

**Atkinson Conservation Commission Minutes**  
**Monday, August 6, 2018**  
**Atkinson Town Hall**

Approved September 10, 2018

**Members Present:**

Paul Wainwright, Chair  
Denise Legault, Vice Chair  
Pete McVay, Secretary  
Dan Kimball  
Dennis Krause  
Jeff Nenart, Alternate (voting)  
Peter Bradshaw, Alternate (voting)

**Others Present:**

Glenn Saba, ZBA Chair  
Bob Malo  
Doug Yoho

**1) Call to order, attendance**

Chair Wainwright called the meeting to order at 7:31 PM, Tuesday, August 6, 2018. Chair Wainwright declared that a quorum was present, and that Alternates Jeff Nenart and Peter Bradshaw would both be acting as voting members since two of the regular members were absent.

Chair Wainwright passed around a sign-in sheet for members and guests.

**2) Review and approval of minutes:**

Chair Wainwright requested a motion to approve the minutes of the July 2, 2018 public session of the Atkinson Conservation Commission, as written.

**Alternate Jeff Nenart made a motion to approve the minutes of the July 2, 2018 public session of the Atkinson Conservation Commission as written. Member Krause seconded the motion. All members of the Atkinson Conservation Commission voted in favor. Vote: 7/0/0.**

Chair Wainwright stated he would wait to request a motion to approve the minutes of the July 2, 2018 nonpublic session until agenda item 5.

**3) Map 9 Lot 29 (Maple Avenue at Blunts Pond) wetland setback variance application:**

Chair Wainwright informed the Commission that Tim Lavelle could not be present at the meeting due to a conflict. The Commission should have all the information necessary to proceed with a vote on the requested 49' wetland setback variance. Chair Wainwright explained that the Conservation Commission is involved with this issue because it is the responsibility of the Commission to advise the ZBA regarding zoning or issues that involve wetlands. In this case, the applicant is applying for a wetland setback variance. Current zoning requires a 100-foot setback of structures under Atkinson Zoning Regulations, which

is different from the 50-foot shoreline setback required by the State. Shoreline protection only applies to much larger ponds and it is from the water to the structure, not the wetland to the structure.

Chair Wainwright explained that the criteria that the Commission applies to wetland setback variance applications involves weighing the impact on the environment if the variance is granted, compared with hardship on the property owner if it is denied. Chair Wainwright also explained that the wetland in question is a fairly significant one, and the size of the requested variance is substantial. In his opinion, hardship is not an issue in this case because the applicants stated that they would not be living in the proposed home. This application also differs from many that the Commission sees because it is for new construction, not a modification to an existing structure, thus its environmental impact would be larger than for a modification to an existing home.

Alternate Nenart agreed with Chair Wainwright that hardship is not an issue in this case. Member Krause stated that he appreciated the clarification.

**Vice Chair Legault made a motion that the Commission send a letter to the ZBA recommending that they deny the wetland setback variance being requested. Alternate Nenart seconded the motion.**

**All in favor. Vote: 7/0/0.**

Chair Wainwright stated that Tim Lavelle informed him that he has not yet re-applied to the ZBA for the variance, and wished that he had been more up front with this fact.

Mr. Malo stated that he thought that the Conservation Commission made the right decision.

#### **4) Other Issues Involving Tim Lavelle:**

- a. Orr Town Forest property line verification behind 12, 14, and 16 Robie Lane**
- b. Judge Marshall Town Forest access from Industrial Way**
- c. 126 Maple (Chris & Valerie Leavitt) Wetland Mitigation D&F Application**

Chair Wainwright reported that, in a phone call earlier in the day, Mr. Lavelle stated that these items would be taken care of "soon."

For item C, Chair Wainwright explained that the 126 Maple Avenue property is on the right just after the culvert going north. Many trees were cut within the Prime Wetland buffer during the process of replacing a septic system. Prime wetlands have a 100-foot vegetative buffer enforced by the State. The State has required that the trees be replanted by the homeowner. It has been 2 years and Lavelle and Associates has still not completed an after-the-fact dredge and fill application. The State initially stated that a completed

application would have to be filed within 60 days, and it has now been more than 2 years. Chair Wainwright stated that he is beginning to become frustrated.

**5) Resolution of Charles Kinney's request to purchase Map 20 Lot 15:**

The issue was discussed at the Selectmen's meeting. They were not sure who had jurisdiction, and asked the Commission to set up a meeting with the Town Attorney. The Town Attorney stated in a letter that it would not be possible for Mr. Kinney to purchase the lot because too many restrictions were placed in the deed when it was sold to the Town by the State for \$1. Therefore, jurisdiction is a moot point. Chair Wainwright will add the letter from the Town Attorney to the minutes. Chair Wainwright also read his letter that he sent to the Selectmen, which is also attached to these minutes.

Since there is no longer any reason to keep these minutes sealed, Chair Wainwright requested a motion to unseal the minutes of the July 2, 2018 nonpublic session of the Atkinson Conservation Commission.

**Member McVay made a motion to unseal the minutes of the July 2, 2018 nonpublic session of the Atkinson Conservation Commission. Member Kimball seconded the motion. All members of the Atkinson Conservation Commission voted in favor. Vote: 7/0/0.**

Chair Wainwright then requested a motion to approve the nonpublic minutes of the Atkinson Conservation Commission.

**Member McVay made a motion to approve the minutes of the July 2, 2018 nonpublic session of the Atkinson Conservation Commission as written. Vice Chair Legault seconded the motion. All members of the Atkinson Conservation Commission present at the July 2, 2018 meeting of the Atkinson Conservation Commission voted in favor. Vote: 7/0/0.**

**6) Process to unseal nonpublic session minutes:**

Chair Wainwright informed the Commission that state law requires that sealed minutes from nonpublic sessions be unsealed once there is no longer any disadvantage to the Town in disclosing the information. He stated that the Commission has been lax in this regard in the past.

Chair Wainwright requested Secretary McVay to find copies of all minutes for non-public sessions. Secretary McVay has copies of all the minutes from 2001 forward. Chair Wainwright would like Secretary McVay to make a DVD of all sealed minutes for Commission members to review. Chair Wainwright stated that there is only one nonpublic session that he can think of that should remain sealed.

**7) Multi-town Conservation Commission news: Brent Ebner not present**

Chair Wainwright asked about the mapping technology being used for the trails in the three town area. Secretary McVay replied that he believes it is trails.com.

## **8) Web page and social media updates:**

### **a. GPS trail mapping & social media – Pete**

Chair Wainwright would like digital GPS-based maps of all Atkinson trails. The primary reason is because he would like a bigger presence on social media, and updated trail maps are needed to do this. He would eventually like trail maps to be accessible via a QR code posted at each trail entrance, so that a GPS-enabled App on a smart phone could display the map and the user's position.

Chair Wainwright suggested that Pete McVay and Peter Bradshaw work together to make GPS maps of all trails. Member McVay has a GPS and Alternate Bradshaw has a trail bike. Member McVay informed Alternate Bradshaw that the Conservation Commission has two licenses for Terrain Navigator Pro, and his license can be used by others.

Member McVay also explained that the US Geologic Survey changed their topographic mapping about ten years ago.

### **b. Proposed content updates for the web page – Pete**

Member McVay informed the Commission that he sent an email to everyone with a list of web hosts and the Assistant Town Manager informed him that the Conservation Commission could probably get a page on the Town web site through their provider.

Chair Wainwright stated that the first step should be deciding on content of the Conservation Commission page. Member McVay stated he would send out an email. The Town webmaster has been working on the Conservation Commission web page and there is a section on useful links and many of them do not work. Chair Wainwright has requested that the section containing broken links be taken down, and that this portion of the page be marked "under construction."

Secretary McVay stated that content is key but ongoing management is also key. Chair Wainwright stated that web page management would be a good job for the Secretary.

## **9) Road salt discussion: Denise**

Vice Chair Legault informed the Commission that at one time there was a salt committee at Hemlock Heights and the issue has been discussed with the Road Agent.

She shared an article on road salt with the Commission. She also explained that the water at Big Island Pond is tested a least three times a year and clarity is good but electrolytes have gone up and this is caused by salt. There is a spreadsheet of the water samples since 1990. She will talk to the Road Agent.

Chair Wainwright stated that UNH Cooperative Extension might have resources and may be able to provide assistance. Also, another issue is where the salt in the pond is coming from. There are 3 towns bordering Big Island Pond and he asked what their salt usage is.

Member McVay stated that his Condominium Association received a letter from the State about protecting water quality and asked if anyone else had received it. Also, Atkinson sits on one of the finest aquifers in the State and it behooves the Town and its residents to make sure that it stays pure and clean.

## **10) Signs:**

Chair Wainwright would like to buy signs. In past meetings Mr. Ebner has stated that he is concerned about people using the trailhead parking area he is providing along his driveway at night. Chair Wainwright stated that signs should be posted “no parking dusk to dawn.” Two issues are hunters who use the trails early, and people snowshoeing who use the trails after dusk in the winter.

Chair Wainwright stated that Voss signs are very inexpensive and suggested buying some, first a “no ATV” sign and also a “stay on trails” sign.

Chair Wainwright would also like some Atkinson-specific signs. There are a number of trails with different access points. It is not feasible to put up a kiosk at every access point. There should be signs identifying the trails as Town of Atkinson trails.

Member Krause suggested a sign asking people to clean up after their dogs. Member McVay suggested a canister for dog poop disposal. The Commission discussed how to dispose of dog waste. It was the general consensus that enforcing a “dog cleanup” requirement would be difficult to enforce.

Secretary McVay showed the Commission an example of sign warning against ticks and stated that the biggest cost of sign printing is set up. The minimum order is 150 signs.

Other issues are trail cams and “no motorized vehicle” signs.

Chair Wainwright stated that there are a few places that could use a kiosk. There are some places that sell kiosks but the cost could easily be around \$1700. The Commission discussed who could make kiosks. Chair Wainwright stated that since we have money in this year’s budget we should consider purchasing material for kiosks. Chair Wainwright and Member Kimball are both woodworkers.

## **11) Brief Reports & Other Business:**

### **a. Dock Issue: James and Eva Perry – Denise**

Denise stated she had nothing new to report. Doug Yoho stated that the dock was thrown into the water and is not usable.

### **b. Page Farm trail access – in progress.**

Chair Wainwright has met with the Planning Board Chair and reviewed the latest plan for the Page Farm Development. He has also read the existing trail easement documents. He has written a letter to the developer requesting further discussion. This letter is attached to these minutes. There is an interesting opportunity. The additional 7 units the developer would like to add abut Town land and the road to the units would run past the stone wall property line. Chair Wainwright would like access at that point rather than between two units.

**c. Tree issues on Lakeside Drive**

Chair Wainwright read his letter of thanks to the Selectmen for the work that Road Agent Ted Stuart did in removing a dead tree at the trailhead parking for the Stickney trail at the end of Lakeside Drive. The letter is attached to these minutes.

**d. Brush dump invasives inspection**

Chair Wainwright accompanied Ariana Spear from the Rockingham Conservation District on an inspection of the Atkinson Brush Dump. This was in response to the Conservation District's request for proposals for clearing invasive plants from town working lands.

**e. Orr Town Forest periodic inspection**

LCIP is now the Conservation Land Stewardship Program – they changed their name to avoid confusion with LCHIP.

Chair Wainwright reported that he accompanied Steve Walker and Amanda Hollenbeck from that organization on their periodic inspection of the Orr Town Forest. This land was purchased with money from LCIP, thus it gets inspected every few years. They had two comments. First, as reported in prior years, the boundary line between the forest and the three properties on Robie Lane needs to be confirmed and marked by a surveyor, and second, along Robie Lane towards Main Street, someone continues to dump lawn clippings and other yard waste (not a new problem). Steve Walker dragged some branches to deter people from going into the forest at that point, and Chair Wainwright posted a second "No Dumping" sign.

**f. UNH Cooperative Extension invasives plan for Sawyer Town Forest**

Chair Wainwright reported that he accompanied Greg Jordan, a forester from UNH Cooperative Extension, on an inspection of the Bittersweet and other invasive plants near the main entrance to the Sawyer Town Forest. Greg estimated that it would be a major project to eliminate invasives, and would cost around \$1,000 per acre for a professional to apply herbicides, and that some areas might first need to be cut with a specialized machine called a Brontosaurus. The best approach would be to try to contain the invasives and try to keep them out of the forest itself.

**g. Ruth McPherson Conservation Trust**

When Ruth McPherson died, she left some money in a Conservation Trust. The trustee was Carol Grant, who died this past spring, and there was no successor trustee. Tom Donovan, the Director of Charitable Trusts at the NH DOJ has stated that, in his opinion, the best place for the money is in Atkinson's Conservation Fund, and he has written a draft petition to the Court to terminate the trust and transfer the money to the town's Conservation Fund. The Town Attorney has written a letter to the Selectmen advising that it be accepted, and the Selectmen will be taking a straw vote on the issue.

#### **h. Handicap Access to Slade Town Forest**

Chair Wainwright and member Kimball inspected the Orr Town Forest for a possible wheelchair-accessible trail, and concluded that it is too steep and hilly in places. The Slade Town Forest on Pope Road (off of Main Street) is flatter. There was a trail that used to go down the Stewart's Pond, but it has become overgrown and needs to be rebuilt. Chair Wainwright is looking at a grant from the New Hampshire Counsel on Developmental Disabilities to fund an initial feasibility study. They have a fast track grant process that awards grants up to \$1,000 for community projects.

#### **i. Sawmill South still needs trail work**

Chair Wainwright would like to put together a work party, and asked members whether an upcoming Saturday morning would be good for them. He will set up a cleanup via email.

### **12) Next Meeting & Adjournment**

The next regular meeting of the Atkinson Conservation Commission will be Monday, September 10, 2018 at 7:30 PM. Member McVay will be gone.

Chair Wainwright requested a motion to adjourn.

**Vice Chair Legault made a motion to adjourn the August 6, 2018 meeting of the Atkinson Conservation Commission at 8:46 PM. Member McVay seconded the motion. All members of the Atkinson Conservation Commission present voted in favor. Vote: 7/0/0.**

#### **Attachments:**

- Letter to the ZBA recommending denial
- Town Attorney's letter to the Selectmen about land sale jurisdiction
- Chair Wainwright's letter to the Selectmen concerning jurisdiction
- Letter to Green and Company concerning trails
- Chair Wainwright's letter to the Selectmen concerning Ted Stuart

TOWN OF ATKINSON CONSERVATION COMMISSION  
21 Academy Avenue  
Atkinson, New Hampshire 03811

August 8, 2018

Atkinson Zoning Board of Adjustment  
21 Academy Avenue  
Atkinson, NH 03811

Re: Wetland Setback Variance Application for Map 9 Lot 29

Dear Chairman –

Tim Lavelle of James M. Lavelle Associates appeared before the Atkinson Conservation Commission on January 8, 2018, and again on July 2, 2018, and presented plans for a new residential structure on Maple Avenue at Blunts Ponds, Map 9 Lot 29. Mr. Lavelle was representing Peter and Erica Corbett, owners of that lot. The owners intend to apply to your board for both a front setback variance, which we did not discuss, and a wetland setback variance of 49 feet, which we carefully considered.

After considering all of the details of this plan as presented by Mr. Lavelle, and after conducting a site inspection, the Atkinson Conservation Commission voted unanimously at our August 6, 2018 meeting to recommend that your board deny the wetland setback variance for this project.

Sincerely,



Paul Wainwright,  
Chair, Atkinson Conservation Commission  
email: [conservation@atkinson-nh.gov](mailto:conservation@atkinson-nh.gov)

Copy to :

Sue Coppeta, Town of Atkinson Planning and Zoning Administrator  
Tim Lavelle



*Sumner F. Kalman*  
*Attorney at Law, P.C.*

*147 Main Street, Box 988*  
*Plaistow, New Hampshire 03865*  
*Telephone: (603) 382-4003*

July 2, 2018

Paul Wainwright, Chairman  
Atkinson Conservation Commission  
Town of Atkinson  
21 Academy Ave.  
Atkinson, NH 03811

RE: Deed recorded Rockingham County Registry of Deeds, Book 2412, Page 901  
State of New Hampshire to Town of Atkinson, dated 4/28/1982

Dear Paul:

Reviewing your memo, a Mr. Charles Kinney is interested in purchasing Map 20 Lot 15 described in the above-captioned deed.

The purported issue is framed in terms of jurisdiction over the requested sale of land. A read of the deed causes me to conclude jurisdiction over the potential sale is not the issue, because whether it is the Conservation Commission or the Board of Selectmen, the deed states:

“This deed is subject to the following conditions: (1) Legal title to such property be held only be a N. H. municipal corporation, and (2) The Grantee and its successors in interest hold such property exclusively for the public uses of inhabitants; and the Grantor reserves the power for itself and its successors in interest to re-enter and terminate the estate hereby conveyed if either such condition is ever breached.”

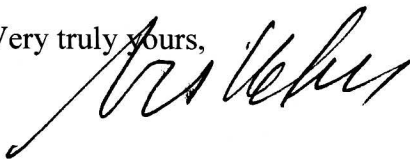
One never reaches the “jurisdiction issue” because the deed makes conveyance of the property to a private individual a trigger for the reversion of the land to the State of New Hampshire.

Simply, you can’t get there from here.

If there is some information beyond the four corners of the deed that you still think requires discussion I would suggest that you consider this letter my opinion concerning the Town’s inability, under any circumstances, to comply with Mr. Kinney’s request

Please feel free to call with any questions you may have regarding this or any other mater.

Very truly yours,



Sumner F. Kalman  
SFK/dw

TOWN OF ATKINSON CONSERVATION COMMISSION  
21 Academy Avenue  
Atkinson, New Hampshire 03811

July 9, 2018

Atkinson Board of Selectmen  
21 Academy Avenue  
Atkinson, NH 03811

Re: Letter from Charles Kinney dated May 21, 2018

Dear Chairman –

Since I don't believe Greg Spero will be at tonight's BoS meeting, I thought I would give you a brief report about the meeting that he, Denise Legault, and I had with Sumner Kalman last Friday concerning Mr. Kinney's letter.

As he stated in his letter dated July 2, 2018 (attached), Sumner does not believe that Map 20 Lot 15 can be sold due to the deed restrictions placed on it by the State when the land was sold to the Town in 1982. Therefore, the issue of who has control over this property is a moot point, and I do not plan on spending more time trying to figure that out.

Sincerely,



Paul Wainwright, Chair, Atkinson Conservation Commission

email: [conservation@atkinson-nh.gov](mailto:conservation@atkinson-nh.gov)

Copy to :

Alan Phair, Atkinson Town Administrator

**TOWN OF ATKINSON CONSERVATION COMMISSION**  
**21 Academy Avenue**  
**Atkinson, New Hampshire 03811**

August 2, 2018

Michael Green  
Green & Company  
11 Lafayette Road  
North Hampton, NH 03862

Re: Trails and Wetland Setbacks for the Page Farm Development

Dear Michael –

I had the opportunity to review your Amended Open Space Overall Plan, dated 7/20/18, and would like to make the following comments. I know your company is working on other issues at the moment, and I presume this plan is intended to address those issues, but a number of things of interest to the Atkinson Conservation Commission are not shown on this particular plan, and I would like to make sure these are addressed.

1. Previous plans show a “Relocated 10’ Public Access Trail” behind Units 35 – 41. This is missing from the current plan, and needs some discussion. Personally, I’m not sure of the value of this particular trail.
2. None of the plans I have seen over the past year or so provide public access to the current Town trail that enters your project behind Units 34 and 35. This needs to be addressed.
3. If you move forward with the proposed 7 additional units that are shown on the 7/20/18 plan, there is an opportunity to provide easy access to this (relocated) Town trail, as well as possibly moving the current 15’ Emergency Access Easement, to be along the south side of the additional road that is proposed.
4. Along the Knightland Road extension, I note that parking is shown for trail access, but the plan should note that its purpose is to provide parking for the general public.
5. Previous versions of the plans have shown a public access trail from this parking area to an established Town trail leading north. This is missing from the 7/20/18 plan.
6. While probably infrequent, from time to time there will be members of the general public who would like to be “through hikers” across your development. The easiest way to provide for this would be to not prohibit people from exiting the trail system at one of the established access points, walking the development’s road, and re-

entering the trail at the other established access point. This needs to be addressed in writing.

Once these issues are resolved, we need to be sure that they are adequately documented in deeds and/or condo documents.

I believe the trail access points discussed above would be of great value to residents of your development. The Town's trails that lead north and south are really wonderful – I would be happy to join you for a walk in the woods – and any inconvenience for allowing public access would be far outweighed by the value to future residents of your project.

And one final note about Prime Wetlands:

7. While shown on pervious plans, the Prime Wetland setback in the vicinity of the proposed 7 additional units is not shown, and needs to be. Please note that Prime Wetland boundaries published by NH DES are +- 100 feet. Their current location needs to be established by a wetland scientist, accurately located by your surveyor, and shown on the plan.

I would be happy to meet with you at your office in North Hampton, or on site at the project, to discuss how these issues can be addressed.

Sincerely,



Paul Wainwright, Chair, Atkinson Conservation Commission

email: [conservation@atkinson-nh.gov](mailto:conservation@atkinson-nh.gov)

home phone : (603) 362-6589

Copy to :

Sue Coppeta, Town of Atkinson Planning and Zoning Administrator

TOWN OF ATKINSON CONSERVATION COMMISSION  
21 Academy Avenue  
Atkinson, New Hampshire 03811

July 30, 2018

Atkinson Board of Selectmen  
21 Academy Avenue  
Atkinson, NH 03811

Re: A "Gold Star" for Ted Stewart

Dear Chairman –

Several weeks ago I received a call from Alice Sulish, a resident of Lakeside Drive, concerning a dead tree overhanging the parking area for the conservation trail at the end of her street. I paid her a visit, looked at the tree, and agreed that, although it did not appear to be an immediate hazard, it should probably come down. I left a note for Ted Stuart to see if he could help, and went on vacation. A few days ago I returned to mark the tree and discovered that Ted had already taken care of it!

Although you may not receive many letters like this, I just wanted you to know how much the Conservation Commission appreciates Ted's help from time to time in matters like this. Please extend my gratitude to Ted Stewart.

Sincerely,



Paul Wainwright, Chair, Atkinson Conservation Commission

email: [conservation@atkinson-nh.gov](mailto:conservation@atkinson-nh.gov)  
home phone : 362-6589