

## Conservation Commission Minutes, 07/07/2016

### Lenox Conservation Commission Landuse Meeting Room July 7, 2016 Minutes

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

**Absent with notification:** Rose Fitzgerald Casey, (RFC)

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

**Notice of Intent, Oliver Curme, The Dormers LLC, 138 Pittsfield Rd., Map 22 Parcel 32.** The proposed project is the dredging by suction of a small pond in buffer zone to bordering vegetated wetland.

File 198-0293 has been assigned by Mass DEP and DEP had no comments.

Site visit: June 21, 2016-Attended by Oliver Curme, Shannon Boomsma of White Engineering, TF, JS, VA, DL, and NC.

Presenting the Notice was Shannon Boomsma of White Engineering. Also present was Mr. Curme.

Ms. Boomsma described the proposed project to rid the pond of accumulated sediment and algae by suction. It is a very low invasive procedure in which a diver goes into the pond and determines what material is to be removed. This process helps to protect wildlife and aquatic organisms. Placed around the dewatering area be waddles or hay bales. Material removed from the pond will be dewatered via the geotech tube. The water will be collected in a plastic pond and then will be pumped back into the pond or dispersed by sheet flow across the property. This water will be 95 percent cleaner after this process. The pond outlet goes into a stream, then into a swamp which then goes into Yokun Brook which is roughly 4,000 lineal feet away. The residue in the tube will be dried and removed to a suitable location outside of the buffer zone.

As a result of the site visit, Ms. Boomsma returned to the site and did three more test holes. She reported that there were no hydric soils in any of the three. She said that she had sent to the Commission data on two of the holes via email attachments.

There was disagreement as to the delineation around the pond. The Commission noted that there was a contradiction in what they observed at the site and what was shown on the plan. Ms. Boomsma said that she was not asking for a confirmation of the delineation. She said that if the area was claimed to be a wetland, the only disturbance would be to bring in small equipment, run the pipes and if there was to be a sheet flow back to the pond and then it would only be a trickle.

TF said that the Commissioners cannot evaluate impacts without knowing where the resource areas are and which performance standards to apply. This site has land under water, intermittent streams, banks and bordering vegetative wetlands. He said that the Commission needs to quantify what the impacts might be and talk about what mitigation efforts might be required. This can't be done without delineation. TF stated that he would like study plots so that the Commissioners could confirm.

Ms. Boomsma said that the company who would be doing the work has recalculated the amount of sediment and resultant dried materials to be as follows: The matter being removed would be approximately 99 cubic yards and once dried would amount to almost 52 cubic yards of material. She said that she has an email of those calculations, but has since spoken via phone with the company and they have confirmed that the dried material would be about 50 cubic yards. They will determine the area within the pond where they will be working.

Mr. Curme asked if they were not working in the area, why was there a need for anything more than what had already been provided. The Commission said that it needed to determine if the pond was jurisdictional therefore they needed to have the entire area mapped out to show the resource areas. TF said that at the site visit, the Commission saw the presence of submerged and emergent vegetation as well as bordering hydrophytes in an area marked as uplands. He added that he would advise the applicant to follow the BVW delineation manual published by DEP. Once the area is mapped, the Commission can start to talk about whether or not there is a significant impact to the resource area and whether or not the Commission could condition the project to avoid any harm.

It was agreed that Ms. Boomsma would get the information the Commission has requested and then call NC to set up a site visit. When it was determined that the information was complete, she would provide copies to NC so that he could give to the other Commissioners. Ms. Boomsma felt that she could have this available next week, which would allow time for another site visit prior to the next meeting.

JS made a motion to continue the hearing to July 21, 2016 at 8:15 PM. DF seconded the motion and the Commission agreed 6-0.

**7:30 PM Request for Determination of Applicability, Jennifer Storti 18 Willow Lane., Map 44 Parcel 55.** Project is to put in a new deck/entryways and repair driveway.

Site visit: June 21, 2016-Attended by TF, JS, VA, and NC. DL went to the site on his own.

Jim Cornwell made the presentation. He said that he will be putting a 34'X 14' deck on the front of the house which will not require digging. It will be supported by techno posts.

The existing driveway puddles up, so he wants to repair it by skim coating with new gravel, crowning in the middle for water to run off.

Mr. Cornwell stated that he will put waddles in to protect the wetlands.

Present was Mike Hassatt of 173 Housatonic St. He had nothing against the proposed work, but wanted to be assured that no other filling would be done.

The Commission advised Mr. Cornwell that fill is permitted within the driveway only at a width not to exceed 12 feet and a depth not to exceed 6 inches.

DL made a motion to issue a Negative 3 Determination with the comment "The Commission advised Mr. Cornwell that fill is permitted within the driveway only at a width not to exceed 12 feet and a depth not to exceed 6 inches." TF seconded the motion and the Commission voted to agree 6-0.

**Request for Determination of Applicability, Neal and Margaret Carpenter, 170 Hubbard St., Map 45 Parcel 38-1.** Project is to remove section of blacktop driveway to repair sinkholes using fabric, new stone, gravel and blacktop.

Site visit: June 21, 2016-Attended by TF, JS, VA, DL and NC.

NC recused himself to present his application. VA became the acting chairman. The site of the repair is 95 to 110 feet from a perennial stream. He will install hay bales and a silt fence. TF made a motion to issue a Negative 2 Determination. JS seconded the motion and the Commission voted to approve 4-0-1 with DL abstaining.

**Notice of Intent Willow Creek Road (Map 14, Parcels 2 & 3).** The 748.80 kilowatt ground-mounted solar photovoltaic array on the closed and capped landfill includes work within the jurisdictional buffer zone to wetland resource areas.

The DEP issued the following File Number: 198-0294 and commented that the Commission shall wait for 30 days or comments received from NHESP, whichever is first, before it closes the public hearing.

Site visit: July 6, 2016-Rob Bukowski and Rich Niles of AMEC; Page Czepiga of MEPA; Lauren Gherty of Berkshire Regional Planning; Joel Lindsey of Ameresco; Gwen Miller, Land Use Director/Town Planner; and Commissioners NC, VA, JS and TF.

Present were Rob Bukowski and Rich Niles and Town Manager Chris Ketchen.

Mr. Niles provided a site plan of the property with resource areas and an overview of the project. The ground mounted array will sit on ballast blocks with panels and racks on top. As requested by the Commission, he provided photos to show the drip edge and spacing. These are two parcels owned by Town. The roadway will be extended, the majority of the panels will be on the eastern portion of the landfill and the entire footprint of the project is on the landfill. There will be regrading which will address DEP's requirement to have a minimum of 2 feet of cover on top of the landfill. The regrading will also provide for positive drainage, maintaining the existing drain patterns as much as possible. There will also be a perimeter fence. Within the last two years wetland delineation was done and the boundaries of the resource areas were approved. Some of the installation, about 1.75 acres, is within the buffer zone of which .94 acres is the fenced area. There will have to be a little clearing to prevent shading of the array. Because they are extending the road and there is slope of the land that dips down toward the north, the road will have to be built up a little. Two drain pipes are proposed so that there will not be ponding. The road will intercept some of the localized run off.

Discussion ensued about access to Post Farm. For the time being access will remain the same along the existing and proposed road bed. The Town is trying to acquire property to permit a road to go around the landfill, but as of yet has been unable to do so. Until then Ameresco will provide to town approved parties limited access to pass through the project property.

CK said that the DEP has noticed the Town that the Town is responsible for capping the remaining portion of the landfill. He added that sufficient surveying has been done by Foresight Land Services to include a 100 foot buffer around the contaminated area and a parking lot and an access road to Post Farm could potentially go there.

Mr. Bukowski said that once they have the MEPA opinion and have all of the other permits wrapped up, they can start the project which takes between 3-4 months to complete. They are required to be mechanically operational by January 8, 2017. The only caveat is that if the utility takes another 3 months to hook up, the developer cannot be penalized.

The Commissioners indicated at both the site visit and the public meeting that the Commission would keep the public hearing open until the MEPA review is complete.

Mr. Bukowski addressed concerns the Commissioners expressed at the site visit. The applicant submitted revised stormwater calculations based on the promise that the entire site should be treated as Hydrologic Soil Group D. The recalculations were based on a more thorough knowledge of the topography and although there was a slight increase in the runoff it would be permitted under the redevelopment conditions of the stormwater directive. Final drawings will provide this revised information. TF clarified that the applicants treated existing conditions as hydrologic soil group.

The applicants, who will be treating this as under redevelopment, agreed that they would "touch-up" the narrative on the stormwater section and mention infiltration and re-stamp the check list.

DL commented that when hunting season begins in October, the hunters who have hunted in the area will want access. Ways of getting word out to the public was discussed which included, but not limited to, posted signage.

VA made a motion to continue the hearing to July 21<sup>st</sup> at 8:00 PM. JS seconded the motion and the Commission voted to agree 6-0.

**Notice of Intent, Scenic Mountain Act, Charles Stuzin, 110 Reservoir Road, Map 16 Parcel 5, 1,200 sq. ft. addition to the existing single-family.** File # 2016-0625

Site visits:

- July 1, 2016-Architect Jim Harwood, Christy Cedarhome of Foresight Land Services, TF, VA, JS and NC
- July 6, 2016-Jim Harwood, TF, VA, JS and NC

Maud Merton, of 126 Reservoir Road, wrote a letter of support for this project.

Ms. Cedarhome provided a site plan and described the project as a 1200 square foot addition which will have a 355 square feet crawl space foundation. The remaining portion of the addition, approximately 845 square feet, will be supported by piers. This is designed so as to minimize disturbance. For storm water they are proposing to do a stone berm which will slow the water flow. Additional parking will be created using crushed stone. Plans are to remove 16 trees most of which are small.

TF suggested that the Commission issue a limited Order of Conditions approving the project as presented but understanding that final design information needs to be submitted to the Commission. Discussion ensued and conditions were discussed and it was decided that the following conditions were appropriate:

- Applicant must submit boring test findings.
- If project is abandoned, applicant must restore work area.
- Must submit all final design plans.
- Must submit notice for project alteration should there be change in limit of work.
- There shall be no additional cutting outside of limit of work except for vista pruning as permitted by SMA.
- Must record at the Registry.

TF made a motion to approve as presented with the conditions numbered 1-6 listed in the above paragraph. DL seconded the motion and the Commission voted to approve 6-0.

TF said that he wanted it to be clear that the Commission is specifying a limited cutting, in other words nothing can be cut beyond what has been designated.

**Request for Determination of Applicability, Scenic Mountain Act, Berkshire Natural Resource Council (BNRC) for land located off West Mountain Road (Map 31, Lot 1 and Map 32, Lot 3) for proposed trail construction. File # 2016-0624.**

Site visit: July 1, 2016 Doug Bruce and Mariah Auman of BNRC, TF and NC.

Presenting the application was Mr. Bruce who provided a site plan and gave a thorough detailed description of the proposal. The trail is located at Mahanna Cobble to the back side of Bosquet with access off of West Mountain Road. It borders Audubon property on the east and south. Mr. Bruce estimates the area to be about 300 acres. The trail that is proposed is actually a re-evaluation of an existing trail that was built around 2009 to 2010. It is an unsustainable trail which is steep and erodible. The proposal is to re-build or re-locate the Secret Trail which will correct that. The length is about ¾ of a mile with the part in Lenox being about ¼ mile. It starts at Bosquet ski area to the top of Mahanna Cobble. The new trail will shed water as any good trail should. It is designed for pedestrian access, and will be an average of 30 inches wide. Under the SMA the impacts are insignificant. Cutting would be minimal and one would not see nicks in the ridge line. Some larger trees will be cut but not many as they hold the trail. Smaller trees, saplings, will be removed. There are no jurisdictional wetlands on the trail. The trail is laid out to take advantage of natural tread drainage throughout.

JS made a motion to issue a Negative 2 Determination. DF seconded the motion and the Commission voted to approve 6-0.

#### **Other Business:**

**Martha Lane, Order of Conditions, Map 18 Parcels 46, 47, 51, 52, 57 and 58- DEP File Number 198-0288.** (Refer to the June 16, 2016 minutes.) Update: GM reported that she spoke to Mark Stinson of Mass DEP regarding this issue and Mr. Stinson advised that this could be handled by filling in "Macalin Realty Trust" as the property owner. Attorney Greenwald is the attorney for the trust, but Macalin Realty Trust owns the property. GM has been in touch with Mr. Akroyd who was going to check with the Registry to see if he could bring to the Registry the amended recorded page or if he must have a new page. She has had no further contact with Mr. Akroyd.

This issue was discussed at the June 16, 2016 CC meeting and the Commission asked PA to ask GM to Correspondence received:

- July 5, 2016-Notice of Utility Line Maintenance West Mountain Rd was sent to the Commission by National Grid
- June 26, 2016-TEC Associates-Housatonic Railroad Company- 2016-2020 Vegetation Management Plan
- DL reported that he had spoken to the individual responsible for cutting the meadow at Laurel Lake. The mowing is to take place in August each year as this is a nesting area for bobolinks, but it was mowed on June 23<sup>rd</sup>. A resident who lives near the field reported this to NC who called DL. Arrangements will have to be made to find someone else to mow this property.

**Approve Minutes**-June 16, 2016- JS made a motion to approve the minutes as amended. DL seconded the motion and the Commission voted to approve 6-0.

Respectfully submitted,  
Peggy Ammendola