to instead recommend that the Planning Board continue the application for another month to allow the Commission the time needed to sufficiently review

this application. The Planning Board could still decide to act on this application in the absence of a Conservation Commission recommendation.

Mr. Therriault motioned that the Conservation Commission recommends continuing this hearing until the February Planning Board meeting so that a Conservation Commission site visit can be accomplished and recommendations can be determined. Mr. Bergman seconded the motion, which carried unanimously.

5) Report-Outs

A) Greater Goose Pond Forest Stewardship Subcommittee

Mr. Haynes reported that the Subcommittee met on January 5 and mostly focused on the American Trails grant for trail maintenance, volunteerism, and collecting data. The grant application was submitted on January 15. The focus was on the Mattson and Lower Drummer Hill woods roads. The Subcommittee discussed how to improve volunteer recruitment for trail maintenance and construction. The Subcommittee was also progressing with plans for Goose Pond Through the Seasons walks, with the Cheshire County Forester, Matt Kelley, willing to lead a winter walk at the end of February or early March.

The Subcommittee continued discussing the Greater Goose Pond Forest Stewardship Plan. While the focus had primarily been on trail maintenance, the plan also focused on education, outreach, forestry, and wildlife.

Regarding volunteers, Ms. Brunner reported on the possibility the Commission discussed for volunteer email lists through the City website. She talked with the Communications & Marketing Director, Rebecca Landry, and the City Clerk, Patty Little. The Clerk's preference was to not create large, general volunteer lists. Rather, she recommended one specific to Conservation Commission volunteers, since the general option could be confused with volunteers for different efforts, like City elections. Chair Von Plinsky and Ms. Brunner would work together to get this list up and running soon. Ms. Stanish wanted to be a part of that conversation as she has experience in web design and research. There was a reminder that if 4 members of the Commission convene as the Subcommittee, there would be a quorum, which requires public notice 24 hours in advance and public minutes.

B) Invasive Species

No activity due to winter. Councilor Williams was meeting with Peter Hansel from the Keene Rotary on January 18 about volunteers for this effort.

C) Land Conservation

Chair Von Plinsky reported that he and Mr. Bergman had a meeting scheduled with Anne McBride from the Monadnock Conservancy on January 19 about how the Conservancy would

approach prioritizing the properties owned by Hull Forest Products. Commissioners were asked to forward any questions for Ms. McBride to Ms. Brunner in advance of the meeting. Part of the discussion would be about how the Conservancy could contribute to and help the City take action on these properties; would they only advise or be interested in administrative involvement or funding?

6) Discussion Items

A) Letter to City Council re: Recommendations for Urban Forest Management

Chair Von Plinsky reported on a great presentation at the City Council's Finance, Organization, & Personnel Committee in response to the letter from the Commission. The Chair, Councilor Williams, Councilor Madison, and members of the public spoke in support of this effort. The Assistant Public Works Director, Duncan Watson, led the presentation. There was a lot of interest in doing better by the City's trees. Mr. Watson presented an already ongoing inventory of street trees from a natural infrastructure asset perspective. This is a critical advancement. Councilor Bryan Lake also contacted Chair Von Plinsky about cost sharing measures between the City and homeowners, like programs in Nashua and Manchester, NH.

Ms. Clark left the meeting.

Councilor Williams was excited that trees would be managed through a strategic asset management plan that would track the trees just like all other City infrastructure/assets. There was also exciting progress on a tree index. During budget time, Councilor Williams would be focused on allotting more than \$3,000 per year for street trees. In the Commission's letter, the Council was also informed of an initiative from the Director of Parks, Recreation, & Facilities, Andy Bohannon, to manage monocultures in Dinsmoor Woods, Robin Hood Park, and Ladies' Wildwood Park. The Council would continue relying on the Commission as this develops further.

B) Keene Meadow Solar Station Project Update

There was no update, but this should remain on the agenda.

C) Potential Land Purchase Update (Rt-9/Washington St. Ext. Properties)

Discussed earlier in the meeting under agenda item 5.C.

D) Airport Proposed Wildlife Control Fence Update

The only update was that the attempt to have the fence construction approved within 1 fiscal year was unsuccessful. Thus, the fence would be constructed over a period of a few years, which unfortunately means longer term construction impacts on the wetlands and wildlife there.

E) Neighborhood Pollinator Garden Update

Mr. Therriault met with the Edgewood neighbors, Mr. Bohannon, and a new Cemeteries Division employee responsible for mowing/upkeep of parks and cemeteries. The neighbors initially suggested a diamond shaped garden but that would have been too hard to mow around. Thus, the decision was to create a circular garden around the flagpole (15'–20' radius) that would be easier to mow around. The plan for 2024 was site preparation only; after spring, City Staff would cut the circle and the residents would prepare the bed for wildflower seeding in the fall (New England pollinator mix of approximately 30 different annuals and perennials). Over the first few years, the character of the garden will change as the perennials (taller plants) take over from the annuals (shorter plants). Existing invasive shrubs around the flagpole would be removed.

F) Antioch University CSI Proposal

Ms. Brunner officially received notice that the Commission's proposal was not chosen by the students. This could be pursued again next year if a project aligns.

G) NH DOT Rt-101 Project

Chair Von Plinsky shared an update on changes to the intersection where Swanzey Factory Road meets Rt-101. There was supposed to be a NH Department of Transportation meeting/presentation on January 23, but that is Election Day, so it was canceled, and a rescheduled date had not yet been announced. When it is rescheduled, the Chair urged Commissioners to share it with their networks so there is enough public participation, which could make a difference in the final project. Ms. Brunner would notify Commissioners of the rescheduled date.

H) Outreach

Chair Von Plinsky mentioned NH House Bill 1484 on "current use" properties. The Bill would tax properties in current use, but also in a carbon sequestration market. The first hearing was January 17. On the NH House website, you can register positions on this Bill and any others.

The Ashuelot River Local Advisory Committee's annual report was sent to Commissioner's via email.

Ms. Richter also mentioned NH House Bill 1302, which would have towns elect Conservation Commission members. Past bills had focused on electing Conservation Commissioners when volunteers were hard to find. The NH Association of Conservation Commissions (NHACC) would be opposing this Bill based on the belief that Commissioners should be appointed to these advisory roles that should not be elected; it is unfair. The Bill would disallow any use of State, Federal, or local funds for lobbying efforts; much of the NHACC's work is lobbying and keeping

members informed of upcoming bills that impact Conservation Commissions. She also mentioned House Bill 1121, which would exempt Wetlands Permits from any natural disaster emergency declaration. This is problematic as the Department of Environmental Services (DES) already has an emergency authorization process. If HB 1121 is approved, it could jeopardize Federal Emergency Management Agency (FEMA) funds.

Mr. Bergman questioned the reasoning for HB 1302. Ms. Richter thought some towns felt that there should be more public involvement in who is appointed to Conservation Commissions. While there could be merit to that perspective, Ms. Richter thought this was not a popularity contest and that there should be emphasis on Commissioners with expertise or interest. It could be hard to keep Conservation Commissions running in some towns if members must be elected.

Mr. Therriault provided an update on the bees at the Keene Public Library. The Staff from Parks, Recreation, & Facilities chose to leave the hive alone and let the bees live there until a future spring when there is no more bee activity, at which time the area would be sealed off. No active mitigation was planned. Bees usually live in the same location for 3–4 years in nature. Councilor Williams heard at the Library Board of Trustees meeting that part of the hive had fallen off and there had not been much bee activity since. The situation would be evaluated again in the spring.

7) **New or Other Business**

Ms. Brunner would be on leave for 12 weeks, during which time Commissioners should contact Corinne Marcou (cmarcou@keenenh.gov), the Commission's temporary Staff Liaison.

8) **Adjournment – Next Meeting Date: Tuesday, February 20, 2024**

There being no further business, Chair Von Plinsky adjourned the meeting at 5:58 PM.

Respectfully submitted by,
Katrinya Kibler, Minute Taker
January 23, 2024

Reviewed and edited by,
Corinne Marcou, Staff