

**TOWN OF BEDFORD CONSERVATION COMMISSION MINUTES**  
**September 24, 2019**

A meeting of the Bedford Conservation Commission was held on Tuesday, September 24, 2019 at the Bedford Meeting Room, 10 Meetinghouse Road, Bedford, NH.

Present: Dave Gambaccini (Vice Chair), Mac McMahan (Planning Board Representative), Bob MacPherson, Maggie Wachs, James Drake, Bill Carter (Alternate), Gregory Schain (Alternate), Patricia Grogan (Alternate), Karin Elmer (Planning Department).

Absent: Beth Evarts (Chairwoman), Denise Ricciardi (Town Council), Catherine Rombeau (Town Council Alternate)

**7:00 PM Call to Order**

Mr. Gambaccini served as Chairman for the meeting in Chairwoman Evarts absence and called the meeting to order at 7:00 PM.

Chairman Gambaccini read the opening statement: The mission of the Bedford Conservation Commission is to protect, preserve and conserve the town's natural resources and open space land. The Commission works with landowners by reviewing permits and administering State and Town wetlands regulations, advises other Town Boards on environmental impacts, and recommends alternative considerations regarding development or improvement projects.

**Approval of Minutes:**

- July 23, 2019; August 27, 2019; September 16, 2019 Conservation Commission Minutes

Mr. Drake had an issue with The July 23, 2019 minutes on pg. 12 – he does not think that the motion was approved and then amend it. He said on Page 12 it says, “Motion by Mr. Carter” and it says we approved it and suddenly out of the blue we started amending things. He said we don't usually work like that. He claims to have checked the t.v. tape and that was not the way it was. He feels it should be re-done. Ms. Elmer asked how it should be re-done. He said he did not know and we would have to go back and look, but he thinks the motion was out there and then Mac hit him and said, “Are you going to go forward with those amendments” and that is when we started talking about it, so we never took a vote on that. Ms. Elmer asked if we could change it to “No Vote Taken” to which Mr. Drake responded, “I guess, I don't know, I didn't try to truth check everything. That just struck me as weird” He suggested taking the, “Vote taken – all in favor. Motion carried.” Portion off. Ms. Elmer said that she has to put something, so she will put “No vote taken”, and Mr. Drake said somehow we started talking about the amendments.

Mr. Carter questioned the actual motion on page 26 at the top of the page - it said 5 of 7 were in favor, and it should be 6 in favor, 1 opposed (The one opposed was Bill Carter).

Mr. McMahan says that you know the Rules of Order better than he does, but normally what happens is that there is a proposal; there is a second; and the next thing out of The Chair's mouth is, "Is there any further discussion?". At that time is when the discussion would take place whether it would be a poll or not; but he doesn't ever remember being in a meeting where we took a poll after there was a motion and a second to see how the people were going to vote ahead of time. He said he could be wrong on that. Ms. Elmer says that it happens on other boards. Chairman Gambaccini indicated we would take the process offline and have discussion on that.

**MOTION by Mr. Carter to approve the July 23, 2019 minutes with the changes that were stated tonight. Mr. McMahan seconded the motion. Vote taken – all in favor. One abstention (Chairman Gambaccini). Motion carried.**

**MOTION by Mr. Carter to approve the August 27, 2019 minutes. Mr. McMahan seconded the motion. Vote taken – all in favor. 3 abstentions (Chairman Gambaccini , Mr. MacPherson, Mr. Drake). Motion carried.**

Mr. MacPherson stated he was at the site walk and should be indicated as having been present, not absent. Ms. Elmer clarified that Mr. Drake was the only one who was absent. Mr. Drake indicated that is correct.

**MOTION by Mr. Carter to approve the September 16, 2019 site walk minutes with the above-mentioned change. Mr. McMahan seconded the motion. Vote taken – all in favor. 1 abstention (Mr. Drake). Motion carried.**

**Dredge and Fill Applications:**

- **Frank Robertson: Dredge and Fill permit to fill approximately 250 square feet of wetlands for the construction of a new driveway for a single-family home on Wallace Road, Lot 14-67-1, Zoned R&A.**

Earl Sanford from Sanford Surveying and Engineering presented for Frank Robertson who was unable to attend this evening. He said this is a subdivision that was approved in 2011 for the Van Loan property. The lots on the north and south have been developed. It had a dredge and fill to get past Wallace Road just above the North Amherst intersection on the left heading towards Goffstown. The lot is such that about 50-70 feet from the road is a shallow isolated wetland that dies out within the next property to the South. In order to utilize the buildable area it needed a crossing for a single driveway for a single-family residential lot. It got an expedited approval that lapsed, and Mr. Sanford is here to rejuvenate the approval.

Mr. Sanford said they have come up with a crossing design, and after that they had to do a septic design. When the application was first done they had not done test pits and it was unsure how the house placement would be. Coming up Wallace Road, there is a crossing, then as you head up the hill and there is a ridge that runs north-to-south and they are looking to get just past there to place a 3-bedroom house with garage. This will all have to be shown to the Historic District Commission, as well. There is an impact, so we have proposed a 15-foot culvert that is 30-feet long to allow for both a driveway and an embankments down with some temporary impacts to some rip-rap .

Mr. Sanford reviewed slides of the property. Mr. Sanford reviewed a plan of the approved subdivision, and a plan showing follow-up crossing. The wetland impact is 250-feet permanent, and 200-feet just beyond the culvert that we will make back into wetland. It is not a big impact. There is no building envelope between the road and the wetlands so it's a forced situation in terms of needing to get through to the other side. The approval lapsed twice, and that is why he is here again.

Chairman Gambaccini opened the floor for questions from the Board.

Chairman Gambaccini asked when the last time the approval had lapsed was. Ms. Elmer said the last approval was in 2011 and it went for 4 or 5 years.

Mr. McMahan asked if there were any comments from the abutters. Ms. Elmer said abutters do not get notified of Conservation Commission meetings. Mr. Sanford said he notified each of them via certified mail. They are supposed to get notified after, but after the comments at the last meeting he felt it would be better to give them a fair chance to speak, so they went ahead and notified each of the abutters.

Mr. Drake asked which way the flow is going on the pipe. Mr. Sanford said it goes left-to-right and does not flow into the 12-inch pipe. He said there is a 12 inch pipe across the neighbor's driveway that disappears into the lot that just got developed.

Mr. Carter asked how it would affect the lower wetland further down Wallace Road. It starts out as a 12-inch pipe and then goes down to a 15-inch – will that increase the flow causing more of a wetland. Mr. Sanford said if anything it would stop it, and they've thrown in infiltration trenches to mitigate the impervious areas to collect the initial flush that goes into stone trenches; so there should be no increase with the mitigation measure they have taken. Mr. Carter asked if it wouldn't cause the wetland to be more towards Wallace Road if there was extra flow. Mr. Sanford said it would not. In a massive storm there is ample room for it to flow without going under Wallace Road with a 2-foot+ drop-off. A huge culvert was put in with another development to handle anything that might come through that was storm water flow and it would go into a catch basin. Mr. Carter commented that the paper said it could hold a 100 year event, so it should be fine.

Chairman Gambaccini asked for public comments. There were none.

**MOTION by Mr. McMahan to authorize the Vice Chair of the Conservation Commission to sign the application and pass same on to DES without comment. Ms. Wachs seconded the motion. Vote taken – all in favor. Motion carried.**

**New Business:**

• **Jonathan Stodolski – Presentation of final Eagle Scout Project for the Heritage Trail**

Jonathan Stodolski of Bedford, NH introduced himself. He is a member of Eagle Scout Troop 5 in Bedford, NH. He reported that he finished his Eagle Scout project which consisted of 2 handicapped accessible picnic tables and a carry-in/carry-out sign. It took 85 man-hours to complete the project. \$432 was fundraised and they spent less than what was raised. Mr. Stodolski followed his timeline (1 week for the install).

The picnic tables are handicapped accessible, which means the benches are cut short so that 2 wheelchairs could be pulled up on both sides of the table. The carry-in/carry-out sign has an easy to understand graphic and is about 5 feet tall. Mr. Stodolski built the picnic tables using pressure treated lumber from Lowes and carriage bolts. He used one of the best-rated templates found on the internet to build them in his driveway and his scout leader and troop helped with a trailer to transport it. One carry-in/carry-out sign was placed at the head of the trail, and one in the picnic table area. There were two existing signs at the picnic table, so with the one he added there are now 3 carry-in/carry-out signs in the picnic table area and 2 at the head of the trail.

In discussing maintenance, Mr. Carter suggested that even though the picnic tables are pressure treated wood they are left out year-round so they may need to have sealer applied. Ms. Elmer indicated the town has never done that, but it may be something we want to talk about for future projects.

Mr. MacPherson asked if the materials were donated, when the project was completed, and if people were using them yet. Mr. Stodolski said they were purchased at Lowes with a 10% discount; the project was completed 3 weeks ago; and he had been down to the trail to check if people were using them but is unsure.

Ms. Elmer thanked Mr. Stodolski and let him know he would be receiving a certificate in the mail and a letter releasing him from all liability.

Mr. Drake asked if the project is documented or archived on the website somewhere. Ms. Elmer said we have not done it in the past, but it is a good idea.

The Conservation Commission congratulated Mr. Stodolski on a project well-done.

- **Jeffrey & Shirley Ginn – Review of a revised 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.**

Jeffrey Ginn and Earl Sanford of Sanford Surveying and Engineering presented. Mr. Sanford explained that about a month ago Mr. Ginn presented an application for a 24'x24' garage attached to the back of his house that required relief from the 50-foot setback. In 1998 Dick Vaughn performed a wetland survey, and when Mr. Sanford went out to reflag it recently it was very curious to him because he came up with a line that was quite a bit closer to the house. There was some question at a prior meeting about why the wetland area had changed. There is an upland area where Dick Vaughn flagged the wetland in 1998, but the builder dug up that area and buried tree stumps and a strip of upland was left behind. Mr. Sanford thinks what happened is that when they filled it in they left it mounded slightly, but stump dumps tend to settle, and once they settled the depressed area became a magnet for water. The water took over and now has all the characteristics of a wetland today. Mr. Sanford said the main thing is that there is open lawn up to the flagged wetland and uneven ground from the stumps and soil that caved in around them.

Mr. Sanford presented in front of the Zoning Board and was told that they should take Mr. Ginn's variance request back before the Conservation Commission with the focus on discussing the environmental impact. Mr. Sanford reviewed the GIS for undeveloped area on Mr. Ginn's lot and pointed out an area that is a corridor for wildlife to get to a huge wetland located to the West of the Ginn property. Previously the Conservation Commission said they would be alright if Mr. Ginn reduced the size of his garage from 24'x24' to 12'x24', but he had a need for a 24x24' with two bays to house a project car and one other vehicle. They would like to explore putting a 24'x24' structure on the other side of the driveway.

Mr. Sanford reviewed options:

- 1.) A 24'x24' garage attached to the house in the back. No trees or vegetation would need to be removed and all of the wiring would come right through the house because he would also like to create a room in the space above the garage. There is also no visual impact having it in the back of the house. A neighbor who appeared before the Zoning Board of Adjusters said that he would prefer having it in back of the house where it can't be seen from across the street.
- 2.) A 24'x24' garage that is detached from the house but would require taking out multiple trees located right in the wildlife corridor that has value from a wetland scientist perspective. There is a big plus in leaving vegetation where you can per Rick Vanderpool's wetland corridor seminar. It would also be less efficient because the wiring would not be able to come through the house and would therefore require digging to that new wiring and plumbing could be installed.

The appeal to the Conservation Commission today is that it might make more sense to allow a 24'x24' garage attached to the back of the house, rather than make it detached and affect the wildlife corridor.

Mr. Sanford saw ample signs of deer when he visited the Ginn property and showed photos of deer crossing through the property in the area where the garage would have gone if it were detached from the house. Mr. Ginn said the deer have lived there for the 20 years he's lived there. The deer are always there with their offspring. Mr. Ginn said that bears also migrate through that area. Mr. Sanford said that the forestation has a positive effect when it comes to a wildlife corridor.

Chairman Gambaccini opened the floor for questions from the board.

Mr. Drake said he had several concerns:

- 1.) The idea of protecting a wildlife corridor is not within the Conservation Commission's purview other than being stewards of the environment. The primary concern is on wetlands and impacts to the wetlands. Those are the rules, and we must play by those rules.
- 2.) Mr. Drake said that what they presented this evening is a neat argument, but if we were to entertain this, he would like to apply this argument to all projects that come before the Conservation Commission represented by Mr. Sanford's firm. In other words, whenever he comes in with a wetland impact he would like him to look at the wildlife corridors and protect the trees on that property.

Mr. Sanford said it is always a balancing act. If you are to go by the rules, Mr. Ginn could get a dredge and fill application and go 50 feet on the upland side and wipe out all kinds of trees and put a barn in. The Conservation Commission may have an opinion, but in general, Sanford's experience has been that if you have an acre and a half of buildable upland and there is only a 20-30 foot crossing to get to that - when it goes to the State they are pretty good at giving those. Mr. Drake said that was a point well-taken.

- 3.) Mr. Drake asked if Mr. Sanford had any experience on defining what the wildlife corridor is and how much tree-taking will impact the wildlife corridor if a garage was to be built there. Mr. Sanford said he took a course about wildlife corridors and were required to go through several areas throughout the State to look for signs, and areas of interruption created by construction and the implications of that. Mr. Drake asked how big the wildlife corridor is and how much we are considering taking. Mr. Sanford said the corridor connects 160 acres of uninterrupted corridor (there is a road the wildlife has to cross). In his wildlife corridor course they used a formula that says if there is at least one minute of interruption between traffic, then that is a metric

indicating that something additional needs to be done. Mr. Sanford said it is not a lot of impact to the wildlife corridor to put the detached garage there, but it is a lot more impact than placing the garage in the back connected to the house.

Mr. Drake feels that from a regulatory standpoint any addition in the back of the house would be in complete non-conformance because it is well within the 50-foot setback. Mr. Sanford said at the closest point it was 31.4-feet, so there is 31 feet of separation.

- 4.) Mr. Drake said the other issue has been the protection of the oaks which is a very good idea, but he is afraid that the oaks are awfully high and awfully close to the house and either Mr. Ginn or a future owner of the property may decide to take them down, so if the Conservation Commission goes out of their to impact a wetland in order to save those trees, how does the commission ensure those trees are never moved. Mr. Ginn said there are 5-6 Majestic Oaks and it is his intention to save them and he has no intent to remove them. What is unique about the wildlife corridor is that the house behind him is 100 feet up on a hill and has a driveway coming across it, and there is another house mid-range on the other side of that; he thinks the corridor exists because of the large wetland on the other side of the street. That is why they are coming through. If you re-route the animals to come up the other way then they would end up on the street and have to come back down the street to get to the patch that gives access to the huge wetland area. That is why there is so much wildlife traffic there.

Ms. Elmer indicated that a wildlife corridor is part of an open space plan and it is mentioned as being highly valuable. Mr. Drake feels it is for the Zoning Board of Adjustment to decide. Mr. Sanford said that the Zoning Board said they are not conservation people and sent them back to the Conservation Commission because it is a conservation issue. Mr. Drake would like to know how much cutting into the trees makes a difference to this wildlife corridor. He thinks the Zoning Board asked how much they would be cutting into those trees. Mr. Sanford said they would be cutting in a depth of 24-feet and showed where on the aerial photo the cutting would take place. Mr. Carter is going through a similar process with his garage right now and reminded that in order to get the machinery in to cut the trees you would be looking at needing to have another 10 feet around the garage area just to make sure the machines could get in to do the work. Sometimes you start to find the roots of other trees (and oaks have a very strong root base); so you are not really looking at a 24'x24' area that needs to be taken, it would actually be 48'x48' space that needs to be taken to get this done properly. Mr. Carter indicated that we had already made recommendations couple of months ago when it came to adding to an existing building with the Goedecke project. Mr. Goedecke came before the Conservation Commission to add a 900 square foot addition to an existing 24'x24' garage within 35.9 feet of a wetland setback and we approved that and made him put in a drainage swale heading toward

the closest point of the wetland to treat the water coming off the extensive building and the driveway associated with it. Mr. Carter attended the Zoning Board to listen to what they had to say and see their concerns, and what he got out of attending the meeting is that the Zoning Board is very stringent about the Conservation Commission's recommendations. Again, he is going through the same thing with his garage and realizes that you don't want to cut too much into the root system or have part of the tree falling on the new building. At the last meeting Mr. Carter was opposed to the 12'x24' garage but he thinks if we ask this applicant to put in the proper swale drainage toward the old stump dump that would allow the water to be treated before it heads out to the wetland. In looking at the plans from 1998 when the wetland setback was first flagged compared to now, what we are really trying to do is ensure that the water coming off the new extended building is treated so that it does not cause any issue with the wetland and he would rather save trees than create all the work that would be needed to put a detached garage in that isolated area and cause less of a hardship to the applicant. Goedecke's project came within 35.9-feet of the wetland setback and the Ginn project would be within 31.9-feet of the wetland setback – a matter of 4-feet, but we allowed someone with a similar impact to move forward with their project with proper drainage swales to treat the water coming off the building.

Mr. MacPherson the last time Mr. Ginn appeared before the Conservation Commission a compromise had been presented to try and meet him halfway, and asked why the compromise was not acceptable to him. Mr. Ginn appreciate the compromise; however, halfway does not accomplish the building needs that he has. That being said, he hired Mr. Sanford to see if they could do it as recommended in the compromise. Mr. MacPherson said in Bedford you see a lot of 3 car garages, but not a lot of 4 car garages, and asked why this is so important. Mr. Ginn said his wife has a lot of sentimental attachment to some of these cars and he needs to store them. He wanted to build the additional space so he doesn't have to leave them sitting in his driveway. He is trying to utilize his land. When he bought the home he was told he would have no problem building on his land; and before he came here he was told there should be no problem getting this variance. When he originally started this project only a small corner was going to be a few feet into the wetland setback. He was told to have the wetlands re-assessed and found the wetlands line had moved because of the stump dump. So, things have evolved. He tried to find a way to build the garage on the other side of the driveway which is not ideal because it would require cutting down several of the Majestic Oaks and he was advised that it is more of an environmental impact to do that than to build it behind his house.

Mr. MacPherson said back in July the conversation seemed to be more about a library than a garage – so which is it? Mr. Ginn said it is both. Mr. Sanford said we are trying to keep the conversation environmental only – Mr. Ginn does have project cars

and originally wanted a 3-car garage. Mr. MacPherson asks what is so pressing that we should issue a variance. Ms. Wachs corrected that we are not granting a variance – we are only making a recommendation that will make a difference. Mr. Sanford said all they are trying to do is find the most environmentally friendly way to get a 2-bay garage.

Mr. McMahan asked what percentage of the garage would be built into the setback. Board members indicated it would be about 2/3. Mr. Sanford said the wetland that goes through his property is 30,000 square feet, per his calculations of that 30,000 feet he is asking for 1% relief.

Mr. Drake thinks the Zoning Board had the same statistic on the amount of footage of woods that would be impacted compared to the total footage which is very small. Mr. Sanford disagreed and said we just had the very good argument that 24' plus another 10' feet around for the machinery would actually be needed. If the garage is built in back of the home no removal of trees is needed because it is out in the open. Mr. Carter indicated he could even pave that if he wanted to. Ms. Wachs agrees and what keeps coming up in her mind is that we do need to protect the wetlands and the setback is there for a very good reason but at the same time our job is to weigh the mitigating circumstances about where the property lines are drawn, where the wetland used to be when the house was originally built, and she personally feels removing all of those trees would have a very big impact. Weighing all of things against the setback we are supposed to be beholden to, putting it all in context, and considering she doesn't think it is fair to question the homeowner on why he feels this addition is necessary for his own home. She feels he is limited to where he could put the garage because of the way his house and thinks where it ended up is the way that would make the most sense.

**MOTION by Ms. Wachs to recommend that the variance be approved for this plan. Mr. Carter seconded the motion with discussion.**

Discussion: Ms. Grogan asked for clarification on where the driveway would be and Mr. Sanford indicated they would be onboard with any best management procedures to treat the roof water and the pavement. Mr. McMahan is not excited about cutting down trees but it looks as though most of his property has been clear-cut and it didn't affect the deer and bears that traverse, that aside he thinks we need to consider that we are setting a precedent where the huge majority of what they want to do is within a setback. It is his property, but it is not his property to use and that is the reason we have setbacks. Ms. Elmer interjected that we do not set any precedents on this board. Each property is looked at on its own merits.

Mr. Carter added to the motion that some sort of drainage swale be done to take the water off the roof to be moved to the shortest distance to help mitigate the water off

the roof. Mr. McMahan and Mr. Drake felt that anyone who has come in with that much of a significant impact to the setback (where 3/4 of the structure in the setback) has had to work with the commission to mitigate that or move forward with an alternative plan. Mr. Sanford said he believes his last application on Maple Drive was 100% into the 50-foot setback and he doesn't want an inaccurate statement on record that the commission has never seen a percentage so high because that was 1,600 square feet 100% in the setback.

Mr. McMahan said that Ms. Elmer is correct that each project is considered individually, however since Mr. Sanford is citing that this has occurred we need to take a look at it this and in his opinion we need to look at this and either reach an agreement somewhere in between or not to allow this because of the magnitude of it. Over the years he has been on this board he feels there has been a creep that seems to be getting larger and larger each time, so if it is that important we may need to look at whether we need to change the setback. He believes the setback is there for a purpose; we are a conservation board; and that needs to be taken into consideration.

Mr. Gambaccini leans more toward what Mr. Carter has pointed out – that we have done things for non-conforming lots and he looks at this as a low impact man-made wetland. It's a stump dump and prior to that the setback was further back. This is less of a concern and he doesn't see much of an impact if a swale is added to a stump dump. He said that the Conservation Commission does not make approvals; they only make recommendations for other boards. To him the impact to a man-made stump dump is far less significant than the applicant enjoying his home the way he would like, and/or the alternative of clear-cutting a vast area just to put in a garage that is not attached to the house.

Mr. Carter said that on another project that came before this commission we recommended that it was o.k. to be within 35.9-feet of the wetland and what we did for mitigation was to ask the homeowner to help take the water off a 48-foot long structure and in doing so he was actually looking out for the homeowner because a lot of that water would have headed toward his septic system and leach field, and he was concerned that the water go instead where it could be best treated which meant going toward the wetland. Mr. Carter wants to clarify that every project is done on its own merits, but when we make a recommendation we need to understand that the Zoning Board takes what we have to say very seriously. He wants to make it clear that it is not for him to say what Mr. Ginn does with his property but to make sure that it is done within the regulations we have in this town.

Mr. MacPherson said for the sake of consistency the argument being brought forward is an environmental argument - and what Mr. Ginn wants to do would be better than taking down the trees and cutting down the vegetation, but if that comes into our

purview we would have to consistently consider that for every case that comes before this board.

Mr. Sanford said that there is a 160-acre swath of continuous wetland bridging through this area that not every project will have, and that wildlife corridor is very different. You cannot generalize. Mr. MacPherson feels if we are to look at these things environmentally we have to do it for all cases. Mr. Drake said tree protection is not something we can worry about if it is not within the setback.

Ms. Wachs wanted to mention that even though we have a single objective measure (the 50 foot setback), everything else that we discuss is entirely subjective. This board has approved variances based on financial hardship of the homeowner, so she thinks it's only fair that to take each homeowner and project on its own terms and one of the big factors for her is that this is a non-conforming lot. The quality of the wetland does come in to play when we are looking at things like this. Asking a homeowner to not only move the structure in a way that would require taking down some very large high-value trees, but to incur the expense of running power, plumbing and possibly having to clear out more area around the footprint – she just doesn't think the commission is here to simply say something as simple as: "We are willing to allow 10-feet into the setback and everything else is an absolute 'no'" – the purpose is to take into account all of the other things that are presented to us. Ms. Elmer interjected to make a correction that this is not a non-conforming lot, it is a conforming lot. Ms. Wachs said she is looking at where this house sits – when you are facing the house there is a great deal of space to the right of it, but the house is tucked into the left half of the lot. You can't pick up the house and move it and add an addition and not have it come into the setback. That is not possible. You have to work with what structure is already there.

Mr. Drake pointed out that we probably should not have factored financial hardship into the decision they made in the past because now those homeowners have moved and the variance stays with the property forever. He said that if we grant the variance to Mr. Ginn's property it will also stay with the property forever. Ms. Elmer said that is not true and corrected him that the variance, if granted, would only stay with the property for 2 years and the garage must be built within 2 years and then the variance goes away.

**Chairman Gambaccini appointed Mr. Carter as a voting member to take the vacancy left by Chairwoman Evarts spot (Alternates are only allowed to vote if a regular member is absent). A vote was taken. 3:3 (Gambaccini, Wachs, Carter in favor : Drake, McMahan, MacPherson opposed). Vote fails and there is no recommendation. It goes to the Zoning Board of Adjustment as no recommendation.**

Mr. Drake said when we had the long discussion two months ago we were pretty sure you could fit the garage outside of the wetland setback and yet it was shown to the Zoning Board of Adjustment within the setback and he doesn't understand why. Mr. Sanford thought it was agreed that there would be some relief. Mr. Drake said we were trying to get the garage out of the setback completely and he got the feeling that the Zoning Board of Adjustments (ZBA) thought that the Conservation Commission approved that, or that was our alternative. He said the alternative was to make sure the garage was out of the setback completely by pushing it down a little bit. Mr. Drake said he was surprised that it was shown to the ZBA under an implied pretext that the Conservation Commission thought it was a better position. Mr. Sanford would have to look at the minutes – and if it was true, when we go back he would like to clarify what relief was discussed and if you say zero, then the question is answered. Mr. Drake said the relief was zero, and he can only speak for himself, when he says that the garage would fit outside the setback nicely.

Mr. Drake said the existing recommendation is for a 24'x12' garage, but it appears a 2-bay garage is a “must”; so his consideration right now would be to reject this completely and have the property owner come back with something else or the 24'x12' garage. It would also provide a chance to understand the need for this because it has been said that he needs an extra 2-car garage and a library upstairs. Mr. Drake said a 24'x24' library is interesting to him in this day and age of electronic books. He wonders what the urgent need is and why we can't compromise, so he would suggest that we reject this and get a plan with a 24'x12' structure that we can look at with some wetland mitigation perhaps added to it.

Mr. Drake referred to the conceptual plan (with a channel in the back and a wetland in the front) that the Conservation Commission approved on Maple Drive two months ago, but the ZBA raised that issue of why they were approving a conceptual plan. Mr. Drake feels we shouldn't even be approving or accepting anything that is not a final plan. Others have come back with a final plan after we have reached a compromise with them, so he would suggest we wait for that.

Chairman Gambaccini corrected him that their use of it, their need has nothing to do with our recommendation and he reminded Mr. Drake that we do not make approvals. Ms. Wachs thinks we've questioned Mr. Ginn on the same point 5-6 times and we should probably let it rest and go with what he has told us so far. Personally she does not think the rationale for extending his home is any of our business – and it doesn't matter if he turns it into a game room or uses it for solving world problems – it's not for us to make decisions on what he does with the space. Mr. Drake said we made a decision based on a hardship – because they said they had a hardship and needed an addition, and by the same token if we are presented with a purpose....Ms. Wachs stopped him and corrected him that it was not hardship for an addition, it was

hardship based on a conceptual plan so that they could maintain their financial stake in the property. Mr. MacPherson thinks we try to work with the homeowner and come up with a compromise and he questions if meeting Mr. Ginn halfway with a compromise would be acceptable.

Chairman Gambaccini asked what the measurable impact of 12-feet is to the wetlands. Do we have scientific data or engineering studies to explain what the impact of that 12-feet would be if they are able to compromise (go from a 24'x24' garage to a 24'x12' garage)? Mr. Drake said there is a 50-foot setback and we should not be interpreting the rules and should just change the regulations.

Mr. Sanford indicated that the ZBA said to bring this to the Conservation Commission because they didn't have the expertise there on wildlife corridors. He asked who on the Conservation Commission has expertise in wildlife corridors. Mr. Drake thinks if you want to make a point about a wildlife corridor he would want Fish and Game telling us that cutting into the woods is going to significantly change the corridor for wildlife. Mr. Sanford asked why does it have to be significant change and not just a better option? He will admit it is not a significant change, but he will argue all day long that attaching it to the house is a more environmentally friendly design. The ZBA sent him to the Conservation Commission to get the expertise for wildlife corridors and nobody here is qualified so you are going straight by the 50-foot setback. As a property owner in this town he feels the board is missing the big picture. He could read quotes from Fish and Game on the value of corridors which he sent in to the ZBA. Mr. Drake asked, "ZBA was asking us for our expertise on the wildlife corridor?" Mr. Sanford said, "We cannot accept this argument from you because we are not conservation experts" and sent us back to the Conservation Commission on the whole wildlife corridor issue. Ms. Elmer thinks it was on the application as a whole, not just on the wildlife corridor. Mr. Sanford's argument is balance: You take the trees from a connector to 160 acres of nice woodland versus going in the open where you've already given 12-feet of grace – we are just asking for another 12-feet

Mr. Drake asked if the 24'x12' recommendation from last meeting stands. Ms. Elmer said that the ZBA would take both sets of minutes and all their comments and concerns into consideration. Mr. Drake said he didn't get the feeling that the ZBA had read the Conservation Commission's minute. Ms. Elmer said that the ZBA gets the Conservation Commission's minutes.

Mr. Sanford asked if it was a punitive measure that is being taken. Mr. Drake said "No" and that they are saying that a 2-bay garage is a "must". Mr. Sanford is going to ask Mr. Ginn to rethink it, and would hate to have him say it's too late. During the last meeting Mr. Drake indicated a vote was taken and Mr. Ginn asked, "what about the other alternative?", but it was after the vote had already been taken. He said it

was presented to the ZBA as a “must”. Mr. Sanford will see if would like to rethink and relax that. Mr. MacPherson said he would be comfortable leaving what we voted on last meeting on the table.

In her two years on the Conservation Commission Ms. Wachs has been part of discussions where we ask homeowners to rethink things and come back. In her experience these types of conversations for the most part have involved swimming pools, decks and things that are easily reconfigured like moving a staircase from one portion of a deck to the other or reducing the size of a swimming pool and changing the location and orientation for example. She thinks talking about an addition built on to an existing home is an entirely different animal that involves more than just decking and requires plumbing, electricity and many parts so she feels that needs to be considered and not lumped in with other homeowners whom they’ve asked to make drastic changes to plans. In this case that is why she is not taking a hard stance because what else could we possibly say...”just take off your living room and completely reconfigure the inside of your house”? She thinks we must balance what is reasonable with preserving the wetland setback as much as we can.

Chairman Gambaccini feels Mr. Sanford and Mr. Ginn have done a good job stating they would like to appeal to us and felt as though they did. They offered a clear-cut of trees versus the plan they have proposed. You’ve appealed to the destruction of one area for the preservation of another. He thinks the discussion they have made make sense. He is not worried about an additional 12-feet for the garage and agrees with Ms. Wachs and believes that what he wants to use it for is his business. The idea of saying that we are going to compromise with you by taking 12-feet out of your garage doesn’t make sense. He doesn’t believe in making Mr. Ginn do more work or reducing the size of the garage he wants to enjoy. Mr. Gambaccini thinks there is an unfair compromise that is trying to be made, for what point he does not know. There is no scientific or engineering evidence that says there is less of an impact if we reduce the size of the garage by 12-feet. The Conservation Commission is only making recommendations – there are other boards that will approve it.

Mr. Drake raised the point, by the same token is there any scientific evidence that building this 10-feet from the wetland setback will have any environmental benefit or impact?

Chairman Gambaccini apologized for the non-decision at this point.

Ms. Wachs took a poll and asked if any of the voting members would change vote given the last round of discussion. No one said they would.

Mr. Ginn said it is not his preference, but if he built it on the other side of the garage where the square is indicated it would encroach on the wetland setback by 3-feet. The

reason they put it there in the first place was so they would not have to cut down additional trees and not build more driveway (which was a concern the last time he was here). If he puts it there, there is still room to turn around in the driveway and he doesn't have to put in more driveway, and he doesn't have to cut down the other oaks. It eliminated having to cut down more trees and add more driveway, but it would require a sideline setback. The corner would encroach about 3-4 feet. Mr. Sanford said it could be adjusted, but that's just where we could get the turning radiuses for the garage to work. Ms. Elmer indicated this option is on the plan right now. The Conservation Commission reviewed it. Mr. Drake said if they moved it out of the 50-foot setback they wouldn't even need to come and see the Conservation Commission. Mr. Ginn said he would then have to add more driveway and cut down more trees, and if the whole point of this was to conserve our environment that is why we came tonight to ask which would be better for the environment. Mr. Sanford said it speaks to the master plan and the rural character and he thought everyone was under that umbrella.

Ms. Wachs agrees with Mr. Ginn and Mr. Sanford and feels the better environmental impact would be an addition to the home and not clearing additional space on the property.

Mr. McMahan said if he moves it a little more he wouldn't even need to come to the Conservation Commission. Mr. Ginn said that anything to preserve the environment and preserve trees doesn't seem to be in the Conservation Commission's agenda. He is trying to preserve the Majestic Oaks and do what's best for nature.

Mr. McMahan – the dotted line. Mr. Ginn said it seems that anything to preserve nature and these trees is not in the Conservation Commission's agenda. He is trying to do the same thing the commission was established for and preserve the environment. The majestic oaks are magnificent trees, 100 feet tall and make the whole neighborhood and stand out, and he is trying to preserve them and he thought that is what this commission is about - to preserve nature and do the best thing for nature and no matter how he approaches this he is being told to cut everything down because then he doesn't need to come here. It seems unreasonable to him.

He asked what the commission's opinion would be about using the dotted line because it would be the least impactful without cutting everything down and allow turning radiuses. It would require relief because the only way to do it without cutting down the other oaks and adding more asphalt and further impact the environment. Mr. McMahan says that sounds good.

Ms. Wachs appreciates the point Mr. Ginn and Mr. Sanford are making and agrees that it doesn't make a whole lot of sense to ask that someone do something equally

damaging to the property and if mitigating factors were taken into consideration with the addition built on the house she thinks it would be fine.

Mr. Sanford asked that it be recorded in the minutes that nobody spoke up as having expertise in wildlife corridors. Ms. Wachs indicated that the commission's only purview is the wetland and wetland impact. Mr. Sanford feels the Conservation Commission has a bigger umbrella than just being a stickler to the 50-foot setback and to see that that hammered at us when we are trying to make a good argument is tough to swallow as a resident of the town. Mr. MacPherson said they can agree with that argument as long as they are consistent in making that argument.

Mr. Drake suggested that we add to the minutes: He suggests the proponent hire or engage NH Wildlife to indicate whether this is of significance, because they are saying the commission are not wildlife experts, so he would get one and go to the ZBA and say that the Conservation Commission made their judgment but I feel the wildlife corridor is more important and I've got an expert that says it is a huge benefit to keep these three trees. Mr. Sanford said he's not into the superlatives, it's just a balance.

Mr. MacPherson says that is a point well taken, and he hears his argument and to some extent he agrees with it but they have certain regulations they are bound to. Mr. Sanford said that is what he would like to see released. Mr. MacPherson said he is with them, as long as they make a consistent argument to the Conservation Commission in the future. He is for preserving vegetation, trees, and not harming the wildlife.

Ms. Wachs says the whole point is that they are asking for a variance and they are asking the commission to make a subjective decision whether that variance would severely impact the wetland that is there or not. We are asked to review it and consider whether or not that variance would be a reasonable exception to make. The rule still stands and we are not undoing the setback by saying in this one case, with this laundry list of circumstances that we would recommend approval of the variance in this case because of this very specific unique situation, and that is what we are asked to do every time we look at something like this. Everything in its' own context, and we have to look at it and make a decision. Trying to apply any rubber stamp rule doesn't make any sense because the structures are different, the shape of the plot lines are always different, the encroachment on that setback is always going to be different. It's never going to be a cookie-cutter approval or denial. The factual project laid out in front of us has to be taken into context. Mr. MacPherson said maybe the rule needs to be changed. Ms. Elmer said that would be a discussion for the commission's upcoming workshop.

Mr. Carter raised the fact that without putting a building there, Mr. Ginn could pave all the way to the edge of the wetland, so what is the difference between 4-inches of pavement or a 24'x24' garage . Mr. McMahan said that is another discussion for the workshop. Mr. McMahan said it has been brought up many times that we need to take a look at the 50-foot setback and we should discuss it in the workshop.

Mr. McMahan thanked Mr. Ginn for coming in again and wished him good luck with the Zoning Board of Adjustment's decision. The Conservation Commission only makes recommendations.

### **Old Business:**

- Review of Circle Drive Site walk  
Ms. Elmer reported that she thought the Circle Drive site walk went well. It was nice having the engineer and the wetland scientist to help us walk the site and show us the test pits, the different types of soils, the terrain and what the wetlands look like. Mr. Carter commented on the second half of the walk on Emergency Drive and said it was eye-opening because there was discussion about box culverts. He was able to find out why they were not going to be doing it that way. It was well-worth going to see where the emergency exit was and have an understanding of what is needed because extension of water and sewage needs to be put out there. He felt it well worth taking a site walk in this town to see what we need to talk about if and when they do come back. Mr. MacPherson commented that you can't appreciate the magnitude of what is being asked until you get out and walk around out there. Ms. Wachs commented on the second half of the site walk when we went out back to see where the access road would be and said that it was quite different topographically from what we had seen elsewhere, namely there is a huge body of water, a beaver dam, and a channel that needs to be crossed. Ms. Elmer doesn't know when they will be back, but they will be back eventually.
- Update on Pulpit Rock Conservation Area ongoing modifications  
Ms. Elmer reported that it is still pending and we still haven't gotten a firm approval from State whether they are going to approve all of our Phase 2 recommendations for Pulpit Rock because the State budget has not passed. They said they can extend it one more year until 2021 – so if for some reason we do not receive their final word this year we still have until next year to work on the project. Ron Klemarczyk of FORECO would like to get started on the project very soon. He has been out of town fighting forest fires and just got back the other day, so we will be starting on that process.
- Update on Pulpit Rock Forest Management Plan and Woolly Adelgid infestation  
Ms. Elmer reported that we got a new estimate. At the last meeting Ron Klemarczyk of FORECO was approved for his plan with a not to exceed \$5,000 motion. His new revised estimate with inflation came in at \$4,870 and he will start that project soon.
- Update on Greenfield Farms boundary marking

Ms. Elmer reported that, as said earlier Mr. Klemarczyk was out of town fighting forest fires, so he couldn't get out to do the Greenfield Farms boundary marking, but that will be finished.

- Update on easement monitoring contract with FORECO  
Ms. Elmer reported that Mr. Klemarczyk is working on getting us a new proposal for easement monitoring. At the last meeting Mr. Drake asked if Mr. Klemarczyk could do a 3-year contract, but we are doing a 1-year contract because it's easier to do the accounting year by year than it is for 3-years.
- Update on GPS trail mapping  
Chairwoman Evarts reported that we lost our intern that was doing the GPS trail mapping, but he is back and will finish it up, so by the end of the year we should have all of our trail maps up on the town website.

**Enclosures:**

- None

**Other Business:**

Ms. Elmer handed out a flyer for the NH Association of Conservation Commission's Annual Meeting. She also sent an email about it. Both Ms. Wachs and Mr. Carter said attending the meeting is very beneficial and has great workshops.

Before adjourning Mr. McMahan asked to share two comments: 1.) We've had differences of opinion here today and there has been spirited discussion but he is proud that none of this got to a personal level. It was professional, and it is nice to be on a board where that happens. 2.) He asked that everyone please not do what he often does when we break tonight and stick around having further discussion in the studio because it needs to be broken down and people who work doing so, need to complete their work and go home. Any discussion should take place outside the building.

**Adjournment:**

**MOTION by Mr. Carter to adjourn at 8:50 pm. Mr. Drake seconded the motion. Vote taken – all in favor. Motion carried.**

The next meeting of the Conservation Commission will be a workshop taking place on October 22, 2019.

Respectfully submitted,  
Tiffany Lewis