

Town of Mansfield
CONSERVATION COMMISSION
Meeting of 15 July 2009
Conference B, Beck Building
MINUTES

Members present: Quentin Kessel, Scott Lehmann, John Silander, Joan Stevenson, Frank Trainor. *Members absent:* Robert Dahn, Peter Drzewiecki. *Others present:* Grant Meitzler (Wetlands Agent).

1. The meeting was **called to order** at 7:30p by Chair Quentin Kessel.
2. The draft **minutes of the 17 June 09 meeting**, with minor amendments by Kessel, were approved.
3. **IWA referrals.** Lehmann & Stevenson participated in the IWA field trip on Bastille Day; Lehmann's report is attached.
 - a. **W1435 (Bachioli, 78 Mansfield Hollow Rd.)** The applicant proposes to replace an above-ground swimming pool with an in-ground pool of approximately the same size in the same location. After brief discussion, the Commission agreed unanimously to the following **motion** (Trainor, Stevenson):

The Conservation Commission expects no significant wetlands impact from this project as long as excavated material is removed from the site and standard erosion controls are in place during construction.
 - b. **W1218 (Birch Rd. Pike Path)** This is a renewal application, the original permit having expired while the Town sought funding for the project, which would connect the bike paths along Hunting Lodge Rd. and Rte. 44. Manna from heaven has now arrived in the form of federal economic stimulus funds, but in an amount that requires downsizing: the path will be narrowed to 8 ft and moved closer to Birch Rd. In consequence, its footprint in wetlands (c. 0.1 acre, mostly near Hunting Lodge Rd.) will be half of what it would have been under the original design, according to Meitzler. Moving the path to the N. side of Birch Rd. would not significantly reduce wetlands impact and would compromise safety, since cyclists would have to cross Birch Rd. at two points. Silander having noted that erosion controls employed on the portion of the Hunting Lodge Rd. bike path now under construction are ineffective (fans of sediment can be seen in wetlands along the route), the Commission unanimously agreed to the following **motion** (Stevenson, Trainor):

The Conservation commission is pleased that revisions of the original design for this project have reduced its impact on wetlands, but hopes that more care will be taken to control erosion during construction than is evident on the southern portion of the Hunting Lodge Rd. bike path; it suggests that the project be scheduled so that construction occurs during dry season.
 - c. **W1436 (Gaffney, 125 Wildwood Rd.)** The applicant proposes to convert a small swampy area along the brook just N. of Wildwood Rd. into a shallow pond; the area lies wholly within a conservation easement held by the IWA. Silander observed that a shallow pond here can be expected to silt-in within a relatively short period of

time. Lehmann worried that allowing such a conversion (apparently for landscaping) would set a bad precedent, since the conservation easement is designed to protect the values of the area “in its present state as a natural and undisturbed area.” After some discussion, the Commission unanimously agreed on the following comment (**motion:** Silander, Stevenson):

This project would have a significant impact on the functionality of the present wetland and might have significant downstream effects. The Conservation Commission also fears that allowing conversion of an area protected by a conservation easement for reasons unrelated to conservation would set a bad precedent.

4. NE Region Management Area Water Supply Forum. Kessel attended this meeting on 14 July 09. The state Department of Public Health hopes to convene a water utility coordinating committee (WUCC) for the region to “... coordinate the planning of public water supply systems” in the area. The committee would aim to divvy up the region among suppliers and to organize a back-up system for failures (so that someone is prepared to step in to provide water, should the supply to some group of consumers break down).

5. Eagleville Brook TMDL Project. This DEP project aims to improve water quality in the Eagleville Brook watershed, primarily by controlling sediment. A meeting was held on 14 July 09 to brief stakeholders about it.

6. 2009 Windham Region Land Use Plan. This is an update of the Windham Council of Governments 2002 Regional Land Use Plan. Kessel attended a public hearing concerning it on 01 July. Town Planner Greg Padick has drafted comments for consideration by the PZC; written comments on the plan will be received until 06 August. The Commission unanimously agreed to the following **motion** (Kessel, Trainor):

The Mansfield Conservation Commission endorses, with one exception, the comments on the “Draft Windham Region Land Use Plan 2009” in the June 15, 2009 letter from Greg Padick, Director of Planning, to the Mansfield Planning and Zoning Commission.

The exception is as follows: the Windham Region Land Use Plan designates a small portion of southern Mansfield as a “High Priority Preservation Area,” whereas in Mansfield’s Plan of Conservation and Development much of this same area is designated for development (e.g., a portion is zoned as an industrial park). The Conservation Commission values the Windham Region Plan’s methodology to prioritize preservation areas (Appendix B), which takes into account data from Mansfield’s Plan. Much of this area is prime farmland, beneath which is one of Mansfield’s major aquifers. It is a Class I watershed bordered by one of Mansfield’s officially designated Scenic Roads. There seems to be a stream running through it that is designated as a flood hazard zone.

For these reasons, the Mansfield Conservation Commission urges the Town of Mansfield to accept the Windham Region Plan’s designation of “High Priority Preservation Area” for this portion of Mansfield.

A copy of this portion of the minutes is to be forwarded to the Director of Planning, the Mansfield Planning and Zoning Commission, and the Mansfield Town Council.

{**Addendum:** On 23 July 09, those Commission members who attended the 15 July 09 meeting concurred by e-mail in the following **correction** of the penultimate sentence of paragraph 2: “It is a Class I watershed bordered by one of Mansfield’s designated Bicycle Routes.”}

7. Aquifer protection. The Commission remains convinced that more should be done to protect Mansfield’s stratified drift aquifers from contamination, as insurance against the loss of other sources of drinking water and because it is a lot easier to keep contaminants out of ground water than it is to remove contaminants from it. Accordingly, it recommends the following additions to Mansfield’s Zoning Regulations (**motion:** Kessel, Trainor; adopted unanimously):

1. Article 5, Section A, Sub-section 2, Paragraph 2, sentence 1 (p.20): insert “and representatives of appropriate land-use committees” after “Town Planner”.
2. Article 5, Section A, Sub-section 2, Paragraph 2, sentence 3 (p.20): insert “and/or areas within 500 feet of a stratified drift aquifer” after “areas within 150 feet of inland wetlands or watercourses”. {500 feet is the number used by the DEP to protect community wells, the “source water protection area.”}
3. Article 5, Section A, Sub-section 2, Paragraph 2, sentence 4 (p.20): expand “Inland Wetland approvals” to read “Inland Wetland and aquifer approvals”.
4. Article 5, Section A, Sub-section 3, Item b, sentence 3 (p.21): expand the first occurrence of “regulated areas” to read “regulated wetland or stratified drift aquifer areas”.
5. Article 5, Section A, Sub-section 3, Item d.10, (p.22): insert “stratified drift” before “aquifers”.
6. Article 5, Section A, Sub-section 3, Item g, sentence 2 (p.23): expand “watershed and flooding data” to read “aquifer, watershed, and flooding data”.
7. Article 5, Section A, Sub-section 5, Item d (p.24): expand “for water supply ...” to read “for aquifer protection, water supply ...”.
8. Article 5, Section B, Sub-section 2, sentence 3 (p.27): insert “wetland or aquifer” between “regulated” and “areas”.
9. Article 6, Section B, Sub-section 4, item m, sentence 1 (p.37): replace “within identified aquifers” with “within 500 feet of identified stratified drift aquifers”.
10. Article 6, Section B, Sub-section 4, item m (p.37): add to the end of the paragraph “Any use otherwise permitted within a zoning district which may discharge hazardous material into ground water is prohibited.” {Similar language appears in the Town of Ridgefield’s zoning regulations.}

Stevenson wondered if enough attention was being given to protecting surface water in Mansfield, citing the Beall-Higgins lot (W 1433), which sits between and above two ponds, as an example of a lot which, in her view, is unsuitable for building. However, disapproving this lot would require a considerably more stringent wetland protection regime, which would be difficult to achieve in Mansfield, in part because it is not clear that more stringent rules are required to protect inland wetlands.

8. The meeting **adjourned** at 9:23p. Next meeting: 7:30p, Wednesday, 19 August 09.

Scott Lehmann, Secretary

16 July 09; approved 19 August 09, with addendum to item 6

Attachment: Report on 14 July 09 IWA field trip.

{1. GREEN PROPERTY, Rte. 32, PZC 1258. FYI only, not a referral to CC. The applicant is proposing to excavate gravel – assuming it's there – from a pasture on the E. side of the highway and S. of the farmhouse. The area will then be leveled for a cornfield. The site is hidden from Rte. 32 by a hill; a huge oak nearby will supposedly be unaffected.}

2. BIRCH RD BIKEWAY, IWA 1218. The Town is asking for a renewal of the wetlands permit for this project, the original one having expired. Its design has also been revised: federal stimulus funds will be used and the amount available is only about 2/3 of what the original project would cost. The path's width has been reduced from 10 ft. to 8 ft, and its routing shifted closer to Birch Rd. In consequence, impact on wetlands should be lessened. The path will run along the S. side of Birch Rd., connecting existing paths along Hunting Lodge Rd. and Rte. 44. The affected wetlands are at both ends: at the Hunting Lodge end, some fill will be needed in wetlands to create a roadbed for the bike path along the present edge of the road; the Rte. 44 end, I believe, involves no work in wetlands (the existing path along Rte. 44 crosses this wetland now).

3. GAFFNEY PROPERTY, 125 Wildwood Rd., IWA 1436. The applicant wants to convert a small reach of brook just off Wildwood Rd. (N. side) into a pond; the affected area is largely open (skunk cabbage, with a few trees). However, the area in question is within a conservation easement held by the Town, the covenants of which specify (among other things) that "...there shall be no

...

4. ... excavating... or change in the topography of the land in any manner,

...

6. alteration or manipulation of the ground surface, whether it be natural watercourses, swamp, shore, marsh, or other water bodies ...

...

at any location, whatsoever, on the Protected Property, without prior express written consent of the Grantee [= IWA]".

While the IWA *can*, legally, give such consent – if you have a property right, you can generally waive it – doing so doesn't strike me as a good idea. Since the easement speaks of the "ecological, scientific, educational and aesthetic value [of the Protected Property] in *its present state as a natural and undisturbed area*" (my emphasis), it seems to me that the proposed conversion should be permitted only if there is a very good reason for it, and the application gives no reason whatever. As in the case of the White Oak Condo septic easement in Dunhamtown Forest, I also worry about creating a bad precedent.

4. BACHIOCHI PROPERTY, 78 Mansfield Hollow Rd., IWA 1435. The applicant proposes to replace an above-ground pool in the back yard with an in-ground pool; the area lies on a flat terrace that drops steeply to the river below the dam. According to him, the pool company will remove the excavated material (rather than dumping it over the edge of the terrace). I don't see a problem if indeed this is the case (and standard

erosion controls are employed during construction).

Scott Lehmann, 15 July 09