

**Enfield Conservation Commission – Special Meeting
Minutes**

**DEPARTMENT OF PUBLIC WORKS/MICROSOFT
TEAMS PLATFORM
July 12, 2022**

CONSERVATION COMMISSION MEMBERS PRESENT: Leigh Davis, Shirley Green
(Vice-Chair) John Welenc

CONSERVATION COMMISSION MEMBERS ABSENT: Jerold Theis (Chair)

STAFF PRESENT: Ed Morris (Town Manager), Whitney Banker (Recording Secretary)

GUESTS: Peter Tabur (Property owner), Scott Williams (Civil Engineer, Pathways Consulting LLC)

I. CALL MEETING TO ORDER:

Vice-Chair Green called the meeting to order at 7:00 p.m. and took a “roll call” of members present.

Guests Mr. Tabur and Mr. Williams introduced themselves as well.

Vice-Chair Green let the commission know that the previous meeting’s minutes would not be approved tonight, they would be seen at the next regular meeting.

Vice-Chair Green turned the meeting over to Town Manager Morris at this time.

**II. LETTER TO DES IN RESPONSE TO DREDGE AND FILL PERMIT
APPLICATION FOR TAX MAP 9A, LOT 6 TABUR PROPERTY:**

Town Manager Morris explained that there were some issues with the original discussion of the case. First, he said that Mr. Tabur was unable to attend the meeting virtually via Zoom due to technical difficulties. Second, he said that Chair Theis is an abutter to Mr. Tabur’s property and should have recused himself from the case originally.

Town Manager Morris turned over the discussion to Mr. Tabur and Mr. Williams to discuss their case.

Mr. Tabur said that the letter was not only written by Chair Theis when it should not have been, he could not find that the letter was voted on by the commission. He said that he felt the letter

40 contained biased language and inaccurate information. He asked the commission members to
41 review the letter and the property's case tonight.

42
43 Mr. Tabur explained that he and his wife purchased their Enfield property having found all the
44 things they hoped to find in a piece of property. Mr. Tabur said that he understands that there are
45 concerns regarding the property and conservation. He said that he is a conservationist himself.
46 He and his wife hired Pathways who works within New Hampshire to ensure that there is no
47 impact on the prime wetlands on his property.

48
49 Mr. Tabur asked commission members to look at the first map he provided in their folder. He
50 explained the location of the originally proposed driveway, and that NH DES was concerned that
51 there would be three new stream crossings that did not currently exist. Mr. Tabur explained that
52 there was previously a road constructed in the 1960s, Wood Road, which they planned to use
53 instead to help minimize the effect of constructing the driveway.

54
55 Mr. Tabur said that they plan to build a single house on 130 acres, which he feels is low impact.

56
57 Mr. Tabur said that he understood from the previous meeting there was concern about the prime
58 wetlands being designated in 1992. He directed commission members to the photograph as part
59 of their packet and explained a driveway at 30 George Hill Road, a house built in 2006 – well
60 after the wetlands designation. He said that presumably, this house was built with the same
61 permits that Mr. Tabur's home will need for wetlands.

62
63 Ms. Banker projected the GIS map for 30 George Hill Rd.

64
65 Mr. Williams said that DES had sent a request for more information around February, based on
66 the original application, and after receiving the comments from the letter written by Chair Theis.
67 Mr. Williams said that DES was most concerned about the 3 new stream crossings closest to the
68 house, which could have the highest impact on George Pond. DES felt that these stream
69 crossings would not represent the least impactful alternative. The other areas of interest were the
70 wetlands around some of the other areas that weren't mapped, and a 100' swath through the
71 original driveway location. He said that they also had concerns about stormwater management,
72 which will be addressed based on the terrain.

73
74 Mr. Williams said that there is a stormwater permit they will be using which covers tree clearing,
75 fertilizer, stormwater management, etc.

76
77 Mr. Williams explained that using the Woods Road location, they believe they have found a less
78 impactful driveway plan. The house location and septic location would be the same, but the
79 driveway would be coming from the south instead of the east. Mr. Williams explained the
80 location of the proposed new driveway location along Woods Road, including the location of

81 several culverts that exist on the property already. He said that there would need to be some
82 updates to those stream crossings. Mr. Tabur said that his deed has an easement from 1966
83 saying that he must maintain the Woods Road. The road was built before the 1969 wetlands
84 rules. He said that he was able to track the location of the road and that it had not moved. Mr.
85 Williams said that they had found aerial photos as far back as the 1990s to show the location of
86 Woods Road.

87
88 There is a stone wall on one side of the existing Woods Road. The road has not been maintained.
89 Mr. Williams said that the total wetland impact for this plan would be the same as the previous
90 plan but moving everything about 500' uphill. He said they feel this is a significant
91 improvement. Mr. Welenc asked if the house was still in the same location. Mr. Williams said
92 that yes, it is. Mr. Williams said that both the Town of Enfield and DES have no wetland buffers
93 that can be regulated. He said that they are not impacting any wetlands within the footprint and
94 that the house footprint is the only area on the property with slopes of less than 15%. If the house
95 were to be relocated, they would be dealing with much steeper slopes – so the footprint would be
96 increased.

97
98 Mr. Tabur asked if anyone was familiar with the property. Ms. Davis said that she was very
99 familiar with and used to ride (horses) in this area frequently. She said that she also remembered
100 when the wildlife biologists came as part of the natural resources inventory and that the property
101 was paid a lot of attention to. Mr. Tabur said that to reiterate what Mr. Williams said, they
102 believe this is the most practical place to build on the pond.

103
104 Mr. Williams said that in addition, the house footprint does not require a wetland permit. It meets
105 the DES requirement for wastewater, a helicopter could be flown in and there is no wetland
106 permit needed for the home itself. The only reason that they are here is because they must cross
107 the wetland with the driveway.

108
109 Ms. Davis said that she did not think the term “pond” was appropriate, it should be more
110 “wetland”. Mr. Tabur said that there is boat access. Ms. Davis said she believed it to be for fish
111 and game, and small boats like kayaks or aluminum fishing boats.

112
113 Ms. Banker projected the GIS map on the screen. Mr. Tabur explained where the home site was,
114 as well as where the home site was at 30 George Hill Road (built-in 2006, previously
115 referenced). Mr. Tabur explained where the proposed driveway would be across. Mr. Tabur
116 explained on the map where Wood Road is that currently exists.

117
118 Ms. Davis said that she believed there was no access to the property and Wood Road from Bog
119 Road due to flooding. Mr. Tabur said he believed she may be mistaken, when he originally
120 spoke with Mr. Rob Taylor, Land Use Administrator, there was no objection to him coming off

121 Bog Road to build. Mr. Tabur explained that on the GIS map the dividing line of the property is
122 inaccurate, it shares half the driveway (and Wood Road) with Lot 7.

123
124 Mr. Welenc asked how far off the lake is the proposed house. Mr. Tabur said that it is difficult.
125 Right along the pond, there is quite a steep drop-off. He explained where the swamp area is. The
126 existing home at 30 George Hill Road (Lot 1) is roughly 250' from the pond. Mr. Welenc said
127 that a town could impose a setback to important wetlands. Town Manager Morris said that there
128 is no setback from the town of Enfield for building. Mr. Welenc said that the concern of the
129 conservation commission is the quality of water for the town (that leads to drinking water). He
130 said that his concern is opening the door to development and allowing more and more. Mr. Tabur
131 said that he has a very large number of acres in the area. Mr. Tabur said that Lot 7, Lot 6, and
132 some of the other lots were all owned by a single person trying to develop the land. The lots
133 were then sold at foreclosure. Mr. Tabur bought his property in 2017. Vice-Chair Green asked if
134 anyone had informed him of the importance of the land when he purchased it. Mr. Tabur said
135 that they had not. When he spoke with Mr. Taylor there were no issues with building. Mr.
136 Williams said that there are no regulations for building there. The only thing that should be
137 looked at is the driveway crossing the wetlands. Mr. Williams said there is already a homeowner
138 whose home is along the pond. Ms. Davis said that the conservation commission recently found
139 out that they could set a buffer, which they would have done if they had known about it. Vice-
140 Chair Green said that she believes the state hopes that towns will set a larger buffer.

141
142 Town Manager Morris said that they are getting off-topic. The point is for the conservation
143 commission to relay concerns to DES only. There is no regulation, but they can still express their
144 concern. Mr. Welenc said that he felt they did that. Vice-Chair Green said that she feels reading
145 the January 25 minutes that they carefully considered this. She said they are an advisory board
146 and relayed their information to DES. Mr. Tabur said he agreed, and he believed that they could
147 have a vote to either support or oppose the project, and he would hope they vote to support the
148 project. Town Manager Morris said that they do not vote in support for or against, they only
149 relay concerns to DES. Vice-Chair Green said that in her experience DES is very fair in looking
150 at any concerns the conservation commission raises.

151
152 Mr. Tabur said that he thinks the letter written by Chair Theis needs to be retracted. Mr. Welenc,
153 Ms. Davis, and Vice-Chair Green said that they disagreed, and they all supported the letter
154 written by Chair Theis. Vice-Chair Green said she felt if DES thought they were out of line they
155 would have contacted the conservation commission directly.

156
157 Mr. Williams said that Mr. Tabur's concern is based on the comments from the January meeting
158 and the conversation. Ms. Davis said that they all agreed on the letter, but they can't retract their
159 statements. Mr. Tabur said that they could retract their statements if they wished to. Ms. Davis
160 said that she did not want to. She said that she felt Mr. Tabur should send his concerns to DES to

161 address. Ms. Davis said she feels she is unprepared for a good discussion on the letter tonight as
162 she did not realize they would be reviewing the letter and the January meeting.

163
164 Mr. Tabur said he would be happy to deep-dive into the letter tonight, or at a future meeting. Mr.
165 Tabur said that he felt he had grounds for suing Dr. Theis (Chair) and the Town. Ms. Davis said
166 they were asked to decide, and they did. Mr. Welenc said that they provided their
167 recommendation. Vice-Chair Green said that they are volunteers with many years of experience
168 who have looked at a lot of proposals. Mr. Tabur said he is happy to have them make a
169 recommendation however they wish but asks for a new letter that is honest, fair, and free of
170 defamatory statements and outright lies. Vice-Chair Green said that they would not have
171 approved the letter if they felt it was defamatory or untrue.

172
173 Mr. Tabor asked the question, what are the next steps. Mr. Welenc said that he felt they were
174 prepared to vote on the letter as it was. Mr. Williams asked to take the discussion in a different
175 direction, based on the new layout does the commission have any different recommendations.
176 Vice-Chair Green said that she felt this new plan should go directly to DES. Mr. Welenc said
177 that he felt that there should not be any house in that location. He understands there is no
178 restriction in place, but he feels a house should not be there. Mr. Tabur said he understands they
179 wish to have a house in the location, but that will not happen. He said that he plans to build his
180 home on the pond. Ms. Davis said that if DES approves of their updated driveway plan, it should
181 not be a problem. Mr. Tabur said that he is flummoxed and did not understand how it was so
182 difficult to retract a letter so demonstrably wrong. He asked for a letter more factually accurate
183 to him. Town Manager Morris said that the commission said they had seen a copy of the letter
184 before it was sent and agreed with the letter. He said that they did not vote on it, but they don't
185 have to vote on it to send it to DES.

186
187 Mr. Tabur provided "Example C" to the commission members for review. He said on page 3 of
188 Dr. Theis's letter it says that Mr. Tabur's property includes "at least one endangered species
189 whose habitat is reported to be on Bog Road..." For the Northern Long-Eared Bat. The website
190 listed in the letter then identifies the species, and a red highlight that says, "for consultation
191 needs, do not use only this current range map but use IPaC". Mr. Tabur said he then put this into
192 IPaC and it showed an area significantly larger than his lot at a total of nearly 500 acres. He said
193 that on the website there is then no critical habitat listed in that entire area (with land including
194 and surrounding Mr. Tabur's property). Mr. Tabur said that he felt multiple other statements like
195 this are inaccurate in the letter to DES written by Dr. Theis.

196
197 Mr. Welenc said that Chair Theis's letter said it was reported, not that there are those in that area.
198 Vice-Chair Green said that she believes they should work with DES. She said they had done
199 their part in sending their concerns to DES. Mr. Tabur said that the state has been less than
200 helpful, and he suspects it is due to the venomous wording of the letter from Dr. Theis. He said
201 that he feels they should retract the letter, or they are opening themselves and the town up to

202 legal action. He said possibly themselves (individually) though he could not speak to that. Town
203 Manager Morris said that there was not a need to threaten individuals. Vice-Chair Green said she
204 would welcome legal insight on this. She said that they are volunteers who are tasked with
205 relaying concerns to DES.

206
207 Town Manager Morris said the job of the Conservation Commission is to highlight concerns that
208 they find based on the proposed home and send those to DES. It is then the job of DES to work
209 directly with the landowner to address concerns. Town Manager Morris said that it did not sound
210 like DES may have agreed with some of the concerns of the Conservation Commission. He said
211 that it sounded like their primary concern was the road. Vice-Chair Green said that DES will
212 work with the landowner to help him do what he wants to do. Ms. Davis said that she
213 understands why Mr. Tabur wants to build in this location. She said that if DES has a concern
214 about the driveway, and Mr. Tabur's engineer is working on relocating the driveway, it seems
215 they have a good grasp on the situation. Town Manager Morris said he appreciates seeing the
216 work they've done on changing the driveway. Vice-Chair Green said she is glad that while he
217 did not have an opportunity to be at the first meeting that he came to this meeting. Mr. Welenc
218 agreed. Mr. Welenc said that he appreciated hearing Mr. Tabur's concerns. Mr. Tabur said he
219 was sorry they could not come to a more mutually acceptable conclusion.

220
221 Vice-Chair Green asked Town Manager Morris if any motion was needed. He said that if they
222 wished they could make a motion to support the letter as written or to take time to read the letter.
223 Vice-Chair Green said she had read it many times. Town Manager Morris said that they had all
224 seen and agreed on the letter before it was sent. Vice-Chair Green said previously it was
225 discussed and there was no motion. Town Manager Morris said that at the time there was a tight
226 timeframe from DES, and they did not have time to come back together to make a motion and
227 vote on it.

228
229 ***Ms. Davis MOVED to accept the letter written by Chair Theis to DES regarding the***
230 ***property and approve of it having been sent to DES.***

231 ***Seconded by Vice-Chair Green.***

232
233 **Roll Call Vote:**

234 **Leigh Davis, Shirley Green (Vice-Chair), John Welenc all voting Yea.**

235 **None voted Nay.**

236 **None Abstained.**

237
238 **** The Vote on the MOTION was approved (3-0).***

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240 Vice-Chair Green said that she felt that Mr. Tabur would find he will be happy working with
241 DES and the result. Mr. Tabur said that so far, he was not sure.

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III. NEXT MEETING: August 4, 2022

IV. ADJOURNMENT:

Vice-Chair Green MOVED to adjourn the meeting at 7:59 p.m.

Seconded by Mr. Welenc

Roll Call Vote:

Leigh Davis, Shirley Green (Vice-Chair), John Welenc all voting Yea.

None voted Nay.

None Abstained.

** The Vote on the MOTION was approved (3-0).*

Respectfully submitted,

Whitney Banker

Recording Secretary