

Peterborough Conservation Commission minutes
April 27, 2022, 7 p.m., Town House

Present: Bob Strong, Jo Anne Carr, Swift Corwin, John Kerrick, Matt Lundsted, Francie Von Mertens

Members met to finalize letters of comment to the Zoning Board of Adjustment regarding variance applications from Walden Eco Village and Monadnock Rod & Gun Club.

After discussion, the following two letters were approved (Lundsted motion; Carr second):

Walden Eco Village letter

April 28, 2022

To: Peterborough Zoning Board of Adjustment

From: Peterborough Conservation Commission

Comment regarding Case No. 1275 Walden Eco Village request for a variance to permit up to 15 structures to remain in the town's Wetland Protection Overlay Zone

Following discussion at its April 21 meeting, with Walden Eco Village representatives present, the Conservation Commission offers the following comment.

In its advisory capacity, the Conservation Commission respectfully recommends that the variance be granted for the following reasons:

Removal of structures

As discussed at the joint Zoning Board of Adjustment and Conservation Commission site visit on April 11, applicant Akhil Garland presented and detailed the following changes to his variance application:

Removal of five of the 15 structures from the WPOZ

Relocating fencing for the two pig pens outside of the WPOZ to conform with agricultural BMPs as required by town code.

Mitigation for lost buffer functions owing to remaining structures in the buffer:

To achieve compliance with the town's requirement that there be "no net loss of buffer functionality" (233-52:B-1a), mitigation steps proposed by the applicant include:

- Planting blueberry shrubs and/or native wildflowers as pollinator habitat after removal of structure #9 /"Love Shack" from the WPOZ;

- The design of the required fire pond will include several augmented and new wetland and buffer functions in addition to flood control and wildlife habitat currently provided by the WPOZ buffer. These include the following standard functions and values:
 - A more diversified wildlife habitat (wetland, open water, upland and aquatic); Nutrient / sediment / toxicant uptake and/or filtering; Groundwater recharge; Aesthetics; Education.

If the ZBA grants the variance, we respectfully recommend the following conditions:

- That no further structures be permitted in the WPOZ;
- That footprints of the remaining structures not be expanded;
- That the design of the fire pond to augment wetland and buffer functions be submitted to the Conservation Commission for comment (addition of shallows to diversify aquatic habitat was discussed);
- That Wetland Buffer Protection Area markers be placed along the fire pond buffer, supplied by the Conservation Commission.

To further protect against future impacts to the WPOZ given residential uses within the zone, and noting evident dumping of chimney ash in the buffer, establishing BMPs for wetland and buffer areas was discussed. Mr. Garland suggested developing educational materials citing the value of wetlands and their buffers. The Conservation Commission can assist this project as the result would have educational value beyond Walden Eco Village.

Signed for the Conservation Commission by Co-chair



Attachment: Fieldstone Land Consultants Wetland Buffer Mitigation document

Monadnock Rod and Gun Club letter

April 28, 2022

To: Peterborough Zoning Board of Adjustment

From: Peterborough Conservation Commission

Comment regarding Case No. 1275 Monadnock Rod and Gun Club special exception application

Following discussion at its April 21 meeting, with Monadnock Rod and Gun Club (MRGC) representatives present, the Conservation Commission offers the following comment in our advisory capacity.

Based on our review of two documents, a court-ordered ban on shooting on Monadnock Rod & Gun (MRGC) property, and a New Hampshire Department of Environmental Services Administrative Order, we believe that this application for a special exception is illegitimate.

Document 1: In the Town of Peterborough v. Monadnock Rod & Gun Club, Docket No. 216-2018-CV-00761, Hillsborough North Superior Court issued a preliminary injunction on November 8, 2018 banning shooting on the Monadnock Rod & Gun Club property, and on the abutting Perry and Morris properties onto which MRGC's long shooting range encroached. It is Town Counsel's assessment that the injunction remains in effect pending remediation of lead contamination of groundwater, surface water, and soils, as well as pending restoration of wetlands filled by MRGC.

Document 2: The June 25, 2021 **NH Department of Environmental Services (NHDES) Revised Administrative Order No. 21-008** that itemizes MRGC infractions relating to toxic lead contamination of soil, groundwater and surface water, as well as the filling of jurisdictional wetlands and altering stream flow involving the three properties.

The order's 67 **Statements of Facts and Law** cite lead contamination in a groundwater sample 68 times the allowable standard for lead (Fact 28).

Facts 22 and 58 cite the court-ordered ban on shooting on MRGC property.

The NHDES Administrative Order's **Section E. Order** mandates steps to be taken by MRGC that include Site Investigations (SI) to test soil, groundwater, and surface water; and Remedial Action Plans (RAP) for lead contamination remediation, as well as for restoration of filled wetlands.

All tests and plans are to be done by qualified professionals and submitted to NHDES for approval, following which the work is to proceed. The 120-day deadline has passed with no apparent action by MRGC.

Section F. Appeal provides a method for appeal of the Administrative Order MRGC sought no appeal.

For comment, we find it difficult to proceed beyond the court-ordered ban on shooting on the three properties pending remediation of lead contamination of soil, water and groundwater in the town's Groundwater Protection Overlay Zone, as well as restoration of filled wetlands—involving the three properties.

That said, moving beyond the ban on shooting, please find attached:

- MRGC survey showing the proposed shooting range and its proximity to a jurisdictional wetland.
- Aerial with overlays from Ecosystem Management Consultant's **Wetland Impact Assessment** report showing that the jurisdictional wetland has been filled. It is one of the wetlands requiring restoration that includes a 50-foot vegetated buffer.

Referencing town code, **245-41 Criteria for special exception #2** cites "environmental constraints." Most immediately, the wetland abutting the proposed shooting range was filled by MRGC. Its restoration has been ordered by NHDES. No plans have been submitted for that work.

A wider environmental focus beyond the proposed shooting range site must consider wetlands on the abutting Perry property, also to be restored, along with further testing and subsequent remediation of lead contamination of soil, water and groundwater where impacted on MRGC, Perry and Morris properties.

Town code **245-41 Criteria for special exception #3** requires that there be no adverse effects on abutting properties. Approving a new shooting range risks further delaying remediation of lead contamination known for over three years. Again, as stated in the NHDES Revised Administrative Order, groundwater sampling found a level 68 times the allowed standard on the Perry property.

Given the Hillsborough North Superior Court Order No. 216-2018-CV-00761 of November 8th, 2018, and New Hampshire Department of Environmental Services Revised Administrative Order No. 21-008 of June 25, 2021, we strongly recommend that the Monadnock Rod & Gun Club's request for a special exception be denied.

Respectfully,



Francie Von Mertens, Co-chair
signing for the Conservation Commission