



**TOWN OF LANCASTER
CONSERVATION COMMISSION**

Meeting Minutes

June 13th, 2023

Members Present: Chair Tom Seidenberg, Vice-Chair Jim Lavallee, Bruce McGregor, Dennis Hubbard, Shawn Winsor

This was Shawn Winsor's first meeting as a member of the Lancaster Conservation Commission

Also Present: Charlotte Steeves (Conservation Agent)

List of agenda items presented:

1. Notice of Intent- 230 Fort Pond Rd
2. Continued public hearing- 267 Brockelman Rd- ZP Battery
3. Discussion: By-law and regulation updates

Chairman Tom Seidenberg called the meeting to order at 7:00 PM.

Notice of Intent- 230 Fort Pond Rd

Seth Donohoe of Dillis and Roy (Representing Applicant)

1. Mr. Donohoe shared the screen with the proposed project. He said the existing site has a paved driveway which will remain unchanged. They are proposing to replace a single-family home and there is a small reduction of impervious area. He said they are building recharge trenches to collect roof runoff along the entirety of the dwelling. There is a 39 Foot setback and no removal of mature trees. The plan also shows straw wattles. He said there will be stockpile area encompassed by siltation barriers.
2. Ms. Steeves shared photos of her site visit. She said there will be erosion controls along the 25-foot zone. She said everything will be within the same footprint, so there will not be much of a change to the impervious area.
3. Mr. Lavallee asked if the erosion controls will be inspected before construction and maintained during the construction. He said it would be good to have the inspected prior to the removal to make sure the area is stabilized. He asked if they could look at the dripline recharge areas. He asked if there will be a change to the roof.
4. Mr. Donohoe said it is a single floor at the front and a walkout in the back. He said the new roof will be essentially matching the existing. He said the site is sandy soil. The recharge areas will be around a foot deep.
5. Mr. Lavallee said he would like to see this added to the plans.
6. Mr. Donohoe said the treated timber will be preventing loam from infiltrating the trench.
7. Mr. Lavallee said there seems to be a steep slope and he questioned if hay bales would be a better option.

8. Mr. Donohoe said they can incorporate the hay bales either in the plan or in the OOC. He said there were test holes to prove that there was suitable soil for a septic system. They have a new title 5 compliance system in, and this will stay in place and connect to the new dwelling. He said the new deck is slightly smaller, accounting for a 48 square foot reduction in the size of the deck and a foot further away from Fort Pond.
9. Mr. Lavallee said the plan looks good aside from a few small changes.
10. Mr. McGregor asked how far back the attached garage will be from the water line.
11. Mr. Donohoe said the entire existing house is within 100 feet of the pond. He said the proposed garage is beyond 100 feet from the pond.
12. Mr. Hubbard said it looks like there is a cement patio beneath the deck and he asked if this was being removed.
13. Mr. Jones said the pad will be removed. He said it is raised 2 feet and there will need to be supports added for the deck from the side of the house. He said the footprint will be the same or smaller than the current deck. The pad will be pulled out during construction.
14. Mr. Hubbard said the neighbor at 240 Fort Pond are not shown on the plans.
15. Mr. Donohoe said there was a septic plan approved and installed and this would have been a requirement of the plans had there been an overlap of the well radiuses.
16. Mr. Seidenberg asked if there are any proposed changes to landscaping.
17. Mr. Donohoe said all the work is within the footprint of the existing house. They will be removing some material within the footprint of the existing house, but all the work is within the limits of the lawn and there will be no grading outside the footprint of the existing house.
18. Mr. Seidenberg asked if green cards were received. He said affidavit of service was not signed or dated, and it is referencing a different hearing. It references an NOI from a previous owner.
19. Ms. Steeves said the abutter notifications were sent out.
20. Mr. Donohoe said they sent over an updated affidavit of mailing a few weeks ago. He said the green cards and certified mailing receipts were sent to the office that morning.
21. Mr. Lavallee wanted to confirm that there will be no stockpiles within the 100-foot buffer zone.
22. Mr. Donohoe confirmed this.
23. Mr. Lavallee said they would require updated plans showing erosion controls changed to hay bales, the drip line trench, and that the conservation commission will approve the erosion controls prior to the construction.
24. Ms. Steeves said part of the process is for her to check the erosion controls prior to construction. This is in the standard conditions.
25. Mr. Donohoe said he will send over revised plans. He noted the project has not received DEP number yet.
26. Mr. Seidenberg said they can ask for a continuance to June 27th, 2023. He said if the plans are in by the Wednesday prior to the meeting, this will give the commission time to review them.
27. Mr. Lavallee made the motion to continue the hearing and it was seconded by Mr. Hubbard.

Roll Vote: Mr. Lavallee yes, Mr. McGregor yes, Mr. Seidenberg yes, Mr. Winsor yes.

Present: Tom Corbett (representing ZP Battery)

1. Mr. Corbett said CEI is looking at the project from a Planning and Conservation perspective. He said there have been revisions to the plans and CEI is reviewing them. He said once CEI has done a second review, they can go over the new plans with the commission. He said the basin is enlarged resulting in the project being pulled back from the 100-foot buffer on the westerly side of the property. He requested a continuance.
2. Mr. McGregor made the motion to continue the hearing and it was seconded by Mr. Hubbard.
3. **Roll Vote: Mr. Lavallee yes, Mr. McGregor yes, Mr. Seidenberg yes, Mr. Winsor yes.**

Discussion: By-law and regulation updates

1. Mr. Seidenberg said there could be minor improvements in several aspects of the bylaw. He made a list to discuss with the commission. He said anything that requires a by-law update should be organized before the next town meeting next May. He mentioned modifying zoning requirements in respect to wetlands. He said there have been a number of challenging projects due to wetland areas, specifically one case on Seven Bridge Rd. He said a significant portion of the property was buffer zone. He said the house was forced to be in the buffer zone. He said the bylaw specified the minimum area requirement to be 90% upland. He said the buffer zone is significant in the town bylaw. He said this leaves to a conflict, because the planning board can issue an ANR for a lot that is challenging to build on from a conservation standpoint. He said he would like to engage the planning board to come up with potential solutions. He also said the bylaw references wetlands as defined by the WPA, while the Lancaster by-law is stricter. He said there is a similar situation with a grandfathered lot, which did not get ANR endorsement, but the lot is all wetland resource areas and buffer zone with only as tiny corner of upland. He said this lot already existed. He said this might be a simple thing to do. He said he would share this document with the commission and revisit the conversation during the next meeting. He said the next thing he would like to address is the interpretation of the vernal pool. He said the bylaw defines the 100-foot buffer zone of a vernal pool as a resource area, creating a higher threshold of protection. He said the bylaw is not clear whether there is also an additional 25-foot no touch and a 100-foot buffer in addition to the resource area. He said the commission should make this clear since it is ambiguous in the bylaw. He said traditionally, the commission has not treated it as an additional 100 feet. However, he believes it is an additional 100 feet of buffer zone in addition to the 100-foot resource area.
2. Mr. Lavallee said he agreed with the vernal pool language needing to be clearer. He said he believes the buffer zone should be much larger since the species living in vernal pools utilize uplands. He said the army corps of engineer defined the required buffer for a vernal pool to be 750 feet. He said the language gives the commission the ability to protect more, but the current language is not clear.
3. Mr. McGregor asked how other towns define the vernal pool buffer zone.
4. Mr. Seidenberg said he was not sure.
5. Mr. McGregor said he would like to see a 100 foot+ buffer zone for vernal pools. He said he would research how other towns are addressing this. He said he would like to be stricter, but still reasonable.

6. Ms. Dickenson asked how long the current bylaw has been in place. She asked why this had not been addressed before. She said 750 feet would be unreasonable.
7. Mr. Seidenberg said the bylaw was passed in 2007, and he brought this up as a discussion item during the Kraft project. He said the mood of the board at this time was to not double the protection of the vernal pools. He said there was a lawyer attending who sent the commission letters of interpretation for the bylaw. He said the commission has acted as if the buffer zone was only 100 feet, but the language is ambiguous.
8. Mr. Hubbard said the language is vague and needs to be clarified.
9. Mr. Seidenberg said he passed around a set of reports and research articles regarding the science of buffer zones. He said the buffer zones are inadequate to protect species, which is one of the mandates of the act. He said 750 feet would be excessive, but science says 100 feet is not adequate for species habitat. He said vernal pools are a unique habitat and there are special regulations under the state and local bylaws. He said it is valuable to have a conversation about doing more to protect vulnerable species, which is in the interest of the WPA.
10. Mr. Seidenberg said that stormwater BMPs should be exempt under the town bylaw as they are under state law. He said it is important for developers to control BMPs. He said developers do not want to build wetlands. However, it is important to have stormwater BMPs and for wetlands to be built to control stormwater. He said the bylaw should be updated to exempt permitted stormwater structures.
11. Mr. Lavallee said this makes sense.
12. Mr. Seidenberg said he is not sure if this will be a wetlands bylaw matter or under zoning bylaw/ regulation. He said he thinks this can be done via regulation change, but he is unsure. He said the bylaw would need to be changed to add the exemption.
13. Mr. Lavallee said it would be easier to change the regulation than the bylaw.
14. Mr. Seidenberg said there has been a lot of debate over North Lancaster and it is hard to find a middle ground. He said there is no jurisdiction for the conservation commission in an ACEC. He said for Lancaster, ACEC does not mean anything. He said at the state level, it provides a more in-depth protection. He said there are no additional regulatory authorities to protect an ACEC at a local level. He said there are a handful of towns which consider ACEC areas. He said one possibility would be to extend the buffer zone regulations to include ACECs. He said this would have to pass a vote at the town meeting. He said this would be a bylaw modification. He said they would need to solicit feedback from the town and it is worthy of discussion. One of the interests of the WPA is species habitat protection. He said an expanded buffer zone with some limitations on the ability to regulate the buffer zone might be a way to go about this.
15. Mr. McGregor said the ACEC in North Lancaster is a large area. He said the bylaws are strong in the town and there is a lot at the disposal of the commission to protect the wildlife and resource areas. He said bringing this up to the town would be very contentious. However, they need to think of things from a conservation perspective.
16. Mr. Lavallee said he would like time to think about these points. He said it would be a great thing to expand buffer zones from a scientific perspective, but he acknowledged that it can be a contentious topic.
17. Mr. Hubbard suggested looking at what other towns are doing. He said they should not be hesitant of putting initiatives forward if they believe it is in the best interest of the town and under the WPA.

18. Mr. Seidenberg said he would like to find a way to define regulations on what would be allowed in buffer zones under the bylaw. He said when projects come before the commission asking for the ability to alter a buffer zone, there are two types of cases. The first are developers who think they can develop right up to the 25-foot and the commission will just allow this. He said certain developers have been surprised at the defense of the buffer zone. Second, he said there are necessary alterations due to the shape of the lot or where it makes sense to allow buffer zone alterations. He said this could necessitate a middle ground approach. He said he would like to see a buffer zone use table. He said he feels voting for the projects is not consistent. He said buffer zones have been strongly defended in some cases, and in others there has been a 'rubber stamp'. He said it would be easier to make decisions with a use table.
19. Mr. McGregor said he would also like to see a use table, but certain resource areas are more extreme than others. He said he tends to lean more towards one resource area over another, as some can be more impactful than others. He said every project is different and he is afraid of putting down blanket regulations which apply to all resource areas, when in reality, some resources need stronger regulations. He said the use table could be a handicap for the commission.
20. Mr. Lavallee said They are not talking about changing the regulations or bylaw but enacting a performance standard. He said a performance guideline could be helpful. He said they should take into consideration the condition of the resource area. He said in general, he favors a use table, but they need to proceed with caution.
21. Mr. Seidenberg said the use table would not necessarily say what would be permitted. It could rather be a table of what is not permitted and with conditions. He said it would still be discretionary. He said the commission can wave strict performance with good reason, as long as the commission clearly outlines that reason.
22. Mr. Lavallee said the use table could improve the consistency of the board. He said the commission does not always ask applicants to do an alternatives analysis in writing. He said this would be important to start implementing.
23. Ms. Dickenson asked if it is possible for the letter to be placed on the website. She said it is important for the public to be able to view. She wanted to make sure it is fair for private citizens who want to improve their properties.
24. Mr. Seidenberg said the document is public record. If anything is voted on, there will be public meetings and notices.

Beach Nourishment at Town Beach

1. Ms. Steeves said the rec committee wants to do a beach nourishment project on Spec Pond. She said they likely need to file a notice of intent.
2. Mr. Seidenberg said the commission talked about developing regulations for beach nourishment about a year ago.
3. Mr. Christopher said most of the regulations are directed for coastal projects, but there is some good language regarding inland resources. He said he created a list of reasonable standards that can be incorporated. He said replenishment would have to be done using washed sand. There were also specifications regarding grain size and quality.
4. Ms. Steeves said she can pass the resources along to the commission.
5. Mr. Seidenberg said the town will need to file an NOI.

6. Ms. Steeves said she visited the YMCA property to inspect the retaining wall after a large rainstorm. She said there was a tiny bit of runoff, but it looked like it held up well.
7. Mr. Seidenberg said they will wait for a filing for the beach nourishment. He said himself and Ms. Steeves will be doing a site visit on Sterling Rd next week to check if there is a violation. The address is at 842 Sterling Street.
8. Mr. McGregor asked for clarification on the spraying at Thayer Field. He said he appreciated the volunteer work. He wanted to know if there is anything else in the area that will be a cost to the conservation commission that has been approved. He wanted to know about any additional costs.
9. Mr. Seidenberg said the commission did not vote on spending any money. The town administrator is funding the project through the conservation fund from a previous beaver dam project with leftover money. He said he is not aware of any additional funds from the project.
10. Mr. Lavalley said there was an email sent out about parcel 108 on Parker Rd and he asked if there is a discussion.
11. Ms. Steeves said the parcel floods significantly and the abutter is concerned that someone will purchase the area and increase the impervious area. She said almost the entire lot is a wetland. She said the lot is for sale. She said most people see the lot and realize it will be challenging to build on it.

Adjourn

1. **Roll Vote: Mr. McGregor yes, Mr. Lavalley yes, Mr. Winsor yes, Mr. Seidenberg yes.**
2. The meeting was adjourned at 9:03 PM.