

TOWN OF LANCASTER
CONSERVATION COMMISSION

Meeting Minutes

March 14th, 2023

Members Present: Chair Tom Christopher, Vice-Chair Tom Seidenberg, Bruce McGregor, Jim Lavallee .

Also Present: Charlotte Steeves (Conservation Agent)

List of agenda items presented:

1. Continued Public Hearing-Notice of Intent- Jones Crossing (off Deershorn Road)-Assessor's Map 40, Parcels 12, 12D-12Z, 11B-11N, 11P- O'Hagan (PLACES Associates)
2. Continued Public Hearing- Notice of Intent- 0 Lunenburg Road (Cook Conservation Area; Assessor's map 19 parcel 17A)- Lancaster Land Trust
3. Thayer Field Invasive Species Spraying Project
4. Quorum and Reducing the Commission to a 5-Member Board
5. Violation 397 Center Bridge Road
6. Discussion on Buffer Zones and Use Tables
7. Meeting Minutes (2-14-23; 2-28-23)

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

Notice of Intent- Jones Crossing (off Deershorn Road)-Assessor's Map 40, Parcels 12, 12D-12Z, 11B-11N, 11P- O'Hagan (PLACES Associates)

Present: Mark O'Hagan (applicant and owner); Patrick Burke, PLACES Associates, representing applicant

1. Mr. Christopher read the public hearing notice aloud. He said during the last meeting, the commission wanted confirmation of the wetland delineation line previously established by Mr. Carron. He said CEI did a review of the line.
2. CEI sent an email stating that the report was completed but could not be sent due to power outage issues. The email said that the wetland line has been confirmed.
3. Mr. McGregor said he would like an opportunity to view the full report. He asked if CEI has looked around for environmental and wildlife concerns around the buffer zone/ vernal pools.
4. Mr. Christopher said the intent was to confirm the wetland line.
5. Mr. McGregor said he was clear that he wanted CEI to check for environmental concerns.
6. Mr. O'Hagan said that vernal pools outside of the scope of work were not looked at because they do not have an impact on the project. He said the peer review consensus was comfortable with the wetland line that is already established. There was no intention to go into area that will not be impacted by the construction.
7. Mr. Christopher read the email sent from CEI aloud. The email said that CEI concurred with the delineated wetland boundary, as observed at the site, and found it to be consistent with the delineation presented on the site.
8. Mr. Seidenberg said he was satisfied with the email.

9. Mr. Lavallee asked when the report will be available.
10. Ms. Steeves said she assumed the report will be available tomorrow and she will add it to the record.
11. Mr. McGregor asked if the report verifies if there are vernal pools in the area.
12. Mr. Christopher said without seeing the report, he can not make a judgment. He said he has been to the site several times and there are no vernal pools in the limit of work. He said there has always been water in the wetlands on the site, leading to the conclusion that these are not vernal pools. He said he wants to make sure the commission is comfortable moving the project along. He said the commission can proceed with further discussion and add a special condition to the order of conditions to review the CEI report.
13. Mr. McGregor said he was ok with proceeding, but he is concerned about wildlife studies. He said he would not be comfortable voting the project forward.
14. Mr. Lavallee made the motion to close the hearing and it was seconded by Mr. Seidenberg.

Roll Call Vote: Thomas Seidenberg yes, Jim Lavallee yes, Bruce McGregor no, Tom Christopher yes. The motion was passed to close the hearing.

15. Mr. Seidenberg asked if the commission can talk about additional special conditions to the OOC before they vote.
16. Mr. McGregor said he was concerned about the water he saw on the site and the possibility of wildlife.
17. Mr. Christopher said there were several vernal pools on abutting properties. He said eh looked on MassMapper and there are no other potential vernal pools on MR. O'Hagan's property. He said he would like the OOC to be reflective of the commitments Mr. O'Hagan is making to Mass DEP. He said he would like to include those comments. He said he would like to go back through the notice of intent. He also said they can circulate the OOC though the commissioners for additional comments.
18. Mr. Lavallee asked for clarification.
19. Mr. Christopher said he suggests the commission vote to issue the OOC today and later sign it after it has been circulated.
20. Mr. Seidenberg said he would like the OOC to be drafted and reviewed within the statutory deadline.
21. Mr. Christopher said they have already closed the hearing.
22. Mr. Seidenberg said they have 20 days to sign the OOC. He said the draft can not be circulated, but it can be drafted and discussed during open meeting. He also said he wants to add a condition that there be no lawns added within the 50-foot buffer zone.
23. Mr. Lavallee made the motion to continue the discussion to the next meeting pending the draft of the OOC. Mr. Seidenberg said he would second, but the commission has 20 days to issue the order. Therefore, this is not a continuance. Mr. Lavallee withdrew the motion.
24. Mr. Seidenberg said the commission has 20 days to decide to deny or approve the OOC during the next meeting.

Harbor Classic Homes/ Laurel Hill

1. Ms. Steeves said the commission needs to vote to continue the hearing for Laurel Hill (Harbor Classic Homes). She said Mr. Campobasso requested a continuance via email until the peer

review is conducted. This was not on the agenda, but the request was sent via email by Mr. Campobasso.

2. Mr. Seidenberg made the motion to continue the hearing. The motion was seconded by Mr. McGregor.

Roll Call Vote: Thomas Seidenberg yes, Jim Lavallee yes, Bruce McGregor yes, Tom Christopher yes. The motion was passed to continue the hearing.

Continued Public Hearing- Notice of Intent- 0 Lunenburg Road (Cook Conservation Area; Assessor's map 19 parcel 17A)- Lancaster Land Trust

Present: John Farnsworth (Applicant)

1. Mr. Farnsworth asked if the commission had an opportunity to review the materials. He said he has heard nothing back from DEP or natural heritage and would like to request a continuance. He said the project will not be increasing stormwater runoff because there is not a lot of additional impervious area. He said he would like to ask MassHighway to fix the paved area along route 70.
2. Mr. Christopher said Judith Schmidt (via email) has concerns about a wetland area within close proximity to route 70. He said this is a drainage swale coming off the highway and this is definitely not a wetland since large trees are growing there. He said Ms. Schmidt was also concerned about a wetland in the southeast. He said he checked some of the older GIS maps of Cook conservation area and there is a small wetland area that might be within 100 feet of the limit of work. He was not sure. He said it would be a good idea to do a site walk and double check this. He said straw wattles along that side would be adequate if it is indeed within 100-feet of that wetland area. He said the whole point of the project is to decrease the amount of polluted water entering spectacle brook and the Nashua River. He also said the most important part of the project is to replace and raise the culvert so that it can be maintained. He said this might not be clear to Ms. Schmidt. He said a narrative would be appropriate.
3. Mr. Farnsworth said he had asked Ms. Schmidt to visit the site. He said it might be mistaken as a wetland area by aerial photographs, but it is clear that this is a swale. He said he has sent some notes via email to Ms. Steeves stating that he would like to identify the potential BVW. He said he would like to request a continuance to March 28th, 2023.
4. Mr. McGregor made the motion to continue the hearing to March 28th.
5. Mr. Seidenberg asked if the correspondences between Mass DEP for the project could be shared with the commission.
6. Ms. Steeves said she would be able to send these. She said she was having problems sending meeting materials externally.
7. Mr. Seidenberg seconded the motion.

Roll Call Vote: Thomas Seidenberg yes, Jim Lavallee yes, Bruce McGregor yes, Tom Christopher yes. The motion was passed to continue the hearing.

Discussion: Thayer Field Invasive Species Spraying Project

Present: Daniel Lapen

1. Mr. Christopher said the commission had the opportunity to visit the areas for the proposed spraying and cutting near Thayer Field.
2. Mr. Lapen said the commission and Ms. Steeves looked at the invasive species proposed to be mechanically cut and removed from the area.
3. Mr. McGregor said he was happy to see the area and it alleviated his concerns. He said this area is quite small.
4. Mr. Lavallee said there are a bunch of invasives that need to be removed. He said there is a great spot for the American chestnuts to be planted after the cutting. He said there are not issues with the project.
5. Mr. Seidenberg asked what group within the town has ownership of this project.
6. Ms. Steeves said there is confusion on how this is going to be funded.
7. Mr. Christopher said the Town Administrator has stated that the conservation commission would pay for this, but he disagrees. He said the area is under the authority of the recreation commission. He said this funding should come out of their budget rather than the wetland fund.
8. Mr. Lapen said the spraying will be \$300. He said he will work with Ms. Hodges to see where this money will come from.
9. Mr. McGregor asked how this project came about and who is requesting this.
10. Mr. Christopher said this has been Mr. Lapen's project for the last couple of years. He said the finance committee and select board still owes the conservation commission \$8800 that was supposed to be reimbursed for a project with capitol group that the commission funded. He said Capital Group reimbursed the town, but the funds were never returned to the conservation commission.
11. Mr. Seidenberg said \$300 does not sound like a lot, but he is not sure who pays for this project. He said he is not sure if the wetland funds are legally segregated. He said the wetland funds are required to be used to administer the wetlands act, but this information is 15 years old. He is not sure if this ruling is up to date. He said they would need to figure out if they can legally use the wetland funds. He said the recreation committee has this on their list of things to do and it is also a question of priority.
12. Mr. Christopher said there has never been clarity relative to the wetland fund.
13. Ms. Dickinson said the funds can be clarified by the town administrator. He said this area is under the recreation's jurisdiction. She said she is concerned that the recreation department is not involved publicly. She said she is also concerned about a private citizen using public land and then giving the wood from the cutting to a neighbor. She said she would be happy to see recreation being brought into the loop.
14. Mr. Lapen said this is 2 separate projects, the first involves spraying and the second involves cutting. The first project was already signed off by the commission.
15. Mr. Christopher said the funds for the project have not been approved by the commission.
16. Mr. Lapen clarified that the project was approved by the commission for the spraying. He asked if this was good for 3 years.

17. Mr. Christopher said an order of conditions would be good for 3 years, but this was a determination of applicability. He said the commission can continue to reauthorize an additional order. He said this would require a separate filing for the cutting.
18. Mr. Lapen said he has talked with Keven (of the recreation commission) and that he is not planning on spending any money on the mechanical cutting. He said he would be providing his own time as a volunteer. He said Keven is aware and has documentation of the project.
19. Mr. Seidenberg said it sounds like Mr. Lapen is trying to drive this project as a private citizen. He said he does not think Mr. Lapen is the right person to be advocating for the project. He said this would be more appropriate for the recreation department. He said the recreation department is welcome to file an RDA, but the commission can not authorize the work proposed by a private citizen. He said the RDA was filed last fall and this is not the commission's land. This is town land and someone in the town of Lancaster recreation committee has to file the paperwork. He said if Clark (recreation committee) comes before the commission with a request, they would be happy to move forward with it.
20. Ms. Dickinson said this is outside the purview of the conservation commission. She would like to see the recreation commission involved. She said this is town land and the town needs to decide this.
21. Mr. Lapen said he attended a recreation meeting via zoom where he talked with the entire recreation commission. He detailed the spraying and cutting during that meeting and he said Ms. Hodges should also be aware, as she has discussed where the funding would come from. He said he is keeping everyone involved.
22. Mr. Christopher said he appreciates the effort and it is a matter of getting everyone involved who needs to be involved.
23. Mr. Seidenberg said the recreation committee needs to send in an RDA.

DISCUSSION: Quorum and reducing the commission to a 5-member board

1. Mr. Christopher said there has been difficulty in recruiting members for the commission. He discussed the possibility of a potential new member currently serving on the zoning board of appeals who expressed interest in joining the commission as well.
2. Ms. Steeves said she talked with Ms. Hodges about quorum. She said the votes from a few weeks prior will need to be re-done since the commission did not have quorum according to Ms. Hodges. She said she would add this to the next agenda.
3. Mr. Christopher said they can review the minutes from the 2-14-23 and re-approve those votes from the meeting where quorum was not met. He said there are a lot of communities that have smaller boards. He said he has no objections to reducing the number of board members, but he thinks this needs to be done by town vote. He said they should proceed by contacting Ms. Hodges about adding this to the agenda for the annual town meeting.
4. Mr. Seidenberg said that he agrees they should shrink the size of the board.
5. Mr. McGregor said there may be situations where if a member can not make it, they might have to cancel the meeting due to not having quorum with a 7-member board.
6. Mr. Lavalley said he is afraid the commission will get to a point where they are slowing progress.
7. Mr. Christopher said he would reach out to Ms. Hodges to see how they can proceed with reducing the board.

8. Mr. Seidenberg said he was concerned about Ms. Hodge's insistence that there is a quorum of 4. He said he would like her to reach out to town council and this could clear up a lot of the legalities. He said he will be missing some meetings and this would make the commission unable to meet. He said that he thinks conservation commissions have an exception to the rule at the state level and there should be clarity from town council on this.
9. Mr. Christopher said he would bring this subject up to Ms. Hodges.

Violation 397 Center Bridge Road

1. Mr. Christopher said he and Ms. Steeves were supposed to visit the site today, but the snow storm prevented the site visit. He said they will have to wait a few weeks to reschedule.
2. Ms. Steeves said they should wait until the snow melts.

Discussion: Buffer zones and use tables

1. Mr. Christopher said he put together an analysis of uses in other surrounding towns which he has circulated with the commission. Discussion ensued.
2. Mr. Seidenberg said that the commission can send their individual comments for a use table and it can be circulated by Ms. Steeves prior to the next meeting, so long as the document is made public. He said that they would have to make sure the document is public at the same time it is distributed to the board.

Approval of Meeting Minutes

1. **Feb 14, 2023:** Voting to approve the minutes was delayed until the commission can re-do the votes due to not meeting the quorum during that meeting.
2. Mr. Seidenberg said they were legally able to meet quorum from a wetland act perspective. The question is if they met quorum in accordance with the town bylaw. He said the commission did not conduct any business concerning the town bylaw.
3. **Feb 28, 2023:** Mr. Seidenberg made the motion to approve the minutes and it was seconded by Mr. McGregor.
4. **Roll Call Vote: Thomas Seidenberg yes, Jim Lavallee abstained, Bruce McGregor yes, Tom Christopher yes. The motion was passed to approve the minutes from 2-28-23.**

Motion to close the hearing: Roll Call Vote: Thomas Seidenberg yes, Mr. Lavallee yes, Bruce McGregor yes, Mr. Christopher, yes. The motion was passed.

The meeting was adjourned at 8:32PM