



**City of Nashua**  
**Conservation Commission**  
229 Main Street  
Nashua NH 03061-2019

Planning & Zoning 589-3090  
Fax 589-3119  
Web [www.nashuanh.gov](http://www.nashuanh.gov)

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**NASHUA CONSERVATION COMMISSION**

**June 7, 2022**

**A. Call to order**

A regular meeting of the Nashua Conservation Commission was called to order on Tuesday, June 7, 2022 at 7:00 PM, 229 Main Street, City Hall in Room 208, and via Zoom virtual meeting.

**B. Roll call**

Members present: Sherry Dutzy, Chair  
Gene Porter, Vice Chair  
Brandon Pierotti  
Gloria McCarthy  
Carol Sarno  
Maureen Bourque  
Brendan Martin (Zoom)  
Megan Cook (Arrived 7:02)

Also in Attendance: Linda McGhee, Deputy Planning Manager  
Dick Widhu (Zoom)

**C. Approval of minutes**

May 17, 2022 - Innovative Way Site Walk

**MOTION** by Commissioner Bourque to approve the minutes, as written

**SECONDED** by Commissioner Cook

**MOTION CARRIED 7-0**

May 23, 2022 - 42 Hampton Drive Site Walk

Chairman Dutzy said that the Commission approved this project at the site walk.

Mr. Porter asked what special conditions occurred that require the Commission to approve this incursion into the wetland buffer. He did not see an answer to that in the minutes.

Chairman Dutzy said that came up at last month's meeting. The Commission tries to work with homeowners to find a reasonable solution to the issue. One of the things they see a lot is that the vast majority of the homes were built before the wetland ordinances came into being. If they stuck to the 20-ft buffer, that would have been half of his backyard. They looked at the retaining wall next door, looked at the vegetation, and made some adjustments to the line to preserve the vegetation.

Commissioner Porter asked if the general response to someone buying property within wetland buffers is that they have some kind of grandfathered presumption.

Chairman Dutzy said yes. It's subjective, but they try to work with the property owner to come to a solution.

**MOTION** by Commissioner Bourque to approve the minutes, as written

**SECONDED** by Commissioner Porter

**MOTION CARRIED 7-0**

May 24, 2022 - Special Meeting

Written minutes not available

**MOTION CARRIED 7-0**

**D. Old Business**

➤ ***Property Possible, Inc. (Owner) Requesting preliminary review of permanent impacts to "Prime" wetland buffer for the construction of 10 single-family detached residences and associated site improvements. Property is located at 49 Buckmeadow Road. Sheet C, Lot 18. R40 Zone. Ward 5. [POSTPONED TO THE JUNE 7, 2022 MEETING]***

Tom Zajac, Civil Engineer, Hayner Swanson Inc.

Mr. Zajac introduced himself as representative for the owner. With him is Wetland Scientist Brendon Quigley and Michael Lefavor from Property Possible Inc.

*\*Brief interruption by Ald. Jette regarding Zoom login issues\**

Mr. Zajac provided a brief summary of the previous meeting. They are here to seek two favorable recommendations. The first is a prime wetland boundary change through the DES to reflect onsite conditions. The second is for wetland buffer impacts totaling 92,518-sqft. It's a big area, but the vast majorities are either redevelopment, restoration, or revegetation of disturbed areas.

Mr. Zajac gave an overview of the site walk discussion. They have revised the plan and added an additional unit to create an 11-unit development. They shifted some of the house layouts based on soil testing, and relocated septic tanks away from the wetlands at the rear of the site. They explored shifting the road to the south, which would move them farther from the wetland to the north but would result in being closer to the prime wetland to the south. They have shortened up the walking path they previously proposed for passive recreation. A connection to Old Ridge Road would require easements across abutting private property owners and would result in prime wetland impacts.

Mr. Zajac said they can work with the Commission is the installation of buffer marker posts, limit maintenance of the lawn areas, aesthetically pleasing transitional landscaping, and the landscaping plan. He suggested a land stewardship plan related to stormwater, landscaping, snow removal, and an outreach program to incorporate into the condo bylaws.

Commissioner Porter said he is generally supportive of the hiking trail to the back of the property. It's generally an attractive feature for neighborhoods. He asked what year storm they are going to treat stormwater onsite for.

Mr. Zajac said he hasn't submitted any formal calculations. Because of all the paving and hard packed gravel onsite they are removing, they will reduce the impervious surface onsite by 50%, an acre. They will provide treatment practices onsite, and he thinks he can introduce roof drainage at the top portion of the site. At the bottom portion of the site it will most likely be a wet pond. He expects that stormwater will be significantly improved.

Commissioner Sarno referred to the wetland plan change map and said it seems to indicate that the DES line is roughly equivalent to what they mapped.

Brendan Quigley, Gove Environmental

Mr. Quigley said there are no wetland impacts proposed here, and no prime wetland impact. What they are talking about here is the city 75-ft buffer. The state was 100-ft. Because of a law change in 2019, they removed that.

Mr. Zajac said there is no state buffer in Nashua.

Mr. Quigley said they had a number of conversations on the 75-ft buffer, which is drawn from the current buffer line. It is 30-ft or more above the actual wetland line in some places. They would like to revise the line through the DES. There is no prime wetland impact either way, but it would provide a more realistic and true delineation of the wetland.

Chairman Dutzy asked if what the state has digitized as a wetland buffer has a discrepancy from what he delineated.

Mr. Quigley said the discrepancy is not in the buffer, but in the wetland line.

Mr. Zajac described the exhibit attached to Mr. Quigley's letter. At the time of the letter, they thought the wetland went all the way up to Buckmeadow Road. The context of their communications is that there is no longer a 200-ft difference, it is 30-ft. If they did hold the map line from the state, it would impact some of the design of the homes and roads. It's more effort to go through this process. If it wasn't an issue, they wouldn't make the request.

Chairman Dutzy asked if they are asking the Commission to approve the new boundaries that Gove Environmental has deemed to be correct, which will be sent to the DES to update in accordance with the field measurements.

Commissioner Sarno asked what percentage of the property is wetland or wetland buffer.

Mr. Zajac said the site is 20% wetland.

Commissioner Sarno asked what percentage of the property will be open space.

Mr. Zajac said that will be something they show to the Planning Board. They are developing this in accordance with

the conservation subdivision regulations as a cluster type development. They will have two different open space and conservation space requirements. They have to provide a minimum of 40% of conservation area. They have about 58%.

Commissioner Porter asked if it would be marked.

Mr. Zajac said yes. They will be set into the condo bylaws.

Commissioner Sarno said another requirement is that not more than 50% of the wetlands onsite are designated as conservation area. Is all the open space wetland? It seems like a good chunk of the conservation land is either wetland or buffer.

Mr. Zajac said that is a regulation they will work with Planning staff to meet. It is not a Planning Board waivable item. Typically they get a detailed review letter from Carter Falk about what they meet or don't, and what they will have to do to meet it.

Commissioner Sarno referred to Unit #4, and asked how much space is between the back wall and the unit buffer.

Mr. Zajac said a couple of feet. They have an existing buffer that is nearly all of the way disturbed. They propose that the wetland buffer placards be posted halfway into the buffer so that they have 20-ft of maintained lawn and 20-ft of restored vegetative buffer.

Commissioner Sarno said she doesn't feel comfortable with that. These are the buffers they have now. She would not like to authorize something that would intentionally turn wetland buffer into lawn. She asked where the septic systems will be.

Mr. Zajac said the septic systems for units 3-8 will all be in a combined system between units 2 and 3.

Commissioner Sarno said the plan shows that buffer impacts are temporary. They are saying that there will be buildings, fill, and restoring wetlands.

Mr. Zajac said they are restoring buffer. There are no changes to wetlands or impacts to wetlands. He appreciates Commissioner Sarno's position about the buffer. If it was an existing vegetated wetland buffer and wasn't disturbed, they would not be making such a request. It is disturbed and has

been for a long time, so they would seek a compromise to allow it to remain. They have worked hard to keep impervious surfaces and roadways out of the buffer, but they would ask that a portion of that buffer be allowed to exist as lawn area.

Commissioner Sarno said she appreciates that they are working hard to restore wetland buffers, and would like to see that carried through the entire project. She would like more details on what exactly that means, to remove fill and revegetate.

Commissioner Sarno said she was at the site walk and knows the condition of the site. She has an objection to the trail going through a wetland buffer, as the restoration of the wetland buffer will encourage wildlife to start using the area. Trails have the opposite impact. Assuming they are removing invasive species, folks walking trails can often reintroduce them to a property that has been cleaned out. It's difficult to connect to Old Ridge Road. Is there any way they can allow the residents to have a sidewalk that would bring them to the Buckmeadow conservation area?

Commissioner Sarno said it seems like the stormwater system would require maintenance. That should be part of the condo bylaws.

Commissioner Porter asked if each house has a piece of lawn associated with it, or if it is common area for all.

Mr. Zajac said he doesn't think that has been decided yet.

Commissioner Porter said they need to be specific about the location of the boundary posts, which would be easy between each property.

Mr. Zajac said he has seen it done both ways, and it is typically done during the declaration and bylaw process.

Commissioner Porter said that the Commission has a first-order interest in the installation of the boundary markers. Without a proposal it's hard to deal with it.

Mr. Zajac said it would be on any plan that moves forward. That also overlaps with the conservation area, which is essentially an easement over part of the property. He thinks

between the two it will help dissuade people as much as they can without putting up a 10-ft fence.

Chairman Dutzy asked if the 40% of land put aside includes wetlands and wetland boundaries.

Mr. Zajac said yes. Any undeveloped land.

Chairman Dutzy asked if lawns and open space are a second requirement for the Planning Board.

Mr. Zajac said this is R40 zoning, and each zone has its own requirements for open space. That's different. They will easily meet that from the lawn areas, not even the space out back.

Chairman Dutzy said the original proposal had a backyard for unit 4 that did not infringe on the buffer. Why did that change?

Mr. Zajac originally they envisioned doing individual septic tanks, which were a little more spread out. Based on test pit results and the historical fill brought in during the 60s, the lower swales are not as conducive to infiltration to a septic system or stormwater infiltration. They felt it was best to group those units and pump the septic up the hill to better soils. That's why they are configured in this way.

Chairman Dutzy asked what the benefit of a combined septic system is versus six. Not from a cost perspective, but environmental.

Mr. Zajac said there is no difference from a design or environmental impact perspective. Bigger systems would have bigger buffers, which is regulated through the DES and Nashua Board of Health. From a practical and maintenance perspective that can get a little more complicated. The Groton Woods project has a couple of septic systems for hundreds of lots. It can be done, but the preferred route is individual systems for each unit.

Commissioner McCarthy said the way that unit 4 is positioned really bothers her because it is seated against a critical wetland buffer. If they took that out, they could rearrange units 5, 6, and 7 so they are more spread out and have more yard without being on top of the wetland buffers. This is

sitting right on something they want to repair. If they are repairing the buffer, they should make it the way it should be. The land that 5, 6, and 7 are one has already been disturbed, whereas unit 4 is further back. That should be considered. They added a house somewhere else, it wouldn't change the original number of houses.

Mr. Zajac said he appreciates the point. The property enjoys a disturbed buffer and can legally maintain up to. Based on their understanding, this property has existed in this manner predating zoning. They are not talking about an infraction or enforcement issue. Another option would be to build this project without any restoration or selective restoration and allow them to maintain those lawns all the way up to the wetland. He hears their comments and will take them into account as they move forward.

Chairman Dutzy asked if because this is already disturbed, the Conservation Commission has no jurisdiction so that the 40-ft wetland buffer doesn't apply.

Mr. Zajac said no. They are looking to redevelop and restore, which is why they are here. Anything within that buffer is within the Commission's jurisdiction. The property exists in this manner and they are able to maintain it how it is now. This is their approach.

Commissioner Bourque said a question at the site walk that came up is whether the Commission would be able to be a part of that process. She's not hearing enough detail.

Mr. Zajac said they are in the position where this is the first land use board they come before. There are ways to put conditions when projects starts, or before a culvert goes in, or upon completion with photos. This Commission has good flexibility in what they would like to see, and he expects those conditions would carry forward through the process.

Commissioner Bourque said she is more concern with the future. The condo association would be responsible for the overseeing and management of this. If there is an issue, how does that get resolved in relationship to the impact of that buffer?

Mr. Zajac said that would be written into the condo documents based on the feedback they are receiving. He listed a few stipulations that have been incorporated into other projects.

Any incursions into a conservation area would be an enforcement action, no different than any other project.

Commissioner Pierotti said he doesn't like where unit #4 is. He is no expert in designing septic systems, but he would prefer #3 be mirror image, and take 4 and move it mirror image to unit 5.

Mr. Zajac said the reason they have the gap between 2 and 3 is that is where the septic needs to be. If you move it west or where unit 4 is, they would not be able to do the septic system there. He is hearing loud and clear that they need to respect the buffer area as it relates to restoration and have all lawn areas outside of the buffer.

Chairman Dutzy asked what will happen with the pond.

Mr. Zajac said nothing will, but they are demolishing the existing house and deck.

Commissioner McCarthy said a few years back the Gagnons tried to drain the pond and it floods the property behind them.

A brief discussion of the pond origins ensued.

Commissioner Cook asked if there is reason they can't move unit #3 farther back.

Mr. Zajac said that could shift back a bit, he was trying to leave room to drain down the hill.

Commissioner Cook said a trail could also be straight back, not a loop, and shortened. In addition to invasive species, she is concerned about trash and dog waste in the buffers. One other suggestion would be going up toward the pond area for a natural landscaped area.

Commissioner Sarno said they could do a trail around the lake.

Chairman Dutzy said they will have to provide some kind of recommendation about the trail. They could either have no trail and let it revegetate naturally, or have a trail in that area. She doesn't care one way or the other.

Commissioner Sarno said the trail idea comes from the idea of the Conservation subdivision. Another idea is that the

conservation area shouldn't be all wet. A trail should go through the non-wetland areas of the conserved areas. Most of the conservation is actually wetland buffer. Personally, she is in favor of restoring the buffer. There's a possibility for this being a wildlife corridor, and trails interfere with that. She prefers no trails.

Commissioner Bourque said she agrees. Other alternatives have been suggested, such as a sidewalk or a trail around the pond.

Chairman Dutzy asked if a connecting sidewalk is feasible.

Mr. Zajac said no, he doesn't believe so. Buckmeadow Road is a winding rural road, and the city just came in with a project and decided not to make a sidewalk. They are not representing sidewalks along the road. It's cost prohibitive. They would love the connectivity if it was already there, but he can't say that it's likely to happen. Buckmeadow has no curbing or drainage, and has a narrower right of way. He doesn't think it would be feasible.

Chairman Dutzy said they did it on Gilson Road. How did that happen? She is looking at alternatives. There are a lot of people who walk from the Cherrywood neighborhood. Are there any tradeoffs they could make?

Mr. Zajac said they can look at it preliminarily and find out what design issues there may be.

Chairman Dutzy said at this point she does not feel that she can make a recommendation on this proposal. It's a challenging property and because it abuts the conservation land they want to get it right. They worked with the architects on the middle school, and it worked out well. The last thing they did was the landscape plan because they wanted it to be more natural. They approved that plan with the stipulation that the developers come back to the Commission with a landscape plan that was more natural. All of them were pleased with the result. They might be able to do that here, contingent that they would work together.

Mr. Zajac said sure. He wishes they could get a recommendation tonight, but he understands. Landscaping, unit placement, and a stewardship plan are things they can look at.

Chairman Dutzy said it's a roadmap for how the residents

should be treating the property.

Mr. Zajac said that's the problem, education of what is on this property. Most of the time people respect that if they are of the understanding of what the development is trying to do.

Chairman Dutzy said she would like to see them revisit unit 4, and the possibility of a pedestrian connection.

Commissioner Cook asked what they would need to do to restore the buffer to the back.

Mr. Zajac said they would strip it down to native soils, scrape down 6-inches, then loam and seed. They are not doing any large earthwork operations. There is no planting plan beyond a conservation mix. In terms of the setback for unit 4, he is hearing loud and clear that they are not allowing any of the restored buffer to exist as lawn. Regardless of where that unit is doesn't change what is before them tonight. It sounds like they are looking for a design that will not impact the buffer.

Chairman Dutzy said oftentimes they allow for a structure in the buffer because those homes have been built in the wetland. Going forward, they are trying hard to have a hard stop on that for new development. If this house was built in the 1950 there might be some give and take. Since it is a new design they would like to rework it so it is out of the buffer.

Commissioner Porter said he would also like a display of the location of the conservation land and where the markers would be, at least behind every residence.

Commissioner Pierotti asked for a schematic to show where the septic systems where go. That would be helpful to see.

Commissioner Cook asked if they are ok with making a favorable recommendation on the wetland boundary line request.

Chairman Dutzy said she doesn't have an issue with it. A professional going out in the field and measuring it is more accurate than a digitized map from 40 years ago.

Discussion of the motion language ensued.

Mr. Quigley said this was more to see if the Commission was amenable to it. He described what the final plan will include.

**MOTION** by Commissioner Porter for a favorable recommendation to approve the adjustment of the prime wetland maps to reflect as delineated by Gove Environmental Services Inc.

**SECONDED** by Commissioner Cook

**MOTION CARRIED 7-0**

[Unknown] asked why the septic system can't be put on the circular drive.

Mr. Zajac said it has to do with the soil types. At the back of the site it is less conducive to infiltration and less efficient to design a septic.

Commissioner Sarno asked if the pump would have a backup generator.

Mr. Zajac said yes, that is required as per DES and city standards. He summarized what the Commission is requesting at the next meeting. They will remove impact from the buffers, and look into extending pedestrian access down to Buckmeadow middle school. In regards to the potential walking path he would appreciate some direction, but they would like to still have access to the stormwater basin. He would discourage a trail around the farm pond because of the prime wetland buffer and concerns about people falling into the pond. They can also look into providing a plan for markers and septic systems.

Commissioner Sarno asked if that includes the delineation of the conservation land.

Mr. Zajac said yes. It's a Planning Board requirement and AoT, so if they have to redesign it they will place it in concert with that buffer line.

Chairman Dutzy thanked him for his time and patience. She asked them to return on July 5, 2022.

- ***Nashua Country Club (Owner) Requesting preliminary review of temporary impacts to the 20-ft buffer of an unnamed intermittent stream for the removal of 24 trees. Property is located at 25 Fairway St. Sheet 116, Lot 1. R9 Zone. Ward 7.***

The Commission agreed to schedule a site walk for the June 21, 2022 meeting.

- ***George and Rachel Matocha (Owners) Requesting preliminary review of impacts to an unnamed intermittent stream for the construction of a retaining wall. Property is located at 42 Hampton Drive. Sheet F, Lot 518. RB Zone. Ward 1. [APPROVED AT THE 5-23-22 SITE WALK MEETING.]***

**E. New Business**

None

**F. NCC Correspondence & Communications**

None

**G. Commissioners Discussion**

**1. Project Assignment Update**

Commissioner Cook volunteered to manage 17 Winchester St.

Chairman Dutzy volunteered to manage L Roby St.

Chairman Dutzy said they should all review 36 Buckmeadow Dr.

Commissioner Bourque volunteered to manage L Spindlewick Dr.

Commissioner Cook volunteered to manage 65 Spit Brook Rd.

Commissioner Sarno volunteered to manage the Pine St substation.

Chairman Dutzy volunteered to manage the Innovative Way Ext. flex building.

Chairman Dutzy volunteered to manage 2 White Oak Dr.

Commissioner Sarno volunteered to manage 42 Hampton Dr.

Chairman Dutzy said Matt Sullivan is working with the code violations. She asked the Commissioners to review the sites and track their progress.

## **2. ATV's in Conservation Land**

Commissioner Sarno led a discussion regarding motorized vehicle damage in Terrell Conservation area. They are looking to add or shift boulders to close off entry points or signage.

## **3. Subcommittee Reports**

None

## **H. Adjournment**

**MOTION** to adjourn by Commissioner Porter at 8:38 PM

**SECONDED** by Commissioner Sarno

**MOTION CARRIED 7-0**

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Prepared by: Kate Poirier