

Holliston Conservation Commission

APPROVED Meeting Minutes

Via Remote Participation

August 8, 2023

7:30 PM

Present: Ann Marie Pilch, Chair; Eilish Corey, Vice Chair; Eilish Corey, Sneha Narayanan,
Allen Rutberg, Nicole Smith, Commissioners
Ryan Clapp, Conservation Agent

Absent: Utah Nickel, Commissioner

Ann Marie Pilch, Chair, opened the meeting at 7:30 PM.

A. Pilch read the following into the record:

Pursuant to the Governor's July 16, 2022 Act relative to extending certain COVID-19 measures adopted during the state of emergency suspending certain provisions of the Open Meeting Law G.L. c 30A paragraph 20, the Holliston Conservation Commission will be using remote participation for this meeting. The audio of this meeting is being recorded and will be posted to the Town's webpage as soon as possible in accordance with keeping the public informed of actions during this meeting. I would ask that all participants remotely attending this meeting please state your name for identification purposes each time you speak throughout the meeting.

At this time, a roll call attendance vote will be taken.

A. Rutberg:	Present
E. Corey:	Present
U. Nickel:	Absent
N. Smith:	Present
S. Narayanan:	Present
A. Pilch:	Present

General Business

Review/Approve Minutes of 6/13/2023, 6/27/2023, 7/11/2023, and 7/25/2023

- **N. Smith made a motion to approve the minutes of 6/13/2023. A. Rutberg seconded the motion. A roll call vote was taken.**

A. Rutberg:	Aye
E. Corey:	Aye
N. Smith:	Aye
S. Narayanan:	Abstain
A. Pilch:	Aye
- The minutes of 6/27/2023, 7/11/2023, and 7/25/2023 were tabled until the next meeting on 8/22/2023.

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Conservation Restriction Encroachment: #30 Amy Lane

- AMP clarified that in the past several days, including today, additional information has been received. Therefore, no decisions will be made tonight, but she would like to open a dialogue.
- R. Clapp provided background to the Commission. He has received a complaint from the owner at #30 Amy Lane that there have been encroachments into his property, protected by a Conservation Easement, including a fence, debris, and a patio. R. Clapp, S. Narayanan, and A. Pilch have visited the site, and confirmed this to be the case. R. Clapp has spoken to Town Counsel, who suggests that since a Conservation Restriction is a two party document, the Commission should enforce against #30 Amy Lane.
- N. Glick, representative for 30 Amy Lane, addressed the notion of what the Commission can do for enforcement for the Conservation Restriction. He agreed with R. Clapp's assessment of the facts of the case, but contends that enforcement can and should be against #1803 Washington Street. There are three avenues the Conservation Commission can pursue: 1. The Commission can enforce the terms of the easement against all persons, including third parties, as it prohibits the landowner from doing undertakings of their own, or permitting activities on that parcel; 2. The easement can be enforced by injunction or other proceedings, entering the land and doing reasonable actions to acquire relief; 3. This easement is intended to protect the natural and watershed resources of the Town, where it could be enforced under the Bylaw. It is not a normal wetland, but it could be enforced under the Bylaw due to the interests of the Bylaw. He noted there was a Determination of Applicability for 1803 Washington Street for the pool from 1997, confirming the presence of wetlands and/or buffer zones at the time.
- R. Avery, attorney for 1803 Washington Street, confirmed that the fence line was constructed in 1998 after the homeowner received permission to build the pool and fence. The Commission at the time found that the pool installation would not create a disturbance that would require a Notice of Intent. The fence line has not been altered since 1998, as confirmed by an affidavit received from the previous owner. His client and the previous owner have maintained that area for this amount of time, and therefore claim the right of adverse possession, extinguishing M. Ela's right to the land, but also forecloses the Town from enforcing its easement rights in the area. He claims that the Town has abandoned its right of protection and enforcement, as any harm done by its construction have been long done and now recovered. He also noted that M. Ela's concerns with respect to the fence and hardscaping are disingenuous, and due to the falling through of a sale of a portion of the land to J. Monteiro. R. Avery also claims that M. Ela has clear cut in the easement as well.
- N. Smith noted that in the images provided, the fence line has changed and pushed out. N. Glick noted that the fence has not been there for 25 years, and J. Monteiro's fence has been there for approximately 3 years. He also does not believe that there is no adverse possession claim to be made here. There can be no adverse possession claim against the Town to wipe out the Town's right. He also disagrees with the question of why this issue has been raised. R. Avery also noted that the only fencing expansion has been laterally, not towards 30 Amy Lane.

Discussion: Holliston Greenbelt Project

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- A. Pilch reviewed the documents she had sent to the Commission regarding the proposed Holliston Greenbelt Project. There is a need for a trail easement on the Barstow property, and there is a need for surveys as a part of this project.
- T. Hein noted she had been working with various parties to explore a way to expand the trail network in Holliston. There are existing informal trails throughout this area. Two surveys are needed in these areas to determine boundaries and would like to hear from the Conservation Commission.
- The Commission expressed its support for this project, but would like more specific information, particularly as they relate to the funding requirements.

Request for Extension to Order of Conditions: DEP #185-872: #10 Bald Hill Road

- **E. Corey made a motion to extend the Order of Conditions for DEP #185-872: #10 Bald Hill Road for one year. A. Rutberg seconded the motion. A roll call vote was taken.**

A. Rutberg:	Aye
E. Corey:	Aye
N. Smith:	Aye
S. Narayanan:	Aye
A. Pilch:	Aye

Request for Certificate of Compliance: DEP#185-887: Lot 81 Old Cart Path

- R. Clapp reported that updated As-Built plans and statements from J. Federico have been received, noting any discrepancies with the Order of Conditions. Discrepancies included: minor movement of the limit of work towards the wetlands, installation of a chain link fence, and installation of a planter.
- **E. Corey made a motion to issue a Certificate of Compliance for DEP #185-887: Lot 81 Old Cart Path. S. Narayanan seconded the motion. A roll call vote was taken.**

A. Rutberg:	Aye
E. Corey:	Aye
N. Smith:	Aye
S. Narayanan:	Aye
A. Pilch:	Aye

Request for Certificate of Compliance: DEP #185-867: Lot 82 Old Cart Path

- R. Clapp reported that updated As-Built plans and statements from J. Federico have been received, noting any discrepancies with the Order of Conditions. Discrepancies included: minor movement of the limit of work towards the wetlands, installation of a chain link fence, and construction of retaining walls and a swale. The retaining walls are larger than referenced in the letter, so a revised letter is required.
- **E. Corey made a motion to issue a Certificate of Compliance for DEP #185-867: Lot 82 Old Cart Path, pending a revised letter from J. Federico. A. Rutberg seconded the motion. A roll call vote was taken.**

A. Rutberg:	Aye
E. Corey:	Aye
N. Smith:	Aye

S. Narayanan: Aye
A. Pilch: Aye

Request for Certificate of Compliance: DEP #185-882: Lot 31B Old Cart Path

- This item was tabled until onsite erosion issues are resolved.

Request for Certificate of Compliance: DEP #185-881: Lot 3C Old Cart Path

- This item was tabled until onsite erosion issues are resolved.

Request for Certificate of Compliance: DEP #185-886: Lot 80A Old Cart Path

- R. Clapp reported that updated As-Built plans and statements from J. Federico have been received, noting any discrepancies with the Order of Conditions. Discrepancies included: minor movement of the limit of work towards the wetlands, construction of a small deck, and construction of retaining walls.

- **A. Rutberg made a motion to issue a Certificate of Compliance for DEP #185-886: Lot 80A Old Cart Path. N. Smith seconded the motion. A roll call vote was taken.**

A. Rutberg: Aye
E. Corey: Aye
N. Smith: Aye
S. Narayanan: Aye
A. Pilch: Aye

Review Correspondence

- R. Clapp reported that MassAudubon will be doing a Conservation Restriction monitoring site walk in the next few weeks, and will provide the Commission with the date and time once it is provided to him.
- R. Clapp informed the Commission that he has received an additional two resumes for the open Conservation Commissioner seat.
- N. Smith noted that on Pout Lane, she had observed several flags showing pesticides had been applied in violation of the Order of Conditions

Public Hearings/Public Meetings

Public Meeting – Request for Determination of Applicability for #D-741: #74 Westfield Drive (Assessors Map 11-8-87) for proposed installation of a propane tank – *Pedro Caldeira*
Documents: WPA Form 1; Annotated Plan of Land, #74 Westfield Drive

- R. Clapp read the legal advertisement into the record.
- P. Caldeira presented the project to the Commission. He is proposing to install a propane tank to the side of his house, within 50' of the banks of a perennial stream. The current plan shows an encroachment onto an adjacent property, and this will be revised to be moved closer to his house and on his property.
- **A. Rutberg made a motion to issue a Negative #3 Determination for #D-741: #74 Westfield Drive pending receipt of revised plans. N. Smith seconded the motion. A roll call vote was taken.**

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A. Rutberg: Aye
 E. Corey: Aye
 N. Smith: Aye
 S. Narayanan: Aye
 A. Pilch: Aye

Public Hearing – Notice of Intent for DEP #185-XXX: #248 Ashland Street (Assessors Map 14-1-144) for proposed replacement septic system – *CIVILized Solutions*, representing *Che Patel Documents*: WPA Form 3; Plan of Land entitled “Septic System Construction, 248 Ashland Street, Holliston, MA” dated 7/14/2023

- R. Clapp read the legal advertisement into the record.
- K. Skinner-Catrone presented the project to the Commission. The existing septic system is failing and breaking out, and needs immediate replacement. A portion of the construction is within the 50’ No Disturbance Zone, but within existing lawn with no tree removals proposed. No file number has yet been issued, but as the septic system is breaking out, the applicant would like to proceed with the construction. R. Clapp responded that an Emergency Certification could be issued once the homeowner has a contractor lined up.
- E. Corey directed R. Clapp to speak with R. Walker and S. Moles regarding the septic breakout and any associated health issues.
- **A. Rutberg made a motion to continue the public hearing for DEP #185-XXX: #248 Ashland Street until the next meeting on 8/22/2023. S. Narayanan seconded the motion. A roll call vote was taken.**

A. Rutberg: Aye
 E. Corey: Aye
 N. Smith: Aye
 S. Narayanan: Aye
 A. Pilch: Aye

- **N. Smith made a motion to issue an Emergency Certification for septic repair to #248 Ashland Street. S. Narayanan seconded the motion. A roll call vote was taken.**

A. Rutberg: Aye
 E. Corey: Aye
 N. Smith: Aye
 S. Narayanan: Aye
 A. Pilch: Aye

Public Hearing – Request for Amendment to Order of Conditions for DEP #185-922: Lake Winthrop (Assessors Map 8-7-67.1) for proposed expansion of treatment and use of chemical treatment – *Mark Frank, Holliston Department of Parks and Recreation*

Documents: Request for Revision to Lake Winthrop Restoration NOI, dated 5/26/2023; Division of Fisheries and Wildlife determination, signed by Everose Schluter, dated 6/22/2023

- R. Clapp read the legal advertisement into the record.
- M. Frank, Director of Parks and Recreation, reviewed the existing Order of Conditions, which included invasive species management with benthic mats at the swimming areas on Lake Winthrop. These have been mildly effective, but for safety and cost reasons, the

Department of Parks and Recreation is proposing the use of chemical treatment with imazamox to treat approximately 1.5 acres. They have received approval from NHESP for the chemical treatment. The window for treatment is during the late summer until early fall, so they would like to get started on this project as soon as possible.

- N. Smith asked if this approval was for a single application or if it was to be an ongoing activity. M. Frank responded that the plan is to have this as a continuing activity, with up to two applications annually. N. Smith requested a condition that the Parks and Recreation Department attend future Conservation Commission meetings to provide progress updates.
- **A. Rutberg made a motion to close the public hearing for DEP #185-922: Lake Winthrop. N. Smith seconded the motion. A roll call vote was taken.**

A. Rutberg:	Aye
E. Corey:	Aye
N. Smith:	Aye
S. Narayanan:	Aye
A. Pilch:	Aye

Public Hearing – Notice of Intent for DEP #185-947: #2016 Washington Street (Assessors Map 4-6-11.3) for proposed addition to commercial building – *GLM Engineering*, representing *James Read*

Documents: WPA Form 3; Plan of Land entitled “Proposed Site Plan Amendment, ‘Proposed Accessory Garage,’ 2016 Washington Street, Holliston, Massachusetts” revised 6/14/2023; Waiver Requests (DEP File #185-947), 2016 Washington Street, Holliston, MA, James Read, dated 7/21/2023

- J. Hastings reviewed the waiver request for the construction of an addition with the No Structure Zone, including an alternatives analysis for the site. The applicant is providing mitigation as a part of this waiver request, and no trees are proposed for removal with this project, nor are any trees in danger of striking the building if they were to fall.
- A. Rutberg asked if there was to be an increase in impervious surfaces as a part of this project. J. Hastings responded that there is, so they have proposed an additional infiltration system.
- J. Hastings requested that the project be continued to ensure U. Nickel had an opportunity to review the waiver request.
- **A. Rutberg made a motion to continue the public hearing for DEP #185-947: #2016 Washington Street until the next meeting on 8/22/2023. N. Smith seconded the motion. A roll call vote was taken.**

A. Rutberg:	Aye
E. Corey:	Aye
N. Smith:	Aye
S. Narayanan:	Aye
A. Pilch:	Aye

Public Hearing – Notice of Intent for DEP #185-948: #734 Adams Street (Assessors Map 4-2-58) for proposed 7-lot open space subdivision – *GLM Engineering*, representing *Dennis & Yvonne Ferreira*

Documents: WPA Form 3; Plan set entitled “Definitive Open Space Subdivision, ‘Beaver Brook Farm’, A 7 Lot Single Family Residential Subdivision, Holliston, Massachusetts” dated 3/6/2023

- R. Clapp reported that the applicant had requested a continuance until the meeting on 8/22/2023.
- **E. Corey made a motion to continue the public hearing for DEP#185-948: #734 Adams Street until the next meeting on 8/22/2023. S. Narayanan seconded the motion. A roll call vote was taken.**

A. Rutberg: Aye
E. Corey: Aye
N. Smith: Aye
S. Narayanan: Aye
A. Pilch: Aye

Public Hearing – Notice of Intent for DEP #185-928: “0” Bartzak Drive (Assessors Map 14-4-21.4) for proposed construction of a solar power generation system and associated site work – Beals Associates, representing John Clifford, Bartzak PV, LLC

Documents: WPA Form 3; Plan Set entitled “Plans to Accompany Permit Documents for Large-Scale Solar Power Generation System, 0 Bartzak Drive, Holliston, Massachusetts” dated 7/27/2022, “Tree Inventory Plan” dated 7/27/2022; letter from Beals Associates, Inc., dated 10/7/2022; Preliminary Vernal Pool Assessment, 0 Bartzak Drive, Holliston MA, from Oxbow Associates, Inc., dated 12/8/2022; Vernal Pool Assessment and Resource Area Delineation, from Beals Associates, Inc., dated 5/25/2023; 2023 Spring Vernal Pool and Resource Area Assessment, from Oxbow Associates, Inc., dated 4/24/2023

- R. Clapp reported that the applicant had requested a continuance to the next meeting on 8/22/2023.
- **E. Corey made a motion to continue the public hearing for DEP #185-928: “0” Bartzak Drive until the meeting on 8/22/2023. A. Rutberg seconded the motion. A roll call vote was taken.**

A. Rutberg: Aye
E. Corey: Aye
N. Smith: Aye
S. Narayanan: Aye
A. Pilch: Aye

N. Smith made a motion to adjourn at 9:59 PM. S. Narayanan seconded the motion. A roll call vote was taken.

A. Rutberg: Aye
E. Corey: Aye
N. Smith: Aye
S. Narayanan: Aye
A. Pilch: Aye

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