

TOWN OF BEDFORD CONSERVATION COMMISSION MINUTES
July 23, 2019

A meeting of the Bedford Conservation Commission was held on Tuesday, July 23, 2019 at the Bedford Meeting Room, 10 Meetinghouse Road, Bedford, NH.

Present: Denise Ricciardi (Town Council), Mac McMahan (Planning Board Representative), Bob MacPherson, James Drake, Bill Carter (Alternate), Patricia Grogan (Alternate), Karin Elmer (Planning Department), Maggie Wachs.

Absent: Beth Evarts (Chairwoman), Dave Gambaccini (Vice Chair), Catherine Rombeau (Town Council Alternate), Gregory Schain (Alternate),

7:00 PM Call to Order

Chairman Drake served as Chairman for the meeting in Chairwoman Evart's and Vice Chair Gambaccini's absences. He opened the meeting at 7:00 PM.

Chairman Drake appointed Bill Carter and Patricia Grogan as voting members for this meeting.

Approval of Minutes:

- May 28, 2019 and June 25, 2019 Conservation Commission Minutes –

MOTION by Mr. Carter to approve the May 28, 2019 minutes. Mr. McMahan seconded the motion. Two abstentions: Chairman Drake, and Ms. Grogan. Vote taken – all in favor. Motion carried.

MOTION by Mr. McMahan to approve the June 25, 2019 minutes. Ms. Ricciardi seconded the motion. 2 Abstentions: Mr. Carter & Mr. MacPherson. Vote taken – all in favor. Motion carried.

Dredge and Fill Applications:

- None

New Business:

- **Boys and Girls Club of Manchester/Camp Foster** – Review of a variance request to renovate a partially enclosed boat storage building within the wetland setback at 36 Camp Rd., Lot 34-19, Zoned R&A.

Background: *Camp Foster occupies a 19.42-acre lot on Camp Road that appears to have been utilized as a summer camp since at least the 1930s, decades prior to the adoption of the Town's first Zoning Ordinance. The Manchester Boys and Girls Club has long utilized the property as a summer day camp. Children are bused from the Manchester clubhouse to the Bedford facility for approximately 10 weeks in the summer coinciding with school summer vacation. The property includes several open-air cabins, a large pool, a central hall, a boat house and a soccer field. Sandy Pond occupies the easternmost portion of the parcel.*

Proposal: *The applicant is proposing to enclose an existing boat house located next to the water at Camp Foster. The existing shed is 20 ft. x 40 ft. and is located completely within the wetland setback. It is a 4-bay building with one bay enclosed for storage. The other three bays are open. The current building does not provide for secure storage of boats and equipment. The applicant is requesting to enclose the three open bays and install garage type doors on the front side facing the water. There will be no expansion of the footprint and no excavation or fill is required. There are no new site or grading impacts associated with the proposal.*

Summary: *All recommendations by the Commission will be forwarded to the Zoning Board of Adjustment.*

Keith Moreau, Facilities Manager of The Boys and Girls Club of Manchester oversees the facilities at The Boys and Girls Club of Manchester and at Camp Foster on Camp Road in Bedford, NH. They are looking to have improvements done to their boathouse located near the pond within 15 feet of the waterline. The improvements would address concerns about closing it in for security and keeping the boats secure and under cover in the winter. There would be no digging necessary and no fill would be put in. Everything will be done on the existing structure. They are not looking to increase the size of the structure – they just want to make it look similar to the rest of the camp which was recently renovated in the past year.

Chairman Drake opened the floor for questions.

Mr. Carter asked Mr. Moreau if he was referring to the sand between the pond and the building. Mr. Moreau responded affirmatively. Chairman Drake asked why silt fences had been put up. Mr. Moreau explained that the silt fences in the photos that were provided to the Conservation Commission were there from the construction that had just been finished, but they have since been taken down. He indicated that camp is open and kids have been there for the past two weeks making use of the boathouse. The proposed improvements would not start until camp is closed.

Chairman Drake asked if any excavation would be needed around the existing structure to install any paneling. Mr. Moreau does not think any of that will be needed. He explained there are piers sitting in the ground from the existing structure and they think everything can be done on top of those piers. They will leave an air gap which would be needed in case of any frost heaving. Right now, the piers are not heaving, so when they

were built they were definitely below the grade and he does not anticipate any trouble with them. He said the State indicated via email that no permits were needed as they were not adding any fill and not doing any excavation.

Mr. Carter asked if access to the building would be needed in the winter for any plowing or salting. Mr. Moreau would like to have this project done by November. They do not want to go up there to plow. There is a small access road that has been there, but they do not want to have to go there in the winter to plow or salt it, because it would be too difficult to maintain it in the winter. Chairman Drake asked if there would be any reason to have to put the silt fences up for this project, but Mr. Carter said he didn't see any reason for that.

Chairman Drake opened the floor for any questions or comments from the public. There were none.

MOTION: Mr. McMahan moved to recommend approval to Zoning Board of Adjustments to enclose the existing sheds with doors at the boat storage building within the wetland setback at Camp Foster, 36 Camp Rd., Lot 34-19, Zoned R&A, and as listed in the July 23, 2019 staff report. Mr. Carter seconded the motion. Vote taken – all in favor. Motion carried.

- **Hercules & Chrysanthe Nagios** – Review of a variance request to construct a home within the wetland setback on an existing non-conforming lot on Maple Dr., Lot 21-24-48, Zoned R&A.

Background: *This property is a 1-acre lot located on Maple Drive. The original subdivision was recorded in 1968, prior to the wetland ordinance being created. A long manmade drainage channel bisects the lot, creating two separate building envelopes. There is also a small isolated, 956 sf. wetland along the northeast corner of lot.*

Pre-existing non-conforming lots are considered buildable lots, provided the new structure meets the current setbacks.

Proposal: *The applicant is proposing to build a 2,600 sf home 25 feet from the drainage channel and 15 feet from the wetland located in the front corner of the lot. They are requesting a variance to create a building envelope with a 25 ft. setback from the rear wetland and 10 ft. from the front wetland. The front setback of 35 ft. and the side setback of 25 ft. would still be maintained.*

Summary: *All recommendations by the Commission will be forwarded to the Zoning Board of Adjustment.*

Helen Gravano, daughter of Hercules and Chrysanthe Nagios (who own the property) spoke on behalf of her mother. She indicated that her father had passed away a few months ago and her mother is now trying to sell the property and land. Earl Sanford of Sanford Surveying and Engineering prepared a conceptual plan that was provided to the Conservation Commission. He indicated that the shaded areas on the plan were the

building envelopes that are conforming with the zoning regulations. He indicated that they do not facilitate normal construction. He said the lot was created in the early 1970's. On the subdivision plan of record, it showed wetlands on other lots, but did not show wetlands on this lot. The channel that bisects it is a man-dug channel. He is unsure of the channel's history, but you can see mounding where the casting is from digging the channel and pushing the soil to one side or the other as it was dug. Mr. Sanford indicated that today there is a 50-foot setback which would be a hardship to adhere to, so that is why they are requesting a variance.

Mr. Sanford indicated that it was requested that some grading be done and that an alternative plan be created. Mr. Sanford showed the plan for grading and installation of septic (because it will be a challenge in this lot). The septic must also adhere to the 50-foot setback and adhere to a 75-foot setback from the drainage channel. It is uncertain who will buy the property or what their building preference will be, but they would like to have an envelope that is suitable for this lot, so their request is that the setback off the dug channel be reduced from 50 feet to 25 feet. There is also an isolated tongue (in an amoeba shape) to the front right and they are asking to be able to go as close as 10 feet to the tongue. Mr. Sanford indicated this is the plan of preference.

Mr. Sanford discussed the alternate plan: If they were to utilize the biggest building envelope which would be located in the back/rear of the lot they would need to fill at least 40-feet of the channel. He finds it interesting that downstream from this 160-foot of the channel was filled (88 feet on one side of the road and about 86 feet on the other side of the road) as part of an 18-inch culvert put into it as part of the improvements to Maple Drive. He is unsure what that was about but assumes it must have come before the Board so some history of the drainage channel may be on record. Frankly, his client would love to fill in the channel and be able to do the same thing. In his mind there would be a little more leeway when it is a dug channel. If it had been maintained free of wetland vegetation it probably would not be jurisdictional, but it has sat there 46 years.

Ms. Gravano indicated her parents bought the two lots 46 years ago with the intention of building their home in the first lot (where Ms. Gravano lived for almost 40 years), and the second lot was going to be saved so they could have some money when they retired. Mr. Sanford indicated that Ms. Gravano's father built their house, but once he passed away building a home on the second lot was no longer an option for him.

Mr. Sanford indicated his clients are looking for a recommendation, and as an engineer he is looking to do what is a sensible and reasonable use of the lot. For what it is worth, he said that historically if they were to come to seek a recommendation, these lots would have been considered grandfathered to the 50-foot setback, but he understands there was a ruling that they could not grandfather a zoning setback. He indicated that the size of the house was a factor for them on their plans, and he chose to go about the same size of the house next door, which the owner built and which is quite a bit smaller than the home to

the right. He feels the proposed building envelope fits the neighborhood and they are not trying to put something in that is not in keeping with a footprint of an existing house in the neighborhood. Mr. Sanford entertained questions from the Board.

Mr. Carter asked if scientific determination had been made about what type of wetland the 956 square feet of wetland in question is. Mr. Sanford indicated that determination was originally done by Rick Koehler, a wetland scientist. Mr. Sanford (who is also a wetland scientist) went out and double-checked his work. Mr. Sanford would sign off that the wetland indicated in blue on the alternate plan has been flagged in the field - with the exception that at the time they flagged it, they were not thinking about any possibility of going to the other side, so they only flagged one side and provided the approximate width. If the alternate plan were to become the chosen option, he would need to go back and flag.

Chairman Drake asked about the value of the wetland. Mr. Sanford indicated that as an isolated little wetland – you could walk through it now and not even know it was there. He thinks its only partial value is in accepting a little water from Maple Drive to infiltrate it because it is a depressed area, but that value would not be diminished if they built closer to it. He said they are protecting it by not disturbing the wetland at all. In regard to habitat, the wetland is not even close to being a vernal pool, and it is not part of any corridor. His guess about the terrain off to the right is that it suddenly ends with an embankment. Perhaps during the 1970's something may have threaded through, but back then they didn't even consider it to be a wetland.

Mr. Carter indicated that he is learning more toward original plan with the building envelope in the front over the alternate plan with the building envelope in the back. He wondered how the Board feels about filling in the 10-feet of the tongue in the front right if that tongue is not vital, and if you would catch water 10 feet away from a homeowner's side door for 2 months out of the year in Spring or Winter. Without having looked at it, or without having taken a site walk to see what type of value it has, it looks from the photographs to be an indentation in ground that may catch a little bit of water every so often if there is a heavy rain season.

Mr. Carter asked if we were to go with the original plan over the alternate plan if it would open us up to potential building on the back portion of the site since it's an isolated building envelope at rear. Right now, if we give a variance to a house that is within 25 feet that opens us up to the possibility of another building going up in the back of the property, and we have already approved a setback in the 25-foot range. Mr. Sanford indicated there was no intention of doing that. In order to do that a dredge and fill would be needed if the homeowner wanted to put a barn or chicken coop or anything like that on the back of the property.

Mr. Carter asked if the channel was totally open in Option 1 (the original plan), and if it would have to be filled for Option 2 (the alternate plan). Mr. Sanford indicated that Option 1 is a total avoidance of disturbance of the wetlands.

Mr. Carter asked if the homeowner would be precluded from building anything larger than 2600 square feet. Mr. Sanford indicated it would be defined by the envelope and how creative the homeowner might get. If someone wishes to build 3-stories, and that is legal – he is unsure; but his request is that they be able to base it on a reasonable setback and let the new prospective owner design it as they see fit.

Mr. MacPherson asked if the proposal is for a home of 2,600 square feet. Mr. Sanford indicated the 2,600 square feet is just the size of a conceptual home he threw on the plan. They are not asking to build a home of that size, what they are asking for is that a reduction be granted for 25 feet from the channel and 10 feet from the isolated wetland which would provide a reasonable space for a home of that size to be constructed. Mr. MacPherson asked if a smaller house would be helpful. Ms. Elmer clarified that Mr. Sanford would go before the Zoning Board to request a variance for the “building envelope” that way whoever buys the property can put any style/design house that they want as long as it fits within that envelope and those setbacks. The shape or size is not what is being approved tonight.

Chairman Drake interjected, that in fact, by accepting a 25-foot setback and a 10-foot setback on the side to the wetlands without specifically identifying the limit on the house footprint, the new property owner would be open to anything and could literally fill the space. Ms. Elmer responded affirmatively.

In addition, Chairman Drake was unsure at this point if there were any neighbors in attendance at this meeting, but he would be worried about filling a portion of the wetland in front because more run-off would occur off this property and the wetland would expand - - and it probably will expand into the neighbor’s house. Chairman Drake said he would be concerned about that and indicated that we don’t have a good definition of the topography of the neighbor’s house. Mr. Sanford said that is correct, but he did do a conceptual plan. As far as topography goes, Mr. Sanford indicated it is low and at the bottom of a valley. Chairman Drake assumes that the roof run-off and road run-off all goes into that depression area once a house is built? Mr. Sanford answered negatively and said that the rear of the house would go into the channel, and the front of the house would go into... (sentence not finished). Mr. Sanford indicated with a pointer on the conceptual plan on the screen that the high point of the property is where a small area/little deck protrudes from the rear of the house and that run-off flows both backward and forward from there.

Mr. McMahan's immediate reaction in reading the plans and hearing tonight's testimony is that he feels there was probably a good reason that nothing was brought forward to be built on the property for 46-years. He feels that a lot of exceptions to wetlands are being asked for. Whether or not the wetlands are considered important or not – they are still wetlands. He is also unsure if the Planning Board would be delighted about where the leach field is right now.

Mr. McMahan also asked where the well was going to be located. Mr. Sanford indicated the well could be located anywhere within 75 feet of the leach beds, so he does not feel that is going to be a problem. He said to bear in mind that this lot could have been built on anytime up until 1996 - and up until 1996 it was a perfectly wide-open buildable lot, and the Nagios bought it as an investment 46 years ago along with their house. Mr. Sanford would beg to differ with the idea that it hasn't been built on simply because of the wetlands because they chose to buy two lots and to build on one and to keep the other for an investment.

Ms. Gravano said that her mother had no idea that there were wetlands back there and was very surprised to learn that. Mr. McMahan said, "with that I stand corrected, but more to the point, I think the functional statement is the pre-existing non-conforming lots are considered buildable lots provided the new structure meets the current setbacks; and it doesn't and that is why you are here, and personally I think that's a bridge too far for the amount of wetlands you want to go into." Mr. Sanford said that they are not touching a square foot of wetland. Mr. McMahan indicated he was referring to the setback. He feels they are using an awful lot of setbacks in trying to do this.

Chairman Drake said he personally had to state that, "it's an incredible argument to say that because 'if we had done something in 1979; we wouldn't have had to do any of this' because we know the reason why we are here today is to uphold the regulations someone has voted on since then, and you know as well as I do, that's the rules." Mr. Sanford said that there is an understanding that they already owned the lot. Chairman Drake thinks that argument could go well with a bunch of lots that we have jurisdiction on in Bedford that the Conservation Commission has had to rule on that impacted wetlands to the point they could not agree to it. So with your argument anyone could come to us and say, "technically speaking, I owned the lot for 40 years; it didn't have any regulations; I don't even have regular setbacks or anything", but Chairman Drake believes the setbacks from the road and the sidelines have probably changed since that time too; so Ms. Gravano and Mr. Sanford's argument would suggest that we do not follow any setbacks except going back to 1979, and we can't do that. Mr. Sanford said he is actually saying, 1996, so it is a little different, but be that as it may...the key thing is a dug channel (that may have even been dug after this lot was created) was sold. Someone needed to drain off something, so they dug that channel. The value is not a pristine natural wetland that is flowing across the countryside; and the small isolated wetland in the front which has limited value. Mr. Sanford does not think this is a "big fish" when it comes to wetlands.

He thinks it is a “small fish” and he thinks it is reasonable for this lot not to be condemned because of the man-made dug channel and a small tongue of wetland.

Chairman Drake asked if he knew where the wetland channel drains to. Mr. Sanford said it drains under Maple Drive and the GIS would probably show that, but he does not know.

Mr. Carter stated he isn't opposed to anyone building on their property and he is not opposed to where the house is going, but he is trying to make sure that the person who buys the property and puts a house on it gets the maximum that they can living in the Town of Bedford and not having a supposed wetland too close. He would suggest finding a way to try to move water off the property into that channel either using some kind of trench or something that allows the water to go away from the house into the channel, but he wants to make sure the home being built stays within the proposed building envelope and doesn't end up being a situation where there is a 3,000 square foot home on one side and 2,400 square feet on the other if 2,600 is the standard size home that the neighborhood should have.

Mr. Sanford said they would want it so that the foundation drains would daylight on the property (which means that would be raised up about 3 feet) so even if that were to overflow it would flow along the edge and the sidelines to get to the channel). Mr. Carter said being at the high point – is what we would like to see. Mr. Sanford indicated that even though it is the “high point” it is actually about 2 ½ feet, and conceptually he has designed a home on the building envelope that would go another 2 ½ - 3 feet above the high point with the first floor of the house.

Mr. MacPherson asked if anyone had talked to the neighbors and if the abutters had been notified or if any comments had been received from the neighbors. Mr. Sanford replied that when he was out looking at the wetland he spoke with one neighbor and all that was said was, “check yourself for ticks when you come out” – so it was merely a friendly conversation. Mr. Sanford let the neighbor know that the lot was intended to be built on. The neighbor to the North already has an embankment coming down toward the property line so their water is coming on to the Nagios' lot. He said that the Nagios' lot would not be pushing water onto someone else's lot. Mr. Sanford said, “We are the victim, but we can deal with it.”

Chairman Drake asked if a variance is granted to the property owner or the property. Ms. Elmer clarified that a variance is granted to the property.

Mr. McMahan said if this were to be approved and was sold under those conditions it would be a concern that something could happen during the Planning Board process that would keep builders from building. Mr. Sanford believes that it is the Building Department, not the Planning Board, that would be the next step after the Zoning Board.

They are the ones that look at the septic before it goes up, and then once the septic is approved and a valid house conforms to septic/well/and house he does not believe that the Planning Board would be involved at all. Ms. Elmer confirmed that the Planning Board would not be involved - just the Conservation Commission, then the Zoning Board, and then the Building Department.

Mr. McMahan asked if the leach field location is within limits. Mr. Sanford indicated it was and said the leach field must be 10 feet off of the property line; 75 feet to open water; and 50 feet from wetland. Ms. Elmer shared that the Town of Bedford does not regulate septic systems independently, it is all regulated by State. Chairman Drake asked how far a well is supposed to be from septic. Mr. Carter indicated it has to be 75 feet.

Mr. Carter indicated that Option 1 (original plan) seems better than Option 2 (alternate plan) which has the house built on the back of the property.

Mr. McMahan asked what the square footage of the building in the alternate plan was. Mr. Sanford stated that the building is the same size in both plans, only located in different positions on the lot; however, in Option 2 (alternate plan) they would be able to meet the setbacks, but it would require a dredge and fill. Mr. Sanford doesn't think it's the least impacting when you consider all of the environmental issues on the property.

Mr. Carter indicated he would be concerned about what would happen downstream if a dredge and fill occurred (as in Option 2 the alternate plan). He had a similar situation occur when a neighbor put in a driveway above his property and he has had his own property turn into wetlands because the water gets held up and goes into a 12 – 18 inch culvert and the water has to go somewhere once it goes fast. He indicated he is leaning more toward Option 1 (the original plan). Mr. Sanford indicated he would not have even prepared Option 2 (alternate plan) but was told that an alternate plan should be prepared. Mr. Sanford said that they could meet setback; but the Commission needs to “choose their poison” - - whether they will grant relief to the setback (original plan) or if they are going to allow dredge and fill to create access (alternate plan).

Mr. McMahan still thinks they are asking a lot of variances for building inside of the setbacks. Mr. Sanford said he would agree if they were pristine wetlands. Chairman Drake says they have no assessment by Mr. Sanford on the pristineness of the wetland in front, nor do we understand fully the impact of the additional drainage from the house and the driveway and what it will do to impact the neighbors. For the Conservation Commission to make a decision to allow a development of this impact on a site where he thinks there may be an impact to the isolated wetland of some sort, even if it is just volume of water on someone else's property, he hesitates, because he doesn't see the neighbors here to say whether they agree to that or not. You're saying that they have an embankment so it should be no problem to them, but that is not really fair to them. He does not like to create problems. Every time we have looked at drainage channels we've

always asked the question, “What’s it sized for – a 100-year storm? Fine, but what is the impact to somebody else downstream when we convey that?” He feels that we have to look at wetlands, storm water, conveyance and all the above when we are looking at these things to make sure that we are not impacting somebody else and someone doesn’t come back to us later on and say, “Well, why didn’t you consider me?”

Mr. McMahan said he believes the amount of impervious area would play a role in what type of run-off you are going to have and how it would have to be controlled. Mr. Sanford said they could certainly can run it into the channel. From being out on the site, Mr. Sanford feels the run-off will naturally want to come to the property of the neighbor to the North but it is being taken care of. He said on South side it is very flat, so it would need to be shored in order to make sure the neighbor to the South would not be affected. He would want to have a shallow intercepting swale dug which would take any increased run-off and move it down into the drainage channel.

Ms. Wachs asked how the channel running through the property is constructed. Mr. Sanford indicated it is all grown in, but he is sure that it was an excavator. He estimates it was dug during the early 1970’s or before. He would really like to get more history. He said you can see mounding on the edge which is typically of old trenches where they dug it and didn’t want to take the material away, so they just cast to the side of the ditch. Ms. Wachs says it seems unfortunate that it cuts a chevron shape into the...(sentence not finished). Mr. Sanford interjected that it is quite a bit higher. He thinks they chose to try and protect the building envelope in the front, but they weren’t aware there was a little tongue shaped wetland in the front that was “going to clobber us too”. Ms. Wachs said it may not have mattered as much back when it was created.

Chairman Drake wanted to point out that what we would be approving is a 25-foot setback on a very steep slope on this house that drops down over 6 feet and will have a very steep slope of over 25 feet. He reminded everyone of a recent development which had a 50-foot setback but we looked at a very steep run. He indicated that in that instance a buffer was no good at all on a steep run. Mr. Sanford said it should be recognized that it is a man-made steepness. Mr. Sanford said that they dug the channel 6-feet down. It is not the natural grade. If it were natural grade it would be nice and even across to the knob in the back. Mr. Drake asked, “They sloped that whole area from 241 to 231 on both sides as a dug channel?” Mr. Sanford indicated there is a mound. Chairman Drake said it seems a little worse than that – the finished floor is 241, and if your land area is at your finished floor - we are going down to 231 - that’s 10 feet over 25 feet which is a rather steep slope. Mr. Sanford said there would be a full basement in the back. Chairman Drake asked if the basement floor would be at 241. Mr. Sanford indicated the finished floor would be at 241 - - subtract 10 feet. Chairman Drake said that was why he asked what the finished grade would be. Mr. Sanford said that 236 would kind of hold it right up against the foundation or it would probably have a slot from where you could come out. Chairman Drake asked if the deck would be below the finished floor. Ms.

Elmer said it would have a walk-out basement. Mr. Sanford said the deck would be on the first floor and be elevated 4 feet up the natural slope that is there right now - which is very typical.

Mr. Carter said it would have been nice if down the road or in the past what had been dug would have been straightened out. That would have made things so much easier. Back 46-years ago it would have been “nothing” and nobody would have said a word, but today the minute you put something into the ground somebody makes a phone call to say something is going on. Mr. Sanford said it was the “path of least resistance”. Mr. Carter said there must have been something in the ground that caused them to dig it that way and not as straight as it could have been. Chairman Drake said because of its use and because of its impact it would require a dredge and fill application to move it – which we wouldn’t have a big concern about. Mr. Carter said the person who buys the property would probably find that better. Mr. Sanford said this didn’t seem to make sense – now they are talking about digging something up and moving it – there is an incongruity here.

Aside from that, Ms. Wachs asked if there would be anything else that someone who wanted to build a house on this property in the front could do to mitigate the fact that it is so close. Mr. McMahan indicated that if this is approved we would lose all control of that and they could do whatever they wanted to. Mr. Sanford cited an example on Old Farm Road that was almost identical to this - if you wanted to look at this. He was surprised and thought they would shrink the house for slopes (as the Conservation Commission is talking about), but they put them right out there and everything drops off down a slope, but they landscaped it nicely and he encourages everyone to take a look at it. This occurred 4 years ago, but the neighbor didn’t like it and took the Town and the State to court over it and lost. Chairman Drake says this proves his point about a wetland being in the front. Mr. Sanford said the neighbor’s only issue was that he thought that it was an unbuildable lot and bought his house accordingly even though he didn’t own the next one and as soon as he sold it everything was dropped.

Ms. Wachs asked if the quality of wetland that has no outlet in front makes a difference in recommendations. Chairman Drake indicated it would. Ms. Wachs said that if we had that information it might help. Mr. Sanford said he has been there and can tell you anything you need to know: 1) It’s marginally wet; 2) Because it is depressed it does receive storm water and will have some water in it during the Spring melt and during a heavy rain storm; 3) In terms of abundance of wetland growth – it is just marginal. He believes there is some royal fern in there; 4) It is so small you can jump across it – which speaks to the value too. He doesn’t know what doing a 10-page report on its value would add beyond what he has already told you. Ms. Elmer clarified that Mr. Sanford is a certified wetland scientist. Mr. Sanford says the wetland in the front doesn’t drain anywhere – it’s a depression.

Ms. Ricciardi feels that Option 1 (original plan) is the least impactful and since they said they would address the shallow swell and they would mitigate the area where the water would end with the channel – she doesn't see too much of a problem.

Mr. MacPherson said that what Chairman Drake has expressed mirrors his own concerns already, so he would not repeat them.

Chairman Drake opened the floor for the public to speak or comment.

George Gravano spoke and indicated his mother in law is owner of the lot; and he is representing her on real estate side. He said if the Conservation Commission is not inclined to grant the variance you are putting her in a hardship position. She has owned this property for 46 years and has been paying taxes to the Town of Bedford for the last 46 years on the lot. It is an exorbitant amount of money that they've paid with the understanding being that down the road they could turn around and sell this to help toward their retirement. His father-in-law is no longer with us (he passed away about 6 months ago), his mother-in-law just sold the adjacent lot that has the property that his father-in-law built on it in 1973. He thinks this lot with the recommendations that Mr. Sanford has presented and what Ms. Ricciardi has just said does not pose a threat to either of the neighbors to the North or to the South.

As to the wetlands, he is not an expert, but he has been out there quite a few times and feels it is more of a seasonal collection where you get some run-off in the Spring when there is a lot of melt, but the water does not run in to the neighbors in the North to the best of his knowledge. If you are looking to fill in the channel in the back he thinks that would have a greater impact on this property and the wetlands - as opposed to granting the variance to the front portion so that his mother-in-law does have some retirement financial relief from the money that she has put out to the Town over the last 46 years. Now being a single and owning a piece of land and still having to pay the taxes on it – at this point you are telling us it is non-conforming. He has spoken with one of the abutters and they actually wanted to purchase the property but were not willing to pay the asking price. They wanted to purchase it for one of their relatives and possibly come before you and ask to build a house on the back portion. He would ask that the Conservation Commission consider the motion that Mr. Sanford has presented. He thinks it is a reasonable request and he thinks it would be less of a burden on the owner at this point.

There was no further comment from the public.

Ms. Wachs asked about the wetland/drainage area in the very front, "If hypothetically, it were to be filled in where would water go?" Mr. Sanford said the end of it is on the neighbor's property, but if they got permission to fill the neighbor's portion it would go on the Nagios' property, but if we had to chop the wetland/drainage area off at the property line there would be a little hole that would be collecting water.

Chairman Drake asked about the existing and finished grades. Mr. Sanford said the little “X’s” on the plan indicated the elevations taken with the survey crew. Chairman Drake asked if the high point of this land is 236 and if they would like to raise it 2-feet. Mr. Sanford answered, “Yes”. Chairman Drake indicated the first floor would be raised up. Mr. Sanford said the back of the building will have exposed concrete and they are not looking to fill the back. Ms. Elmer indicated that a dredge and fill permit would only be needed if they were filling in the wetlands. They can do anything else they want to do on that property without coming to you as far as regrading. They can regrade all the way up to the edge of the wetland if they want to. It’s not a non-disturbance buffer. It’s a structure setback. Mr. Drake asked if they could pave right up to the wetland. Ms. Elmer indicated that is correct.

Mr. Sanford said that on the plans they also showed a 2 - 3 foot retaining wall that protects so they wouldn’t be putting fill into it. He said the little curved half-shape on the plans is a retaining wall. The retaining wall is located near the isolated wetland to the front of the property. The retaining wall is kind of like a tree-well, but instead of the tree it will be a wetland well. Mr. McMahan indicated that would be up to the builder to install the retaining wall, though. Mr. Sanford agreed.

Chairman Drake asked if conditions could be put on. Ms. Elmer indicated the Conservation Commission could recommend that the Zoning Board of Adjustment add conditions. Chairman Drake confirmed that we could recommend that this drainage from the house or any impervious surfaces be directed to the wetland channel or to the street and not to the isolated wetland. Ms. Elmer indicated they could make that recommendation.

Ms. Wachs commented that the wetland of only real value here seems to be the one in the middle/the channel that runs through the property. Mr. Sanford said it has value in terms of transference of water but not all those natural things. Ms. Wachs asked about comparing the wetland that runs through the property as opposed to the ditch in the front. Mr. Sanford said the one in the front stays wet, and is wet now, and the other one he can walk through.

Mr. McMahan interjected that they are designated as a wetland, they are still considered wetlands one way or the other. Mr. Sanford said there are different values of the wetlands. Ms. Wachs asked if there is some way to preserve the value of the property and be able to build on it. She would say if we can increase the setback to the channel and push the house forward and say we are willing to discount the wetland in the front, but not completely – in other words, if the valuable wetland that we care about is the one in the back that bisects the property let’s create a solid buffer and actually create more of a setback there. 25-feet is half of what we would normally ask for, so if we could increase that space between that wetland and the footprint of the house and sacrifice the

wetland toward the front of the property – that might increase the value of the land to the landowner and preserve the majority of the wetland on the property. She thinks this might make a good compromise.

Mr. Sanford said that would cause construction issues because right now they are asking for 10-feet and anything less than that would require them to go to the State and come back to the Conservation Commission. Ms. Wachs agreed. Ms. Elmer indicated they can't really get much closer to the wetland because they've got to maneuver excavation equipment. They can't just put the foundation right up to the edge of the wetland. Ms. Wachs understood, but said what she was suggesting is filling part of the front, but really that decision would be made by whoever is building there. Mr. Carter said it would be a lot of work for something that is really not deserving the amount of work to fill it in. It's so small that you can step across it, so it's not more than 5-feet across. It would be too much work in his opinion.

Chairman Drake reminded everyone that we recently had a proposal in front of us with a wetland that you could step across that caused a big stir, so recognize that we should be making consistent decisions. Ms. Wachs feels we should be making consistent decisions, but that context is also important. Chairman Drake pointed out that we did ask for a second opinion on the on the wetland assessment on the other proposal that came before us. Ms. Wachs and Mr. McMahan indicated that was true.

MOTION by Mr. Carter to recommend the variance request to construct a home within the wetland setback on the existing non-conforming lot on Maple Drive, Lot 21-24-48 , Zoned R&A according to the colored plan #1 that was handed to us this evening (built in front of lot with 25/25 and a 10-foot setback). Ms. Ricciardi seconded the motion. Vote taken – all in favor. Motion carried.

Chairman Drake suggests that we have all directed so that it doesn't go to the isolated wetland, and so that we don't impact the neighbors – is swales, drainage, gutters whatever it takes to get the storm run-off from driveway and house so that it doesn't hit that isolated wetland at all. Mr. Sanford indicated he thought he had been pretty clear that if the isolated wetland overflows it stays within the property and goes to the channel. Chairman Drake said he was referring to the isolated wetland in the front. Mr. Sanford said he understood and that "the drainage path from that wetland, if we were to use this design, if it were to overflow would stay on the property naturally and go along the northerly property line – if you look at the contours - you are going up, so the water would be forced to stay on." We might be able to work with that; but he questions who you are protecting. Mr. Drake asked why the blue line is shown crossing the property line, then? Mr. Sanford said it is because the wetland crosses on to the neighbor's property for about 15 feet or so and then ends at their embankment. Mr. Sanford said, "I have no problem with it not being able to go on to the neighbor's property without going into the ditch...with the drainage ditch I'm 100% behind that. I just think naturally some

stuff is going to want to go into that depression and the amount of work to try and re-route the front to try and drain it around where if it overflows - it is just going to go in and come back out and come back down the northerly property line. Mr. Carter said he doesn't see a concern with the majority of the drainage going into the front. He said your driveway and the majority of the roofing of the house is going to be heading toward that drainage ditch, so he doesn't see a concern with it heading into the front. "How do you say that when the roofline is in the middle of the building?" Chairman Drake asked, adding, "That means the house splits right down the middle – so half the house goes one way and the other half goes the other", Mr. Carter indicated that was right, but his thinking is that he is also throwing the driveway impact into it, and the majority of it will go into the back. Chairman Drake personally has an issue with throwing water into a wetland that may impact somebody else without them saying, "Yup, I don't have a problem with it." He said, "If I was the neighbor and you didn't consult me, I think I'd have a problem." Mr. Carter said that he thought that the neighbors would have received a letter to come tonight...Ms. Elmer said that neighbors do not get notified for Conservation Commission. Chairman Drake confirmed that no abutters were notified that this was the proposal. Mr. MacPherson asked if it was published in the newspaper. Ms. Elmer indicated it was not published in the newspaper. Mr. Drake said that the agenda was published, but you would have to look at the agenda to know there was an impact. Ms. Elmer corrected him that the agenda is not published in the newspaper. It is posted in public places around town and on the town website.

Ms. Ricciardi asked if Chairman Drake would feel more comfortable looking at the property. Chairman Drake said, "No. I would probably feel more comfortable if I knew the neighbors didn't have a problem with it or that we are not creating a problem for them, even though it doesn't look like there is a problem – I agree with you there, but it is not my property."

Mr. Sanford said that he is a surveyor and engineer, and he is telling you that the contours force their drainage on to this property. They are on the upper plain, and all of the contours are coming down so anything that goes into the wetland is going to be forced into our property and into the back. Chairman Drake asked if most of the driveway drains down into the street. "It should," Mr. Sanford replied. "If it doesn't, we would be in trouble," Chairman Drake stated.

Chairman Drake added two amendments to the above-mentioned MOTION:

- 1) Adding the limitation of 2,600 square foot home as a maximum as a footprint. 2,600 is the maximum footprint for the impervious area (and technically speaking, it should actually be less than that because the wooden deck shouldn't be included). Mr. Carter moved to accept this amendment and Ms. Ricciardi seconded.**
- 2) Redirecting drainage from the isolated wetland. Mr. Carter moved to accept this amendment and Ms. Ricciardi seconded.**

Chairman Drake indicated that what we are voting on is this proposal/Map 21 colored plan with our concerns about agreeing to this in the first place to the 25 foot setback and the 10 foot setback and the variance board will read that, but we are recommending that they could approve this concept with a maximum of 2,600 square feet with house positioned as it is on *this* footprint on *this* plan....at this point there was disapproval from the Commission and Ms. Elmer indicated it is a concept house not a definite house so all we are talking about is the square footage. Chairman Drake said we are agreeing to this setback polygon. So, with that setback polygon and a maximum of a 2,600 square foot home, and that no drainage be directed to the isolated wetland. The group agreed and there was no other comments. Chairman Drake took a vote on the motion to accept this with the conditions stated. Vote taken – all in favor, except Mr. MacPherson opposed. No Abstentions. Motion carried.

- **Jeffrey & Shirley Ginn** – Review of a variance request to add a garage addition with finished space on the second floor within the wetland setback at 49 Col. Daniels Dr., Lot 31-6-13, Zoned R&A.

Background: *This property is a 3.17-acre lot located on Col. Daniels Dr., which is a cluster subdivision. In a cluster, the front setback is reduced from 35 ft. to 30 ft. and the side setback is reduced from*

25 ft. to 20 ft. The existing home was built in 1999. The wetland runs through the property from north to south, bisecting the property.

Proposal: *The applicant is requesting to build a 24 ft. x 24 ft. two-car garage addition with finished living space located on the second floor. The addition would be on the east side of the existing garage on the back of the house. It would be 31.4 ft. from the edge of the wetland at its nearest point.*

Summary: *All recommendations by the Commission will be forwarded to the Zoning Board of Adjustment.*

Jeff Ginn introduced himself and indicated he is attempting extend his garage to add additional garage space and a finished space above it to build a library for his 3rd grade son who is an avid reader. A photo was shown, and Mr. Ginn indicated the existing garage is on the right, and the two garage doors on the left would be the proposed new addition. When he originally attempted to do it, it was a marginal encroachment (a few inches on the back corner) on the setback – when Mr. Sanford came out to look at it somehow the wetlands expanded. Mr. Ginn has tried everything he possibly could to not infringe on the setbacks. He understands and appreciates the need to protect the wetlands, but when Mr. Ginn bought the house both the builder and realtor assured him he would have no problem building this addition, and it was his first time buying a home and he trusted them. It turns out to be more complicated. Originally just a corner of the garage set into the setback by a few inches. Now the wetlands have expanded. He has

never seen water on his property. There is an area way out back, a depression on the far side that has dark spongy soil. The back of his property is hill that comes down to a depression, then his property comes back up. The depression runs along the back-property line of his house. He was very surprised to learn that the wetlands had expanded because in 20 years of owning property he has never seen water on the property. He agrees there is a little strip of black spongy soil, but it is all the way to the far side of the wetlands, it is inches across on the side where he is trying to build, it gets to maybe 4 or 5 feet wide moving to the right of his house.

In terms of placement - this was a spec house and the builder pinned the house in up against the left end of the building envelope leaving 1.7 inches in the back corner, and the right side of his house is pinned in by septic system, and wetlands run the width of the house going across the back. He tried moving the structure to the right to get away from the wetlands on the left, but he is blocked by his bulkhead. He tried moving the bulkhead but it is pinned in by the chimney stack. There is nowhere else to build this, other than the one particular spot he has indicated. Mr. Ginn is hoping for the Conservation Commission's consideration and will not affect the wetlands. He indicated he would not be digging a basement, just putting in footers for walls so there should be minimal excavation. Mr. Carter noted that if he is putting in a foundation, there should be some digging needed.

Chairman Drake asked when the house was constructed. Mr. Ginn informed him it was built in the end of 1999. Chairman Drake found it interesting that the builder pinned the house in and said that the builder probably pinned it in to avoid the 50-foot setback for wetlands, so they put the house exactly where it needed to be without impacting the wetland. Mr. Ginn submitted the original plot of the house for review and actually there was plenty of room, except for one corner of garage. Chairman Drake acknowledged that the wetland had obviously moved. Ms. Elmer & Mr. McMahan disagreed. Mr. McMahan thinks the builder knew exactly where the wetland was. Mr. Ginn informed them that Mr. Sanford had been out to his property and re-marked the wetlands, though. Mr. Ginn provided both the original plot, and the revised plot after Mr. Sanford remarked the wetlands. Mr. Ginn noted that the structure only violated the setback in one back left corner. Ms. Elmer corrected him noting that it was not a violating the setback, but it was one foot away.

Mr. McMahan stated the builder made the maximum use of the property available when he built. Mr. Ginn said it would have been nice if the builder moved the house forward closer to the street, because he knew Mr. Ginn wanted to build – but it's a moot point. The house was built as a spec house and was finished when Mr. Ginn bought it.

Mr. McMahan noted that Mr. Ginn would like to build literally the entire portion of the new garage area and the living area above it – and almost the entire portion will be contained within the 50-foot setback. Mr. Ginn said portions will be still be 40-50 feet

from the setback, it's just the center portion to the right of the left corner that is 31.4-feet from wet setback now. Mr. McMahan indicated he was not discussing the wetland, but rather the 50-foot setback and asked if most of the addition would be within the 50-foot setback. Mr. Ginn answered, "Yes".

Ms. Wachs appreciates efforts to move the addition to several different places and asked if he had considered putting it in the front and what the barrier might be to putting it in that position. Mr. Ginn said he did look at this possibility, but it's all windows on that side of his house, and if built there he would lose all daylight to the house. Ms. Wachs asked about placing it kitty-corner. Mr. Ginn said they tried extending garage out longer but they couldn't do it because it encroached on just about everything. Ms. Wachs noted it would encroach less because $\frac{1}{4}$ of the addition is outside the setback and it looks like $\frac{2}{3}$ is within the setback area. If that were to happen, Ms. Elmer explained that he would lose the two existing garage doors. Ms. Wachs suggested changing the orientation of the garage doors. Mr. Ginn said he looked at doing this, but the covenants (rules for the neighborhood) indicated homeowners are not supposed to have forward-facing garage doors, and they are not supposed to leave cars in the driveway. Ms. Wachs asked what has precedence – the homeowner's covenants, or the Zoning Board's covenants. Ms. Elmer indicated that Zoning Board ordinance has precedence. The Town enforces the Zoning Board ordinance and the homeowner's association enforces their covenants, so we cannot do anything with homeowner's association covenants.

Mr. MacPherson asked the reason for building the addition and if it was so that he could put two more cars in the garage. Mr. Ginn indicated he needs more garage space, but he wants to build a library in the space above it because he has stacks and stacks of books in his house because his son is an avid reader and Mr. Ginn wants to encourage that. Mr. MacPherson asked if the proposed 24x24 size is the smallest that could be built or could Mr. Ginn reduce the size, still accomplish what he is looking to accomplish, and still be within setback. Mr. Ginn said he will not be in the setback no matter what he does. If he were to add one more garage instead of two garages then he would have an interior room that would be 23 feet long x 11 feet wide and once the bookshelves went in it would only be 9 feet wide resulting in a very awkward shaped room much like a hallway with only 9 feet of floor space.

Mr. Carter asked if he looked at putting garage space on either side and making a stall on either side of the existing garage – that way he would still have outward facing windows. It was noted that the existing garage has windows that face out, but there is also an existing room above that garage too. Mr. Carter suggested turning that whole section into the library he is looking for. Mr. Ginn asked if he was suggesting putting 12-feet out front, and 12-feet out back. Mr. Carter indicated that was correct. Mr. Ginn said the whole side of the house in an "L" shape is all windows and that is his family room and kitchen area. Mr. Carter contended it would not work, then.

Mr. McMahan said it is unfortunate there is nothing the Conservation Commission nor Mr. Ginn can do about the fact that the builder perhaps led him astray, but we are still looking at an addition, the vast majority of which is in the setback.

Ms. Ricciardi asked what other items beside the library would be housed in the garage. She asked if chemicals or any other things would be stored there. Mr. Ginn indicated that no chemicals would be stored in the garage only cars lawnmowers, kids' bikes and accumulated junk.

Chairman Drake said what comes with our approval of this proposed addition would mean a lot more driveway, which technically speaking, we do not regulate because you can pave right up to the wetland - but that's the downside of accepting this proposal (more impervious area); so he thinks we would have to require mitigation of the impervious area and all impervious area if we were to agree to this.

Ms. Wachs asked if he was suggesting paving less area than what is shown. Chairman Drake indicated that it could be a condition of acceptance that we limit the paving or modify the flow plan or treat the flow. Ms. Wachs said that was what she was wondering about – if there are things that could be done to mitigate the fact that the setback is being encroached on. Chairman Drake said we could require an engineered buffer on the 35-foot setback in the back, but he wasn't sure if it would change the topography of the backyard. Mr. Ginn said whole lot is flat all the way to the wetlands. He doesn't really see any water pooling anywhere, but in heavy rain he will see water in a ditch alongside the road, but he's never seen water anywhere else. He said the area at the edge of the lawn is not the wetlands. The wetlands are further back. Chairman Drake said it is along the wetlands setback and explained that the idea of the wetlands setback is that it provides a buffer, and he can't say he fully understands why people can pave up to a wetland, but cannot build a structure up to a wetland, but at some point in someone's infinite wisdom they established a 50-foot setback, so we always struggled with what that means; and "what do we protect?"

Mr. McMahan asked for clarification – when Mr. Sanford came in on May 28, 2019 he established an increase in the size of the wetland? Chairman Drake indicated that was correct and said the building would have been outside the footprint of the 50-foot setback, but now it's almost all within it. Ms. Elmer said that the existing house is outside the wetlands setback and the addition is wholly within. Chairman Drake said the reason the wetland increased is because we agreed to more development in other adjoining properties that ditched more flow into the wetland and the wetland increased. Mr. Ginn thinks it may also be because his neighbor to the right had an easement and they put a driveway in to run up to a flag lot and when they put in the culvert it backed all kinds of water up into his neighbor's backyard. When he complained about it they said it set there for the 100-year flood levels. It is all elevated behind their houses, so the water is just not flowing like it used to. Chairman Drake agreed – if you add more impervious area the

water has to go someplace. Mr. Ginn said they built a big berm. They live on a big hill and everything just runs down through the neighborhood and they built a big berm and put a driveway on it and that affected everyone upstream.

Chairman Drake suggested an alternative: Moving the garage to the front of the building if the library space was the primary goal, and then a two-car garage could be built right to the side. In that case you would block your existing garage and build a two-car garage right in front of it and move the addition right up to the front and not affect the wetlands. He said that it would still be within a 50-foot setback, but it might be more amenable to us. Mr. Ginn worried that it would be a sideline setback issue – but Ms. Elmer indicated it would only be a wetland setback issue. Mr. Ginn said that he would have to put all of the garage doors facing the street in order to do that. Ms. Elmer noted he wouldn't be gaining a garage. Chairman Drake asked if the primary purpose was for a library. Mr. Ginn indicated the primary purpose was for both a library and garage space. Chairman Drake said if the primary purpose was to get more garage space and a library but impact our wetlands, than that is what we have to weigh.

Mr. Ginn said that originally when he bought the house he wanted to do the addition only for the garages because they are possibly the only house in neighborhood without a 3-car garage and they worried that not having one would impact their ability to sell the house. That's when the builder told him he would have no problem building one. He really would like to attempt both the garage and the library, because one day his son will be driving and they are not allowed to park cars in the driveway, and they can't park in street, and he has neighbors he would like to keep happy while still accomplishing this.

Chairman Drake asked if it would affect any other issues, or just the wetlands. Ms. Elmer indicated it would just affect the wetlands. Chairman Drake said one of the issues that still sticks in his craw is on something we granted a variance to on a house near Peter Woodbury School where he believed there was a significant hardship to the family. The family has since moved, and now the new person can build a building addition impacting the dug wetland that we agreed to because we were willing to work with the homeowner. Mr. Ginn asked if you could have an individual hardship vs. a property hardship. Chairman Drake said that went into the mix of their deliberations. Chairman Drake said that when he went by the property near Peter Woodbury School the home had been sold, so the new people who bought the house can now build the building addition that we allowed their moving into a setback for - which at the time, whether it is correct or not, we considered hardship.

Ms. Wachs asked if we make a recommendation for approval with contingencies that certain mitigating structures and water treatments be put in place - how does that get carried on and enforced with the variance. Ms. Elmer said that the comments go to the Zoning Board of Adjustment, and if they so choose they can make it a condition of

approval, and those conditions of approval then go to the Building Department as part of their building permit package.

Chairman Drake asked if in theory we could limit the expansion of the new driveway. Ms. Elmer said that we can “recommend”.

Ms. Wachs mentioned that there are structures that can be placed behind that area to make sure that any runoff from the new addition would get filtered before it went back into the wetland. Ms. Elmer explained that it is not a physical thing that you have to buy and put in the ground, it is a way to do landscaping, and she has brochures in her office explaining how to do so. Mr. Ginn said that at his house the foundations drains run right into it. Ms. Elmer indicated that it is common for groundwater to do that. Chairman Drake said what they are concerned about is runoff from the roof. He said it goes back to the idea that the 50-foot setback is required and we have to interpret what it means in order to allow anybody a variance from a 50-foot setback or then, the easy answer is, “No.” That is the rule. Mr. McMahan indicated it used to be that water could be filtered naturally in order to get it clean before getting it back into the wetlands, but then when they said you could pave all the way up to the wetlands it defeated the purpose. He is still concerned about precedents that this would set. More and more what he sees over the years are more and more exceptions, and it’s getting almost to the point, at times, that he’s not so sure some of the decisions we have made are really helping out the environment or not.

Mr. MacPherson said Chairman Drake proposed putting the addition on the side of the existing garage and asked Mr. Ginn if he would be putting 3 or 4 automobiles in the garage. Mr. Ginn indicated he would put 4 cars in garage. Mr. MacPherson said that he could put 4 cars in the garage, but would have to pull 2 cars out in order to get the other 2 cars out of the driveway, so that would be a little bit of an inconvenience, but Mr. Ginn could still put his 4 cars in the garage– and still have the library. Chairman Drake was thinking the garage would face forward, because if you put the doors to the side you would have to pave even more. Mr. Ginn doesn’t think he has enough property to put a driveway in because if he extends the garage 24-feet further out to the left then he has to have an envelope to back out of and there’s not enough property there to do that. The property line runs at an angle. They looked at everything including Mr. MacPherson’s suggestion, but there was no way to get into the garage.

Mr. Carter asked if the homeowner’s association covenants say that garage doors cannot face the road. Mr. Ginn said when they bought the home they were told that they cannot have forward-facing garages and that they cannot leave anything in the driveway. Mr. McMahan asked if there was an actual homeowner’s association that meets weekly or monthly and if he had ever considered going to them and asking them. Mr. Ginn said that it does not exist. “So, there is no one to enforce the covenants?” Mr. Drake asked.

Ms. Ricciardi noted that covenants go away after 20 years. Ms. Elmer stated that it all depends on how they are written. Mr. Ginn indicated his neighbors would be mad.

Mr. McMahan asked if it would be worthwhile to go back and get an answer to that question. In Mr. McMahan's own area there are covenants and people have been able to figure out how be able to do that and get exceptions and it sounds like Mr. Ginn could solve a lot of his problems if that could occur, and to Ms. Ricciardi's point - to look and see how the covenants are written. Mr. McMahan asked if he had a copy of the covenants, and Mr. Ginn indicated he did when he bought the house, but he has been unable to find them now.

Mr. McMahan feels the solution may be as easy as building it so that two garage doors do face the front. Chairman Drake indicated that would only give him 2 garages, and he would have to back 2 cars out to get to the other 2 cars, or else put in two front-facing garages which would only allow for 2 cars. Again, he feels it is important whether the primary goal is to get a 4-car garage and to get additional living space (for a library or whatever they want). Someone could expand the house. We do not know where the septic system is, or what the addition would be sized for – it could be a bedroom. After it is built anyone could create a bedroom out of it. Ms. Wachs indicated she was thinking he would have to situate the garage doors to face front. Chairman Drake said the space is not regulated after it is built. Mr. Ginn indicated that if you oriented the garage doors forward you would have to expand the whole front yard and there would be a huge amount of driveway and it would run right up along the windows of the house. Mr. Ginn said there simply would not be enough property. Between his existing garage and the closest point where the property line runs there is not another 24-feet, let alone with the setback. He doesn't even think he has a zero setback there. He does not think there is enough property there to put in a driveway apron.

Chairman Drake said he feels tortured on this, because he hates to see a new precedent set by us agreeing to this because it opens the door and too many people have come in here before saying, "Hey, you guys are doing something different." The second issue he has is that Mr. Ginn stated that there are 3-car garages in this neighborhood and at some point he was thinking it would increase the value of his house, so we must weigh the idea that you are increasing the value of your house by adding a garage and adding living space (it's not just a library, it could be a bedroom) and the impact to our purview which is almost fully within the 50-foot setback. There is a 50-foot setback, and there doesn't appear to be any good alternatives to avoid that with the exception of not agreeing to this at all. If our rule is a 50-foot setback and we are here to discuss a possible variance to that, our first answer should always be, "No." What are the mitigating circumstances we should approve a change in our regulations and an acceptance of this proposal that is different from our 50-foot setback rule? The public voted on this as part of our Zoning Board regulations, and they decided you had to keep structures 50-feet away from all wetland markings. We are not sure why they did that; but they did. So, our rule is that

the first answer, is, “No.”. The second answer is how can we work with you to make this right. In this case Chairman Drake personally has some issues because it is such a significant proposal and impact to the wetland setback – including additional driveway space which, although we can’t regulate that, it comes with the territory. It’s the same issue we have when we look at a swimming pool footprint, but we forget about the whole concrete apron around it and the chemicals. He indicated he would personally be concerned about the precedent we set here and how we explain why we think this is important, notwithstanding the fact that someone told you very poor information when you bought the house and said you could put a garage in. You couldn’t even put a garage in here with the old setback. You probably could have added a decent expansion with the old setback.

Mr. Carter asked when Mr. Ginn goes for the variance wouldn’t he have to fill out a variance report to show hardship in order to get the variance? He asked if it would help the board if we had to decide on the 5 questions asked. Ms. Elmer indicated that we do not review the five Zoning Board questions. It is not for the Conservation Commission to review. It is a different board that follows different standards. We only look at it from the wetlands setback aspect.

Mr. Drake said the only reason he brought up the proposal we decided on was because they were proposed with a potential hardship question, and he thinks that came into play in our decision, right or wrong. We could actually vote for “no approval” and the variance board could still overrule us. Ms. Wachs said that is correct, but we just had someone come before us and we approved a building concept that had a 25-foot setback, so she thinks precedents have been set and she doesn’t know that we can roll that back. She thinks we should consider other ways to mitigate the way water would be treated coming off the roof of this structure. Each case is different, and to her way of thinking, we are talking about 30-feet (not 15 or 10-feet which we have seen before). She thinks 30-feet is plenty of space to add mitigating runoff and drainage filtering structures and rain guards, so she would be willing to recommend approval for this plan as it is on this plot plan contingent on mitigating structures being put in place between this structure and the wetland.

Mr. MacPherson said the other issue at hand is Mr. Ginn’s covenants. He asked if Mr. Ginn would be willing to go back and see if he can get some mitigation on covenants to put front facing garage in order to solve some of this. Mr. Ginn says he still wouldn’t be able to do that because he doesn’t have the room for that. If he added 24-feet to the end of his garage now, he would lose 12-feet because he cannot get a car alongside the house and he doesn’t have anywhere to put the driveway. Mr. MacPherson said Mr. Ginn mentioned the concerns he has with his homeowner’s association and he is merely asking if you can go back and ask someone about mitigating those. Mr. Ginn said there is no one to ask until somebody decides to sue you for violating it, and then they will create the homeowner’s association.

Chairman Drake told Ms. Wachs that his suggestion (if we wanted to work with the property owner on this) would be that we cut the garage addition in half and agree to one garage addition; agree to modifications to the hip roof over the building and add the space there so we are balancing it out. There might be additional cost to do that because you will have to play with the other roof, but it's a compromise – we are going to give half of the proposed building imprint, and we are only going to impact half of our wetlands. Mr. McMahan said if he had to choose between the two he would go with that, and we often see people coming in wanting to do something similar to this and what happens is maybe they will cut off a corner, or maybe they will be within just a small portion of the building that they actually want to put in, but in your case it's got to be 80% that is going to be in the setback and he fears people coming in and wanting to do something similar, and we are abandoning the idea of why the Conservation Commissions exists. One of the reasons is to sit back and take a look at what the rules are and try to make decisions on what is feasible; what the consistency is; with the idea (in your particular case) for reasons by wetland scientist he has expanded the size of the wetland perhaps making what you are proposing to do even less desirable for the purposes of conservation.

Chairman Drake said it is a 25% addition to the current imprint of Mr. Ginn's house, and that is a pretty significant expansion to a building, especially if it impacts wetlands. If the primary intention is to get more garage space and to get space for a library (*not* living space) then cutting this proposal down to half the size (24 x 12) achieves your purpose and helps us to compromise the to the wetland setback.

Ms. Grogan asked Mr. Ginn had considered making a freestanding building like a carriage house. Mr. Ginn said they looked into doing that but cannot achieve the finished space above. He has a little kid who is not going to go into a carriage house all by himself; and the cost is exorbitant; and the other problem is in order to place a carriage house on the property and set it all the way back into the furthest corner where the wetland curves in (which is the furthest point back) the front side of the structure extends 20-feet in front of his house. Chairman Drake indicated the covenants couldn't hit him there, but Mr. Ginn said it is really an eyesore and that it looks like there is a big space but they had it marked out and it literally extends 20-feet into the main body of the house out by the street, and there will not be anybody happy – and he's already talked to all of his neighbors about it and everyone agreed it would be a huge eyesore. Ms. Grogan said his son might appreciate the carriage house as he got older, but Mr. Ginn said he tried and when they came back with the new wetlands delineation they had a builder plot out a carriage house. He thought he had a lot of property so that it could be set back, but it actually would sit very far forward, close to the street, and in front of the house and looks out of place. He has a neighbor who put a little shed in a similar place on their lot and it looks unusual sitting way out by the street – and a carriage house would be considerably

larger. Nobody will be happy with that. He said carriage houses don't look bad if you can push them back, but up near the front of your house and the street it looks bad.

Mr. McMahan asked if the Zoning Board can give a variance on building setbacks. Ms. Elmer said the Zoning Board grant relief from property lines and from wetlands. Mr. McMahan asked if there was a relief from the Zoning Board would they be able to put that additional building on your property and it would not be close to the road and it would be adjacent to where the garage is now. Mr. Ginn said he already looked, and there is not enough room. He talked to the permitting folks about it and if he got a variance to encroach on the setback the furthest he could go back is 14-feet because of a fire standard that says you have to be at least 6-feet from the setback line and there is no room. It would have to be way out forward and that again, is wetlands. There just is not enough property.

Mr. MacPherson asked Mr. Ginn if Chairman Drake's compromise is acceptable to him because we have problem with precedents, and Mr. Ginn has his issues; so, to Mr. McPherson it sounded like a reasonable compromise. He asked if Mr. Ginn if he would be willing to accept that. Mr. Ginn said he would end up with an 11-foot room (9-foot after the bookshelves are installed) which will be like a closet when he is done with it. It will be a huge expense for something that will end up being a pretty closet. Mr. Ginn appreciates the compromise and realizes it would get him an additional garage, which would be helpful, but he would have to abandon the project above.

Chairman Drake suggested looking at his neighbor's house (just up the hill) on Google Earth because they have a 3-car garage sitting right on top of the road probably within the 20-foot setback – just like we are proposing, so it is not without precedence in the neighborhood to do that. Mr. Ginn said that he has lived in the neighborhood for 20-years and cannot imagine what house he is talking about. Chairman Drake said it is the house right next door to Mr. Ginn's house. Ms. Wachs is very familiar with the neighborhood and looked at the Google Earth image. She said if you are standing in front of Mr. Ginn's house you are looking around a corner and that person's garage is not facing the road – it is facing his house. Chairman Drake indicated that the carriage house would not have to face the road either, and if he really wants to put in a two-car garage then you could fit it in the space right off the driveway and you don't have to add any driveway within our 50-foot setback and you still get more library space (although it is not within the house) but it would give you storage space for the books and two more car garage spaces. Mr. Ginn said if you look at the main body of the house where the sidewalk is the corner of the carriage house will be 20-feet forward of that. Ms. Elmer said what they are trying to explain is that it is buildable area and you can build with no variance, no Conservation Commission, no approval except for the Building Department.

Chairman Drake said the only thing we've heard is that nobody in your neighborhood has

that, but your neighbors right next door *do*. Mr. Ginn said his neighbors *do not* have that. He said his neighbor's garages are on the side of the house like his. Their garages have to be 40-50 feet from the road. Chairman Drake said we are just talking about a building sitting within a 30-foot setback of the road and right next door there is a building 30-foot setback from the road which is a garage and the garage doors face not into the road...but into the driveway. Ms. Wachs asked if it was attached to the house. Regardless, Chairman Drake said we are considering the aesthetic. Ms. Wachs agrees that you could pick it up and drop it into a couple of different squares on the plot plan.

Mr. McMahan said that many times on the Planning Board when you want to ameliorate things - considerable landscaping can block a lot of that. Mr. Ginn appreciates the effort; but he and his wife and neighbors have looked at this for two months and determined it would be an eyesore. It will be a big structure sitting 20-feet closer to the street than his house. He wouldn't build it. His neighbors would not be pleased with it.

Ms. Grogan said, as it is now, Mr. Ginn has to put in an additional driveway. Mr. Ginn said he had to extend the apron back. Ms. Grogan asked if he had wildlife back there. Mr. Ginn indicate he did. She wondered how it would impact wildlife. Mr. Ginn said the left and right sides of his property and in back are hardwoods. Deer walk through the woods on side and then cross the street. To the left of his house it is flat and there is nothing there.

Mr. Ginn said that several 80-year old oaks would have to get cut down from the left of his house and the structure would sit where the trees are and extend way out toward the street. if he were to do this. The right corner of the structure would go 20-feet in front of the main part of his house and the structure would sit right near the corner of his driveway and the road.

Mr. McMahan noticed a car in the driveway in one of the photos. He asked if it was Mr. Ginn's car. Mr. Ginn said he supposed it was. Mr. McMahan commented, "So, you *can* park outside." Mr. Ginn said that he rents a place to store 2 cars right now, but it is not very practical if you actually want to drive them. Mr. McMahan said it looks like some of the trees could be retained it seems a structure could fit easily in the square there. Mr. Ginn said the trees would have to come down and it was marked out and they indicated where the corners of the structure would be and the big oaks would have to come down, which kills him because they are beautiful trees, and said, "You really wouldn't want your neighbor to do this."

Mr. McMahan asked, "You don't like idea of compromise?" Mr. Ginn said if that is all he is going to get, he will leave here and thank you for the compromise and he will think about it, but he does not know that it will work. Mr. McMahan asked if he would like to think about it and come back next meeting? Mr. Ginn said he would lose whole building season if he did that.

Chairman Drake pointed out that if a carriage house went into the little corner we are talking about, it looks to him that it would be about 70-feet from the paved roadway. The roadway is within the town's 40 feet of roadway or less, plus there is a sloped easement, plus there is a 30-foot setback from the property line, and there is even more room where your building would be setback because you would tuck it into the building setback plus the 50-foot setback – which makes him think he's got a damn good buffer that equals or betters his neighbor's house - and the garage attached to the house. Ms. Wachs said if the plan is accurate the carriage house would almost be flush with the front of the house. The setback of current building would be the same give or take a few feet.

Mr. McMahan said to keep in mind that the Zoning Board could give some relief on the building setback itself. Ms. Wachs said that was true. Mr. Ginn said it won't accomplish having an attached living space, it would only get him garage space.

Chairman Drake asked if anybody had any other comments. Ms. Grogan said a carriage house would have less impact on wetland than putting in a driveway. Chairman Drake agrees.

Mr. Carter had been sitting there trying to piece things together and said with the last application this evening we *did* set some precedent. It's not his purview to tell someone they can/cannot do something on their property. They are taxpayers in this town. Yes, this is within the 50-foot setback. It's almost 35-feet away from the edge in some points with the closest point being 31-feet. When he starts looking at hardships and we are talking about a carriage house (the building and all the other things that go along with the building: Electrical, heating, and plans for a library above) – so to put a homeowner through having to run electrical from the existing house; digging up a driveway and putting it into a “carriage house” he feels is a hardship to the homeowner. His belief after listening to all the discussion that the least obtrusive way for him to accomplish what he needs to do is to have the garage right where it is. Mr. Carter may not have felt this way when he walked into the building tonight, but after doing his research and listening to the homeowner and the discussion of the commission he feels that is the spot that will be the best for the homeowner, for the future, and we can mitigate how the extra runoff goes into the wetland.

Mr. McMahan stated he doesn't feel the Conservation Commission restricts people in what to do but makes recommendation based on what we think is best for conservation and that is passed on – it is not the final word. Whether we give the recommendation to concur or to encourage the Zoning Board to or not – the Zoning Board is the one that will make a decision. The Conservation Commission also takes a look at alternatives, and we have given two, they may not be the best in the world from your perspective but nonetheless, they need to be considered on their own merit. There are alternatives and

we need to consider the conservation of the wetlands and this is probably one of our primary tasks.

Mr. MacPherson added that homeowners have the right to do what they want on their property within the regulations. We did not set the regulations, but the more we erode the regulations, the more we are inconsistent, the more precedent we set, the more difficult it will be down the road – not only this case, but the cases that follow. Mr. MacPherson said he has been on the commission for a couple of years now and other people have come forward and we've denied it based on the fact that they don't meet the regulations and to Mr. McMahan's point, we have always tried to work with the homeowners every single time offering alternatives, as we have done tonight.

Mr. Carter feels we are all on the Commission, and we all have opinions and that is why we are sitting here as a group of 7 tonight. Mr. MacPherson thinks it will just get more difficult for this commission the more you erode your precedents and the more inconsistent you are – that is his view.

- **MOTION by Mr. McMahan that the Conservation Commission make a recommendation to the Zoning Board not to approve the request on 49 Colonel Daniels Dr., Lot 31-6-13 because we've evaluated options to mitigate the impact to the wetlands setback, and we feel that the garage addition is over-impacting the wetland setback area and there could be a compromise to a smaller footprint impact and that is the reason we are suggesting this variance be denied. Mr. MacPherson seconded the motion.**

Chairman Drake opened the floor for any comments or complaints.

Mr. Ginn commented that he doesn't mean to make the argument for you, but you just gave a variance to someone sitting here in front of me for a 25-foot setback and a 10-foot setback and he didn't hear anyone say that they should cut the house into a smaller house. He knows if he looks through the town records he will find many, many variances that were granted. The challenge, he would think, to this commission is to be able to explain how you objectively provided variances to all those you have given them to versus those that you have not, and he understands that is a challenge to the commission, but that is exactly the argument you are making: If we make this step we are making it more and more difficult, but in reality, he has lived in this town for 20-years, he looks at a lot of houses here that have a lot of variances that are against the rules and he does not see an objective difference between what he is asking for and what the people who sat here 10 minutes before he sat here, yet they have a 10-foot setback. It is not like he is damaging the wetlands.

Mr. McMahan asked to respond. He said that each situation is different and that has been brought up in past. He said, "To be candid, I was not going to vote for that until the

gentleman stood up and said that an investment was made by an elderly couple to be able to have that money available for their retirement due to no fault of their own that now looked like it would not be able to be executed. Things were a lot different when they bought it from how they are now; the town made those adjustments, that would require us if we wanted to consider the human aspect of that and the hardship aspect of that - - and until I heard from the last speaker who changed my mind because of the humanitarian aspects of their proposal.”

Chairman Drake said that he thinks “the answer is that every lot has a value in being built on, and this was a vacant lot that could be constructed if we accepted certain parameters and constraints. You have a lot that is pre-existing; it’s built and there is not necessarily redeeming value for us to approve a garage addition that increases the footprint of your property by 25% if it has significant impact in the wetlands setback. So, that would be somewhat of a difference in my mind.”

Mr. Ginn thanked him for that and asked what happened to compromise of reduced size – - we seem to have moved past that. Mr. McMahan said he thought Mr. Ginn said he would think about it, but probably come back and say, “No, it’s not worth it.” Mr. Ginn said “No, I said I would appreciate it, but in the end may not end up building it, but at least it’s an option I have. I have to work with an architect to see if he can make that shape of a room work, but it’s better than nothing.” Mr. McMahan said that was one of the reasons it was offered. That being the case, before he withdraws and makes another proposal he asked Mr. Ginn if he would be willing to come back once he talks to his architect and take a look at the different options within that and also about getting the setback changed if you wanted to go with that option; but if you are going to limit it to being cut in half would it be your desire for us to table this and have you come back later?

Mr. Ginn said, “No, I would rather get your approval to do that and then I can still make the next meeting of the Zoning Board for their final approval before I lose the building season.” Mr. MacPherson asked what he meant by “the building season” and asked, “Can’t you build any time of the year?” Mr. Ginn said he didn’t think they liked to pour concrete in the winter. He said he didn’t understand what the purpose of coming back again was, if you are willing to give the approval to build in this location a smaller structure why not just do that now versus coming back again?

Chairman Drake said that he thinks they need to approve a plan that we see in front of us and we have asked homeowners to return again after a rejection or disapproval and come back to us with an alternate proposal. He said we are voting for the motion on the table, and the motion is to recommend that this not go forward in its current design and we would like to see the design for a 12x24 addition.

Mr. Ginn said, “So you cannot just approve it with the addition that it must be 12x24?” Chairman Drake said that we must approve a plan. It cannot be conceptual. He doesn’t think we’ve ever approved conceptual things, we approve plans, and that is why we always ask people to come in with alternates and not to show us just one plan, but different plans we can see so we lower the impact to the wetland setbacks. Ms. Elmer said, ‘you do have the option, if you so choose, to limit.’”

- **MOTION by Mr. McMahan to withdraw his previous recommendation. Mr. MacPherson seconded the motion.**

Ms. Wachs took a poll to see who would approve this current plan as it is- with the lowest point of the setback between the garage and the wetland and there would be mitigating structures to filter water runoff that would come from any new construction and any addition to the existing footprint of the house as part of this impervious area. The result of the poll was that 3 voters agreed.

Chairman Drake took a poll to see who would approve a compromise for a limited addition: A 24-foot long x 12-foot wide single garage addition with a library upstairs. 4 voters agreed, and Ms. Wachs clarified that she would vote for it with conditions about stormwater concerns and she would vote for it only so that Mr. Ginn at least has an option even though the size of the room would not be ideal.

Chairman Drake said the Conservation Commission would only be sending their recommendation on the variance to the Zoning Board and they could overrule it and look at it and say, “Those fools are being inconsistent again, and we will approve the whole thing,” and we could be overruled.

Ms. Wachs feels that we are given a single yardstick for all types of projects and property shapes/sizes and it is very difficult to take a single rule like that and apply it to every single situation, so we do make exceptions and we ought to make exceptions. She is not a wetland scientist, but she does value the wetlands in our area, but she also give credit to someone is taking the time to come talk to the commission us about their concerns because we are not a judiciary board. We make recommendations on things and she appreciates the consideration, and the consideration the town makes for what we have to say. All that said, variances are not granted lightly and she thinks they would take all of their own criteria into consideration in looking at this.

Ms. Grogan asked if we are saying that with a lesser building the driveway would not have as big of an impact to the wetlands. Ms. Wachs said it could be, but in theory he does not have to ask for any permission to pave around this area and could in theory pave all the way around his house if he felt like it. We could ask that it could be limited, but Ms. Wachs feels that is a moot point.

MOTION by Mr. McMahan that the Conservation Commission recommend to the Zoning Board that they accept the variance as amended. The Conservation Commission is agreeing to a 24x12 foot addition with the condition that all new impervious areas be treated with stormwater runoff approaches/techniques. Mr. MacPherson seconded the motion. Vote taken by hand – 5 of 7 were in favor. Mr. Carter voted “No” because his opinion is that what we are allowing for mitigation will definitely take care of it and it doesn’t matter if the addition is 12-feet or 24-feet, or 12-feet closer to the wetlands.

Chairman Drake agrees in theory and said that there are techniques to treat any stormwater runoff. He said, “We could put structures 10-feet from a buffer, so where do we stop? We are going to have to decide that because this is going to open the door to something else.” Mr. Carter said he totally agrees that every case should be taken on the black and white that is in front of us and the discussion that we’ve had, and that is why he decided to vote “No” on that.

Old Business:

- Update on Pulpit Rock Conservation Area ongoing modifications:
Ms. Elmer reported that we are still waiting because the Governor vetoed the state budget we are not able to get an answer from the Trails Bureau on whether they will let us include our Phase 2 work as part of our grant.
- Update on Greenfield Farms boundary marking:
Ms. Elmer reported that we are still working on it. People are doing their corrections to their encroachments. By fall, everyone should be back to normal.
- Update on easement monitoring contract with FORECO:
Ms. Elmer reported that she did do the research based on meeting minutes from the meeting last month, and we hired Ron Klemarczyk from FORECO in 2017 to do the easement monitoring from all the properties, and it came to about \$750.00 for him to do all of them. She has asked him to give us a new estimate for upcoming work with the exclusion of Greenfield Farms (because he just did the work there). As soon as Mr. Klemarczyk provides his estimate Ms. Elmer will present it to the board.

Chairman Drake asked if it was an annual contract, and Ms. Elmer indicated it is not. It is a one-year contract. Chairman Drake asked if we could set up a 3-year contract so that it does not have to be voted on annually. Ms. Elmer will check with Becky Hebert, Planning Director, about how the contracts work. If we were to get a 3-year contract, Chairman Drake said we could ask Mr. Klemarczyk to provide a report once a year on the easement monitoring. Chairman Drake asked if Mr. Klemarczyk was doing the boundary markers everywhere too. Ms. Elmer said he is doing the boundary markers at

Greenfield Farms, but it was not part of his contract for the original easement monitoring. Chairman Drake would like to see that added to the contract.

- Update on GPs trail mapping:
Ms. Elmer reported that we are still working on it and trying to finish that up. Chairman Drake asked if we were still using volunteer help. Ms. Elmer answered affirmatively.
- Update on Pulpit Rock Forest Management plan and Woolly Adelgid infestation:
Ms. Elmer provided everyone with a copy of the original RFP that went out. Chairman Drake provided some history: Bedford Land Trust manages the property for us. Last summer they said they had a forestry person out that noted we have the Woolly Adelgid problem, and they asked us to do something about it.

At the end of the summer Chairman Drake did some research and looked for proposals. We originally had a forest management plan created for the northern end of Pulpit Rock property (done in 1990 by FORECO) and then we inherited the whole southern portion because of a developer doing the Pulpit Road subdivision. In the files The Bedford Land Trust had hired someone to do an ecological survey (on certain sections only- not the whole property); The point of the process was not only to look at the infestation that is going on with our hemlocks right now, but to figure out a plan of what to do. At least 30% of that forest is hemlocks. It is getting to the point with the hemlocks that an arborist might advise us to take them down. That may be the only management plan we have, but we need to send a forest professional in there. At the same time, we thought it would be good to sum up all of this stuff and do it as a consistent plan for Pulpit Rock so that we have a forestry management plan, an ecological assessment, and a very nice document that we can put out to everybody to show what we did. In theory, we were going to use that as a plan for all of our other properties, whether forest or ecological, to have an assessment of all the properties that can be placed on the website so that someone could go online in one spot and learn all about our properties (from trail maps, to what is there, what species, etc.). This was the first step in trying to figure out a plan to do that.

The proposal was written towards the end of 2018, Ms. Elmer put it out to bid once in February and we received no responses. Ms. Elmer put it out to bid again in April and we received one response from Ron Klemarczyk at FORECO. In the RFP we were very explicit in the scope of services – especially the graphics because we value having really good graphics on this. Mr. Klemarczyk understands the requirements of the proposal.

For whatever reasons, we have let this proposal sit since April 2018, but we have not talked to Mr. Klemarczyk to see if his prices still hold. Ms. Elmer noted that if we wanted to approve this we could add an inflation value or not to exceed amount.

Chairman Drake would like to move forward with this. We have agonized over the best approach and Ms. Elmer got a lot of feedback from people. Chairman Drake thinks a lot

of people didn't want to approach this project because they knew that we had people involved already; and they didn't know the property well, so it would take them more time to understand it. Ms. Elmer added that a lot of foresters go into this looking to make money cutting down trees - which was not an option on this property. Chairman Drake indicated that there is not a long-term value to them versus where we want to get a value, and Mr. Klemarczyk from FORECO is willing to work with us.

Mr. MacPherson asked if dead trees must be cut. Ms. Elmer explained that we have a conservation easement on the property and you can't just go in and cut trees when a forester wants to in order to make money from the timber sales. That cannot be done. Chairman Drake stated that if we have to take the hemlocks out, whichever way we did it, we would look for that value back of the wood from whoever took the trees out. That will be an afterthought later, and hopefully Mr. Klemarczyk will tell us the approximate value. If he recommends cutting, he can also recommend the value coming back to us from doing that cutting. Mr. MacPherson agrees and is concerned about the diseased trees and feels we need to mitigate the problem.

Having dealt with Mr. Klemarczyk in the past in the conservation efforts of the Southern Rockingham district, Mr. Carter has worked with him and feels that if there is a person that can go in there and tell us what needs to be taken care of – he believes Mr. Klemarczyk is that person and that he is very well suited to take care of this. Mr. Carter believes the neighbors of the Pulpit Rock area would appreciate our taking care of this before it starts spreading other neighborhoods surrounding Pulpit Rock.

MOTION by Mr. Carter to hire FORECO for the forest inventory and stewardship plan not to exceed \$5,000. Mr. McMahan seconded the motion. Vote taken – all in favor. Motion carried.

Enclosures:

- None

Other Business:

Mr. McMahan feels we are a little bit out of sync with the other commissions because we have already established what the order of business and agenda will be. He noticed that we do administrative work and approve minutes at the beginning of the meeting. Although the Zoning Board approves their minutes at the beginning of the meeting, Mr. McMahan says that other boards he has sat on do not. He asked the commission if we should do our administrative work first or later in the meeting. He is in favor of doing it at the end of the meeting, but earlier we talked about why we may not want to do that. Ms. Elmer indicated that the Zoning Board handles administrative work at the beginning of the meeting for two reasons: 1) It is part of the

rules and procedures which delineates the standard way a meeting will be run, and 2) If there is ever anything that is tabled you need to go through the minutes first to establish a record before you continue discussing something at another meeting. She explained that you can either a.) Change your rules and procedures to move it to the end, or b.) You can just make a motion at the beginning of the meeting to move the minutes to the end of the agenda so that you can get through the rest of the business. Mr. McMahan indicated he likes Option B better. Chairman Drake indicated that we approve our meeting minutes rather quickly, and usually there are no concerns. Mr. MacPherson said that we also receive the minutes ahead of time so that they can be read before the next meeting.

Adjournment:

MOTION by Mr. Carter to adjourn at 9:40 pm. Ms. Wachs seconded the motion. Vote taken – all in favor. Motion carried.

The next meeting of the Conservation Commission will be August 27, 2019.

Respectfully submitted,
Tiffany Lewis