

Conservation Commission Minutes, 11/02/2017

Lenox Conservation Commission Landuse Meeting Room November 2, 2017 Minutes

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

Note: On Saturday, October 21st, NC received notification from Tim Flanagan (TF) that he was resigning from the Conservation Commission. NC asked TF to advise PA and the Board of Selectmen via written notification.

Staff Present: Peggy Ammendola, Land Use Clerk, (PA); Gwen Miller, Land Use Director (GM)

Also present was Mike Kulig of Berkshire Engineering; Mackenzie Greer and Michael Leavitt of Berkshire Natural Resource Council (BNRC); Jess Toro of Native Habitat Restoration; Ruth Wheeler; Eli and Carolyn Newberger; Andrea Goodman; Bill Gop, Superintendent of the Department of Public Works; David Ward; Matt Ward; and Jim Scalise of SK Design; and members of the Birchwood Village Town Homes Association.

The meeting was called to order at 7:15 PM

Berkshire Natural Resource Council (BNRC) informal discussion regarding improving the path on Yokun Ridge at Lenox Mountain from Pittsfield to Lenox. Mackenzie Greer and Michael Leavitt were present to give details on this proposal in advance of a November 8th meeting at Mass Audubon. Ms. Greer said that BNRC started having preliminary conversations with the Town about a year ago regarding a walking route along the ridge line from Lenox to Pittsfield. At this time they are working on a Memorandum of Agreement with the Town. She said that BNRC has been working on the conservation of Yokun Ridge for many years, so it was felt that this was a natural place to start their work on what they refer to as The High Road with a vision to connect conservation lands in Berkshire County through walking networks.

BNRC, the Town of Lenox and Mass Audubon are the main property holders. The public is already using a trail, but the interest is in having a well-managed social trail that will be a safe and enjoyable recreational experience that will serve as tools for economic development and quality of life for communities. Ms. Greer said that depending on one's walking speed, it would take half a day to a day to walk the trail.

BNRC has held off on details as they want to "nail down" a route and want to get committees in the community to provide concerns and input. They would like to have the Conservation Commission have a representative to attend the meeting. NC said that there would be two Commissioners at the meeting.

Ms. Greer said that she will send out materials in advance of the meeting.

Town of Lenox, Kennedy Park, Baker's Pond, West Dugway Rd., Map 22 Parcels 4 & 21, MassDEP File # 198-0281 *Continued from October 5, 2017.*

Presenting an update was GM, Jess Toro and Bill Gop. GM said that they have gone through the files and there is no statement that the foot path around the pond had to be taken out. The path is shown on the plans approved by the Commission with the final Order of Conditions. She said that today Mr. Gop removed the elbow and pipe extension and the DPW has put stones in place to block people from driving down to the pond and from using the path that was designated as temporary.

Ms. Toro told the Commissioners that Native Habitat Restoration has removed the wattles portion of the erosion control as well as the stakes. The shrubs and winterberry have been removed from the plan as there no longer has to be a hedge row of either. She said that the conditions for invasive control were completed for 2017. They were unable to remove the straw blanket as it was falling apart in their fingers, so there was no point in removing it. Instead, the seed will be sowed on its surface, tamped and then a second blanket will be placed on top. From the existing water line there will be a ring of more wetland species, and then a second ring of a mix of wildflower species will be planted on the higher, drier side. Any invasive seedlings that come in the spring will be hand pulled. There should be very little soil disturbance.

The Commissioners wanted to know what the surface level of the pond was presently and from where the measurement was taken. Mr. Gop said that 85.3 is measured from the bottom. Rain over the previous two days did raise the level. He said that the elbow was not supposed to be there.

GM asked what would be required to be able to get a Certificate of Compliance for this project and the response was that there would have to be establishment of growth. Ms. Toro stated that they did get nice growth on the initial upper area when the water level was lower. GM said that there has been some interest from the Kennedy Park Committee to do some bog bridging in the Baker's Pond area and that it is understood that they could not proceed with a Notice of Intent until they received a Certificate of Compliance for this project. A pending project to put in a gazebo is smaller than the bog bridging.

The Commission suggested that the Town file for a Partial Certificate of Compliance for what has been completed and that for other conditions not met, they could be put onto a new Order of Conditions.

Notice of Intent, Edward Merritt, 139-2 Lime Kiln Road, Map 27 Lot 18-2. The project proposed is for the re-construction of the existing garage into an approximate 3,600 square foot studio expansion and to alter the existing drive to a new layout with comparable dimensions to

service the studio expansion. First hearing was on September 7, 2017 and to September 21, 2017 for more information. Continued for a second time to October 5, 2017. Third continuation to October 19, 2017 to allow time for applicant to file for a Variance with ZBA. The Variance was filed with the Town Clerk on October 13, 2017 and the Zoning Board of Appeals hearing date is November 1, 2017 at 7:00 PM. (Mr. Akroyd had told the Commissioners in advance that he would be out of state on October 19th, but that if any questions arose which needed his attention, he requested the hearing be continued.) Fourth continuation was November 2, 2017 due to the Commission having questions for Mr. Akroyd.

The Commission was advised that on November 1st, Mr. Merritt received approval from the ZBA for his request for a Variance.

DL made a motion to approve the project as presented. VA seconded the motion.

NC asked if there were any members of the public who wished to ask questions or express concerns. JS asked about the foundation of this structure and the 2 foot apron. Mr. Akroyd responded that there would be a two foot wide by 18 inches deep stone filled trench on the north and northeast sides of the building as this is the way the roof pitches. JS asked how the Commission could know how the apron would catch the water. Mr. Akroyd responded that at the previous meeting it was explained what the condition of the overhang would be and how the runoff would be captured. The Commission agreed that this had been discussed previously. JS then asked about a dog run that Mr. Merritt had removed, as to the location, materials used etc. It was explained that the previous owner had a dog run, but that soon after acquiring the property, Mr. Merritt removed it. This was about 15 years ago. DL and Mr. Akroyd tried to recall the location and materials that had been used. There was little concrete used, the run was small, and there was chain-link fencing.

Mr. Newberger, an abutter, said that if the outdoor areas described were eventually enclosed, the footprint would vastly exceed that which was approved by the ZBA. The Commission said that any changes would require the property owner to return for approval. Mr. Newberger questioned how the neighbors could be assured of compliance. NC pointed out that much of the land is under a Conservation Restriction that is held by Mass Audubon. As holders, Mass Audubon would have to inspect. Neighbors would also let the Commission know if unpermitted work was being done.

JS referred to the map, pointing out the 100 foot buffer zone for the pond, 100 foot buffer for wetlands and riparian area and stated that all is overlapped between the 3 areas. The table, JS said, indicated that Mr. Merritt wasn't using much, but JS said that the buffer is all used up. NC stated that the building and driveway is existing and one can go right up to the wetlands, but must file and an approval could be conditioned.

The Commission voted to approve the project by a vote of 4-1-1. JS did not vote in favor and DF abstained.

Notice of Intent filed by David Ward, Stone Path Development, Inc., 241 Walker St., Map 8 Parcels 1 & 6-1. The project is the construction of a 9 unit residential development with associated roadway and driveways. Some of the work will be within the buffer zone of bordering vegetated wetlands and inland bank.

Mr. Scalise reviewed the site plan for this Open Space Flexible Development which is about 850 feet from Route 7 and opposite of Cranwell property. This is a single lot project, a condominium concept with a 22 foot wide access road. The existing property was a single family home. Mr. Scalise provided aerial photos of the site.

Mr. Scalise said that there were areas where top soil was stripped. One stripped area resulted in two odd shaped resource areas, which are isolated. There is a stockpile of topsoil and stumps that will be removed. Test pits determined that the stumps are just on top.

Under the Wetlands Protection Act (WPA), this property has no protected habitat areas or bordering land subject to flooding. This is a buffer zone project which is delineated on the plan with highlighted yellow line. On westerly side it is proposed that there will be 3 structures and a clearing of a small area located in buffer zone.

Mr. Scalise went thru each of the buildings and discussed their proximity to the wetlands. They will minimize work in the buffer zone, revegetate areas, and plant buffer enhancement to create a greater setback.~

As part of the Open Space Flexible Development Plan, which is the name of the Special Permit that is being sought by the developer from the Planning Board, there are some open space criteria. They will be placing a conservation easement of some sort, and as part of that probably have markers or signs and would ask the Commission to allow them to use the same markers that will be used for the Planning Board. ~

Stormwater will not discharge into the buffer zone. Under the WPA, this is not jurisdictional but it is jurisdictional under the Special Permit. Mr. Scalise said that Foresight Land Services is doing a "peer review". He said that all of the stormwater standards have been met even though not required as part of the Special Permit. All driveways, roof tops and tree box filters connect through a pipe which drains into a detention basin. All of impervious areas are recharged. Mr. Scalise said that they meet the 2 and 10 and have added the 25 and 100 year storm and are all mitigated. It is possible that there will be adjustments after reviewing the peer review. He believes that all of the performance standards have been met as related to buffer zone. NC asked that the outlet pipe and spillway of the detention basin be moved to the area of the inlet side and that the 12 inch pipe and spreader system be directed north toward the cul-de-sac area.

Mr. Scalise said that Mike Kulig of Berkshire Engineering who represents residents of abutting Birchwood Village had expressed concerns regarding the possibility of water from the detention basin creating problems for their property which is a couple of hundred feet away. Mr. Scalise said that he would survey their property to find out where the stream channel is located. He would direct the storm water either through a pipe or adjust the outlet to make sure that there will not be a ponding effect that would affect the neighbors. Mr. Scalise said that he would do the survey within the next few days. Some residents of Birchwood were at the meeting and it was stated that they didn't object to the project, but just want to make sure that their property was protected.

NC commented that he wanted to see more of the tree line off of building #9; 60 feet off the stream, and 25 feet of grass. Boulders should also be included at the sixty foot mark and new trees be planted inside the 60 foot area. Mr. Scalise felt that this was a reasonable request. He will make that adjustment on the plans.

RFC made a motion to continue the hearing to 16 @7:45 PM. VA seconded the motion and the Commission voted to approve 6-0.

Approve Minutes-October 19, 2017-DL made a motion to approve the minutes with one edit and DF seconded the motion. The Commission voted to agree 6-0.

Other Business-

Lenox Woods, 55 Pittsfield Road-Jesse Leddick of NHESP responded to the Commission's letter of October 24, 2017 regarding the Rare Plant Maintenance Plan for Lenox Woods at Kennedy Park. In his November 2nd email he said that he would be in touch with Gwen Miller, Land Use Director and NC to discuss the issues the Commission has regarding the maintenance. He gave three future dates that she would be available to discuss.

Sites Visits- November 8, 2017
3:15 PM Arcadian Shop, 91 Pittsfield Rd., Map 22 Parcel 1.
3:45 PM Schiffman, Alan Schiffman, Map 2 Parcel 7, Route 20 (Lee Rd.).

RFC made a motion to adjourn and DF seconded the motion. The Commission voted to agree 6-0. The meeting was adjourned at 8:55 PM.

Respectfully submitted,
Peggy Ammendola