

## Conservation Commission Minutes, 05/19/2016

### Lenox Conservation Commission Landuse Meeting Room May 19, 2016 Minutes

**Members present:** Chair Neal Carpenter, (NC); Vince Ammendola, (VA); Tim Flanagan, (TF); Joe Strauch, (JS); David Lane, (DL); Rose Fitzgerald Casey, (RFC); Dick Ferren, (DF)

**Staff present:** Gwen Miller, Land Use Director/Town Planner; Peggy Ammendola, Land Use Clerk (PA)

**Birchwood Village, 50 Clifden Ct., Map 8 Parcel 66, Request for Determination of Applicability**, demolition of existing pool bath house and replacement; repaving of a shared driveway and stairs corrections at units 23 and 24.

Present was Erica Deane who provided plans of the area of work and a brief description of two projects. The first project entails the removal of an existing, dilapidated bathhouse and replacing it with another with ADA accessibility. The footprint of the new structure will be slightly larger but will not be any closer to the intermittent stream that is 60 feet away. The other project is 77 feet away from the stream and involves the repaving and "feathering" out of a shared driveway at units 23 and 24. It was poorly designed and the cars cannot pull out without bottoming out.

TF said that he had no concerns about the two projects, but he wanted to follow up on a condition that was observed at the site visit which involved some erosion potential where the stream is in relation to the work area. Ms. Deane said that she had spoken to the individual in charge of maintenance for the property and that he has since put down the planks that had been recommended and the pile will be removed. NC will be inspecting for compliance. TF made a motion to issue a Negative 3 Determination. VA seconded the motion and the Commission approved 7-0.

**Town of Lenox, Notices of Intent- Scenic Mountain Act & Wetlands Protection Act- Kennedy Park and the Mass Audubon Pleasant Valley Sanctuary**, for a Limited Ecological Restoration Project The proposed project is the foliar herbicide treatment of Hardy Kiwi (*Actinidia arguta*). Presenting the Notice were the following: Jessica Toro of Native Habitat Restoration, LLC; Karro Frost of MA Natural Heritage and Endangered Species Program and Gwen Miller, Town Planner. GM said that the Town has been working with Natural Heritage and Mass Audubon to address the hardy kiwi in Kennedy Park and Pleasant Valley Sanctuary property along West Mountain Rd. and West Dugway Rd. The cutting phase permitted under the RDA has been finished and now they will begin the second phase of using an herbicide to treat the kiwi. The treatment area is lower to the ground which will result in a more accurate treatment of the kiwi and reduce the chance of the application of the herbicide on non-target plants as well as to reduce the quantity of herbicide used. The spray will be a low concentration of Rodeo and will be applied under low or no wind conditions so as to reduce drift. A blue dye in the herbicide will be used to track where the herbicide was applied. A low pressure backpack outfitted with a hose will be used to disperse the herbicide and spraying will only be done during dry weather conditions to avoid impacting wetland areas. Tri town Health Department will identify wells near or around the work area and there will be no treatment with herbicides within 50 feet of any private well. Also there is no planned treatment near vernal pools or intermittent streams. NHESP has set a benchmark for 95% target species removal and will conduct a site visit in 2017 to review. If not met, the contractor will be required to apply a follow-up treatment.

Ms. Toro summarized her procedure for applying the herbicide by saying that it is best to get coverage on both sides of the leaf but without over spraying. The blue dye is used to help with over spraying as well as under spraying. They are very specific about the droplet size as this helps to adhere to the foliar surface so pressure is maintained with a low psi (pounds per square inch). Each plant is treated. In an area of Kennedy Park that consists of 22 acres, there is a large area of nothing but kiwi vines. They are very careful to make sure that all of the machinery and tools are clean before and after going in to treat an area to avoid spreading the kiwi or bringing in new problems. The cut vines will remain in the trees to dry and to eventually fall out whereas yanking them out could harm the tree. Care is taken to have containment areas, e.g., any mixing of herbicides will be done in non-sensitive areas or jurisdictional areas. There are some rare plants, but not many near the kiwi, but surveying will be done prior.

TF asked Ms. Toro about record keeping and if the Commission will be able to go back and see which areas have been treated and if the effectiveness would be monitored. Ms. Toro responded: "Yes and no." She continued that they will not be as specific as the plots, but will have information on patches. "From a strategic standpoint we remap plots into patches because that is how we planned how much herbicide we want in an area." They also keep daily logs. TF asked to have that record keeping as part of the project. Ms. Toro added that they have talked with NHEP and there have been different applications done in the past with some more effective than others. Their goal is to establish a consistent methodology which is most effective.

RFC asked about the blue dye and in particular how long it would remain. Ms. Toro responded that the non-toxic water base dye would last from one to two weeks. Signs would be put in place to notify the public that the trails are closed during the drying period.

Discussion ensued regarding the areas that would be treated in this phase. This plan to eradicate the kiwi will continue for up to 8 years.

RFC made a motion to approve the plan as presented (WPA) with the condition that there would be periodic reporting of progress and documentation of the effectiveness of the treatment through the duration of the project. TF seconded the motion and the Commission voted to approve 7-0.

DF made a motion to approve the plan as presented (SMA) with the condition that there would be periodic reporting of progress and documentation of the effectiveness of the treatment through the duration of the project. DL seconded the motion and the Commission voted to approve 7-0.

**Colby Lewis, Notice of Intent, Maps 16 & 19, 429 Under Mountain Rd.**

On May 18<sup>th</sup> there was a site visit attended by Colby Lewis; Steve Mack of Foresight Land Services; Wayne Wilkinson, contractor for the project; and TF, JS, VA, DL and NC.

Members of the public present: Francis Hutchins, Ann Congleton; Seth and Mary Nash, and Robert and Jean Comeau. Representing the Comeaus was Attorney Jeff Lynch.

Presenting the application were the following: Mr. Mack, Mr. Lewis and Mr. Wilkinson. The proposed buffer zone project is single family home replacement and related work. Mr. Mack said that the parcel is about 6.7 acres and is mostly wooded. The existing single family home has a failed septic system in the wetlands that will be abandoned and replaced with a new nonconforming septic system. The property is bisected by wetlands. The existing house will be removed and replaced with one that will be moved slightly up from the existing location. A new driveway will be installed and will follow the existing driveway. Dead ash trees will be removed to prevent fall down. A revised plan was presented which includes an improved curb cut; indicates the removal of dead ash trees within falling distance of driveway; new plantings on the east side of property and several deciduous trees within the property. A waterline from Reservoir Road will be reconstructed.

Mr. Mack said that there were two options to remove the dead ash. One would be along a 30 foot strip along the driveway, in other words, 30 feet into the BVW or remove the 3-5 dead ash that had been pinpointed on the site visit. TF asked for clarification and would be a 30 foot strip along the BVW line. The trees are a hazard and could fall into the driveway. The ash would be flush cut and pulled out without using equipment in the wetlands. Mr. Wilkinson said that it would be easier to do it now than after planting new ones. TF said that if they are cutting within the BVW he would prefer that it be done in the off season after October rather than in the growing season. He is concerned with trampling of wetland vegetation. NC asked the Commissioners and Mr. Lewis if the downed trees could be left in place. All agreed that this would be acceptable. JS suggested that they plant white pines instead of Norway spruce. Hemlock and red maples will be planted.

Attorney Jeff Lynch, representing abutting property owners Robert and Joan Comeau of 431 Under Mountain Road, said that his clients share the driveway with this property. He asked about the effect of the construction work on the driveway and what will be done about the apron, materials and post construction. Mr. Mack explained that they will be coming off the existing common driveway, at same location as the existing. They will be removing the materials there and improving it from there on out so there will not be a big change on Comeau's property. Mr. Lewis will later coordinate with the Comeaus but the plan is to improve the apron on Under Mountain Rd. to make more maneuverable to get equipment and cement trucks to the site, rather than parking on the road and tearing up the road. Mr. Lewis said that this will be an improvement for everyone with no impact. The common driveway will not be changed, but the apron will be new pavement.

Mr. Hutchins, an abutter, said that they have known Mr. Marcus for twenty years. The existing house had been a part of the Huxley Estate. That estate was divided into three parcels with Mr. Marcus having what he described as the "bunk house", Mr. Hutchins owns a parcel and then the Comeaus own the third parcel. He said that he is thrilled with the plan for replacing the bunk house as he feels that it is a well thought out proposal.

Mr. Nash, also an abutter asked if live trees would be removed. Mr. Mack said that the trees being removed are the ash trees. It is possible that a maple may be removed as they provide access for the drive, septic system and the house site in a concentrated area. TF suggested that it be noted in the conditions that the Commission is only approving the wetland areas that were marked on the plan. He said that there are two sections within the property boundary that are not mapped. (Mr. Mack said that the areas were difficult to access.)

DF made a motion to approve with the condition that the Commission is only approving what they are seeing presented. DL seconded the motion and the Commission voted to approve the Order of Conditions 7-0.

#### **Other Business:**

*Annual Appointments*-All Commissioners agreed that they wished to be reappointed.

**Approve Minutes:** April 21, 2016 (The Commission canceled their May 5<sup>th</sup> meeting as that was the night of the Annual Town Meeting.) JS made a motion to approve the minutes with two minor revisions. (On the Other Business section regarding Valley Waste Treatment Facility, it was mentioned that NC had given to Mr. Garrity a copy of the minutes related to the Borgnis property cleanup. TF wanted to have the date of those minutes included. TF also wanted to include MassDEP file # 198-0233 to be added to another Other Business item, which is identified as Mark Stinson MassDEP.) TF seconded the motion. The Commission voted to approve 4-0-3. DL, RFC and DF abstained as they were not at the meeting.

#### **Site visits:**

May 4<sup>th</sup>, Birchwood Village, 50 Clifden Ct., Map 8 Parcel 66, attended by Erica Deane of CT Management Group, TF, JS and NC.

May 17<sup>th</sup>, Alan Lebowitz, 83 East St., Map 8 Parcel 56 (This project had been approved the April 21<sup>st</sup> meeting.) NC approved the silt fence.

**Dee Dee Consolati, informal discussion regarding the future of Edith Wharton Park, and the health of Laurel Lake.** Ms. Consolati said that she was speaking on behalf of the Lee Land Trust and Sandy Beach Committee and in particular Linda Cysz, Monica Ryan, Kelly Abdalla and Mellie Johansson. She wanted to know the background of the plan Lenox has for Edith Wharton Park, which is jointly owned by the Towns of Lee and Lenox, and if it was in the planning stages or on paper. The Commissioners agreed that they were not party to a plan and DL said that the only one he was aware of was one that was proposed when the property was purchased. Recently the Commission has been made aware of renewed interest and in particular in creating a parking lot and the Commission has suggested that the driveway at the house be utilized for access.

GM advised the Commission that recently the Town of Lee received another state grant for a playground in the downtown area, but in order to use those funds, Lee would have to become compliant with previous state funds they have received. Among them were funds to purchase Edith Wharton Park. A requirement would be to install signage at the park which indicated how the property had been purchased with the water and land conservation fund money and to put in a formal parking area. Additionally it would have to be clear to the users of the park that it was a public park. At the Lee Town Meeting, funds were appropriated to make a plan which included engineering and the plan would be submitted to the Conservation Commission to make sure any parking would be sensitive to the site.

Ms. Consolati said that they were under the impression that funds would be appropriated by the Town of Lenox and would be sharing the costs with Lee and asked if that was correct. GM responded that Lenox will be sharing the costs but that the Town of Lenox did not need to appropriate funds as there are other funds available that will be carried forward. Ms. Consolati asked if it was possible that parking would be at the existing driveway. GM responded that it was possible, but that other ideas have been mentioned and the future of the house is in limbo. She added that she went to the site with a contractor to see where parking could be placed with the least expense. Another possible location would be just off the road, on the margin and spaces would be for 5-6 cars. Ms. Consolati expressed concern that parking would be visible to those who are at the Sandy Beach in Lee. TF pointed out that the Commission is not party to a plan and when one is developed there will be a process for public participation.

Ms. Consolati said that all the public (Lee) knows is that at the Lee Town Meeting it was stated that this project was in the hands of Lenox, not Lee. She mentioned that she had some recommendations, one being that cars be kept out of the field. GM told her to provide a list of her recommendations that could be included early on in the planning process and that when a plan is available there will be a hearing and comment period.

Ms. Consolati was not happy that the farmer who mows the field has made another break in the hedgerow along the road. It was suggested that she talk to this individual as she does know him.

Regarding Laurel Lake, Ms. Consolati encouraged the Commission to continue to limit the drawdown to 3 feet and sees no reason to go for a 5 foot drawdown. She feels that the latest drawdown was deeper than what was permitted and TF agreed. NC advised that the Laurel Lake Association has one more permitted drawdown. After that, if more drawdowns are sought, a new Notice of Intent would have to be filed. She asked if a drawdown was necessary to control the zebra mussels. The Commission concurred that a drawdown creates more habitat for the zebra mussel as more stones are exposed and zebra mussel attach to the stones. TF said that this issue is a very complicated issue ecologically.

NC said that the Commission has repeatedly asked the Laurel Lake Association for a management plan, a requirement of the drawdown conditions, but it has yet to be provided.

Ms. Consolati said that she has noticed algae in the lake that comes into the beach. TF acknowledged that he has seen floating mats, a biofilm, not one whole species but a complex one, mostly of blue/green algae which is usually seen in managed lakes where the hydrology is altered. It is typical, he said, to get one infestation for another. If algae are controlled, it switches back so that macrophytes grow. He concluded that a shift in the balance has been observed which he feels is related to the drawdown.

RFC made a motion at 9:00 PM to adjourn. DF seconded the motion and the Commission voted to adjourn 7-0.

Respectfully submitted,  
Peggy Ammendola