

TOWN OF SOMERS
Conservation Commission
600 Main Street

REGULAR MEETING
WEDNESDAY, JANUARY 07, 2026
7:00 PM TOWN HALL
MINUTES

I. CALL TO ORDER

- II. Chairperson Joan Formeister called the meeting to order at 7:02 p.m. The commissioners in attendance were Dan Fraro, Drew Kukucka, Sydney Flowers, and alternate Lise Wood. Joanna Shapiro, the Town of Somers Wetlands Agent, was also present.

Chairperson Formeister seated Lise Wood in place of Candace Aleks.

Drew Kukucka made a motion to add three agenda items to the New Business section of today's meeting (see three new items below #2, #3, and #4).

Sydney Flowers seconded. All were in favor, and the motion carried.

III. OLD BUSINESS

None

IV. NEW BUSINESS

1. **Application to Extend WP #643: 35 Therese Drive.** Construction of a single-family home with driveway, septic, and grading in the Upland Review Area. Dan and Fran Hinckley/Therese Drive LLC.

Dan and Fran Hinckley were in attendance. Wetland agent Joanna Shapiro provides background information on this agenda item. This is an old permit that will expire soon. It was first approved in 2012, and later extended, but due to the COVID-19 pandemic and an economic downturn, new state legislation automatically caused this permit to become a 14 year permit, valid through February 01, 2026. The owners want to extend the license for an additional five years, which is the allowable maximum. Owners provided a written statement regarding their need for the extension and the work completed to date: they have cleared and stumped the building area and installed a silt fence. The goal is to start building in the next three to five years. Initially, they wanted to build a house for their father, but he has since passed, and now they intend to build a home for themselves. There are no changes to the 2012 plan that was approved at this time. Joanna Shapiro stated that the Commission could vote on this tonight if they deem there are no substantive changes and that we find that the necessary responses have been provided with the application. Joan Formeister asked whether the owners were still aware of all the conditions tied to the 2012 permit, and they stated that they were. Joanna Shapiro stated the record is pretty clear about what those conditions are.

Drew Kukucka made a motion to extend the wetland permit #643: 35 Therese Drive: construction of a single-family home with driveway, septic, and grading in the Upland Review Area, for an additional five years from February 01, 2026, with the existing conditions outlined in the permit.

Lise Wood seconded. All were in favor, and the motion carried.

Joanna Shapiro advised the property owners to reach out to her before they start work because of the conditions and required notifications. They said they would.

2. Discussion of possible violation, 330 South Road. Dave Tullock

Joanna Shapiro explained how this came to the Commission, as it's not a formal application or a formal cease-and-desist to correct anything at this point. Right now, we need to figure out how to move forward. Joanna observed a possible wetland violation in a wetland area while reviewing an adjacent property for sale, and she was receiving inquiries by prospective buyers about what they could and couldn't do on the property due to wetlands. She had referred to the original subdivision plan, depicting the wetland area that ran through both properties, and observed encroachment into the wetland area on both properties when viewing the town GIS. While the encroachment into the wetland had spanned both properties, that has reportedly been resolved by a land transfer. Joanna reached out to the property owner with the encroachment, Dave Tullock, and they have spoken a couple of times about the concern, but he is not allowing the Wetland Agent on his property at this time. He is here today to explain his side of the situation. Joanna Shapiro passed out two aerial photographs of the property, taken from satellite images online: one from April 2018 and another from April 2023. Joanna explained that there was prior wetland permitting for this site, issued to Dave Tullock when the house, a shed, and a garage were built in the Upland Review Area. In addition, another permit was required for the pool installation, as well as a wetland crossing, after the fact. What Joanna recently observed went beyond these permitted activities, and it appears that some potentially impervious stone surface has been added to the ground within the wetland and upland review area, which covers a large part of the back of the property, as shown in the images circulated to the Commission. There is also a small shed on a concrete pad in the wetland. Dave Tullock explained that he has been on the property for 26 years, and the property's use has not changed during that time. He parks his trailers and equipment in that area, which was just dirt at one time. He explained that he has lost many trees to storms and beetle infestations, and he has been cutting them down to keep the area clean of dead wood and broken trees. This past year, he put down stone for a party he was having, so people could park there, and the tracking of dirt would be minimal. He explained he has no plans to regrade the area because that is where he parks his equipment. He explained that he keeps the lawn and trees manicured to keep them looking good. Drew Kukucka stated that Dave Tullock should have known the wetland permit rules because he had gone through this process before, and was advised by the town to apply for a wetland permit after he installed a stream crossing. Drew explained that, unfortunately, not applying for a wetland permit in advance of work is a problem we are seeing with many residents. There was just a discussion with the Board of Selectmen about this problem, and the Commission sent out a flyer to residents last year explaining the wetland laws and what needs to be permitted.

Dave Tullock explained that when he talked to David Askew, the prior town wetland agent, about the work he was doing when it was first permitted, it was understood what he was using the property for. Drew explained that since then, he has put stone down in the wetland, cleared part of it, and put a shed in it. Dave explained that he thought putting the stone down would stabilize the area, and Joanna explained that this is considered filling a wetland and violates wetland laws. Dave explained that he only removes trees when they die, and Drew asked whether he also removes the stumps. Dave said he was not and was leveling them to the ground. Dave then stressed that he sees wetland violations all over town, including town land (the dump, baseball field). Drew stated that at this time it would be best to have the town's wetland agent visit your property to assess the scope of the work, and she can then provide feedback to the Commission so we can determine what needs to be done next. Dave Tullock expressed concern that if Joanna doesn't like what has happened, how do we resolve it and move forward, because he doesn't want to tear up his yard. Drew stated that he could

meet with Joanna on-site and discuss options at that time. Joan Formeister pointed out that these rules come from the state, not Somers, and she understands there are many violations, including on the town's own property. She explained that she worked with the prior town employee, David Askew, who, Mr. Tullock mentioned, saw his property and gave him verbal approval to proceed with this work. Joan was surprised to hear this because she recalls him being by-the-book. Drew mentioned that a lot of this work had also been done after David left, based on the aerial photographs, and we only have these to go by since Mr. Tullock has not allowed Joanna to visit the site. Dave Tullock agreed to let Joanna visit the site at this time, and they will figure out a time soon to meet.

3. **Application #823: 122 Watchaug Road.** Improvement of farm road in the wetland and upland review area, including culvert crossing of Hall Hill Brook. Oakridge Dairy LLC.

Joanna explained that this application and the next one were just received the day before, so she has not had time to view the property or plans closely. Joanna passed around the soil scientist's report she received today.

Jay Ussery from J.R. Russo & Associates and Seth Baylor from Oakridge Dairy were present to provide more details on the project. Jay Ussery explained that they want to install a short culvert section in Hall Hill Brook and passed around the GIS map to show its location. Jay Ussery explained the map and pointed out that this is a large piece of land (approximately 250 acres), with an irrigation pond in the middle, dug by prior landowners between 1950 and 1970. Mr. Ussery pointed out the small building on the map and identified it as a well house. The previous landowner had also installed the well to irrigate the land on both sides of the road. On the east side of the land, there is an existing farm road that comes off of Four Bridges Road, runs down past the irrigation ponds, and appears the prior owners brought irrigation pipe down the farm road and drove farm equipment directly across Hall Hill Brook. Jay Ussery explained that Oakridge Dairy would like to use this pond for irrigation and fertilization, using the Rain 360 operation, as they are currently doing on Hurlburt Road. Mr. Ussery went on to explain how the Rain 360 machine works. The plan is to use the existing well and bring piping across Hall Hill Brook to the other side of the field. They will need a power line installed under the culvert, a manifold installed, and tanks to hold the fertilizer. Seth explained that the tanks that are currently at Hurlburt Rd will be moved to this location. They will need to install a culvert to drive across the brook. The culvert will be a 42" wide by 42' long pipe with some riprap along the banks to prevent erosion. Jay pointed out that there will be 4,378 square feet of direct wetland disturbance, which requires a wetland permit. Rick Zulick, a soil scientist, flagged the wetlands. Jay explained that the south side of the pond and a large area on the north side of the pond are material that was piled up from the prior dredging and digging of the pond. Jay stated they determined the culvert size based on the upstream and downstream culverts. He pointed out that the soil scientist's report explains the wetlands and that the work they will be doing will cause no harm to them, which JR Russo & Associates agreed with.

Drew Kukucka wanted them to share more details about the big picture regarding this piece of property. He asked about past permits we issued, and there was some confusion on what had been permitted and when. There was one irrigation pond they were approved to install, but Oakridge later decided not to pursue it. Drew then asked about the storage process, and Seth Baylor explained that they no longer plan to store manure in an open pit. Instead, they plan to haul manure to the storage bins (contained in metal), and the piping will be laid permanently close to the ground. Seth explained that much of their land has been converted to homes or solar leases, and they want to preserve what land they have left (about 400 acres). He explained that the Rain 360 operation they used on Hurlburt Road this year yielded a 20% increase in crops and uses less energy. Jay Ussery stated that by using this road, they are cutting down the distance to the pond and power. Drew asked for a cross-section diagram of the plans, and they did not have one, but Jay stated they could provide one.

Drew asked if they had looked more closely at their alternatives for both road access and culvert type. Joanna Shapiro pointed out that there are culverts you can use that won't involve filling the stream for 42', like a bridge crossing. Jay Ussery said that it is a possibility, but it will include a lot more money to build. The commission then discussed how, in the alternative section of the application, many people don't include much information because they haven't really pursued those alternatives. The commission explained that it is rare for us to receive an application involving this much direct wetland disturbance, and we must determine whether the activities are significant. Joanna reviewed what constitutes significant impacts. Seth then mentioned that in the past, they had made wetland mistakes, like digging before a heavy rainstorm, and they won't do that again. Jay Ussery stated that dewatering is outlined in the plans. Joanna noted that the determination of significant impact can be subjective, but it is ultimately up to the Conservation Commission. If we decide it is significant, a public hearing will be required. Sydney Flowers stated that we need more time to review this application before we can decide whether it is significant, because we just received it yesterday. We need the alternatives explained in more detail, for example, the cost of a bridge versus a culvert. Joanna Shapiro will also plan a time with Seth to visit the site and discuss the plans.

4. **Application #824: 359 Mountain Road.** Grading and trenching in the upland review area for a new septic tank and grease trap, associated with the construction of a winery tasting room/event space. Somers Mountain Properties LLC.

Jay Ussery from JR Russo & Associates, along with the owners Mark and Karen Murdoch, were in attendance. Joanna explained that these plans were received very last minute due to Joanna seeing the plan yesterday and realizing a wetland permit may be needed. Planning and Zoning will review these plans during their meeting tomorrow. Jay Ussery explained the plans and where the new building is being built. As a result, about 6300 square feet of Upland Review Area disturbance will occur where the grease trap and septic will be installed. There is already a stone pad and a sanitary line installed, and they will be tying into it. Drew stated the plans look pretty straightforward, but he did wonder about the silt fence and where it stops. Jay Ussery explained that the silt fence could definitely be extended further, and they will do so. The commission stated that the work should be done during dry periods and that sediment shouldn't enter the ponds. Mark noted that the town and the neighbors pre-approved this. No one had further questions.

V. AUDIENCE PARTICIPATION

- Kevin Barbeau, a resident of the town, started by saying that the Conservation Commission is impressive to watch in action, especially since all are volunteers. He stated that he is here to express his frustration with the town and the process for obtaining conservation-related permissions or even having these discussions. He stated he heard the Commission say a few times tonight that it is easier to come to us before a project rather than having to remedy a project that was not permitted by the town. Mr. Barbeau stated that a prime example is the recent work the town completed on Old Hampden Road. He noted that this work was done without input from the Conservation Commission, and it should have had. At this time, he believes it may be a good idea to bring in the State of CT (DEEP) to serve as a moderator, helping the town better understand what they should and shouldn't be doing based on the rules. He expressed frustration that exceptions are granted in the town based on relationships or history, and that the town refers to them as special permits. Kevin felt that the town of Hampden, MA, should have also been reached out to about the work being done on the road. The commission was not aware of this work, and Joanna stated the town had installed/replaced a number of culverts and resurfaced the road. Joan Formeister stated that much of the work was done in the wetlands. When Joanna asked the town about this, she was told it was maintenance and an emergency and they did not perceive it to require a wetland permit.

The commission agreed we should have been consulted and that an emergency does not give anyone the right to supersede town or state regulations. Kevin would like to see more audience participation at these meetings, making them a two-way conversation rather than the audience simply sharing their concerns and receiving no response. He pointed out that he understands there are legalities and the commissions can only share so much information, but he would like to see them more engaged with the community in respectful ways.

Shawn Curtis, a resident of the town, was also present and explained his frustrations with the town's work on Old Hampden Road. He also felt that having a Town Wetland Agent in town for only two half days per week is not enough, as we are growing and the town needs greater permanence in that role, along with a full-time director of land use. He hopes to see the commissions work more transparently with one another, and he hopes that combining the planning and zoning commissions will be beneficial.

Joan Formeister stated that she and Drew Kukucka spoke with the First Selectman, Tim Keeney, about their frustrations that our meeting agenda items are largely compliance-driven and that we can't operate this way because it's not productive. Shawn pointed out that we live in a world with more regulations and guidelines than we did 20-30 years ago, but they are publicly available and very clear, and we need to do our due diligence to understand them.

Shawn Curtis then discussed the concern that sediment is eroding rapidly off 47 Old Hamden Road because the culverts are not functioning correctly, and that the earthwork on this property is most likely the cause. Joanna mentioned that the sediment reaching Thrasher Brook was brought to her attention over the holidays, and she did reach out to the property owners. Both the zoning enforcement officer and the public works director visited the site with Joanna shortly after, but during a dry, frozen period. She stated there was evidence of some turbid water still in the ditch and along the driveway. She said she thought much of the site work up top seemed to shed in the opposite direction of Old Hampden Road, and there were some measures in place, but she did see areas of erosion off the main driveway. Joanna told the property owners that they needed to reduce the erosion in the ditch immediately. She reported receiving a report from the property owners this morning, along with a video showing that some work had been done to remedy the erosion, including silt fence and installing riprap check dams in the trench along the driveway. She will contact them again to obtain more details about the silt fence installation.

Kevin Barbeau asked Joanna Shapiro if she knew about this project in advance, and if so, why wasn't she more familiar with what was going on there, and why weren't precautions put in place to prevent erosion from happening in the first place? Joanna explained that she was not aware of the scope of the project, and Shawn Curtis explained that he believes it is about four to five acres that have been disturbed. Joanna explained that the only plans she saw were a general footprint of the area and no grading plan, which she perceived could lead to erosion issues. Joanna explained that she reported via an email response that she didn't observe any wetlands or water courses within 100' of the area that was outlined for work, and that was the extent of her review. Shawn Curtis asked why there wasn't a grading plan or what work had already been completed by the property owners. He stated he believes they have worked on more than 5 acres, and that is DEEP's threshold for submitting erosion control plans. He encouraged Joanna and the town to look at the maps we have access to online to see how much work has been done without permits and how much of the land has opened up. He went on to state that we can't rewind the clock, but we can learn from it. Joanna Shapiro stated she didn't realize the scope of what was being proposed, and she didn't see any plans showing that scope of grading. Kevin and Shawn both stated that the zoning commission should have conducted more investigation and held more discussions to understand the full scope of the project before permitting it. Kevin asked whether we should now alert the town of Hampden, MA, and provide them with an update on the work done on the road. Joanna stated that our regulations

trigger us to notify neighboring towns for wetland applications for work within 500' of the town line. Also, she reported that in 2022, a significant amount of resurfacing was done on Old Hampden Road, and several culverts were replaced. Again, she said the town's Public Works Director did not think this needed to come before the Conservation Commission because it was road maintenance. Joanna had asked him to go to the meeting tonight, but he was unable to attend, and she encouraged him to discuss it at a later time. Joanna stated that the Conservation Commission should determine whether something is exempt from wetland permits, and explained that we have previously established general permits with DPW for maintenance work that might exceed the exemption.

The Commission thought it would be an excellent idea for the Director of Public Works to attend a future meeting so we can discuss what does and doesn't involve the Conservation Commission. Both the town and its residents need to follow our regulations and guidelines.

Shawn Curtis explained that he is waiting on the Department of Public Works to get back to him about the improvements made on Old Hampden Road, whether they were the ones who recently filled potholes and did grading, or if it was a private resident. He stated that he is not anti-development; he wants it done responsibly. Kevin asked whether he thought it would be a good idea for residents to reach out to DEEP for more information, and Drew stated that he thought it would be a very good idea and that any resident can reach out to them. He said you can reach out to the DEEP commissioner via email. Joanna explained that the Conservation Commission doesn't oversee stormwater management. Kevin asked if there was a written summary of Joanna's visit to the site with Jen and Todd, and she stated there wasn't anything formal, just the pictures she took and the email communication she had with the property owner. She stated that, due to her limited time in town, she doesn't do much formal writing.

VI. STAFF REPORT

1. 120 Watchaug Road, the roof to the hangar has drains that are discharging into the road and an adjacent property, versus dry wells like they were supposed to. Joanna has made little progress on this and is working with the zoning enforcement officer and the property owner to figure out a way for the water to be discharged onsite rather than piped offsite, without a drainage easement in place. Drew mentioned that in the past, the Department of Public Works had installed riprap along the road in that area to get the water off the road, but after the hangar was built, a lot of sediment has clogged the riprap, and the water is not shedding off the road because there is nowhere for it to go. Drew suggested that those need to be cleaned out and fresh rock put down.
2. DEEP was contacted because a concerned resident contacted Joanna on a property that is abutting Lafayette Pond, who reported that a neighbor took it upon themselves to remove a dam because they did not want it to flood their property. Beavers were trapped. The resident who made the report was concerned about the wildlife that use the pond, and she provided the property owner with the DEEP complaint form. Joanna is in the process of figuring out who is responsible for this dam.
3. 184 Durkee Road, someone reached out to Joanna because they might be subdividing a part of the property, and they wanted to know more about what you can and can't do there regarding wetlands.
4. Drew and Joan provided more information about their meeting with the First Selectman, Mr. Keeney. They also plan to meet with Bill Meier soon, too. They spoke about the need for an overhaul of the land use department, provided examples of their concerns, and expressed a need for someone to coordinate the department because it shouldn't be the head of DPW, as they have enough on their plate. They expressed concern that certain employees are asked to work beyond their role, training, and abilities. Joan mentioned that in the past, the town had a town planner and a town engineer, and now we have neither. They expressed concern that boards are not communicating with each other and that there should be more collaboration, such as an annual meeting of all members.

They stated that our wetland agent, Joanna, doesn't always know what is going on, there are no formal reports, and the DPW is not functioning well. We seem to be dealing with more violations lately. They also discussed the town's Plan of Conservation and Development, and Tim stated they had to do a quick rewrite by the end of 2025. He did tell Drew and Joan that a committee will be appointed to rewrite this document, and there will be a plan for follow-through.

Lise Wood moved to approve the Staff Report. Dan Fraro seconded. All were in favor, and the motion carried.

VII. CORRESPONDENCE AND BILLS

1. Received a notice of herbicide treatment of Worthington Pond
2. November 5 and November 20 legal notices bills to be paid, \$55.09 and \$39.35

Lise Wood made a motion to pay the legal notices for November 05 and November 20 in the amounts of \$55.09 and \$39.95. Sydney Flowers seconded. All were in favor, and the motion carried.

VIII. MINUTES APPROVAL: November 05, 2025 (regular meeting) and November 20, 2025 (special meeting)

Drew Kucucka moved to approve the amended (to include attendees for the 11/5/25 meeting and change Ladd to Ladd Construction under New Business #1) November 05, 2025, and November 20, 2025, documents (no meetings held in December 2025). Lise Wood seconded. All were in favor, and the motion carried.

IX. ADJOURNMENT

Lise Wood moved to adjourn the January 07, 2026, meeting, and Dan Fraro seconded the motion. All were in favor, and the motion carried. The meeting was adjourned at 9:52 p.m.

Respectfully Submitted, Commissioner Sydney Flowers, Secretary
MINUTES ARE NOT OFFICIAL UNTIL APPROVED AT A SUBSEQUENT MEETING