



**City of Nashua**  
**Conservation Commission**  
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EXPANDED MEETING SUMMARY

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**NASHUA CONSERVATION COMMISSION**

**Tuesday, July 6, 2021**

**A. Call to order**

A regular meeting of the Nashua Conservation Commission was called to order on Tuesday, July 6, 2021 at 7:00PM in Room 208 in City Hall AND via Zoom virtual meeting.

**B. Roll call**

Members present: Sherry Dutzy, Chair  
Gene Porter, Vice Chair  
Brandon Pierotti, Treasurer  
Richard Gillespie, Acting Clerk  
Carol Sarno  
Gloria McCarthy (arrived during meeting)

Also in Attendance: Matt Sullivan, Planning Manager  
Chris Webber, Department Coordinator  
Andrew Smeltz, GIS Specialist, NRPC

**Meeting Procedures**

**1. Access**

This meeting is accessible in person in Room 208 in Nashua City Hall and via Zoom. Members of the public and representatives of the applicants have been urged to attend the meeting via Zoom, but they may attend in person at City Hall. Real time public comment can be addressed to the Board utilizing Zoom or in City Hall, Room 208.

**2. Public Notice and Access**

If anybody has a problem accessing the meeting, please call (603)589-3115, and they will help you connect.

**3. Adjourning the Meeting**

In the event that the public is unable to access the meeting via the methods above, the meeting will be adjourned and rescheduled. Please note that the Commission will continue to take vote via roll call.

The Conservation Commission and Planning Department thank you for your understanding and patience during this difficult time.

**C. Approval of minutes**

June 1, 2021

**MOTION** by [Unknown] to approve the minutes of June 1, 2021, as amended

**SECONDED** by Commissioner Pierotti

**MOTION CARRIED 4-0**

June 7, 2021 Site Walk - 2 East Spit Brook Rd

**MOTION** by Commissioner Sarno to approve the minutes of June 7, 2021, as amended

**SECONDED** by Commissioner Gillespie

**MOTION CARRIED 4-0**

June 9, 2021 Site Walk - 19 Cheryl St

**MOTION** by Commissioner Pierotti to approve the minutes of June 9, 2021, as amended

**SECONDED** by Chairman Dutzy

**MOTION CARRIED 4-0**

**E. New Business**

➤ *Justine & Thomas Bergin (Owners) Requesting preliminary review of after-the-fact permanent impacts to "Prime" wetland buffer of Nashua River for driveway construction. Property is located at 17 Winchester St. Sheet F, Lot 956. Zone R9. Ward 1.*

Thomas Bergin, 17 Winchester St, Nashua NH

Mr. Bergin said apparently someone called about some dirt and grass they have in the yard. This aisle got created because of the driveway they put in. He said they got a permit for it, but it's too close to the shoreline.

Mrs. Bergin said they moved into the house in December 2020. They had a survey performed so they wouldn't be crossing property lines.

Mr. Bergin reiterated that they applied for a driveway permit. They didn't know they had to be 75-ft away from the shoreline. They had to hire another surveyor, which was another \$4,000 extra of what they spent.

Mrs. Bergin said they have two full-grown daughters, one in college, and a business vehicle. They have five vehicles in the yard.

Mr. Bergin said it would look like hell if the vehicles were scattered all over the yard.

Mrs. Bergin listed off improvements they have made to the property since they bought it. She said she would never do anything that she wasn't supposed to do.

Chairman Dutzy asked if there was a garage onsite.

Mr. Bergin said yes, a single car garage.

Chairman Dutzy asked if it was on the other side of the house from the river.

Mr. Bergin said yes.

Chairman Dutzy indicated a portion of the lot and asked if the new paving was there to accommodate the vehicles.

Mr. Bergin said yes. He said they did it the right way.

*[Unintelligible, multiple side conversations]*

Mr. Sullivan asked the Commission and audience to speak up, as this is an audio recording.

[Unknown] asked when the wetland scientist delineated the

wetland, what was the distance between it and the driveway?

Mr. Bergin said he thinks it was 70-ft.

The Commission asked staff for clarification.

Mr. Sullivan said the linear measurement was not presented on the plans. What is shown on the plan is that half of the driveway is within the 75-ft prime wetland buffer. How that scales out is not totally clear, but he would estimate it is approximately 65-ft from the wetland.

Chairman Dutzy said the applications states 413-sqft of pavement is within the buffer.

Mr. Sullivan said correct, about half of the driveway area.

Chairman Dutzy asked when a permit is issued and the property abuts a wetland, is there any site visit or any stipulations about how far they can go to the wetland? She is surprised a permit was issued and there was a violation.

Mr. Sullivan said that is probably an issue of process. Driveway permits are issued by the Engineering Dept. In some cases they will consult with the Planning Dept, however it does happen from time to time where the proximity measurement from the wetland is missing from the process. He said he doesn't know the full history of this driveway permit and whether or not they interacted with Public Works on this, but this kind of permit doesn't regularly go through Planning. It would have to be flagged by the reviewer at Public Works for Planning to know about it. In this case, it was not identified as an issue and is an after-the-fact violation.

Chairman Dutzy said their next step would be to schedule a site walk. The pictures are helpful, but they would like to see the lay of the land.

The Commission agreed to schedule a site walk for July 12<sup>th</sup>, at 5:30 PM.

- ***City of Nashua (Owner) Nashua School District (Applicant) Requesting review of permanent wetland impacts for construction of road and recreational facility. Property is located at 36 Buckmeadow Road, "L" Cherrywood Drive, & "L" Chokeberry Lane. Sheet C, Lots 762, 2851, & 2859. Zoned***

***R40/FUOD. Ward 9.***

Sam Forgue, Harriman Architecture, Engineering, and Planning

Mr. Forgue introduced himself as the civil engineer representing the Nashua School District and the Joint Special School Committee for a new proposed middle school.

Mr. Forgue presented a plan of the proposal. The affected lands are on city owned property currently, so they are trying to get the ball rolling for some of the permitting process. The site is mostly woodlands, so this will be a full new development.

Mr. Forgue said there will be a road crossing directly adjacent off of Buckmeadow Rd, which is the most significant disturbance. The access drive will be the primary access to the school, but will also be a city street and meet all standards for a public way. They will have a secondary drive off of Medallion Ct, which will mostly be an emergency egress. He indicated various ways they will try to minimize impacts, including grading and relocation of the road northward as possible.

*\*Technical difficulties with the display\**

Chairman Dutzy asked if the whole area has been delineated.

Mr. Forgue said correct. Their wetland scientist is Bob Prokop.

Chairman Dutzy asked if the wetlands they are concerned with are being impacted specifically by this road.

Mr. Forgue said correct. There are some additional wetlands that will be impacted as well. The reason for that is that they want general equality of facilities across the board for the schools, and each of the other sites have running tracks and ball fields. The expanse of these athletic facilities results in an impact of about 5,000-sqft of wetlands. The road will disturb approximately 8,000-sqft of wetland, for a total of 13,000-sqft of disturbance.

[Unknown] asked if that was permanent impacts.

Mr. Forgue said correct.

[Unknown] asked where the road crosses a stream, is that stream going to be culverted.

Mr. Forgue said it will. He's not sure if it's actually deemed to be a stream, as Mr. Prokop classified it as a non-critical wetland. It's mostly a grassed, low lying area, not generally observed to have water in it. They do plan on having a hydraulic connection underneath in the event that it does flood.

Chairman Dutzy said it looks like there are eleven wetland areas, and that four will be impacted.

Mr. Forgue said correct.

Chairman Dutzy said they would need to perform a site walk. How accessible are these areas?

Mr. Forgue said he believes it is fairly accessible. There are some cart paths throughout the site, so there are ultimately pathways. That being said, the elevation changes are fairly significant. Bob Prokop would also be a part of the site walk.

Chairman Dutzy asked what the distance was between Area 1 and 9.

Mr. Forgue said probably about half a mile.

Commissioner Sarno asked what percentage of the site will be cleared.

Mr. Forgue said within the school grounds, roughly 60-70%. Their landscaping plan shows an additional 116 trees being planted. It is going to be a significant clearing for the new development.

Commissioner Sarno said there are two certified vernal pools onsite, and that wetlands C, D, E are probable but no target species were found in 2019. The notes from the past wetland report suggested a follow up in 2020. Was this performed for the potential vernal pools?

Mr. Forgue said his understanding is that the follow-up never occurred, but he would have to check with Mr. Prokop. He was authorized to do so if he felt it was necessary.

Commissioner Sarno said she doesn't see any indication of a follow-up. There are potentially five vernal pools onsite, which function as a temporary wetland and breeding ground for amphibians. The problem she sees is if they are removing most of the woodlands and many of the wetlands, the vernal pools become nonfunctional. Another point she would like to make is that there is a 50-ft recommended buffer between the vernal pools and the construction activities. She would like to know where this distance came from.

Mr. Forgue said that came from a previous meeting with the NH Dept. of Environmental Services and Army Corp of Engineers.

Commissioner Sarno said that the NH Fish and Game recommends a 100-ft buffer between a vernal pool and a trail because the vernal pool is such a fragile habitat. She is not convinced 50-ft is enough. Another point is, how will the roads and parking be treated in the winter for ice and snow?

Mr. Forgue said his assumption is with salt or sand. They would suggest in their Inspection and Maintenance plan that no chemicals would be used.

Commissioner Sarno said it looks like a lot of snow collection areas are very close to the wetlands. Salt is a chemical and would make its way into the wetlands, and she is concerned about that.

Mr. Forgue said their general rule of thumb would be that snow storage areas should be kept in locations that are ultimately discharging towards stormwater BMPs. The largest area would be by the ballfields, which would drain to the stormwater infiltration basins on the southern portion of the site.

Commissioner Sarno asked how many stories the school would be.

Mr. Forgue said three stories. There is a separate lower level at the southern portion.

Commissioner Pierotti agreed with Commissioner Sarno that salt is a chemical and the snow collection areas are not in good locations. He understands that this is a city project and has budget constraints, but in a sensitive area like this they would want to look at recommending geothermal heat. That would decrease the amount of deicing chemicals needed which would

end up in the wetland watershed.

Chairman Dutzy asked if Harriman is an engineering firm.

Mr. Forgue said yes. They are a full service, so they are doing the architectural and engineering for the school department.

Chairman Dutzy asked why the section on the form for tree removal was not filled in. Why does it not say yes?

Mr. Forgue said he can take ownership for that, if he didn't include that.

Chairman Dutzy asked why the amount of trees to be removed was marked "Not Applicable". It's a heavily forested area, there must be hundreds of trees to be removed.

Mr. Forgue said that is correct. There would have to be significant clearing.

Chairman Dutzy said the application said a site assessment was performed to determine the placement of the school, and that the Joint School Committee have agreed to pay an "in lieu" fee for the wetland disturbances. Was he a part of this discussion, and why did they choose to write a check to the state as opposed to mitigation directly to the City of Nashua?

Mr. Forgue said his understand is their team provided them with one opportunity. He coordinated with the Planning Dept. to talk to the Commission and see if there were any opportunities within the city, which was met with no project currently operating that could use the funding. Their permit application has not yet been submitted to the DES, so if there are any projects that are available, they would welcome the opportunity to modify that decision.

Chairman Dutzy asked if they had presented an idea to the Planning Dept.

Mr. Forgue said yes. It was a big area to the east of Pennichuck facilities. The ultimate decision came down to the fact that they did not believe the city could control what was being discharged into the big area, and didn't want the risk of the DES coming back and saying they didn't satisfy their conditions. That fell at the table, and nothing else was

brought forth from the city or to the team for mitigation.

Mr. Sullivan said they had several rounds of meetings with Harriman and the State to identify projects that would be fund eligible. The two issues were that they didn't feel they had a project that was ready for consideration, and the projects they did identify were either not in the price range or were not quantifiable in their success. As a result, they decided to move forward with a payment of \$75,000 in lieu of a project.

Chairman Dutzy said the two high schools and middle schools are just large buildings with a lot of pavement and some grass, maybe a tree if they're lucky. She asked if any consideration could be given to using mitigation funding to do some kind of a tree island for wildlife habitat, varieties of trees, or an educational opportunity.

Mr. Sullivan said the Aquatic Resource Mitigation Fund is very limited in its scope as to what projects fit within its bounds. The DES has projects that are not local, so they need to be competitive from a scope and impact perspective with other projects currently being considered. They would need a more developed project for these ARM funds, which after consultation with other departments they did not feel they had. If the Commission would like to put something together, it's not too late.

Chairman Dutzy asked what kind of timeframe they would need.

Mr. Sullivan said immediately. It would need to be something next week. He can share with the Commission the limitations of ARM funding to provide some direction for potential projects. He can set up a special meeting for the Commission if they would like to plan it.

Chairman Dutzy said they would like to discuss this, or use it as conservation education.

Commissioner Sarno said she thinks would be a great opportunity for an outdoor classroom education experience to reduce the size of the athletic fields in favor of forested area, so they can get the kids out of the classroom and into an existing working forest.

Mr. Sullivan said the ARM conversation would need to be ASAP.

The site walk can be whenever the Commission is available.

The Commission agreed to perform a site walk on July 21<sup>st</sup>, at 5:30 PM.

- ***Karen & Richard Chisholm (Owners) Requesting review of permanent impacts to "Prime" wetland buffer of Nashua River in order to redevelop deck into home addition. Property is located at 19 Cheryl St. Sheet D, Lot 107. Zone R9. Ward 5.***

Chairman Dutzy asked if they have modified the footprint of the addition so that they do not need to apply for a Shoreland permit, or is the footprint the same as when they performed the site walk.

Mrs. Chisholm said they would love to extend to the corner but it would require a Shoreland Permit, which wouldn't make any sense. They want to avoid that.

*\*Technical difficulties with the applicant's audio\**

Mr. Sullivan said they are dealing with the footprint on the application and the proposal that is in front of them. The Shoreland Permit is independent of that.

Chairman Dutzy asked if they could make a favorable recommendation with the stipulation that they maintain the existing footprint.

Mr. Sullivan said he didn't recommend that, as the proposal in front of them is for a slightly expanded footprint. They should vote on that proposal whether it requires a Shoreland Permit or not. It would be odd for them to grant an approval which limits them to the existing footprint when that is not what has been applied for.

Chairman Dutzy asked if they need to table it until a new proposal is given to them.

Mr. Sullivan said he doesn't believe so. If they are not comfortable with voting on the expanded footprint, they should deny the application. If they are comfortable with the expanded footprint, recognizing that will require a Shoreland Permit independently, they should act on whatever is in front of them rather than lessening it based on recommendations. The Commission should either deny or approve, not change the

dimensions presented in the application.

[Unknown] said they want to make sure it is clear to the applicant that a Shoreland Permit would be ultimately required if they built what the Commission would approve.

Mr. Sullivan said yes. They would have the ability to build something smaller if the Commission made a recommendation based on the larger building. If they decided to build smaller and avoid a Shoreland Permit, the recommendation would still be valid.

Chairman Dutzy asked if they can make a favorable recommendation, recognizing that this plan can only be implemented if they get a Shoreland Permit.

Mr. Sullivan said in the event that they choose to do a slightly smaller footprint, their approval is still valid, and it may not require a Shoreland Permit.

[Unknown] said they would want to applicant to follow whatever Shoreland permitting they need to follow.

Mr. Sullivan said yes, which may ultimately mean no Shoreland permit.

Commissioner Gillespie said he is concerned. How much smaller will it be?

Chairman Dutzy said maybe a foot, it's insignificant.

Mr. Sullivan said it's a matter of a foot to six inches.

**MOTION** by Chairman Dutzy to favorably recommend the proposal as submitted

**SECONDED** by Commissioner Sarno

Commissioner Gillespie said he is concerned that they're not going to understand what is being approved, and build it the way they want it without a Shoreland permit.

Mr. Sullivan said the applicant has been in very close coordination with the Planning Dept. throughout this process. They will also need a Special Exception, and both staff and their wetland scientist has been very clear that they will

need a Shoreland permit for a larger addition. Staff will make sure they understand the implications of a larger structure, and will flag this property so that any building permit will be reviewed to see if it needs a Shoreland permit. He and Ms. Poirier have worked closely with the applicant to make sure they understand what they need to do.

**MOTION CARRIED 4-0**

Mr. Sullivan noted this is a 6-ft by 8-ft addition, no more.

**F. Old Business**

None

**G. NCC Correspondence and Communications**

None

**H. Nonpublic Session per RSA 91-A: 3 II (d) concerning land (Roll call vote required).**

Nonpublic session was not required.

**I. Commissioners Discussion**

**1. 2021-2022 Commission Goals Discussion**

Commissioner Sarno led a detailed discussion regarding potential future goals of the Commission. Items included:

- Mapping invasives species in SW trails
- Invasive species management plan
- Boundary marking at Buckmeadow, Lovewell, and Terrell
- Investigate BMX trail at Buckmeadow
- Assess large oak at Yudicky Park
- Resolve Musket Drive trail builder
- Guided walks at SW trails
- Set up an event list for conservation activities
- Update stewardship plans
- Natural resource inventory

**2. Project Assignment Update**

The Commission held a detailed discussion regarding all

outstanding projects, as per the attached assignment list.

*Commissioner Porter left 8:21 due to technical issues*

### **3. SCA Project Update**

Chairman Dutzy said the crew is still working on the stairs and they had about 1/3 of the trails cleared. She said it was amazing how much work they have been doing. They are hoping to finish on time. They scaled back from removing 300-ft of fencing due to the cost. She issued an invitation to the Eagle Scouts to walk the area and see if there were any projects they could get involved in.

### **4. Committee Reports**

#### **a. Land and Trail Management**

Commissioner Sarno said she has a quote from Miguel's Landscaping to perform annual maintenance cutting of vegetation on the boardwalk at Buckmeadow, which is done every August. It will be \$750 total.

**MOTION** by Commissioner Sarno to authorize payment of \$750 to Miguel's Landscaping

**SECONDED** by Chairman Dutzy

**MOTION CARRIED 5-0**

Commissioner Sarno said John Thompson was hired last year to perform brushhogging, which he will do this October on the other half of the field. The cost will be \$150.

**MOTION** by Commissioner Sarno to authorize payment of \$150 to John Thomas

**SECONDED** by Commissioner Gillespie

**MOTION CARRIED 5-0**

Commissioner Sarno said they have a new trail steward interested in helping out with the Northwest Trails. He would like to perform a citizen's scientist project on amphibians. He is proposing a monitoring project that would involve placing out

boards for amphibians to hide under, so he can document species with GPS coordinates.

Commissioner Sarno said this may also be an opportunity to build a trail loop to the wetland they visited for the Northwest easement monitoring.

Chairman Dutzy said if they like the work the SCA does at Joyce Wildlife, they could have them do the trail work. She would like to see something like that. She is in support of the citizen project.

### **5. Miscellaneous**

- Chairman Dutzy said when the trails were cleared at Joyce Wildlife, they found an abandoned homeless encampment that needs to be cleaned.
- Commissioner McCarthy led a brief discussion on how the Commission receives its funding.
- Chairman Dutzy led a brief discussion regarding Camp Doucet

*\*\*Audio recording ends\*\**

### **J. Adjournment**

**MOTION** to adjourn by [Unknown] at [Unknown]

**SECONDED** by [Unknown]

APPROVED:

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Gene Porter, Acting Clerk, Nashua Conservation Commission

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Prepared by: Kate Poirier