

TOWN OF LANCASTER
CONSERVATION COMMISSION
Meeting Minutes
May 25, 2021

Members Present: Chair Tom Christopher, Vice-Chair Tom Seidenberg, James Lavallee, Greg Jackson, and Donald Chaisson

Members Absent: Shawn Corbett

Also Present: David Koonce, Conservation Agent

List of documents presented:

- Conservation Commission Agenda for May 25, 2021
- Notice of Intent and plans for 306 Fort Pond Road--McCarty
- Notice of Intent Continued for 0 Hawthorne Lane--Smith
- Notice of Intent Continued for 97 Woodland Meadow Drive--Deciero
- Notice of Intent Continued for United States Army; Fort Devens South Post Reserve Forces Training Area

Roll Call Attendance: James Lavallee here, Donald Chaisson here, Greg Jackson here, Tom Seidenberg here, Tom Christopher here.

Chairman Tom Christopher called the meeting to order at 7:15 PM. The executive session that preceded this meeting ended at 7:06 p.m.

Public Hearing – Notice of Intent; Daniel McCarty; 306 Fort Pond Road Daniel McCarty/Applicant and Property Owner

Present: Daniel McCarty, Property Owner

Chairman Christopher read the public hearing notice into the record thereby convening the public hearing.

Mr. McCarty said they have a masonry wall that has deteriorated at the bottom, and it is leaning toward the water. They are proposing to wait until the water level in the pond is at the lowest lever. They are proposing to replace the wall in segments of one hundred feet in length and three courses in height of 8'x16' masonry. Minimize the impact. No equipment in the water. They are proposing to enclose the area in hay bales and wattles that will be weighted. Wave action will be buffered by the solid sections of the block which will protect the silt fence. New block wall will be a solid block with a cement-based mixture. The wall will be backfilled with beach sand. Projected project time is two and a half weeks.

He also has six large trees. One oak tree is hollowed through which is knocking against the pine trees. Removal will be by a crane. He said they will pick the top of the tree first, bring to front of the house and then be cut up and then transported to a facility. They will take all stumps out with a mini excavator and bring to the front lawn and then take to company that recycles and grinds them.

Greg Jackson sent David Koonce an email with his concerns. David Koonce read the email into the record. David Koonce commented that a site visit was done last Thursday and indicated a more detailed site plan would be required which would include the location of trees. He also requested a work sequence and offered to provide a recent example to Mr. McCarty for reference.

Mr. McCarty agreed he would add more details to the site plan and provide a work schedule on a separate document.

Mr. Daniel McCarty asked the Conservation Commission for a continuance until June 22, 2021, meeting.

Tom Seidenberg made a motion to continue until June 22, 2021, which was seconded by Donald Chaisson. Roll Call Vote: James Lavalley yes, Donald Chaisson yes, Greg Jackson yes, Thomas Seidenberg yes and Tom Christopher yes.

Public Hearing (cont'd from 04.27.21) – Notice of Intent (After-the-fact filing):

Donald Smith;0 Hawthorne Lane (Assessor's Map 36, Lots 1 and 1.D)

Matthew S. Marro Environmental Consulting, representing Applicant

David Koonce said he received a request for a continuance until June 8, 2021, from Matthew Marro. A site visit was done last week to verify the staking requirements of the enforcement has been done. All except one has been done. He directed Mr. Marro to have that done. The existing conditions plan was expected to be ready by June 8th.

Chair Christopher read an email into the record from Mr. Erick Watson. He asked to confirm that all the effected areas had been addressed and that the spoil pile from dredging the pond be removed.

Donald Chaisson made a motion to continue the hearing until June 8, 2021, and seconded by Greg Jackson. Mr. Larry Shore said he has not received an abutters notification. David Koonce said he notified Mr. Marro of that. He told him to renotify all abutters per the regulations since some abutters have not been notified. **Roll Call Vote: James Lavalley yes, Donald Chaisson yes, Greg Jackson yes, Thomas Seidenberg abstained, and Tom Christopher yes.**

Public Hearing (cont'd from 04.27.21) – Notice of Intent (After-the-fact filing).

Brian Deciero; 97 Woodland Meadow Drive

Paul McManus/EcoTec, Inc., representing Applicant

Chair Christopher said a site walk has been done. David Koonce said they have asked for a continuance. At the site visit last week, evaluated the number of shrub and tree species in the undisturbed area. They discussed adding larger and more mature trees in the restoration plan. He said before the 22nd should receive an amended restoration plan. A high percentage of planting done last year have survived and the plant layer has recovered.

James Lavallee made a motion to continue the hearing until June 22, 2021 and was seconded by Greg Jackson. Roll Call Vote: James Lavallee yes, Donald Chaisson yes, Greg Jackson yes, Thomas Seidenberg yes and Thomas Christopher yes.

Public Hearing (cont'd from 04.27.21) – Notice of Intent; United States Army; Fort Devens South Post Reserve Forces Training Area

Michael Penney/GeoInsight, Inc., representing Applicant

David Koonce said he requested a continuance with no updates or information.

Thomas Seidenberg made a motion to continue the hearing until June 8, 2021 and was seconded by James Lavallee. Roll Call Vote: James Lavallee yes, Donald Chaisson yes, Greg Jackson yes, Thomas Seidenberg yes and Thomas Christopher yes.

Old Business-Fort Pond Water Level

Discussion (cont'd) – Clayton Arvidson: Fort Pond water level-David Koonce said he received an email from Mr. Quinty. He needed to do some emergency work on the dam. He did the work.

Mr. Jim Quinty explained why he did the emergency work on the dam. He said someone over the weekend cleared out the beaver debris from the dam and water had flown down. He said he installed a steel plate at the water level and placed some sandbags around the front of the plate. The steel top plate is around two inches higher than what the sluice way would have been with any flash boards installed. Chairman Christopher shared a picture of the steel plate and sandbags that he took yesterday. He also shared a photo showing erosion of the concrete at the base of the dam.

Clayton Arvidson spoke and said he asked to be under Old Business this is his time. Chairman Christopher said if he continues to interrupt, he will be muted. He said he is not to speak until he is asked to speak. Clayton Arvidson objected.

David Koonce said this afternoon he was out at the site and noticed a sizable chunk was gone which is new. It looks like the dam is eroding fast and furiously. Mr. Quinty said both pieces of erosion is attributed to the vandalism last fall. Whoever cleared the beaver dam a week or so did not do a controlled release. They just took out everything in one fell swoop which caused extreme velocity. David Koonce said given the accelerated deterioration of the dam it is reasonable to give Mr. Quinty an emergency order of conditions to do the work he did on the dam. Granted it is after the fact. He recommended the commission do that.

Donald Chaisson said at one point we requested no wood stop logs. The concrete dam is the top of the pool and in the following spring we were going to see plans. He asked if the Conservation Commission approved putting in the stop logs that were removed. Chairman Christopher said last October we allowed Mr. Quinty to place sandbags where the foundation board was. Mr. Quinty agreed.

Chair Christopher shared pictures of the dam from 2019 which showed that on seasonal basis you can see about eighteen inches of variation due to seasonal flow.

Mr. Arvidson said he has reports that state the dam needed repairs in 1987. When the brush is removed you can see the dam. He said he asked for documents that state it is a certified beaver dam. He said Bill Brookings from the Board of Health said it was not a beaver dam. He commented that there was sandbags and wood. He said when you flood my property you are taking my property which if you are going to, he said he wants to be compensated. Mr. Arvidson shared a picture of a Shirley dam which showed no debris. He said that is an enormous difference from their dam. This dam on Fort Pond effects my property which was under water for seven months. Right now, the water level is at an average level. He said he is waiting for certified beaver pictures. He said he is restoring the level of the dam. He asked if the Commission was going to put an order of conditions on this dam.

Chair Christopher said Mr. Arvidson has made his point. He asked David Koonce to mute Mr. Arvidson. Chair Christopher said Mr. Arvidson has made it clear that he does not believe the water level has been raised by beavers and that he holds the Conservation Commission responsible for the flooding of his property. He has made it clear that he seeks some sort of regress and compensation for the flooding of his property and has accused the Commission of several other things as well.

Chair Christopher said what we have before us is a request by Mr. Quinty for an emergency certification to place a steel plate and sandbags across the front of the dam to address further erosion. Clearly the dam needs some repairs. Mr. Quinty said when he does any other work or changes the water level on the dam, he will get prior consent first from the Conservation Commission. Mr. Chaisson asked Mr. Quinty about a maintenance plan for the dam. Mr. Quinty said he is trying to keep the dam head where it is. Mr. Chaisson said the ownership of the dam is yours. The dam is not being maintained. He commented you own the dam so what is the plan. Mr. Quinty said if he were to replace the dam it would cost at least one hundred thousand dollars.

Mr. Avidson said you do not need an engineer's plan. The earth and dam are what holds the water which could be satisfied by using pvc piping. He said he would fix the dam using pvc pipes to control the water level.

Ms. Martha Moore said one of the many reasons they started the Fort Pond Association is for the maintenance of the dam. The long-range plan is to find the money to pay for hiring engineers and experts to deal with this in a professional way.

Tom Seidenberg commented he was fine with the temporary repair but as an after the fact approval he feels they should require a notice of intent which he believes is proper.

Don Chaisson said the problem is no one can say what the water level is or was. The dam needs to be repaired. He wanted to leave the steel plate in place as a temporary measure.

The Commission asked Mr. Quinty to provide to the Commission data relative to elevation and depth of the dam and possibly erosion of sluiceway. Mr. Quincy said he would meet and come up with a plan of action.

Donald Chaisson made a motion under emergency certification the steel plate would stay in place as is, but failure of the dam structure would require a notice of intent, David Koonce recommended an amendment to the motion any further work on the dam will require a notice of intent which Donald Chaisson approved and seconded by Greg Jackson. Tom Seidenberg said he feels inclined to require a notice of intent. He said this is not something the Commission would have done for any other project. He questioned under what authority the Commission can issue an after the fact approval. He said he did not see in the bylaw where it matches the requirements it matches for an emergency approval. He said he is not saying the plate should be removed. He just wanted to make sure it is within the law. Don Chaisson asked David Koonce if this is something that qualifies as an emergency action. He read the email received from Mr. Quinty. The Commission could interpret this as an emergency. **Roll Call Vote: James Lavallee yes, Donald Chaisson yes, Greg Jackson yes, Thomas Seidenberg yes and Tom Christopher yes.**

New Business - Time is being reserved for topics that the Chair did not reasonably anticipate being discussed.

Discussion – Conservation Agent: Buffer Zone violation(s) at 201 Hill Top Road
Frank McPartlan representing the landowners.

David Koonce gave the background of this item. He was contacted by the property owners a couple of months ago. They wanted to clear the forest for a horse pasture and an equestrian center. He made several site visits to look at the wetlands and worked closely with owners Dan and Kathryn Loring and their engineer, Frank McPartlan. The focus of their discussions was the isolated wetlands on lot eleven north of the carriage house. He reported that the wetlands have been previously flagged.

Agent Koonce required the buffer zone be delineated on site so the logger would know not to encroach in the jurisdictional areas. An RDA or NOI would not be required if work remained outside the buffer zones. At the last visit with Mr. McPartlan, he had verified the buffer zone which was correctly delineated in the area in back of (north of), the former brick-walled gardens (on lot 11). He was told the area to the right of the driveway (lots 8 and 9 on the site plan) was not going to be logged by the owners. He did not check that area or require the buffer zone be delineated.

Agent Koonce said he received reports from concerned residents after the cutting started

that the logging went into the Commissions jurisdiction. He visited the property to view the situation and noticed cutting on the right side of the driveway (lots 8 and 9), as well as encroachment into the buffer in back of the brick wall (lot 11). He said he issued a cease and desist to stop the work on the property.

After discussing the situation with Chairman Christopher, they met on site with the owners and the logger. They allowed equipment to be moved and logs relocated on site outside the buffers to allow access to the property. They instructed Mr. McPartlan to survey the new limit of clearing and show it on the wetland's delineation plan. They advised the owners that the Commission would require an NOI for restoration of the cutting that had occurred within its jurisdictional areas.

Mr. McPartlan agreed that Mr. Koonce had given accurate recounting of the events and said that filing a notice of intent was the correct way forward. He shared a site plan and discussed the two areas of encroachment. He acknowledged cutting extended into wetlands on lot eleven and lot nine. Six trees and brush had been removed on lot 11, while cutting extended into the 100-foot buffer on lot 9, possibly within the 200-foot riverfront area as well. He said they intend to survey the area of clearing along with the area remaining stumps. He requested direction from the Commission regarding the diameter of stumps to be included and asked for permission to install erosion control barriers to protect the wetlands from runoff.

Chair Christopher asked about two diseased hemlocks which are in the condition of new death which are in the buffer zone. Mr. McFarland said he is looking at cutting the tops and leaving a tall stump. The Commission went over the proposed plans.

Mr. Stenton asked what the status is of the work status. He asked what kind of a time frame so the owners can start making it look like a horse farm. Chair Christopher said it is up to the Commission as to whether they want to allow cleaning up.

Victoria Petracca asked about the order of conditions. She said the order of conditions for the sewer connection was based off on the previous site plans. Is the order of conditions going to be revisited since there are changes? David Koonce said there is no legal way that order of conditions can be revisited unless there is a violation of that order of conditions. Victoria noted that the original plan submitted was for a different site plan.

Chair Christopher said obviously we need to do some restoration. We need an order of conditions filed. We need notation of location of trees, size, and removal of disease trees. Mr. McFarland asked about getting permission to put in erosion control where it is warranted while plans are being prepared and submitted. David Koonce said an enforcement order should be issued which will list what is permitted which will include logs being removed and chipping if necessary. He asked Mark Houghton Jr. to send a punch list to him of what needs to be done.

Tom Seidenberg made a motion to issue an enforcement order for 201 Hilltop Road with the following conditions, the property owner cease and desist all activity within the Conservation jurisdiction, they file a notice of intent for restoration, they be allowed to remove logs and do clean up outside our jurisdiction and allowed to install erosion control to prevent water running into the wetlands. Greg Jackson seconded the motion. Roll Call Vote: James Lavallee yes, Donald Chaisson yes, Greg Jackson yes, Thomas Seidenberg yes and Tom Christopher yes.

Items for Approval and/or Signature None

Adjourn

Thomas Seidenberg made a motion to adjourn the meeting. Greg Jackson seconded the motion. Roll Call Vote: James Lavallee yes, Donald Chaisson yes, Greg Jackson yes, Thomas Seidenberg yes and Tom Christopher yes.

The meeting was adjourned at 10:32 P.M.

Respectfully submitted

Debra Dennis
Office Manager