

Holliston Conservation Commission

APPROVED Meeting Minutes

Town Hall . Meeting Room #014

March 4, 2014

7:30 PM

Present: Allen Rutberg, Chair; Ann Marie Pilch, Vice-Chair; Chris Bajdek, Shaw Lively, Jim McGrath, David Schroder (Arrived at 8:15 PM), Rebecca Weissman, Commissioners

Charles Katuska, Conservation Agent
Sheri O'Brien, Conservation Assistant

Absent: None

Allen Rutberg, Chair, opened the meeting at 7:32 PM.

General Business

Hopping Brook Solar Project – 2016 Washington Street – Peter Barbieri

An Order of Conditions for DEP File #185-736 was issued on October 3, 2012 for a commercial building for office/retail use and a drive through restaurant and associated parking, sewage disposal system, stormwater management system, and a wetland crossing to the property closer to the rail trail. This was proposed for the portion of property identified as Lot 1A, 2016 Washington Street.

Now, Solect Energy is proposing a solar project for the lot behind (south of) Lot 1A at 2016 Washington Street. This property is north of the rail trail. There are also parcels adjacent to the property that are owned by the Conservation Commission and NStar. Solect is currently in negotiations to purchase the NStar parcels adjacent to Hopping Brook Road. Solect will now access the section of property where the solar farm is proposed from Hopping Brook Road (rather than from Washington Street).

Robert Weidknecht from the Holliston Trails Committee was present to support the proposed parking lot for the adjacent rail trail. The parking lot is proposed on the Conservation Commission land. Assuming that there is nothing in the deed that precludes the use of this Conservation Land for a parking lot, the Commission agreed that the parking lot was an appropriate use for the land. The majority of the parking lot will be outside the 100-foot buffer zone.

The bulk of the solar project and parking lot will be submitted in a new Notice of Intent. Since the parking lot will be on Conservation Land, the Conservation Commission will need to be included as an owner when the new Notice of Intent is filed for the solar project and rail trail parking lot. The Town will need to be responsible for the parking lot maintenance.

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The applicant will also request a formal Amendment to the Order of Conditions for DEP File #185-736 to eliminate the wetland crossing originally planned from Washington Street.

Project Change Review – DEP File #185-748, 1025 Highland Street -Todd Kiley

An irrigation well was installed on the northeast corner of the property. This well was not included in the Notice of Intent for DEP File #185-746. An abutting neighbor, Alan Stone, maintains that he was not notified about this Notice of Intent and claims that the well is located within 100' of the wetlands located on his property across the street (Highland Street). There was an Order of Conditions issued for a garage on this property in 2008 with a plan that shows where the wetlands are located (DEP File #185-677). The well appears to have been drilled 105' from the wetlands. However, Mr. Stone's attorney (Christopher Malcolm, Esq.) alleges that the well is located within the 100' buffer zones of a bank and vernal pools (however, they are not certified vernal pools) at 1014 Highland Street.

Mr. Kiley has paid for a connection to the town's water supply, but no water line has been installed by the Water Department at this time.

The Commission agreed that Mr. Kiley will need to submit a request for an Amendment to the Order of Conditions for DEP File #185-748 for the irrigation well.

Open Space Updates

65 & 75 Gretchen Lane . Town Counsel is performing title searches regarding the two lots on Gretchen Lane being donated by Jim Moore. (Holliston Assessors Map 9, Block 6 and lots 259 & 260)

Review Mail

The mail was reviewed.

The Commission signed an invoice for the new GPS Unit for the Conservation Commission.

Public Meetings & Hearings

Mr. Schroder arrived at 8:15 PM.

The following two hearings were heard simultaneously:

Continued Public Hearing – Notice of Intent for DEP File # 185-764: Lots 17 & 18

Kingsbury Drive (Assessors Map 5, Block 3, Lots 54.3 & 54.4), proposed construction of a common driveway to serve two single family dwellings, *Wall Street Development Corporation*

Continued Public Hearing – Notice of Intent for DEP File # 185-763: Lot 18 Kingsbury

Drive (Assessors Map 5, Block 3, Lot 54.4), proposed construction of a single family home, *Wall Street Development Corporation*

Mr. Lou Petrozzi, President of Wall Street Development Corporation, was present. A letter from the Conservation Commission dated February 7, 2014 was sent to Mr. Petrozzi. The letter outlined concerns related to the common driveway crossing and vernal pools, one of them being the requirement that an amphibian migration study be performed under Special Condition 56

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under DEP File #185-441. Mr. Petrozzi passed out copies of a letter from Wall Street Development Corporation dated March 3, 2014 explaining that a waiver was granted for the migration study (for DEP File #185-441) as long as a granite curb or Cape Cod berm sloped at 45 degrees was installed on Kingsbury Drive for stations 13 through 20 to allow for amphibian migration.

Mr. Petrozzi has scheduled an evaluation of the vernal pool habitat and wetlands by an outside consultant for the week of March 17, 2014. He requested that the Commission give their consent not to do a migration study, so that his habitat evaluation can be planned accordingly.

Mr. Lively pointed out, and the Commission agreed, that a migration study would still be helpful to address all migration vectors, not just migration from pool-to-pool or across the driveway; even if the past Commission action had talked about one direction migration.

Mr. McGrath quoted the Wetlands Protection Act regulations (310 CMR 10.60) regarding proposed alterations of a vernal pool requiring a Wildlife Habitat Evaluation and a finding of no adverse effects if alterations are made to the vernal pool habitat. Ms. Weissman supported the need for a Wildlife Habitat Evaluation before any decisions are made about the need for a migration study.

Ms. Pilch believes that the documentation that Mr. Petrozzi has submitted regarding the use of sloped granite curbing for the subdivision roadway in 2002 (instead of a migration study) for the Order of Conditions for DEP File # 185-441 does not eliminate the need for a migration study for these new Notices of Intent with a common driveway and two new houses. The Commission concurred with Ms. Pilch. Mr. Petrozzi did not agree and opined that a driveway does not have the same type of traffic concerns as a subdivision roadway.

Ms. Weissman also pointed out that there is work (septic system and grading) associated with one of the houses that is within the habitat area of a second vernal pool. Mr. Petrozzi said that he will talk to his consultant about the second vernal pool and the scope of the habitat study.

Mr. Petrozzi mentioned that his consultant was going to go an extra step and go through each of the vernal pools to possibly show that they are not actually ~~certified~~ vernal pools containing the appropriate vernal pool wildlife. Dr. Rutberg was concerned that if the study shows that there is no vernal pool wildlife, then isn't it possible that the roadway has degraded the vernal pool habitat? Mr. Petrozzi felt that the certified vernal pool studies completed back in 2001-02 were not completed appropriately and that the new data will be presented scientifically and properly.

Dr. Rutberg explained that if Mr. Petrozzi is going to make a case that there is no impact on the vernal pool habitat without doing a migration study, then the Conservation Commission can still vote to come back and ask for a migration study if they feel they do not have enough data from the wildlife habitat evaluation. It seems that it would make the most sense to do a migration study from the outset, especially since the vernal pool migration season only happens once a year, it is very short (2-3 weeks), and will occur in the near future.

Mr. Petrozzi offered to meet the Conservation Commission part way with some type of mitigation, such as a drift fence and pit traps, between the vernal pool and proposed driveway area. However, ultimately, the Commission did not waive the need for a migration study and Mr. Petrozzi agreed to have the migration study performed. Mr. Petrozzi is willing to provide

mitigation, if necessary, if the vernal pool habitat evaluation demonstrates that the migration could be affected by the common driveway.

Mr. Petrozzi requested that both hearings be continued until April 1, 2014.

Ms. Pilch made a motion to continue the hearings for DEP File # 185-764: Lots 17 & 18 Kingsbury Drive and DEP File # 185-763: Lot 18 Kingsbury Drive until April 1, 2014. Ms. Weissman seconded the motion. Unanimous. (7-0-0)

The following two public hearing were heard simultaneously:

Continued Public Hearing – Notice of Intent for DEP File # 185-769: Lot 80A Mohawk Path (Assessors Map 15, Block 1, Lot 80, proposed construction of a single-family house including the associated grading and site work, *Peter Lavoie/Guerriere & Halnon, Inc.* representing *Holliston Residential Realty LLC*

Continued Public Hearing – Notice of Intent for DEP File # 185-770: Lot 81A Mohawk Path (Assessors Map 15, Block 1, Lot 81, proposed construction of a single-family house including the associated grading and site work, *Peter Lavoie/Guerriere & Halnon, Inc.* representing *Holliston Residential Realty LLC*

The applicant is still waiting to receive a Letter of Map Amendment (LOMA) from FEMA for the proposed change in the floodplain line. Peter Lavoie made a written request to continue these two hearings until April 1, 2014.

Mr. McGrath made a motion to continue the hearings for DEP File # 185-769 and 185-770, Lots 80A and 81A Mohawk Path, respectively, to April 1, 2014. Ms. Pilch seconded the motion. Unanimous. (7-0-0)

The following two hearings were heard simultaneously:

Continued Public Hearing – Amendment to Order of Conditions for DEP File # 185-727: Lot 2 Concord Street (previously Lot 5 Squanto Path) (Assessors Map 14, Block 3, Lot 4.5), proposed modifications of property boundaries and lot layout associated with the construction of a single-family house, *Peter Lavoie/Guerriere & Halnon, Inc.* representing *126 Residential ANR Realty LLC*

Continued Public Hearing – Amendment to Order of Conditions for DEP File # 185-729: Lot 6 Concord Street (Assessors Map 14, Block 3, Lot 4.6), proposed modifications of property boundaries and lot layout associated with the grading and site work proposed for the construction of a single-family house, *Peter Lavoie/Guerriere & Halnon, Inc.* representing *126 Residential ANR Realty LLC*

Peter Lavoie made a written request to continue these two hearings until April 1, 2014.

Mr. McGrath made a motion to continue the hearings for the Amendment to the Order of Conditions for DEP File # 185-727, Lot 2 Concord Street, and the Amendment to the

Order of Conditions for DEP File # 185-729 : Lot 6 Concord Street to April 1, 2014. Ms. Weissman seconded the motion. Unanimous. (7-0-0)

General Business Continued

Project Change Review - Gas Line Modifications to Order of Conditions DEP File # 185-765, Lot 32 (previously Lot 3.4) Old Cart Path - Mark Beaudry/Meridian Engineering, Bob Gargano - Whitney Farms

Mark Beaudry presented a revised gas route plan across Lot 3.4 (Lot 32) Old Cart Path. NStar Gas would not install the gas line in the trench according to the original Order of Conditions plan, because the grade up to the road was too steep. This plan change (dated March 4, 2014) was requested and agreed to by NStar Gas. Bob Gargano representing Whitney Farms was also present.

In summary, the route ~~up~~ the slope had to be adjusted to build a 3:1 ~~amp~~ similar to, but not as flat as, the drain pipe route on the east side of the lot. To avoid further encroachment into the Buffer Zone, a retaining wall is proposed as shown on the new plan dated March 4, 2014.

The concrete culvert at Dopping Brook was deeper than Meridian Associates had anticipated (it had 36+cover) and NStar was able to run the gas pipe over the top and still get 32+of cover on the gas pipe without raising the cart path grade. NStar ended up not wanting to run the gas pipe under the culvert based on this field condition. The detail on today's plan has been clarified to reflect this. Mr. Beaudry agreed to add a detail to the plan for the retaining wall.

Natural Heritage had originally issued a combined letter of ~~no~~ finding to both Sherborn and Holliston. A letter specifically for this Order of Conditions has since been received.

Ms. Pilch made a motion to accept this as a minor project modification which is acceptable as an administrative update to the file for the Order of Conditions for DEP File #185-765, Lot 32 (previously Lot 3.4) Old Cart Path. Mr. Schroder seconded the motion. Unanimous. (7-0-0)

Request for Certificate of Compliance DEP File #185-747: NSTAR Mobile Electric Substation, Fiske/Marilyn Streets

Tighe and Bond has requested a Certificate of Compliance on behalf of NStar Electric for the mobile substation and accessway between Marilyn and Fiske Streets. An As-Built plan for the mobile substation was submitted. The Certificate of Compliance has one ongoing condition, #55, regarding the Decommissioning and Site Restoration. A new Notice of Intent must be filed not more than 6 months following the de-energizing of the temporary mobile substation, but prior to decommissioning the facility or any other site work at the property.

Ms. Pilch made a motion to issue a Certificate of Compliance for DEP File #185-747,

NSTAR Mobile Electric Substation, Fiske/Marilyn Streets. Mr. Lively seconded the motion. As an abutter, Mr. McGrath abstained. The motion passed. (6-0-1)

Vote on Draft Regular Meeting Minutes from 9/17/13, 1/21/14 & 2/4/14

Mr. McGrath made a motion to approve the meeting minutes from September 17, 2013. Ms. Pilch seconded the motion. Mr. Lively, Ms. Weissman, and Mr. Schroder abstained. The motion passed. (4-0-3)

Mr. McGrath made a motion to approve the meeting minutes from January 21, 2014. Mr. Bajdek seconded the motion. Ms. Pilch, Mr. Lively, and Mr. Schroder abstained. The motion passed. (4-0-3)

Mr. Lively made a motion to approve the meeting minutes from February 4, 2014. Mr. McGrath seconded the motion. Unanimous. (7-0-0)

FY2015 Budget

The Agent presented four versions of the budget for the Commission to review. A memo dated March 4, 2014 explaining these proposed budgets was presented to the Commission. The Agent believes that the department should be staffed by a Principal Clerk, as at this time, the clerk performs tasks outside the Assistant Clerk job description. Longevity pay is included in the budget for Ms. O'Brien as she has worked for the Commission for over 5 years. Increased compensation for the Agent was also discussed, because the Commission believes the position merits it. Mr. Katuska's contract is up for renewal in July 2014 (FY15); therefore, the salary for his new contract needs to be determined since his salary is not determined by the grade/step scale.

There has been an increase in applications and the department has taken on a wider role and is occupied with more inter-departmental projects that both the Agent and Assistant are involved in. The Commission believes that both Mr. Katuska and Ms. O'Brien go above and beyond their job descriptions.

Mr. McGrath made a motion to submit Budget Proposal #3 (Elevate the Assistant Clerk to Principal Clerk and a 3% Raise for the Agent) to the Selectmen. Ms. Pilch seconded the motion. Unanimous. (7-0-0)

Bylaw Review

Nathaniel Stevens from MacGregor and Associates has submitted a proposal for about \$5,000 to review the Bylaw.

Lake Winthrop Revitalization

The survey regarding Lake Winthrop is being drafted to address several different aspects of revitalizing the lake. A draft will be sent to Park and Rec, Open Space, etc. for review.

Along a Science Track, John Beling, an environmental lawyer on the committee, has researched information about the dioxin levels. The committee would like to invite Carl Nielsen from the ESS Group to join this group to evaluate some of this scientific data.

At 10:08 PM, Mr. McGrath made a motion to adjourn the meeting. Mr. Bajdek seconded the motion. Unanimous. (7-0-0)

The next Conservation Commission meeting will be on March 18, 2014.