

**SOUTH HADLEY CONSERVATION COMMISSION
VIRTUAL MEETING MINUTES
JUNE 15, 2022**

Present: Neva Tolopko, Chair; Garth Schwellenbach, Member; Tom Dennis, Member; Kathy Davis, Member; April Doroski, Member; Jessica Schoendorf, Member; Rebekah Cornell, Conservation Administrator; and Colleen Canning, Planning/Conservation Coordinator

Chair Tolopko called the meeting to order at 6:03 PM and reviewed the virtual meeting protocols.

Agenda Item #1 --- Open Public Forum

No members of the public spoke during the open forum.

Agenda Item #2 ----Minutes

Draft minutes of the May 18 and June 1 meeting were sent to the Commission for review.

Motion: Commissioner Schwellenbach moved to approve the May 18, 2022 meeting minutes. Commissioner Doroski seconded the motion. Six (6) out of six (6) Commissioners voted in favor of the motion through roll call.

Motion: Commissioner Schwellenbach moved to approve the June 1, 2022 meeting minutes. Commissioner Schoendorf seconded the motion. Four (4) out six (6) commissioners voted in favor of the motion through roll call. Commissioners Dennis and Davis abstained from the vote as they were not present at the meeting.

Agenda Item #3 --- Request for Certificate of Compliance: 5 Ethan Circle

A request for a partial certificate of compliance (COC) had been received to release the lot at 5 Ethan Circle from DEP File #288-0429 for development of the entire subdivision. The lot had been developed and pending items, such as mowing of the detention basin and sod installation, had been completed. A partial COC needed to be issued to allow the lot to be conveyed.

Motion: Commissioner Dennis moved to issue 5 Ethan Circle a partial certificate of compliance from DEP file #288-0429 to 5 Ethan Circle with ongoing conditions. Commissioner Doroski seconded the motion. Six (6) out of six (6) commissioners presented voted in favor of the motion through roll call.

Agenda Item #4 --- Enforcement Order: 311 River Road

The property owner at 311 River Road was issued a negative determination a number of years ago for work on their property. The determination was issued with special conditioning requiring mitigation plantings. As the required mitigation had not been performed, the Conservation

Administrator recommended that the Commission issue an Enforcement Order as conditions of approval had not been satisfied.

Motion: Commissioner Davis moved to issue an Enforcement Order to Guy Pelletier at 311 River Road for failure to comply with special conditions associated with a negative determination and subsequent Enforcement Orders *and* moved to authorize issuance of fines at \$100 per day if the Order is not complied with. Commissioner Schwellenbach seconded the motion. Six (6) out of six (6) commissioners present voted in favor of the motion through roll call.

Agenda Item #5 --- Electronic Signature during Covid-19 Pandemic

During the COVID-19 Pandemic the Commission authorized the Conservation Administrator to sign Orders and Determinations on the Commission's behalf. New members had joined the Commission since the vote was taken for authorization. As such, the Commission needed to retake a vote to allow all current members to vote on authorization.

Motion: Commissioner Dennis moved to authorize Rebekah Cornell, South Hadley Conservation Administrator, to sign Determinations and Orders on the Commission's behalf due to the COVID-19 state-of-emergency. Commissioner Schwellenbach seconded the motion. Six (6) out of six (6) Commissioner' present voted in favor of the motion through roll call.

Agenda Item #7 --- Administrator's Report

Administrator Cornell detailed the following items:

- *Meeting Schedule* – The Commission would have a reduced meeting schedule during the summer and would meet once during July and once during August.
- *Waite Ave* – The Commission could anticipate holding a meeting at a future date to consider a Request for Determination of Applicability to retroactively permit tree removal
- *MassDOT* – The Commission could expect to consider endorsement of an Emergency Order at a future date for repair of an existing stormwater management structure on College Street
- *San Souci Drive* – The Department of Public Works was working along San Souci Drive to maintain the existing stormwater management systems to prevent sedimentation and flooding
- *Master Plan* – The Commission could expect to discuss the progress of their assigned task at their next meeting.
- *Volunteer Conservation Corps* –Volunteers had been out on the Connecticut River to pull invasive water chestnut. Another work party was anticipated to be held in a few weeks.
- *Lithia Springs* – Department Staff were working with the local water district and the state department of conservation and recreation to investigate the feasibility of constructing a bridge to offer access to Lithia Springs.
- *Public Art* –An art installation highlighting Buttery Brook on Main Street had been completed.

Agenda Item #6 --- Public Hearing to consider a Notice of Intent filed on behalf of Michael Bean for construction of a single family home within buffer zone and including wetland crossing & replication at 11 San Souci Drive (Map 43, Parcel 50)

The applicant, Michael Bean, was present at the meeting along with their attorney, Christopher Myrum.

The hearing had been continued from a previous meeting date to allow the applicant's representative to adequately respond to concerns of the Commission and to prepare revised plans. The applicant's wetland scientist and engineering team were not at the meeting but the applicant's attorney, Chris Myrum, would answer questions as applicable. Atty. Myrum stated that the applicant was not inclined to provide additional revisions to the most recently submitted plan as the Commission could address any additional concerns through special conditioning associated with issuance of an OOC.

Chair Tolopko stated concerns as follows: 1) The revised engineering plans did not highlight what changes were made from the initial submission; 2) The location of the soil borings to identify groundwater level were not identified; 3) She asked the applicant to consider pervious pavement at the parking area; 4) The finished floor elevation of the proposed basement was not provided; 5) The location of erosion control blankets relative to site excavation was not provided.

Commissioner Schwellenbach stated that the location of the proposed swale appeared to be below the level of the water table as measured at adjacent locations. He was not convinced that the swale would be functional relative to the location of the driveway and the site's water table.

Commissioner Schoendorf agreed with Commissioner Schwellenbach's previous stated concern regarding the proposed swale relative to the site's water table. Additional design information needed to be provided to allow the Commission to understand how the site would be improved.

Commissioner Davis indicated interest in a peer-review of the materials submitted, such as the wetland delineation. More information regarding the site's hydrology was desired. Commissioner Doroski replied that a full hydrological assessment was not appropriate for the level of impact. Atty. Myrum stated that his client would not fund any additional review of the application filing.

The Commission reviewed performance standards under the Wetlands Protection Act to see if the project satisfied all applicable standards. Performance Standards for impacts to Bordering Vegetated Wetlands appeared to be satisfied. Additionally, the Commission considered the nine stated interests of the Wetlands Protection Act. Flood Control and Prevention of Pollution were two Interests that the proposed project could arguably not satisfy.

Chair Tolopko opened the hearing to public comment.

Jeromie Whalen, 8 Sunrise Circle, addressed the Commission. He was opposed to the project and submitted documents (attached) further detailing his concerns. He urged the Commission to deny the project as he recalled the Commission citing a number of concerns during the hearing.

Bill Barry, 14 San Souci Drive, addressed the Commission. He was concerned that construction of a new house would lead to increased stormwater runoff on abutting properties.

Motion: Commissioner Dennis moved to issue OOC #288-0478 for construction of a single family home at 11 San Souci Drive. Commissioner Schwellenbach seconded the motion. One (1) out of six (6) Commissioners present voted in favor of the motion through roll call. Only Commissioner Doroski voted in favor of the motion.

The motion did not pass. Therefore, the OOC was effectively denied. Administrator Cornell would draft the denial decision and identify the following items as being reasons for denial: 1) insufficient evidence was provided by the applicant; 2) the application did not sufficiently demonstrate how Flood Control, an Interest of the WPA, would be managed; and 3) the application did not sufficiently demonstrate how Prevention of Pollution, an Interest of the WPA, would be managed.

Agenda Item #8 ---- Other New Business

There was no new business to discuss.

Adjournment

Motion: Commissioner Dennis moved to adjourn the meeting. Commissioner Davis seconded the motion. Six (6) out of six (6) commissioners voted in favor of the motion through roll call.

The meeting adjourned at 8:44 PM.

Respectfully Submitted,
Colleen Canning, Planning/Conservation Coordinator

Appendix

Document	Document
NOI Filing 288-0478 11 San Souci Drive	Conservation Files
June 7, 2022 submission from Jeromie Whalen, 8 Sunrise Circle, regarding NOI #288-0478	Attached

June 7th, 2022

South Hadley Conservation Commission
116 Main Street
South Hadley, MA 01075

Dear members of the South Hadley Conservation Commission,

I write to you all again on behalf of myself, my fiancé April Grudgen, and concerned abutters of 11 San Souci Drive in response to recent developments and information gathered about the proposed Notice of Intent filed by GZA GeoEnvironmental, Inc. and Michael Bean.

In a [previous letter presented at the public hearing on May 18th](#), we urged the commission to conduct a peer review of the property after several concerns were raised regarding the integrity of the wetlands delineation and the lack of communication by the applicant to abutters. As of writing this letter, no questions have been answered and no communication has taken place to ease any of our concerns.

A significant concern we raised in the last public hearing was the removal of flags from what appeared to be a wetlands delineation performed in September of 2021. [In reviewing photographic evidence of this delineation](#), it's apparent that this initial delineation had marked flags significantly higher on the property than the delineation performed by GZA GeoEnvironmental.

While there has still been no explanation given as to what this delineation was or why these flags were removed, historical evidence suggests that the applicant has taken measures to misrepresent the property as containing less wetlands than the land holds. As stated previously by Michael Bean in conversations with myself and as shown in satellite imagery as far back as 2015, a significant part of [11 San Souci was regularly mowed](#). This mowing took place for years and [continued as late as September of 2019](#), resulting in the creation of the man-made boundary of vegetation that prominently exists to this day.

Over the last two years, however, the property has remained untouched, resulting in the natural regrowth of vegetation in the altered area. Recent photographic evidence shows a [clear continuation of the vegetation \(primarily reed canary grass\)](#) across a [higher portion of the property](#) than delineated. This area had not previously been visible due to mowing. This leads us to believe that the bordering vegetative wetland [detailed by Mr. Nitzsche in the May 18th hearing](#) resides higher on the property than the last delineation shows.

While part of an estimated delineation, this larger portion of wetlands was outlined in a [May 27th, 2021 estimated delineation on 13 San Souci](#). It should be noted that as [shown in this overlaid map](#), the area in question is of vital importance as it contains what has been proposed as the replacement wetlands area in the Notice of Intent.

We believe that owner has altered the natural growth of the wetlands vegetation for at least half a decade and failed to adequately explain why there was a removal of a previous delineation that appears to flag a larger wetlands area. In doing so, we believe the owner is misrepresenting the extent to which wetlands exist on the property. While the existence of vegetation is not the only indicator of wetlands, we believe the evidence brought forth warrants a thorough examination of the property by a third party. This is especially important considering the proposed replacement wetland resides in what may be an existing wetlands area, leading to the further destruction of protected environments. We propose the following actions:

1. A rejection of the Notice of Intent based on misrepresentation by the owner.
2. If the commission is not willing to reject the Notice of Intent, a third-party peer delineation of the site to impartially define wetlands areas.
3. A revisit to the site by the Conservation Commission in light of recent evidence.

If you have any additional comments or questions I can be reached at jeromiewhalen@gmail.com or 413-727-2201. You may also review all documents included in this letter and [additional photos/maps at this link](#). Thank you for your time and dedication to preserving our town's natural beauty.

Sincerely,

Jeromie Whalen
8 Sunrise Circle