

July 31, 2022

Nottingham Planning Board  
139 Stage Road; PO Box 114  
Nottingham Town Offices  
Nottingham, NH  
03290

Dear Nottingham Planning Board,

I am writing this letter on behalf of Peter and Lauren Rowell who reside at 156 Stevens Hill Road, Nottingham, NH. I was recently contracted as a NH Certified Wetland Scientist (#181) by the Rowell's to provide a professional field review of a recently impacted wetland situated just to the north of their property belonging to Robin Comeau (at 176 Stevens Hill Road, Nottingham, NH). Due to the immediate proximity and visibility of the wetland impact along the Rowell north boundary line, all field work and data collection was able to be completed from inside the Rowell property. My observations and commentary are below:

- 1.) It appears a driveway crossing was installed through a wetland at the Comeau property *without* the required *NH DES Wetland Permit (there is no record of a permit being issued at the DES office)*. This is a violation of the state of NH's Wetland Regulations.
- 2.) It appears after a thorough state review of the above illegal wetland crossing by *NH DES*, Robin Comeau was ordered by the *NH DES* to restore the impacted wetland including the removal of the existing driveway and associated crossing structure. It also appears at this time that the *NH DES* did not consider an *After-the-Fact Wetlands Application* as a viable option or it might have been suggested by the respective state department. At present, *restoration compliance* at the effected wetland has not been completed as *NH DES has requested*. A Restoration Plan submitted to *NH DES* by Comeau cites that the respective restoration should have been initiated in the Spring of 2021. A year has passed an no action has been taken by Comeau. The above violations and lack of compliance by Comeau may provide precedent by other landowners in the town of Nottingham if enforcement is not required.
- 3.) It appears that the respective crossing of the wetland was *avoidable* to begin with if the driveway *had been positioned properly further to the north* (above the existing wetland on the Comeau property). Having worked for the *NH Wetlands Bureau* and having reviewed hundreds of wetland applications for wetland permits, **WETLAND AVOIDANCE IS ALWAYS REQUIRED** when at all possible. **THE MINIMIZATION OF WETLAND IMPACT WHEN NECESSARY IS ALWAYS A SECONDARY AND LESS PREFERRED OPTION.**
- 4.) In my previous experience at the Wetlands Bureau with reviewing wetland applications, that "*aesthetics*" was never a reasonable justification, nor was the "*lack of practicality*" a reason to fill a wetland.

- 5.) In addition to the above noted citations, it was noted that NO PROTECTION OR SAFEGUARDS were employed at the effected wetland when the driveway crossing was installed. NO EROSION CONTROL MEASURES were employed at the driveway crossing separating the disturbance (the construction zone) from the adjacent wetland. This is a "standard" *Best Management Practice for Erosion Control* that was ignored and is still being ignored by the landowner. Proper headers at the inlet and outlet as generally are recommended were also not installed. The stone headers protect both the inlet and outlet from destabilization during high water events (spring run-off, fall run-off, summer downpours, a 25-year or 50 year rain events, etc.)
- 6.) The installed culvert also appears undersized (the structure must meet the 50-year storm requirement required by *NH DES*). Presently, the smaller culvert as installed may prove to impound hydrology above the current inlet and affect the flow of hydrology from the culvert outlet reaching the lower wetland system. It appears the watershed acreage above the inlet of the installed culvert may have been calculated incorrectly. It appears most of the upper field drains towards the installed culvert. This *would not be a concern* if the driveway crossing was situated properly north of the existing wetland.
- 7.) It should be noted that the wetland at the Comeau property continues downslope across the shared property line with the Rowell's and continues the entire length across the 18.32 acre Rowell property, then drains underneath Stevens Hill Road to a small stream that feeds into another tributary that outlets from Quincy Pond (which eventually outlets into the Bean River). The wetland at the Comeau property is not "isolated" as has been suggested. It is a "connected wetland system that extends from the Comeau property on the north to Bean River in the south. The presence of a stonewall at the boundary line between the Rowell's and Comeau's does not "isolate" the respective wetland. It has been my observation in the field that stonewalls often bisect wetland systems.
- 8.) A field data plot was completed immediately south of the Rowell-Comeau boundary line. The three criteria that are required by the US Army Corp. to define a wetland were all present. These include a *wetland plant community*, an indication of *hydrology* (a flow pattern where surface water penetrated the five foot wide stone wall and morphological rooting by some of the trees); and a *hard pan* situated at approximately 6 inches in depth.
- 9.) The wetland plant community consisted of the following plant species:

<i>Vegetative Layer</i>	<i>Plant Species</i>	<i>Sci-Name</i>	<i>Wetland Indicator</i>
<i>Tree Layer:</i>	Red maple	<i>Acer rubrum</i>	Yes
	White oak	<i>Quercus alba</i>	No
<i>Sapling layer:</i>	Green ash	<i>Fraxinus pennsylvanica</i>	Yes
	Sugar maple	<i>Acer saccharum</i>	No
<i>Shrub layer:</i>	Meadowsweet	<i>Spiraea latifolia</i>	Yes
	Arrowwood	<i>Viburnum dentatum</i>	Yes
	Winterberry	<i>Ilex verticillate</i>	Yes
<i>Herb Layer:</i>	White pine	<i>Pinus strobus</i>	No
	Sensitive fern	<i>Onoclea sensibilis</i>	Yes

Poison ivy	<i>Toxicodendron radicans</i>	Yes
Touch-me-not	<i>Impatiens capensis</i>	Yes
Blue flag iris	<i>Iris versicolor</i>	Yes
Wood fern, fruity shield	<i>Dryopteris x triploidea</i>	Yes
Grass spp.	(unidentifiable)	(Not determined)

**Conclusion:** The data plot yielded (10) wetland plants vs (3) upland plants confirming its character as a wetland plant community (the Army Corp. requires that at least 50% of the observed species are considered facultative, facultative wet or obligate). Here, due to the presence of a majority of wetland plants vs many fewer upland plants there is no margin for error. (The wetland indicator species can be observed in the chart above). The data plot helps to reinforce that the Comeau wetland is not isolated from the overall lower wetland system starting at the Rowell-Comeau property line.

10. I will point out that the lower wetland system provides an important and critical habitat to both the NH “*threatened*” black racer and “*state endangered*” Blanding’s turtle which have been sighted at the Rowell property. Both of these species are very sensitive to the smallest of wetland impacts. Any effort to minimize impact within the larger wetland system ultimately helps to safeguard these imperiled species and in a town’s interest. The earlier wildlife study contracted by Comeau was completed in March/April of 2022. I have completed these studies since the early 2000’s and complete these mid-May to the end of June. Basking by both of these species is a predicted behavior that occurs more likely during this period. This may explain why a sighting of either species was not confirmed by the earlier field investigation. It is my understanding that NH Fish and Game can help verify the presence of these species at the Rowell property.

11. Lastly, having completed thousands of acres of conservation assessments for towns, land trusts, and organizations (like SPNHF), and extensive town prime wetland studies (*Exeter, Portsmouth, Fremont, Newfields, Sandown, Chester, Auburn*) with a main focus of evaluating overall significant upland and wetland habitats, it should be noted the open area between Stevens Hill Road and the effected wetland adjacent the effected wetland at the Comeau property is an open “lawn” area that is regularly mowed by Comeau; and is generally considered quite commonplace throughout much of rural NH. The landscape setting at the Comeau property would be considered “more significant” if it was left unmowed as a hayfield. This would also provide an important buffer to the wetland where any sort of runoff or contamination is filtered by the taller/thicker grasses before reaching the wetland. As stated earlier, shifting the position of the current driveway to the north is totally warranted to avoid the existing wetland crossing along the Rowell and Comeau boundary line and would most importantly follow the “intent” of the state of NH’s Wetland Regulations

Thank you for your review.

If the Nottingham Planning Board has any further questions, please contact me at:

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