

Conservation Commission Minutes, 10/20/2016

Lenox Conservation Commission Landuse Meeting Room October 20, 2016 Minutes

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

Absent with notification: Joseph Strauch, (JS)

Staff present: Peggy Ammendola, Land Use Clerk (PA)

Notice of Intent, Edward Merritt, 139-2 Lime Kiln Road, Map 27 Lot 18-2. File # 198-0295. The project proposed is the construction of a 20'x30' in-ground pool, a 1300 sf associated hardscape terrace, a 10'x5'6" solar panel, a 3,000 sf studio expansion, a 20'x 30' garage and to alter the existing drive to a new layout with comparable dimensions to service said garage and studio. The pool, terrace and solar panel will be within the outer riparian buffer zone, 100' wetland buffer as well as within the 100' vernal pool buffer zone. The studio expansion and garage lie within the outer riparian buffer zone and the 50' wetland buffer. The altered drive is within the outer riparian buffer zone, the 50' wetland buffer zone and the 100' vernal pool buffer zone. This is the second hearing for the NOI. The first was held on October 6th and continued to today.

On October 11, 2016 there was another site visit which was attended by TF, JS, NC and Rob Akroyd of Greylock Design Associates.

Present was Mr. Akroyd who presented a revised plan that was a result of the site visit. (It was noted that the plan was not stamped or sequenced.) He also reviewed a list of items of concern that had been expressed by the Commissioners. Discussion ensued on each of these items as well as comments received from Mark Stinson of MassDEP. A lengthy discussion took place, but with the information provided, and lack of clarity relative to the flood plain, the Commission determined that more information would be necessary in order to make a decision.

NC said that he would want to hear more from Mr. Stinson. TF wanted to know if Mr. Stinson was satisfied with the reference map Mr. Akroyd used to calculate the flood plain, and asked for further clarification of Mr. Akroyd's methodology. It was noted that a grading plan had not been submitted. Mr. Stinson had noted in his letter in which he assigned the file number that a partial Certificate of Compliance had been filed for File number 198-0219, the "Studio Lot", but not for 198-0234, the "House Lot". Mr. Akroyd said that he could not find one in his files and asked the Commission to research. There was no record of a Certificate of Compliance on 198-0234.

A letter of October 13, 2016 from Becky Cushing, Director of Berkshires Sanctuaries-Mass Audubon, was received on October 20th. (Mass Audubon holds the CR (Conservation Restriction)) on Mr. Merritt's property. Ms. Cushing stated that it is not clear that the project, as proposed, complies with the performance standards for work in Riverfront Area under the relevant provisions of the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.58). She suggests that the Commission require the applicant to provide a more robust assessment of this project's compliance with regulatory requirements. Mr. Akroyd was given a copy of this letter and commented that all but the pool had been previously approved.

DF made a motion to continue the hearing to November 3, 2016 at 7:35 PM. DL seconded the motion and the Commission voted to agree 6-0.

Approve Minutes: October 6, 2016-RFC made a motion to approve the minutes as amended. TF seconded the motion and the Commission voted to approve 5-0-1. VA abstained as he was not present at that meeting.

Other Business:

Eli and Carolyn Newberger, 132 Lime Kiln Road Map 27 Parcel 34. At the October 6, 2016 meeting, the Commission issued a Negative 2 Determination for work proposed, but asked that the Newbergers submit a retention plan prior to altering or removing a berm. They have since complied and NC provided the plan to the Commission and placed it in the Newberger's file.

MassDOT-drainage channel located near station 220+14 on Pittsfield Rd. On September 15, 2016, the Commission heard MassDOT's Request for Determination of Applicability for the rehabilitation of the existing drainage channel. The Commission issued a Positive Determination and required a Notice of Intent. At the request of MassDOT, the Commission followed up with a letter dated September 21st to Francisca Heming, District Highway Director. The letter stated that the work proposed would alter an area subject to protection under the Wetland Protection Act. The Commissioners rejected MassDOT's proposal and requested an upgraded design for water management as well as restoration due to the alteration which has occurred which has created more channels and impacted the wetland.

On October 12, 2016, the Commission received a letter dated October 6, 2016 from Ms. Heming that was in response to the Commission's September 21st letter. Ms. Heming asked that the Commission reconsider the Determination and allow MassDOT to restore the Check Dams to the original design profile. She said that the District recently surveyed the ditch (drainage channel) and find that the armoring and check dams are stable and functioning as designed but require cleaning to remove the debris collected.

The Commission discussed the request and commented that the design had failed and caused erosion, and that when the Commission approved the project years ago, they could not have known that this would fail. A future site visit is being arranged and coordinated with Amer Raza. It was suggested that Ms. Heming attend the site visit with the Commission.

AECOM-Maps 29, 30, and 33 at New Lenox Road-The work on this project began in July of 2016 and is now complete. TF and NC went to site on October 16, 2016 and discovered that the work done did not follow the design that had been approved. NC, Sean VanDuesen of the Department of Public Works and Doug Gove of AECOM met at the site today, October 20th. The issue is that water is running under rip rap in the stream. The

rip rap must be removed from the center area of the stream channel to match the existing. Also, a new channel through the culvert must be deeper and wider and blend into the up and down stream channels.

RFC made a motion to adjourn at 9:00. DF seconded the motion and the Commission voted to agree 6-0.

Respectfully submitted,
Peggy Ammendola