

TOWN OF LANCASTER  
CONSERVATION COMMISSION  
Town Hall Auditorium, 695 Main Street  
June 25, 2019

Members Present: Nate Stevens, Chair; Tom Christopher, Vice-Chair; Don Chaisson; Shawn Corbett; Thomas Seidenberg; James Lavalley; Bonnie Mae Smith

Members Absent:

Also Present: David Koonce, Conservation Agent

List of Documents:

- Conservation Commission Agenda for June 25, 2019
- MassWildlife: Request for Determination of Applicability and plans
- Brahmananda Saraswati: Foundation Notice of Intent and plans
- Crescent Builders: Notice of Intent, plans, and Stormwater Report
- Comprehensive Environmental Inc. (CEI) Peer Review of Goodbridge Brook Estates dated 04.19.2019, prepared for the Lancaster Board of Appeals
- CEI Goodridge Brook Estates Vernal Pool Assessment dated 05.07.2019, prepared for the Lancaster Board of Appeals
- Order of Conditions 193-0558 (VCA Animal Hospitals)
- Deed to Conservation Commission for 135 May Catherine Drive
- Photographs of Arvidson house foundation and Fort Pond Dam spillway

There being a quorum present, Chair Nate Stevens called the meeting to order at 7:00 PM.

Public Hearing – Request for Determination of Applicability; Massachusetts Division of Fisheries & Wildlife; Seven Bridge Road (Map 35, Lot 5)

*Present: Michael Morelly, MassWildlife, representing Applicant*

At 7:01 PM Chair Nate Stevens read aloud a Notice of Public Hearing thereby convening a public hearing to consider the Request for Determination of Applicability: Applicant – Massachusetts Division of Fisheries & Wildlife (aka MassWildlife); Project address – Seven Bridge Road (Map 35, Lot 5).

Mr. Morelly began by saying that this project has lost a lot of its fill material to another project MassWildlife is doing on their West Brookfield property, so the installation of the culvert has been eliminated from this project, which now consists only of packing 8-12 inches of fill into the low point of the gravel access driveway in order to prevent the extensive puddling caused by rain events. He said the culvert may again become part of the project if/when more money becomes available later on in the year. He said addition of the fill will be strictly limited to the existing driveway bed, and silt fence will be installed for erosion control prior to the start of work.

Conservation Agent David Koonce stated he was “fine” with the installation of the erosion control as the only mitigation required for the project. He recommended a Negative Determination of Applicability with that condition.

**At 7:04 PM Tom Christopher made a motion to close the hearing. Jim Lavallee seconded the motion. No discussion. VOTE: 7-0-0.**

**At 7:05 PM Tom Christopher made a motion to issue a Negative Determination of Applicability approving the project, with a Condition included for the installation of erosion control. Bonnie Smith seconded the motion. No discussion. VOTE: 7-0-0.**

**Items for Approval and/or Signature**

**Deed Acceptance to 135 Mary Catherine Drive**

With five minutes left before the scheduled opening of the next public hearing, the Commission took up the matter of the approval and signature of the Deed Acceptance to 135 Mary Catherine Drive.

Agent Koonce explained that the property, located in the Eagle Ridge Subdivision, is being donated by the Eagle Ridge Homeowners Association to the Conservation Commission for a trailhead to the adjacent large parcel of conservation land the Commission owns, known as the Eagle Ridge Conservation Area. He said a couple of parking spaces and a trail with a boardwalk are planned for the parcel being donated.

**At 7:08 PM Jim Lavallee made a motion to sign the Deed Acceptance to 135 Mary Catherine Drive. Shawn Corbett seconded the motion. No discussion. VOTE: 7-0-0.**

The Commission signed the Deed Acceptance to 135 Catherine Drive.

**Order of Conditions 193-0558 (VCA Animal Hospitals)**

The Commission signed the Order of Conditions 193-0558 (VCA Animal Hospitals) approved at the June 11, 2019 meeting.

The Commission left Items for Approval and/or Signature to open the public hearing scheduled for 7:10 PM.

**Public Hearing – Notice of Intent; Brahmananda Saraswati Foundation; 679 George Hill Road**  
***Present: Frank McPartlan, Ducharme & Dillis Civil Design Group, Inc., representing Applicant***

At 7:10 PM Chair Nate Stevens read aloud a Notice of Public Hearing thereby convening a public hearing to consider the Notice of Intent: Applicant – Brahmananda Saraswati Foundation; Project address – 679 George Hill Road.

Prior to the start of Mr. McPartlan’s presentation of the project, Agent Koonce informed the Commission that due to an inadvertent oversight, abutters to the project were not notified in advance of tonight’s hearing, so the hearing will have to be continued to the next meeting in any case, pending abutter notifications, but Mr. McPartlan is free to present the project tonight with the understanding that he may have to do the same again for abutters at the next meeting.

Mr. McPartlan described the project as the installation of a low-pressure sewer connection from the existing mansion and coach house at 679 George Hill Road to the existing Lancaster District public sewer line on George Hill Road. He said the installation of the new sewer line in the Conservation Commission’s jurisdiction will be using “trenchless methods” by which the

new sewer pipe is “pushed” through the ground beneath its surface instead of using the conventional method of putting the pipe in trenches excavated several feet into the ground and then backfilling the trenches after the installation. This approach significantly reduces the disturbance in the Commission’s jurisdictional areas, which for this project consists only of 200-foot Riverfront Area for an intermittent stream under the Lancaster Wetlands Protection Bylaw. The only digging required for the trenchless method will be the five (5) ten-foot-long by ten-foot-wide by ten-foot-deep (10’wide x 10’long x 10’wide) pits between which the sewer line is pushed/pulled during installation.

Nate Stevens asked why there are five pits between which the sewer pipe is “sent”. Mr. McPartlan said he designed the project with five pits in order to, as much as possible, have straight lines between them, and also to allow for a safe margin of error with respect to the maximum length of 500 feet that an individual section of piping can be installed at one time using the trenchless technology.

Nate Stevens asked if groundwater is expected to be encountered during excavation of any of the pits, and, if so, what would be done with it. Mr. McPartlan replied that he would have to check the test pit logs relative to depth to groundwater, but that any groundwater encountered would be sent to a silt sock or similar type of device. Agent Koonce stated there is a standard condition in all Orders of Conditions that groundwater be pumped away from wetland resource areas.

Several Commission members asked what happens to the operation of the sewer system if there is a power outage. Mr. McPartlan replied that in the event of a power outage, on-site generators that will kick-in to keep the system’s pumps operating properly.

Jim Lavallee asked why the erosion control barriers did not extend continuously between the pits. Mr. McPartlan replied that he placed only in the immediate vicinity of the pits, on the down-gradient side. Mr. Koonce said he thought the erosion control barriers were “appropriately” located.

There being no more questions from Commission members or the audience, Mr. McPartlan requested the hearing be continued to July 9, 2019.

**At 7:21 PM Tom Seidenberg made a motion to continue the hearing pending notification of abutters. Bonnie Smith seconded the motion. No discussion. VOTE: 7-0-0.**

Public Hearing – Notice of Intent; Crescent Builders, Inc.; Sterling Road (Map 41, Lot 34.B)

*Present: Iqbal Ali, Crescent Builders, Inc., Applicant;*

*Mark Arnold, Goddard Consulting, LLC, representing Applicant*

At 7:22 PM Chair Nate Stevens read aloud a Notice of Public Hearing thereby convening a public hearing to consider the Notice of Intent: Applicant – Crescent Builders, Inc.; Project address – Sterling Road (Map 41, Lot 34.B).

Mr. Arnold began by presenting the Commission with color-coded project plans, as requested by Agent Koonce, and returned certified mail cards from abutters. He then described the project site as a 45.3-acre parcel consisting of mature upland forest of mixed species, and forested wetlands, the extent of which the Conservation Commission approved in an Order of Resource Area Delineation (ORAD) issued by the Commission in 2018. He pointed out an

intermittent stream on the site that originates in one of the large wetland areas, flowing south from there through the site.

Before Mr. Arnold began describing the project, Mr. Koonce stated to him that since most, if not all, attendees at the hearing were quite familiar with the project from the Comprehensive Permit hearing with the Zoning Board of Appeals, there was no need to go into great detail in describing it. Mr. Koonce also stated that he (i.e. Mr. Koonce) was not familiar with the proposed water line shown on the plans, and would like to hear more about how that was going to be constructed.

Mr. Arnold described the overall proposed development as two “unique” projects: one on the east side of the site, the other on the west side. The project on the west side consists of a multi-family complex in a single building with two large wings, parking areas, and recreational amenities. This project is served by a proposed “boulevard style” cul-de-sac road off of Sterling Road. There are two stormwater basins serving this project. The project on the east side consists of a total of 56 single-family housing units served by a two proposed subdivision roads: one with a single entrance/exit off of Sterling Road and a loop in the middle, dead-ending in a cul-de-sac; the other a relatively short cul-de-sac off of Sterling Road. Four stormwater basins serve the east-side project. The entire site is serviced by Town water and sewer, so no septic systems or wells are proposed. The waterlines will remain mostly in the roads, except where they need to form a loop due to water pressure, hence the need for the proposed the waterline running between the east and west side projects. This waterline will be installed using a “directional drilling” technique, where the line is first drilled, and then installed, under the surface between two excavated pits in the 100-foot Buffer Zones on either side of the wetlands, creating no disturbance of surface conditions.

Mr. Koonce asked what the length of pipe is between the two endpoints of the directional drilling. Mr. Arnold replied approximately 75 – 100 feet.

Mr. Koonce asked if soil testing and/or geo-technical borings were done in order to indicate whether large boulders and/or ledge might impede the directional drilling. Mr. Arnold stated that soil testing has been done for the design of the drainage basins, and that he is not aware of any results that would indicate problems with the directional drilling. He said that he knows there are “a lot of fines” on the site, and that in walking the site he has not seen any boulders or exposed rock that would lead him to believe the site is particularly rocky beneath the surface that would cause a problem for the drilling. He added that it is expected the soils would get finer closer to the “valley” where the wetlands and intermittent stream are located.

Mr. Arnold concluded his presentation by saying the project complies with the MassDEP Stormwater standards, pointing out the proposed locations of erosion control barriers, and stating that it is his understanding from the Conservation Agent that the Commission intends to have the Notice of Intent peer reviewed and will be sending out Requests for Proposals to qualified peer reviewers.

Agent Koonce presented two documents to the Commission prepared by Comprehensive Environmental, Inc. (CEI) prepared for the Lancaster Board of Appeals; the first titled Peer Review Letter – Goodridge Brook Estates, dated April 19, 2019; the second titled Vernal Pool Assessment – Goodridge Brook Estates, dated May 7, 2019. Mr. Koonce recommended the

Commission vote to accept these two documents into the official record of the Notice of Intent hearing.

**At 7:38 PM Tom Christopher made a motion to accept into the public hearing record two documents prepared by Comprehensive Environmental, Inc., titled Peer Review Letter – Goodridge Brook Estates, dated April 19, 2019, and Vernal Pool Assessment – Goodridge Brook Estates, dated May 7, 2019. Bonnie Smith seconded the motion. No discussion. VOTE: 7-0-0.**

Mr. Koonce then stated that in his opinion the Commission's "first order of business" with respect to this public hearing is to decide whether impacts to vernal pool habitat are going to be within the Commission's scope of review. He added that in his opinion the Commission has the authority to require such review. He said he had exchanged e-mails with Mr. Arnold regarding this matter and now asked Mr. Arnold to explain the Applicant's position on it.

Mr. Arnold replied that the Commission is expected to have the jurisdiction to peer review this project for compliance with the Performance Standards, and issue under, and strictly under, the Massachusetts Wetlands Protection Act, pursuant to the provisions of which this Notice of Intent is filed. He said the project does not propose any impacts to any resource areas or wildlife habitat protected under the Act and the provisions of its applicable implementing regulations 310 CMR 10.60; therefore, the scope of the peer review should be strictly limited to compliance with only the Performance Standards for work in the 100-foot Buffer Zone and the Stormwater Standards, and not include compliance with regulations pertaining to the protection of wildlife habitat interior to a wetland resource area since the habitat is not being altered.

Mr. Koonce stated his disagreement with the Applicant's position that the scope of the peer review should not include compliance with the regulations pertaining to protection of wildlife habitat. He agreed that the project's proposed work is restricted to the 100-foot Buffer Zone, but read directly, from 310 CMR 10.53, the Performance Standards pertaining to work in the Buffer Zone to support his (i.e. Mr. Koonce's) position that the Commission has the regulatory authority to require the scope of peer review include the evaluation of impacts to wildlife habitat in a wetland resource area for work in the adjacent 100-foot Buffer Zone.

Mr. Arnold stated that he did not object to anything Mr. Koonce just read from the regulations, but wants to make sure the peer reviewer adheres strictly to the scope permitted under the State's guidelines and regulations with respect to wildlife habitat, including where it is located, where it is regulated, and the applicable Performance Standards for evaluation of impacts thereto.

Mr. Koonce stated that for vernal pool habitat, impacts to hydrology and water quality are "important". Mr. Arnold responded that the Stormwater Report included with the Notice of Intent addresses compliance with the Stormwater Standards with respect to pre- and post-development runoff volumes. Mr. Koonce said that the peer reviewer may need additional information in order to determine whether there is any alteration post-development to the vernal pool's pre-development hydrology and water quality. He asked the Commission if members felt they now had enough information to vote to require the peer review include evaluation of impacts to the vernal pool habitat.

Mr. Arnold stated he wasn't aware that any Requests for Proposals had been sent to prospective peer reviewers, and said he would like to see the scope of work described in the Requests for Proposals. Mr. Koonce replied that no Requests for Proposals have been issued. Chair Nate Stevens stated he was a bit confused because he saw no reference to vernal pool habitat in the Applicant's submittal. Mr. Koonce responded that there is no reference to the vernal pool in the text of the Notice of Intent, on the plans, or, he assumed, in the Stormwater Report.

Mr. Arnold responded that no reference was made to the vernal pool in the Notice of Intent or associated documents because it is interior to the wetland resource area, which is not proposed to be altered by this project, which entails only work in the 100-foot Buffer Zone.

Mr. Arnold and Mr. Koonce discussed the definition of vernal pool and vernal pool habitat in the regulations. Both agreed that the definition of vernal pool habitat in the regulations includes the vernal pool basin depression and the area within 100 feet of it to the extent that such area lies within a wetland resource area. Mr. Koonce said under that definition, vernal pool habitat could in some cases extend all the way to the edge of the Bordering Vegetated Wetlands.

Mr. Stevens asked if any of the stormwater basins discharge near the vernal pool. Mr. Arnold replied that two of the basins are located up-gradient from the vernal pool. Mr. Stevens asked Mr. Koonce about the impact to the vernal pool of the discharge from the stormwater basins. Mr. Koonce replied that Stormwater Standard 6 requires stormwater basins to be set back at least 100 feet from certified vernal pools, but he said it's not clear whether that means 100 feet from the vernal pool basin depression only, but whether it also includes 100 feet from the vernal pool habitat. He added that although the vernal pool on this site has not yet been certified by the Massachusetts Natural Heritage and Endangered Species Program (NHESP), all the documentation and supporting information necessary for certification has been submitted to NHESP by CEI, and NHESP has confirmed receipt. Mr. Koonce said he hasn't had a chance to call NHESP regarding the status of the certification, but will do that shortly. He again recommended the Commission vote a motion to include evaluation of impacts to vernal pool habitat be included in the scope of the Commission's review of the Notice of Intent, and hence in the peer review scope of services.

Commission member Don Chaisson asked Mr. Koonce if the regulations require the vernal pool be certified in order for the Commission to have the legal authority to include it in the review. Mr. Koonce responded that he sees nothing in the regulations that vernal pools must be certified for the Conservation Commission to be able to require evaluation of impacts to them and to protect them. He added that the setback requirement in Stormwater Standard 6 does apply only to certified pools.

Mr. Christopher asked how many egg masses were identified in the CEI report. Mr. Koonce replied that CEI found 20 egg masses in a 524-foot length of the intermittent stream. He said that only five egg masses are required to certify a vernal pool.

Mr. Christopher stated that outside of the spring breeding season, spotted salamanders inhabit large tracts of upland surrounding the vernal pools where they lay their eggs, sometimes travelling hundreds of feet to reach the pools. He added that this project proposes a great deal

of encroachment in the 100-foot Buffer Zone, which will cause the loss of a significant amount of the salamanders' upland habitat. Mr. Koonce agreed that much upland habitat for the salamanders will be lost, but cautioned that the regulations don't permit the Commission to protect upland habitat for vernal pool species unless it lies within Riverfront Area.

Mr. Christopher asked Mr. Arnold to point out on the plans the locations of the discharges from all the stormwater basins. Mr. Koonce again pointed out that the vernal pool will have to be certified before the Commission can enforce the 100-foot setback requirement pursuant to Stormwater Standard 6.

**At 8:01 PM Tom Christopher made a motion to include in the scope of services for the Commission's peer review the two documents prepared by Comprehensive Environmental, Inc. that the Commission voted earlier in the hearing to accept into the public record, along with any other information that is part of the public record, whether it be from the Conservation Commission or information provided to the Commission by other Town boards relative to the site's vernal pool and vernal pool habitat. Bonnie Smith seconded the motion. No discussion. VOTE: 7-0-0.**

Pursuant to the Commission's vote, Mr. Koonce advised the Commission that the vernal pool section of the intermittent stream, including the locations of individual egg masses, needs to be shown on the Notice of Intent plans. He said he would ask Bob Hartzel of CEI to forward the GPS coordinates of the egg masses to Mr. Arnold, who said revised plans showing the vernal pool will be provided to the Commission.

Mr. Arnold requested that the project first be peer reviewed for compliance with the Stormwater Standards. Mr. Koonce was fine with that sequence, but said he would check the regulations to verify that compliance with the Stormwater Standards doesn't presume there are no adverse impacts to wildlife habitat.

Chair Stevens asked Mr. Koonce if he had any other questions for Mr. Arnold, Mr. Koonce replied "No." Mr. Stevens then asked if any Commission members had questions.

Mr. Chaisson asked Mr. Arnold to confirm that the project will have no adverse impact to the wetlands or vernal pool. In response, Mr. Arnold again stated that compliance with the Stormwater Standards presumes no adverse impact on protected wetland resource areas from stormwater discharges, specifically, compliance presumes that stormwater runoff is treated to a sufficiently high quality that it can be discharged into wetland resource areas without causing adverse impacts. Mr. Koonce interjected that presumptions are rebuttable upon a clear showing to the contrary.

Mr. Chaisson asked Mr. Arnold if the proposed jacking of the waterline underneath the vernal pool will adversely impact the vernal pool. Mr. Arnold replied that jacking the pipe underneath the vernal pool will have no adverse impacts on the vernal pool because it will not cause any disturbance on the surface.

Mr. Chaisson asked Mr. Arnold if the regulatory 100-foot Buffer Zone extends vertically downward. He also asked the depth of the proposed waterline, and if the installation of the line will impact wetland soils beneath the stream bed. Mr. Arnold replied that he did not know the depth of the proposed waterline, but if placed deep enough, the pipe will have no impact on hydrology or wetland functions.

Mr. Chaisson asked Mr. Arnold for the elevations at the bottoms of the two proposed directional drilling pits, and the distance of the pits to the edge of wetlands. Mr. Arnold said the elevations of the pits are not on the plans, but he will provide that information to the Commission, and the pits appear to be located approximately five feet from the edge of the Bordering Vegetated Wetlands, i.e. within the 100-foot Buffer Zone.

Commission member Jim Lavallee asked Mr. Arnold for the total amount of proposed alteration of the 25-foot Buffer Zone. Mr. Arnold stated he believes it is approximately 6% of the total amount of 25-foot Buffer Zone on the site, "in the ballpark" of about 15,000 square feet, but he would verify the amount. Chair Stevens asked that the square footage be provided to the Commission. Mr. Christopher stated it is his understanding the 6% number is already in the public record. Mr. Lavallee asked if that amount of alteration is allowable, to which Mr. Stevens replied that the Commission cannot say at this time whether it is allowable because the amount of alteration currently is not known. Mr. Koonce stated that there are very few protections for upland habitat, i.e. for the 100-foot Buffer Zone, in the regulations. Mr. Chaisson said the amount of proposed alteration is shown on the plans on Sheet 2 of 3: 10,730 square feet, 8.9%. Mr. Koonce said there is no requirement in the regulations that 100-foot Buffer Zone be replicated.

Mr. Lavallee asked Mr. Arnold where the snow storage areas are located. Mr. Arnold replied that the proposed snow storage areas are shown on the Grading Plan, Sheets 6 and 7. Mr. Lavallee questioned whether the snow storage area is of sufficient size.

Mr. Stevens asked Mr. Arnold to confirm that the loop for the waterline is closed at Sterling Road, not closed within the site, to which Mr. Arnold agreed. Mr. Stevens asked Mr. Arnold to point out the erosion control barriers on the plans. He also asked Mr. Arnold what is done with the erosion control barriers where the wetland resource areas they protect extend off site. Mr. Arnold responded that near the property boundary the barriers wrap around the area of disturbance so as to prevent sedimentation of off-site areas.

Mr. Stevens then asked if there were any other questions from the Commission. Hearing none, he asked for questions/comments from the audience.

Wetland scientist and hydrologist Patrick Garner introduced himself. He said that he had attended and spoken at several sessions of the Board of Appeal Comprehensive Permit hearing. He said he has certified "dozens and dozens" of vernal pools over the course of several decades. He described the vernal pool on this project site as "utterly unique" by virtue of its 500+-foot length within an intermittent stream. He said that the project's stormwater management system as designed may comply with the requirements of the MassDEP Stormwater Standards, but the volume of water flowing out of the stormwater basins will be significantly greater than what has historically flowed into the intermittent stream, which will adversely impact the stream's ability to function as a vernal pool. Mr. Garner said that Scott Horsley of the firm Horsley & Witten, whom he described as a "pre-eminent" hydrologist, analyzed the pre- and post-development "water budgets" of the vernal pool section of the intermittent stream; he said Mr. Horsley found that the hydrological processes that have created the site's vernal pool habitat would be "dramatically" disrupted post-development by the project's stormwater management system. He cited what he said was a similar case in the Town of Dighton, where an Adjudicatory Decision upheld the Conservation Commission's denial



of a project on the basis of adverse impact to the water budgets of several vernal pools. Mr. Garner also expressed concern that stormwater basins do not “treat” runoff, but will discharge, into the site’s wetlands, water containing gas and oil, salt, fertilizers, pesticides, and other pollutants from roads and lawns in the project. He urged the Commission to have its peer reviewer closely examine the project’s impact on the hydrology and water quality of the vernal pool.

Lancaster resident Victoria Petracca submitted to the Commission, on behalf of a group of Town residents, a binder containing a set of compiled documents pertaining to the project. She said an additional letter on stormwater management was inadvertently omitted, but she will provide it as soon as possible. She requested the Commission vote to accept the documents into the public hearing record.

**At 8:27 PM Jim Lavallee made a motion to accept into the public hearing record the binder of documents submitted by Ms. Petracca. Tom Christopher seconded the motion. Discussion: Mr. Christopher suggested amending the motion to direct prospective peer reviewers to the information submitted by Ms. Petracca as well as the information submitted by the Applicant. Agent Koonce stated that because peer review is funded by the Applicant, he was concerned that having peer reviewers consider information not provided by the Applicant could potentially be a conflict of interest. VOTE: 7-0-0.**

Ms. Petracca also commented that the intermittent stream on the project site is a tributary to Goodridge Brook, which is a registered Coldwater Fishery Resource (CFR) cited, she said, by the Massachusetts Division of Fisheries and Wildlife as “exceptional” habitat for Eastern Brook Trout. She said CFR’s are designated Outstanding Resource Waters in the State wetland regulations. She added that the citizen’s group is greatly concerned about the project’s proposed intensity of development of the 100-foot Buffer Zone.

Mr. Arnold advised the Commission, as a point of clarification, that the CFR Goodridge Brook is located several hundred linear feet south of the project site. He said that an existing 40B project, Jones Crossing, is much closer to the CFR than the current proposed project, and was approved with an Order of Conditions.

Chair Stevens asked Mr. Arnold if the project will require a NPDES Construction General Permit, and, if so, what would be the receiving waterbody. Mr. Arnold said that a Construction General Permit would be required pursuant to NPDES, and that the receiving waterbody might be Goodridge Brook, or it might be the (unnamed) intermittent stream on the project site, and/or its Bordering Vegetated Wetlands.

Lancaster resident Greg Jackson asked if the Commission would be doing additional studies on the wetlands or habitat, in particular if there would be a survey for additional vernal pools on the site. Mr. Stevens responded to Mr. Jackson by saying that the Commission typically does not do studies, but, rather, has the legal authority to hire consultants, at the Applicant’s expense, to peer review information submitted by the Applicant as part of the Notice of Intent filing. Mr. Koonce added the Commission may request additional information from the Applicant if that is recommended by the peer reviewer. Mr. Koonce also stated he is confident there are no other vernal pools on the site beyond what CEI has identified, so doesn’t think there will be a search for additional vernal pools. He said that in his opinion, some of the things the peer reviewer will need to look at with respect to the intermittent stream are post-

development changes in the pre-development peak flow rate, mean annual high water mark, water quality, and temperature. He said he “strongly suspects” there is a very delicate balance between the intermittent stream characteristics and the vernal pool characteristics, and that even a slight disruption either way could significantly adversely impact the functions and values of the vernal pool.

Mr. Jackson asked if other species of salamanders might use the vernal pool for breeding, such as marbled salamanders in the fall, and whether turtles might be present on the site. Mr. Koonce replied that although there is no information marbled salamanders, the spotted are an “obligate” vernal species, meaning that if they are found breeding in a wetland, that area of the wetland by definition is a vernal pool since spotted salamanders can’t breed in any other type of wetland. He also said that undoubtedly other vernal pool species could be found in addition to the salamanders, such as the invertebrates mentioned in an earlier report prepared by Goddard Consulting. With regard to turtles, Mr. Koonce said that it is unlikely turtles would be found on the site at this point in the season, but it is possible, and any incidental observations of turtles made during site visits would certainly become part of the record.

Mr. Jackson asked when the Commission would determine what additional wildlife studies and related information it would require of the Applicant. Mr. Koonce answered that an understanding of impacts to the vernal pool hydrology is needed first before impacts to wildlife habitat can be evaluated; i.e. if there are no changes to the hydrology of the vernal pool, such as peak flow rates and mean annual hydroperiod, there will probably be no need for a wildlife expert’s review.

Lancaster resident Tom Frain asked what the Commission could do, particularly in the context of peer review, if the project were ultimately denied a sewer connection permit by the Sewer District Commission and/or Board of Appeals, necessitating the use of on-site septic systems and/or sewage treatment. Chair Stevens said the Commission can only act on plans and other information that has been formally submitted, so the Commission wouldn’t be able to act unless and until it had received a new filing. Agent Koonce agreed, saying any changes to the project in the Commission’s would require a new filing, which would very possibly require additional peer review.

Mr. Arnold asked that Requests for Proposals (RFP’s) be issued to multiple reputable companies for peer review services for the project’s compliance with the stormwater regulations, and the RFP’s be shared with him. He also requested that if the Commission wants to have impacts to wildlife habitat peer reviewed, the scope of the review be based only on the information contained in the Notice of Intent, plans, and Stormwater Report, and be done strictly in accordance with the regulations (310 CMR 10.60).

After further discussion between Mr. Arnold, several Commission members, and Mr. Koonce relative to the scope of the peer review, and who decides it, the Commission agreed to proceed with peer review of compliance with the stormwater regulations. Mr. Koonce reminded Mr. Arnold that a new a plan sheet showing the locations of the salamander egg masses needs to be submitted pursuant to Mr. Koonce obtaining from CEI the GPS coordinates of the egg masses.

Mr. Arnold requested the hearing be continued to the next meeting.

**At 8:53 PM Bonnie Smith made a motion to continue the hearing to July 9, 2019. Don Chaisson seconded the motion. No discussion. VOTE: 7-0-0.**

**Old Business**

**Fort Pond Water Level Control**

Clayton Arvidson of 310 Fort Pond Road was present. Before Mr. Arvidson spoke, Commission member Tom Christopher recused himself from the discussion, but said he would be available in the audience to answer any questions relative to Fort Pond itself.

Mr. Arvidson presented a photograph of the Fort Pond Dam spillway showing two boards he said were recently placed in it, causing the water level in the Pond to rise. He also presented photographs showing the raised water level on his foundation and a crack in his foundation.

Agent Koonce asked if anyone had a telephone number for James Quinty, the owner of the dam. Mr. Arvidson said he would give Mr. Koonce Mr. Quinty's number. Mr. Koonce said he would call Mr. Quinty to advise him the current water level is threatening the property of a lakeside resident, that as the dam's owner he is ultimately responsible, and that if he wants to manipulate the water level he needs to file with the Conservation Commission.

**Adjournment**

**At 9:05 PM Jim Lavalley made a motion to adjourn the meeting. Shawn Corbett seconded the motion. No discussion. VOTE: 7-0-0. The meeting was adjourned at 8:13 PM.**

Respectfully submitted,  
David Koonce  
Conservation Agent