

Shutesbury Conservation Commission

Minutes – May 8, 2025

Approved – May 22, 2025

Virtual Meeting

Commissioners Present: Beth Willson (Chair), Janice Rowan, Mare Fox

Commissioners Absent: Bob Douglas, Scott Kahan

Other Staff Present: Matteo Pangallo (Land Use Clerk)

Others Present: Tom Siefert, Dean Carey, Jessica Carey, Mary David

Call to Order: 6:00pm

This meeting is being recorded.

Bylaw Regulations

Willson shares the draft Bylaw Regulations. Discussion begins with Section 7, on Small Project Permits, and Willson suggests making sure the regulations align with what the WPA describes as minor projects in buffer zones. Willson shares the WPA regulations language and reviews their language regarding minor projects in buffer zones.

Willson notes that the conversion of lawns to an accessory structure is allowed as an exempt activity within the buffer zone under the WPA regulations but Shutesbury's Wetlands Protection Bylaw does not exempt it. She suggests that this is the kind of activity that should be identified as requiring approval under the Small Project Permit in the regulations or requiring an RDA or NOI if it is closer than fifty feet to the resource area. Willson notes that all the other exemptions have been adopted in the Town's regulations.

In section 7.2, Willson suggests the second part of the sentence is redundant and could be removed. Rowan thinks the language should be retained even though it is confusing. She also thinks that as many projects as possible should be allowed under the Small Project Permit and only require more significant projects under RDAs and NOIs. Fox agrees. Rowan suggests moving the Small Project Permit section earlier in the regulations so it would be encountered by a reader before the sections on RDAs and NOIs. Fox suggests citing the CMR list of projects that are covered under the Small Project Permit and that are exempt from regulation. Rowan thinks it is still helpful to list a few representative projects that are typical of what people often ask about.

In section 7.4, Fox asks about the language reserving the right to require an RDA or NOI and when the Commission would activate that right. Willson explains that it would largely come down to how the State defines the buffer zone and whether the Commission thinks a project would end up impacting the resource area.

The Commission discussed the specific activities listed in 7.6 that may not be permitted with a Small Project Permit (SPP) and whether or not those activities would impact a resource area. Rowan specifically identified the regulations on mowing native species and pointed out that it

seemed to contradict other sections of the regulations and that it would not encourage recovery planting of native species along wetlands, which the Commission should be supporting. Willson points out that this follows the State's regulations and the Town can be more restrictive than the State but not less restrictive. Willson reviews section 7.6 to ensure that its contents agree with the State's exemptions. Rowan notes that the first sentence of 7.6 indicates the list are activities that shall not be permitted under a SPP rather than may not be permitted under a SPP, but she would prefer that they may not because that would give the Commission discretion to allow them under a SPP, which would be reasonable for certain activities that are minimally disruptive, such as certain tree removal projects under 7.6.6. Willson will compare 7.6.6 to the section on vegetation and tree removal to make sure that it is consistent.

Rowan asks about whether the prohibition on using a SPP for a project involving heavy equipment would make it impossible to pave or condition a driveway. Willson notes that if the driveway already exists, it would not have an impact on the resource area because the equipment is being used on the existing driveway. She adds that this is at the discretion of the Commission and Rowan indicates she is worried about the provision being used punitively in the future. Rowan suggests a compromise would be specifying some activities that use heavy equipment rather than covering all activities that use heavy equipment. Willson proposes qualifying the use of heavy equipment by specifying the degree of impact it would do to the resource area.

Rowan notes that 7.6.7 should be revised to align with the section on docks and piers and that it should specify that it refers to installation of new docks and piers.

Rowan advises removing accessibility ramps from 7.6.8 out of concerns of equity for disabled people who require them. Willson notes that the requirement reflects the State's regulations and that the Town cannot be less restrictive than the State.

Willson proposes returning to this section at the end of the rest of the meeting agenda.

Comments from the Chair

Willson reminds the Commission to sign their signature page of the Wightman CR in front of the Town Clerk so it can be notarized.

Willson informs the Commission of the Chapter 91 Simplified Dock License for 70 Lake Drive sent to MassDEP and the Commission will wait to see if DEP requires a vote of the Commission.

Willson has left the Order of Conditions for the Highway Department's BNOI for the Land Use Clerk to take to the Registry of Deeds, using the Highway Department's address as the location of work. Rowan asks when the Commission will receive the Highway Department's annual list of projects and Willson indicates it should come in the spring.

Review and vote on minutes of April 24, 2025

Motion to approve the minutes of April 24, 2025: Rowan; second: Fox. Vote: Rowan - Aye; Fox - Aye; Willson - Aye. Motion passed unanimously.

Site Visits Update

Rowan reports on a site visit to the new library site on April 25, 2025. The company that put in the erosion barriers put in some select wattles but did not replace all of them and did a slight repair on the settling pond nearest the road. The site visit did not identify any problems after the site got an inch and a half of rain.

Rowan confirmed erosion barriers are up at the Burns property and it is ready for construction.

Rowan visited the library site today, May 8, and saw no issues. Grass is coming up. There has been almost three inches of rain since the previous visit and no problems exist with the barriers.

Willson did a site visit to 7 Baker Road with the owner and Kestrel Land Trust to review plans for putting in two small sheds as a windbreak and shelter for the horses on the north side of the property. Because the area is under the agricultural exemption in the CR, they do not need to file for a permit, only inform the Commission of what they are doing. During the site visit, they were able to identify the preferable locations for the sheds and how to stay over 50 feet from the wetland area on the property.

Willson did a site visit to 681 Wendell Road to review a plan for removing trees over 50 feet from a resource area under an Administrative Approval Request.

Public Hearing for RDA for 51 Shore Drive Deck

Willson opens the public hearing at 7:18pm and welcomes the applicant, Jessica Carey.

Carey explains that the plan is to build a 12x8 floating deck one step up over the ground adjacent to their house. There are two bushes that will be relocated on the property.

Willson asks what the closest distance to the lake would be. Carey answers that it would be 37 feet from the edge of the deck to the lake if the deck is placed 2 feet from the house.

Willson asks what is there currently and Carey answers that it is grass. They plan to level the deck, which would involve digging out the loam and putting in ¾" stone for drainage and a concrete center for levelling purposes. The deck would sit on chimney blocks. The yard is largely flat but there is a slight grade downward toward the lake.

Willson notes the Commission would want some kind of erosion control between the work area and the lake, such as a wattle silt fence with hay bales or a silt sock. Carey indicates that she is familiar with those products and the contractor will put them in. Carey asks how long the barrier needs to be up. Willson asks if dirt will remain exposed and Carey answers there will be about six inches of stone and then the lawn. Willson answers that the erosion control should stay up until the project is complete or, if there is exposed soil, until the grass has grown back. After the construction is done, the Commission will do a final site visit to verify everything is stable and at that point the barrier could be removed.

Rowan and Fox both did the site visit to the property and neither have anything more to report.

Willson asks if the contractor can access the site without getting closer to the lake. Carey indicates that they can access the work area from the driveway directly.

Willson invites comments from the public and there are none.

Motion to close the public hearing at 7:26pm: Rowan; second: Fox. Vote: Fox - Aye; Rowan - Aye; Willson - Aye. Motion approved unanimously.

Motion to issue the Determination of Applicability for Negative Three with the condition that erosion controls be used between the lake and the work area: Rowan; second: Fox. Vote: Rowan - Aye; Fox - Aye; Willson - Aye. Motion approved unanimously.

Unanticipated Business

Willson returns to discussion of the Small Project Permit in the regulations beginning with section 7.4. She thinks there should be a form used for the application described in section 7.6.

In section 8, on Requests for Determination of Eligibility, Willson has few changes to suggest. Rowan notes the prior conversation about who constitutes an abutter in the case of a property that is on waterfront and whether someone who lives across the lake would reasonably be considered an abutter. Willson confirms that the regulations were revised so that someone across a body of water more than 50 feet away would not be considered an abutter.

Fox asks if section 8.7.2 requires a majority of signatures of the entire Commission or of those in attendance. The Chair recognizes Tom Siefert, who notes that a quorum of the Commission would be required for the meeting to occur.

There are no comments on the section on NOIs. Rowan asks what happens to a Public Hearing if the Commission does not have a quorum and the applicant does not want to continue. Willson indicates that the application would be effectively withdrawn and they would have to start again. It would be in the applicant's interest to agree to a different date for the hearing.

The Chair recognizes Siefert, who asks about the five business day notice for public hearings since he thinks the State law requires fourteen days. Willson notes that Amherst requires seven days so she will research where the five day requirement comes from, but she agrees it should comply with whatever the WPA requires.

Discussion next time will begin with Section 11. The next meeting will start at 6pm to provide time before the rest of the agenda to continue reviewing the draft regulations.

Willson notes the need for a site visit to 98 Lake Drive before the next meeting. Rowan will contact the applicant to identify a day that would work for him and other Commissioners.

Adjournment

Motion to adjourn: Rowan; second: Fox. Vote: Fox - Aye; Rowan - Aye; Willson - Aye.

Adjourned: 7:56pm

List of Documents Used:

- Draft Bylaw Regulations
- MA Wetlands Protection Act Regulations
- Draft Minutes of April 24, 2025
- Request for Determination of Applicability for 51 Shore Drive