

TOWN OF LANCASTER
CONSERVATION COMMISSION
Lancaster Community Center
September 26, 2017

Members Present: Chair Ken Rapoza, Vice-Chair Nate Stevens, Bonnie-Mae Smith, Tom Christopher, Pete Farmer, Jim Lavalley

Also Present: Conservation Agent David Koonce

There being a quorum present, Chair Ken Rapoza called the meeting to order at 7:08 PM.

Discussion – David King: Request for Certificates of Compliance 193-0288 and 193-0306, 6 Mountain Laurel Lane

Present: David King, Applicant and Property Owner

Mr. King stated the closing on the sale of his property at 6 Mountain Laurel Lane is scheduled for Friday (September 29th), however, according to the Worcester District Registry of Deeds, there are two recorded open Orders of Conditions on the property, 193-0288 and 0306, for which the Certificates of Compliance are needed to convey the property with good title.

Conservation Agent David Koonce advised the Commission he had researched both filings and determined that the Commission had, in fact, issued both Certificates of Compliance twice, most recently in October, 2012, and sent them to Mr. King, but none were ever recorded at the Registry. Mr. Koonce said further that extra signed originals of the October, 2012 Certificates of Compliance are still in the files and could simply be handed to Mr. King.

Several members of the Commission pointed out to Mr. King that in the last few years he had constructed on his property a boathouse and retaining wall in the Commission's jurisdiction without first filing with the Commission for permission to do the work, despite having received an Enforcement Order and additional written correspondence directing him to do so. Every member of the Commission expressed agreement that Mr. King should not be given the Certificates of Compliance until he first files a Notice of Intent for approval of the boathouse and retaining wall.

A heated discussion ensued in which Mr. King insisted several times that he had filed a Notice of Intent but had never heard anything from the Commission subsequent to doing so, to which Mr. Koonce responded that he had informed Mr. King the filing lacked plans, other important information, and payment of the fee, and was therefore incomplete. Members of the Commission told Mr. King several times that if he completed the Notice of Intent filing by Friday, the Certificates of Compliance would be released for the closing on the sale of the property. At 7:54 PM Mr. King left the meeting without agreeing to proceed with the Notice of Intent.

Old Business

Discussion – Conservation Agent: Request for clarification on jurisdictional scope of Positive Determination of Applicability, 310 Fort Pond Road (Arvidson); vote possible

Agent Koonce noted to the Commission that the Positive Determination for the construction of the shed at 310 Fort Pond Road, voted by the Commission on September 12th, pertains to both the Massachusetts

Wetlands Protection Act (WPA) and the Town of Lancaster Wetlands Protection Bylaw. He said because the discussion during the public hearing revolved primarily around the location of the shed within the 25-foot “no-touch” setback from wetland resource areas under the Bylaw, it was his understanding the Commission intended the Positive Determination to be jurisdictional under the Bylaw only, and stated his opinion that in any case, a Positive Determination under the WPA would most likely not be upheld by the Department of Environmental Protection if appealed. He recommended the Commission re-vote the Determination to specify a Negative Determination under the WPA and a Positive Determination under the Town of Lancaster Wetlands Protection Bylaw.

At 8:03 PM Member Pete Farmer made a motion to rescind the Commission’s September 12th, 2017 vote to issue a Positive Determination of Applicability for construction of the shed at 310 Fort Pond Road, and to issue instead a Negative Determination of Applicability under the Massachusetts Wetlands Protection Act and Positive Determination of Applicability under the Lancaster Wetlands Protection Bylaw. Member Tom Christopher seconded. No discussion. VOTE: 6-0-0.

New Business

Discussion – Conservation Agent: Special Town Meeting Article 10; Conveyance of 2.46 acres of Conservation Commission land to the Shirley Water District; vote possible

Agent Koonce advised the Commission that Article 10 of the October 2nd Special Town Meeting warrant requests authorization to sell a portion of Assessor’s Map 2, Parcel 3, which was transferred to the Commission’s care, custody and control by the vote on Article 13 of the 2015 Annual Town Meeting, so Article 97 requires a unanimous vote of the Commission approving conversion of the property to non-conservation use prior to the sale of the property.

At 8:09 PM Member Pete Farmer made a motion the Commission not support Article 10 of the October 2nd, 2017 Special Town Meeting. Member Tom Christopher seconded. No discussion. VOTE: 6-0-0.

Items for Approval and Signature

Minutes of August 8, 2017

At 8:15 PM Member Bonnie Mae Smith made a motion to approve the minutes of August 8th, 2017, Member Jim Lavallee seconded. No discussion. VOTE: 6-0-0.

Minutes of September 12, 2017

Agent Koonce reported that he hadn’t yet finished writing up the minutes of September 12, 2017, so a vote on these minutes was postponed until the Commission’s next meeting on October 10th.

Extensions to Orders of Conditions 193-0508 and 193-0509 (Siver, George Hill Road)

Agent Koonce explained that these Orders of Conditions, issued in December, 2014, approved two solar arrays planned for George Hill Orchards but which the Applicant eventually decided not to pursue. He further explained that the property owner would like to keep the Orders open primarily to maintain a current record of the site’s wetland boundaries.

At 8:20 PM Member Pete Farmer made a motion to approve Extensions to Orders of Conditions 193-508 and 193-0509, Member Tom Christopher seconded. VOTE: 6-0-0.

At 8:22 PM Vice-Chair Nate Stevens made a motion to adjourn the meeting, Member Tom Christopher seconded. No discussion. VOTE: 6-0-0.

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2 Respectfully submitted,
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4 David Koonce
5 Conservation Agent
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