

March 14, 2024

**DRAFT**

1 In attendance: Will Ludt, Conor Frain, John Bement, Lisa Montesanto.

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3 **1. Roll Call to Order**

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5 Will Ludt called the meeting to order at 6:30pm.

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7 **TOPICS OF DISCUSSION:**

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9 **2. “Throwback Thursday”- Amherst Heritage**

10

11 None at this time.

12

13 **3. Discussion with Jared Hardner/ACC- Baboosic Lake B&M Rail Stop-Walnut Hill  
14 Road and the Embankment Road Update**

15

16 Jared Hardner, Chair of the Amherst Conservation Commission (ACC), explained that the B&M  
17 trail is located near an area defined by the National Wetlands Inventory as wetlands, though  
18 much of it has turned into a lake area. There are regulatory constraints on construction within the  
19 buffers of wetlands. The distance is 63’ between the two wetland boundaries. The type of  
20 wetland will dictate how large the wetland buffer is. Nothing can be built within the wetland  
21 itself, per the State and federal regulations. The wetland buffer is regulated by the Town via the  
22 Zoning Ordinance and by the State via the Shoreland Protection Zone. The proposed  
23 construction site is located within the Wetland and Watershed Conservation District, also known  
24 as the wetland buffers of the site. Construction of any new structure is not allowed per the  
25 Zoning Ordinance. Some things can be done in buffers, based on Conditional Use Permits  
26 granted by the Planning Board, but new construction is not subject to this. It could be possible to  
27 seek a variance via the Zoning Board if strong evidence of hardship can be shown.

28

29 Jared Hardner explained that the ACC manages this property for the Town and has a role under  
30 the RSA to advise the Town regarding the Wetland and Watershed Conservation District  
31 (WWCD). Over the last year, the ACC has voiced a more emphatic concern regarding  
32 construction allowed in the WWCD. The ACC has submitted letters to the Planning Board and  
33 ZBA asking them to be stricter on this item. The ACC is mostly against variances for this type of  
34 item. If the local regulations were not an issue, the State compliance would still be in question.  
35 The back of the proposed site crosses into the wetland buffer and would likely need to be moved  
36 per State regulations. Also, the State Shoreland Protection Act has a rigorous set of requirements  
37 to navigate. He suggested moving the proposed structure out of this area. Moving this from the  
38 wetland boundary could free the project from these constraints.

39

40 Conor Frain stated that Jared Hardner’s proposal to move the construction makes sense.

41

42 Will Ludt asked what the process would be if a variance was sought from the ZBA. Jared  
43 Hardner noted that the ACC would not seek a variance from the ZBA in this case, and the ACC  
44 is the manager of this property for the Town.

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46 In response to a question from John Bement, Will Ludt explained that the proposed location for  
47 this construction was the original location of the rail stop. There is an existing foundation in this  
48 location. Jared Hardner explained that, if the proposal was for a rebuild, the question would then  
49 become what is being done to improve the ecological function of the site through rebuilding the  
50 structure.

51

52 Will Ludt asked if a waiver could be requested from the Town regulations, similar to through  
53 DES. Jared Hardner explained that this would be similar to a Conditional Use Permit in Town.  
54 This project does not qualify in any of the categories for a Conditional Use Permit. It would then  
55 be sent to the ZBA for a variance and a hardship would need to be shown.

56

57 Will Ludt asked how this will be made a true rail to trail area, as it also runs through the wetland  
58 buffers. Jared Hardner explained that this will also have to go through State and local permitting  
59 and meet the requirements. This has not yet been presented. This will not be able to impact the  
60 permeability of the ground in this area.

61

62 Jared Hardner explained that the Board of Selectmen could make a decision to not abide by the  
63 Town's own rules, but this would not be likely. The Heritage Commission does not have  
64 standing to bring this item before the ZBA. Will Ludt asked if the Heritage Commission could  
65 go before the Board of Selectmen to go above the ACC. John Bement stated that this would set a  
66 bad precedent. Lisa Montesanto agreed that the structure should be moved out of the buffer, as  
67 suggested, and the Commission could instead look into installing a historic plaque in the original  
68 area. Conor Frain stated that he believes it would be a bad precedent for the Heritage  
69 Commission to go through with this proposal as a "do as I say but not as I do" item.

70

71 Will Ludt stated that the Commission is only proposing a 9'x16' shelter that has far fewer  
72 impacts to the wetlands than the existing horse farm up the road. There should be some  
73 flexibility for this rebuild.

74

75 Jared Hardner explained that it is important for these rules to be in place in order to prevent  
76 degradation to the rural and historical aesthetic, a degradation in the environmental function  
77 including flood control, and protection of the wetlands. The ACC is being inundated with  
78 requests from developers to jam structures into wetland buffer areas.

79

80 Will Ludt asked what the wetland buffers are. Jared Hardner noted that this varies and is  
81 determined based on the size and functions of the wetland itself.

82

83 Will Ludt stated that it appears there is consensus on the Commission to move the proposed  
84 construction location. The Commission agreed that it was in favor of building a structure, if a  
85 better location is found. The Commission agreed to work with the ACC to determine a new  
86 location. Jared Hardner suggested that the Commission also work with the Bicycle & Pedestrian  
87 Advisory Committee as well.

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89 *Jared Hardner exited the meeting.*

90

91 **4. CYJ Paper Discussion**

92

93 The Commission agreed to discuss this item at a future meeting.

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95 **5. Minutes: 8 February 2024**

96

97 **John Bement moved to approve the meeting minutes of February 8, 2024, as**  
98 **presented. Seconded by Lisa Montesanto.**

99 **Vote: 4-0-0.**

100

101 **John Bement moved to adjourn the meeting at 7:00pm. Seconded by Lisa**  
102 **Montesanto.**

103 **Vote: 4-0-0.**

104

105

106 *Respectfully submitted,*

107 *Kristan Patenaude*