

Conservation Commission Minutes, 08/17/2017

Lenox Conservation Commission Landuse Meeting Room August 17, 2017 Minutes

Members present: Chair Neal Carpenter, (NC); Tim Flanagan, (TF); David Lane, (DL); Joseph Strauch, (JS); Vince Ammendola, (VA); Dick Ferren, (DF)-He did not participate in the first item of the agenda as he arrived after the Commission voted.

Absent with notification: Rose Fitzgerald Casey, (RFC)

Staff Present: Peggy Ammendola, Land Use Clerk

Request for Determination of Applicability, Berkshire Natural Resources Council (BNRC) near intersection of Cliffwood St. and Under Mountain Rd., Map 12 Parcel 3. The proposal is to conduct exploratory borings at a pair of earthen mounds. Several fallen trees blocking a grown-in woods road will be cut and moved to provide access.

Mackenzie Greer of BNRC presented the application. She stated that BNRC is trying to purchase the property and need to determine the soil composition of a mound that has been identified as being in the utility corridor that runs thru the property. Ms. Greer said that anything that appears to be manmade and out of place must be investigated. Allen White, a Licensed Site Professional will be onsite most of the time and the contractor who will be conducting the investigation is Stephen A. Harding of Fine Landscaping will bring in an excavator. She described in detail how the site, which is about 400 feet from the road, would be accessed and the extent of the work. There is a jurisdictional stream on one side of the mound. Ms. Greer said that she understands that the activity of test boring is an exempt activity, but getting to the site and the use of an excavator is not exempted. The plan is to do up to 6 test pits in this mound and they will be 6-8 feet deep. They will be looking to see if it is native or non-native soil and will check to see if there are any hazardous materials. Vegetation will be cut, but the roots will be left intact. After the soil samples are taken, the pits will be refilled and topped with hay, all on the same day.

TF referred to the work description on page 3, second paragraph, of the RDA in which it states: "Removed vegetation will be left on site, near the mounds but at least 25 feet away from the stream..." He said that this differs from what was discussed at the site visit. It was then clarified that stream should be replaced with mound and Ms. Greer agreed to make this correction. Ms. Greer stated that the western edge of the mound is about 40 feet from the stream bed. It is expected that the work will be done on September 13th.

Ms. Greer said that BNRC was not asking for resource delineation, only for the work and that if any further work is required, they would return to the Commission. TF made a motion to approve a Negative 3 Determination as modified. VA seconded the motion and the Commission voted to approve 6-0. The approval was subject to the condition that the cut vegetation will be placed 25 feet from mound, not the stream, going west.

Request for Determination of Applicability, Stone Path Development, 241 Walker St., Map 8 Parcels 1 and 6-1. The proposal is to determine whether the boundaries of resource areas are accurately delineated. No work is being proposed under this application.

RF arrived at the meeting to be able to participate in this RDA.

There was a site visit on August 9th and 17th. On the 9th, those attending were: Brett Kaminsky, TF, VA, DL and NC. JS went to the site at another time. The site visit on August 17th was attended by Mr. Kaminsky, TF and NC.

Presenting the application was Brett Kaminsky of SK Design. Also present was David Ward.

After a detailed review of the site plan, DL made a motion to approve as presented. TF seconded the motion. TF wanted to clarify one point that the wetland that is off the property to the northeast of the project is an approximate line. He said that the Commission didn't have flags to verify, but he was comfortable enough that the project will not encroach on that wetland because there are property setback requirements. He added that the Commission is only confirming the flags within the property lines. DL changed his motion to accept the flagging with the provision that the particular boundary is approximate and not confirmed by the Commission. TF seconded and the Commission voted to approve 5-0-1. DF abstained as he had not been able to fully review.

The Commission issued a Positive Determinations for items 1, 2A, and 2B. For 2A, it was stated that "Only boundaries on the Applicant's property are approved." For 2B it was stated that "The boundaries outside the owner's property line are not confirmed by the Commission."

Other business:

Lenox Country Shops-55 Pittsfield Road, Map 17 Parcel 40-There was a brief discussion regarding the maintenance plan for Lenox Country Shops. Mowing of the meadow is supposed to be done in September or October, after the first frost. Last year it was not mowed. JS said that he has spoken to Eyal Shapira, the one who had been the head of the homeowner's association who knew nothing about a maintenance plan. JS has tried to get in touch with someone with Natural Heritage Endangered Species Program (NHESP), but to no avail. NC said that Erica Deane of CT Management had contacted him to make sure that they were in compliance and also asked about cutting down dead trees to prevent them falling on buildings. TF said that since Mass DEP had granted a Superseding Order of Conditions, they would have to get clearance from DEP. JS has an

original maintenance plan, which is the management plan for the meadow but it is believed that there is a newer one, but it can't be found. JS said that he will continue to try to get information so that he can share with the Commission. NC will check to see how often the meadow is to be mowed

Edith Wharton Property- DF said that he had gone to the property in June and saw 4 pairs of bobolinks in the field. With regards to the prospect of putting in a parking lot (See minutes of January 19, 2017), DF feels that a parking lot would reduce the size of the field which would then no longer be a desirable area for bobolinks.

JS said that an intern from Mass Audubon was to do a survey of the bobolinks this summer both at this site and Canoe Meadows, a much larger site. He met with her at the Wharton property on July 6, 2017, and she felt that the area was a little small for her to do her work. JS asked that she do the best that she could and to keep him informed. When he hadn't heard from her three weeks later, he sent her an email. Today, August 17th, he got a response in which the intern said that due to other projects, time did not allow her to do the survey. At that time he noted that there were 15-16 bobolinks.

It was agreed that based on the observations of DF and JS, the bobolinks nested, reproduced and raised offspring in the field, but that there was not enough information to come to a conclusion this year. It was thought that it might be possible to put a trail around the edge of the area near the house as the bobolinks seem to avoid it.

Approve Minutes: *August 3, 2017*-DL made a motion to approve the minutes. TF seconded the motion, but with amendments. The amendments were discussed and agreed upon and the Commission voted to approve 6-0.

Respectfully submitted,

Peggy Ammendola