

APPROVED Meeting Minutes

Town Hall- Room #014

December 4, 2018

7:30 PM

Present: Christopher Bajdek, Chair, Ann Marie Pilch, Allen Rutberg, Jennifer Buttaro, Shaw Lively, and Utah Nickel, Commissioners

Ryan Clapp, Conservation Agent

Absent: Rebecca Weissman, Vice Chair, Sean Fay, Associate Commissioner

Christopher Bajdek, Chair, opened the meeting at 7:30 PM.

General Business

Public Comment

- Mr. Clapp noted to the Commission that he had received several complaints on Monday, December 3, from residents on Arch Street regarding the poor state of the Winthrop Canal and the flooding problems that resulted. Mr. Clapp noted that he, Mr. Scott Moles, Health Director, and members of the Highway Department had met on site at 32 Arch Street on that day to speak with homeowners and had suggested they attend the meeting to voice their concerns.
- Ms. Laura Rainey, of 89 Arch Street, described that her house had been built a long time ago, and as such, she has seen the deterioration of her property continuing over the years. She noted that within the past five years, over seven sinkholes had opened up in her driveway. She noted that this canal was man-made, and needed maintenance. There is no flow of water through the canal. She believes the Town needs to take steps to remedy this problem.
- Ms. Lynda Simkins, of 32 Arch Street, noted that her property was the lowest-lying on the street, and noted that a significant portion of her property was now under water, severely limiting her ability to use her property. She inquired if the canal could be either filled in or dredged, noting that the canal used to be dredged by the Central Massachusetts Mosquito Control Program (CMMCP), and she noted that stagnant water will likely be a breeding ground for mosquitoes. She noted that she had been informed that this had been one of the rainiest years on record, and inquired as to why there was no planning for this kind of rain.
- Mr. Badjek inquired as to if the flooding could have been caused by beavers, to which Ms. Simkins responded that she had not seen any dams.
- Mr. Badjek stressed to the members of the public that the Conservation Commission is a regulatory board, issuing permits and approvals for others to do work, not for themselves to do work. Dr. Rutberg affirmed Mr. Badjek's stance.
- Mr. Lively noted that the process is that a proposal comes to the Conservation Commission for approval, not the other way around.
- Ms. Rainey inquired who would be the ones who would do the work. Mr. Bajdek stated that he believed the Department of Public Works would be responsible.
- Ms. Pilch noted that the area was in a flood zone. Should the canal be filled in, there is nowhere else for the lake water to go.
- Dr. Rutberg agreed with the homeowners' assessment that the canal needs maintenance, be it through dredging or other means, but noted that it is an expensive and difficult undertaking.

- Mr. Lively noted that the previous time this topic had been brought up, ownership of the canal was one of the major issues, as work cannot be done on property without express permission from the property owner. In the case that the canal is owned by the Town, the Board of Selectmen would have to come to the Conservation Commission with a Notice of Intent.
- Mr. Clapp noted that this then becomes an area of concern in regards to Conflict of Interest Law. He noted that the Selectmen, should this be the case, would likely have to go to the Department of Environmental Protection for approval, rather than the Commission.
- Ms. Simkins requested continued discussion on this topic to be placed on the agenda for December 18. Ms. Pilch noted that it would be unlikely that there would be much new information presented by then. Mr. Bajdek directed Mr. Clapp to reach out to CMMCP.
- Mr. Clapp noted he will also reach out to Judy Schmitz, the DEP Wetlands Circuit Rider.
- Mr. Tor Kinlok, of 36 Exchange Street, suggested that there may be a need for a waterways commission to take care of waterways and canals. He noted that there has been one in several communities he had lived in previously.
- Mr. Bajdek noted that the Conservation Commission is not in the business of building or maintaining wetlands, rather protecting them from impacts of new developments. He also noted that the Board of Selectmen are currently dealing with several dams in Town deemed structurally deficient. This may solve some of the problem the homeowners are facing.
- Ms. Simkins inquired if the Commission knew a way to form a waterways commission.
- Mr. Bajdek noted that she would need to organize a group and go to Town Meeting to amend the bylaws and secure funding.
- Ms. Simkins requested that the Conservation Commission write a letter of support to the Board of Selectmen for a waterways commission. The Commission expressed reservations about spearheading this project and believed it to be more appropriate to issue such a letter after the group forms and presents their plan to the Board of Selectmen.
- Ms. Karon Skinner Catrone, present for another project, noted that she was the Conservation Agent for the Town of Westwood. The Westwood Conservation Commission does work to clear waterways and has received funding for such work from Town Meeting. She will share her information with Mr. Clapp and contacts at several agencies.

Review/Approve Minutes of 9/5/18, 10/9/18, 10/23/18, and 11/13/18

Dr. Rutberg made a motion to approve the minutes of 9/5/18. Ms. Buttaro seconded the motion. Vote passes (4-0-2), with Ms. Pilch and Mr. Nickel abstaining.

Not enough Commissioners were present from the meeting on 10/9/18 to vote on these minutes. Left open until the next meeting on 12/18/2018.

Dr. Rutberg made a motion to approve the minutes of 10/23/18. Ms. Buttaro seconded the motion. Vote passes (5-0-1), with Mr. Bajdek abstaining.

Mr. Bajdek noted he had not had an opportunity to review the minutes of 11/13/18 and would abstain from a vote on the minutes at this time. Left open until the next meeting on 12/18/2018.

Complaint Regarding Snow Removal at Fire Station (59 Central Street)

Documents: Formal Complaint from Tor Kinlok, 36 Exchange Street, to Tom Smith, Highway Superintendent, dated 11/19/18, E-Mail from Fire Chief Michael Cassidy, dated 12/3/18.

- Mr. Clapp reported that he had been copied on a formal complaint issued from Mr. Tor Kinlok of 36 Exchange Street, to Tom Smith, Holliston Highway Superintendent. The complaint argued that the Highway Department has been plowing snow from the Fire Station at 59 Central Street onto his property, on which there are wetlands.
- Mr. Kinlok, present, noted that the alleged problem was twofold: violation of wetland law by dumping snow so close to wetlands, and violation of property law by dumping the snow onto his private property.
- Mr. Clapp reported that he had spoken to Mr. Smith and Mr. Cassidy, Fire Chief, who had given him verbal plans for the new snow plow procedure to remedy the situation. Mr. Clapp had requested an email from Mr. Cassidy for review from the Conservation Commission.
- The Commission reviewed the email and found it to not have enough information provided, and directed Mr. Clapp to further speak with Mr. Smith and Mr. Cassidy to have a definite plan, preferably with a schematic showing the plan.

Bond Reduction Request - Highlands Open Space

Documents: Habitat Management and Restoration Plan from Oxbow Associates, Inc., dated 10/16/17; Final Agreement between Holliston Residential Realty, LLC, and the Holliston Conservation Commission, dated September 2017; Letter from Charles Reneau, Consulting Arborist, dated 9/28/18.

- Mr. Dale MacKinnon, present for the applicant, noted that several members of the Commission had viewed the Open Space area and the restoration plantings and affirmed that the work on this stage of the project had been completed. It was noted during the site visit, however, that the bounds were incorrectly installed.
- Mr. Clapp noted that as of the morning of 12/4/18, most of the open space bounds had been correctly installed. However, one bound was facing the wrong way and needed to be adjusted. Mr. Clapp also noted that it appeared there had been recent damage done to several of the plantings in Restoration Area R3.
- Mr. MacKinnon requested that 90% of the \$50,000 bond held by the Commission be returned to his client, with the other 10% to be returned after the required 1-year monitoring period had passed. Mr. MacKinnon noted that a 10% holding is standard.
- Mr. Nickel referred to the invoice for plantings, which had totaled to approximately \$15,000. He inquired as to whether \$5,000 would be enough to cover all costs in the case of issues arising. He expressed concerns over the cost of plantings, labor, and other required maintenance, and did not believe \$5,000 was enough surety.
- Mr. Bajdek suggested that the Commission hold on to \$15,000 of the bond.

Dr. Rutberg made a motion to release \$35,000 of the \$50,000 bond, with the remaining \$15,000 to be released on August 30, 2019, pending the correct installation of the remaining Open Space bound. Mr. Lively seconded the motion. Vote passes unanimously (6-0-0).

Request for a Two Year Extension to Order of Conditions: 415 Concord Street (DEP #185-798)

Documents: WPA Form 7A (Request for Extension Permit for Orders of Conditions)

- Mr. Michael Rosati, representative for the applicant, explained the project. The Order was issued for the construction of a subdivision off of Concord Street in January 2016. For the most part, the work was completed. However, there were still two units that had not been constructed as well as stabilization work that was still needed. He noted that the exceptionally rainy fall had made it difficult for work on the subdivision to progress.
- Mr. Clapp visited the site earlier this morning and confirmed that work was progressing well, and agreed that the fall season had been unfavorable for construction. He noted the detention basins were functioning well.
- Mr. Nickel asked about a culvert blowout that had happened earlier this year, resulting in sediment accumulation. Mr. Rosati noted that it was the the gas company, not his client at fault.
- Mr. Rosati noted that standard extensions were done on a one-year basis. However, he noted that stabilization work would not be completed by January 2020, but would be by January 2021. Therefore, he was requesting the extension for two years.
- Mr. Bajdek inquired as to if any units were sold. Mr. Rosati noted that several of the units were, but for the most part, it is still an active construction site.

Ms. Pilch made a motion to extend the Order of Conditions for DEP #185-798: 415 Concord Street, until January 6, 2021. Dr. Rutberg seconded the motion. Vote passes unanimously (6-0-0).

Request for a Certificate of Compliance: 128 Fisher Street (DEP #185-803)

Documents: WPA Form 8A; As-Built Plan of Land, dated 12/14/16; Letter from Andrews Survey & Engineering, Inc., dated 8/14/17.

- Mr. Clapp reported that the Commission had received a Request for a Certificate of Compliance for DEP #185-803: 128 Fisher Street. The property had received a Partial Certificate of Compliance in September 2017, with the outstanding issue being the failure of Restoration Area %A.+
- Mr. Clapp had made a site visit, and noted that he could not tell from the As-Built plans and existing conditions the location of Area %A.+He coordinated a second site visit with Dr. Rutberg and Mr. Arthur Allen, of Ecotec, Inc., representative for the applicant, to confirm the restoration area.
- Said site visit disclosed that the vast majority of the plantings in Restoration Area %A.+were failing, as well as those in Area %B.+and %C.+There were alterations made to the detention basin onsite, bringing that aspect out of compliance as well. The gravel area had expanded and encroached into the wetland buffer, and there was a significant amount of dumped material within the buffer, including car parts, fencing, construction materials, and pipes. Mr. Clapp noted he had looked at a Google Earth overlay from April 2018, and it appeared the majority of this work had happened between then and now, as the encroachments were not visible.
- Mr. Clapp inquired if the Commission would like to proceed with an Enforcement Order or Violation Notice. He noted that while the violations were significant, a Violation Notice may be enough to bring the property into compliance. Mr. Clapp also noted that the Order of Conditions was scheduled to expire on 12/17/18, one day before the next meeting. There

would be no opportunity for the applicant to request an extension. However, mitigation work would likely have required a new Notice of Intent anyway.

Ms. Pilch made a motion to deny the Request for a Certificate of Compliance for DEP #185-803: 128 Fisher Street for the reasons as stated. Dr. Rutberg seconded the motion. Vote passes unanimously (6-0-0).

- Mr. Bajdek directed Mr. Clapp to issue a Violation Letter.
- Mr. Clapp inquired as to the responsibility. There were several parties involved, including the property owner and Protech Energy Solutions, LLC.
- Ms. Buttaro noted that liability falls to the property owner. However, Mr. Clapp noted that he had met with the property owner, who was apparently unaware of much of the activity taken by Protech at his property. As such, it was suggested the Violation Letter be issued to both the property owner and Protech.
- Mr. Bajdek directed Mr. Clapp to include a cover page for each, detailing the liability of each to remediation as well as the reasons for denial of the Certificate of Compliance, and request their presence at the next meeting on December 18, 2018.

Bond Reduction Request: 128 Fisher Street (DEP #185-803)

Documents: Memorandum (undated) from Conservation Commission describing amount of bond and conditions for release, as well as additional plantings required in Restoration Area %A+.

- Mr. Clapp noted that when the Partial Certificate of Compliance was issued for DEP #185-803: 128 Fisher Street, the Commission held a bond for \$6,530. Protech Energy Solutions, LLC, requested the return of this bond.
- With the number of violations at the property, the Commission determined it would not be appropriate to release the bond.
- Dr. Rutberg noted that the issues on the property would likely cost significantly more than the \$6,530 held by the Commission.

Ms. Pilch made a motion to deny the return of the bond for \$6,530 to Protech Energy Solutions, LLC, for the reasons as stated. Dr. Rutberg seconded the motion. Vote passes unanimously (6-0-0).

Tree Removal Request: Warren Woods behind 101 Robert Road

- Mr. Clapp received a complaint from the homeowner at 101 Robert Road. Behind the house was the Warren Woods property, and just over the property line was a dead tree that had been dropping branches onto the shed and yard. The homeowner was concerned about the possibility of the dead tree falling onto his house.
- Mr. Clapp made a site visit and agreed with the homeowner's assessment. He also reached out to Mr. Nick Rossi at MassAudubon, as the holders of the Restriction. Mr. Rossi left the decision up to the Conservation Commission.
- Given the potential for property damage, the Commission agreed that the tree may be removed. As it is in area belonging to the Commission, it is the Commission's responsibility.
- Mr. Clapp will reach out to tree companies for estimates.

Tree Removal Request: 456 Gorwin Drive

- Mr. Clapp reported that the homeowner at 456 Gorwin Drive had reached out about three (3) trees that he would like to remove from his property.
- Mr. Clapp made a site visit, and noted that the three (3) trees were all oak, two of which were 24+DBH and one 30+DBH. He noted that the trees appeared to be close to the wetland line, which was confirmed by Ms. Weissman in a follow-up site visit. The closest tree was approximately 5q from the wetlands, and the farthest 20q Mr. Clapp noted in his site visit that each tree was dead from gypsy moth damage. However, they were still functioning woodpecker habitat, as there were many holes drilled into the trees.
- Mr. Joseph Kurzontkowski, homeowner, was present and explained his safety concerns. He has a young daughter, and falling branches have already damaged the house and cars.
- Mr. Clapp and Ms. Weissman discussed the possibility of leaving the bottom 20q of the closest tree to the wetlands to preserve woodpecker habitat while also addressing safety concerns.
- The Commission was in agreement that the two trees farthest from the wetlands may be cut low, with no stump grinding, while the tree closest to the wetland was to be left at 20qtall.

Collect Signatures: Deer Run Conservation Restriction

Documents: Conservation Restriction for Deer Run, Holliston.

Ms. Pilch made a motion to accept the Conservation Restriction for Deer Run. Ms. Buttaro seconded the motion. Vote passes unanimously (6-0-0).

- The Conservation Restriction for Deer Run was signed by the Commission.

Review Correspondence / Other

- The latest issue of *Stormwater* and *Erosion Control* was circulated.
- A notification of the selling of the property at 27 Hanlon Road was circulated.
- Mr. Clapp noted that he received an email from Mr. Evan Spitzer, Eagle Scout candidate, about the possibility of a donation to his project from the Conservation Commission. It was noted that the property was under jurisdiction of the Town Forest Committee and a donation from the Commission would not be appropriate.
- Ms. Buttaro inquired as to the status of filings from Mr. Michael Brumber for properties at 157-165 Lowland and 194 Lowland Street. Mr. Clapp noted the deadline was the end of November and will reach out to Mr. Brumber to inquire on the status.
- Mr. Lively updated the Commission on infrastructure improvements planned by Parks and Recreation. They intend to restore sand to beaches, dredge swimming areas, and apply herbicides to clear out plants in recreation areas. They also intend to open boating rental, and user fees will cover the permitting, for which he noted there would be significant amounts. He inquired as to when Parks should come to Conservation, and it was decided when the master plan for the project was completed.
- Mr. Lively noted he received a complaint about wetland encroachment off of Woodland Street. He was informed the Highway Department was dumping there. Mr. Clapp will investigate.

Public Hearings/Public Meetings

Notice of Intent for DEP #185-XXX: #126 Summer Street (Assessors Map 5-1-3) for proposed outdoor storage - *GLM Engineering*, representing *Jonathan Bennett, Bennett Trucking, Inc.*

Documents: WPA Form 3, Plot Plan Entitled %Proposed Site Plan, 126 Summer Street, Holliston, Massachusetts,+dated 10/30/18 (rev. 11/8/18, 11/9/18), Letter from GLM Engineering Consultants, Inc., dated 10/30/18.

- Mr. Clapp reported that he had received correspondence from Ms. Joyce Hastings, representative for the applicant. They had still not received a file number from DEP and were in discussions regarding stormwater with them. As such, Ms. Hastings requested that discussion be continued to the next meeting on December 18, 2018.

Ms. Pilch made a motion to continue the public hearing for DEP #185-XXX: #126 Summer Street to the next meeting on December 18, 2018. Ms. Buttaro seconded the motion. Vote passes unanimously (6-0-0).

Notice of Intent for DEP #185-848: #61 Rockland Street (Assessors Map 1-2-26) for proposed septic system - *Karon Skinner Catrone* representing *Nasrin Morovaty*

Documents: WPA Form 8A; Letter from Karon Skinner Catrone, dated 11/18/18; Plan of Land entitled %Septic System Construction, 61 Rockland Street, Holliston+dated 11/7/18 (rev.12/3/18).

- Mr. Clapp read the legal notice into the record.
- Ms. Karon Skinner Catrone, representative for the applicant, described the project. The current septic system serving the property was failing and needed replacement. She noted that the closest encroachment to the wetlands was 50.1 ft, with a total encroachment into the 50qNo Disturbance Buffer Zone of 60 ft². Total encroachment in the 100qBuffer Zone was 1,476 ft². The limit of work will be marked by orange construction fencing. No tree removals were proposed with this septic replacement.
- Ms. Buttaro inquired as to where construction access would be. Ms. Skinner Catrone noted that it would be to the east, through the yard.
- Mr. Bajdek inquired if there would be any stockpiling or grading associated with the project. Ms. Skinner Catrone noted there would not be.

Ms. Pilch made a motion to close the public hearing for DEP #185-848: #61 Rockland Street. Dr. Rutberg seconded the motion. Vote passes unanimously (6-0-0).

- Mr. Clapp presented a draft Order of Conditions to the Commission. He noted that conditions were standard for other septic system replacements.

Ms. Pilch made a motion to issue an Order of Conditions for DEP #185-848: #61 Rockland Street with conditions as drafted. Dr. Rutberg seconded the motion. Vote passes unanimously (6-0-0).

Mr. Lively made a motion to adjourn at 9:47 PM. Dr. Rutberg seconded the motion. Vote passes unanimously (6-0-0).

*****All documents shall be kept in the Conservation Commission Office files*****