

**TOWN OF LANCASTER**  
**CONSERVATION COMMISSION**

**Meeting Minutes**

**May 23rd, 2023**

Members Present: Chair Tom Christopher, Vice-Chair Tom Seidenberg, Bruce McGregor, Jim Lavalley, and Dennis Hubbard.

Also Present: Charlotte Steeves (Conservation Agent)

List of agenda items presented:

1. Notice of Intent- 267 Brockelman Road- ZPB 2020-16, LLC.
2. Retroactive NOI 35 Holiday lane- Arsenault
3. Discussion- Restoration on 201 Hill Top Rd

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

**Continued hearing, Notice of Intent- 267 Brockelman Road- ZPB 2020-16, LLC.**

*Present: Tom Corbett and Andres Kendall (Representing applicant)*

1. Mr. Christopher noted that Elisha Musgraves (from CEI) was also present at the meeting.
2. Ms. Musgraves said there were no proposed disturbances that fall within priority habitat areas. They were not able to detect which species might live within priority habitat PH1561 and estimated habitat 1072. The species that are protected in those areas were not listed. She said the estimated habitat polygons are outside any of the proposed disturbances and they corridor for the Wekepeke Brook. She said based on the review, there is unlikely to be any crossover between proposed ground disturbances and priority/ estimated habitat maps. She said there are some proposed disturbances near the isolated wetland along Brockelman Road. There did not appear to be many proposed erosion controls in the area. She said she would like to see all mitigation and avoidance measures in place to prevent impacts to isolated wetlands.
3. Mr. Christopher said that the actual site of the concrete pads are downgradient of the isolated wetland. He said the isolated wetland is probably more of a casualty of road runoff.
4. Ms. Musgraves said the issue as a peer reviewer is that once the area has been mapped and flagged as a wetland, it is standard to point out any erosion control measures that are not in place, regardless of if it is an old cow pond or a result of runoff.
5. Ms. Kendall said she would be able to incorporate erosion controls in that area. She said the plans show erosion controls along the trench line as it extends from the battery storage towards Brockelman Road and it is located between the concrete pads. She shared her screen showing sheet 3. She showed the underground conduit extending from the battery storage area which connects with the three concrete pads. She showed the proposed erosion control lines extending beyond the limit of work. She said it is a straw wattle and siltation fence.
6. Ms. Musgraves asked if this is also shown on the erosion control plan. She said the issue might be that it is a different width than the other erosion control plan.

7. Ms. Kendall said that is correct, the line is not in bold.
8. Mr. Christopher said the other thing noted was the depth of the rain garden and he wanted clarification if this is a detention basin or a rain garden. He said the bottom of the rain garden is located too close to the existing groundwater level.
9. Mr. Corbett said this is indeed a rain garden, and Hannigan Engineering is addressing all of these concerns.
10. Mr. Christopher said this is important and it may be necessary to turn it into a large, shallow detention basin.
11. Ms. Musgraves said there are details for both structures on the plan and that any references to detention basins should be removed from the plan sets. She said the rain garden will provide phosphorous removal that is required by the municipal bylaw. A detention basin will not provide any TSS, Nitrogen, or Phosphorous treatment. She said the rain garden will be optimal for treating the site where there is minimal impervious area that is not exposed to oil. She said going back to a detention basin would work against everyone's interest in the site because it would not treat pollutants.
12. Mr. McGregor asked if the trucks coming in to do the work will have an impact on the resource areas or if there is a plan in place for this.
13. Ms. Kendall said the trucks will be entering from an existing fence via a gravel entrance driveway. She said the area needs to be kept open to allow access to the solar field.
14. Mr. Corbett said they can address a construction access and remove and replace the access drive.
15. Ms. Musgraves suggested adding a provision to address dust if this is a problem. She said there are other non-structural provisions that can be added to cut down on any sediment tracking from offsite.
16. Mr. Christopher said that there are a few last-minute details to report to the engineer based on the conversation.
17. Mr. Corbett requested a continuance.
18. Ms. Kendall said on the construction details sheet 6, there is a lengthy note regarding erosion controls, incorporating a construction pad at the entrance, and other comprehensive details that are not noted on the plans.
19. Mr. Christopher said the next meeting will be June 13<sup>th</sup>, 2023.
20. Mr. Seidenberg made the motion to continue the hearing and it was seconded by Mr. Hubbard.

**Roll Call Vote: Thomas Seidenberg yes, Jim Lavallee yes, Bruce McGregor yes, Mr. Hubbard yes, Tom Christopher yes. The motion was passed.**

### **Retroactive NOI 35 Holiday lane**

*Present: Dominic Arsenault (applicant and owner)*

1. Mr. Christopher said there was a site walk last week. He said relative to the riprap along the shoreline, he said the commission was upset that this work was not permitted with an NOI. He said if Mr. Arsenault filed for this, the commission likely would have permitted the work since there appeared to be an old retaining wall.

2. Mr. Seidenberg said he does not think the commission would have permitted the riprap, rather a repair of the old concrete retaining wall. He said they were able to see the concrete wall in disrepair during the site walk in and around the riprap that was added. He said he still sees this as a significant violation.
3. Mr. Lavallee said he could see remnants of the concrete wall covered up by the riprap. He said he does not think the riprap would have been approved. He said he saw vegetation growing through the riprap.
4. Mr. Arsenault said the riprap is around 4-6 inches deep.
5. Mr. Christopher said applicants are allowed 10% or 50 feet of bank alteration (whichever is less). He said this would be around 100 feet of alteration on the property. He is also concerned by the amount of impervious area from the installation of the paving blocks. He asked if these are pervious or straight cement.
6. Mr. Arsenault said he tried to find the receipt for the blocks. He does not believe the blocks were pervious.
7. Mr. Christopher said the blocks appear to be concrete.
8. Mr. Arsenault said he does not believe all of the blocks are concrete. He is looking for the receipt for when he purchased the blocks.
9. Mr. Lavallee said this is a critical piece of information.
10. Mr. Christopher said the situation is serious. He said it is difficult to overlook the scope of instruction into the 25-foot zone with mostly impervious materials.
11. Mr. Seidenberg said he does not know if the 25-foot no disturb zone applies since the lot preexists the by-law. He said the lot can likely only be regulated under the wetland act rather than the town by law. Further, he said the lot was an existing lawn prior to the alterations. He said conversion of lawn area to any other accessory use is permitted under the bylaw. He said under the act, the shoreline alteration and riprap would not be allowed. He suggested the commission restrict themselves to acting under the act.
12. Mr. Christopher said he does not believe removing the riprap is the best choice as it might cause additional damage.
13. Mr. Seidenberg said another alternative would be to require Mr. Arsenault to provide a restoration plan which would involve the guidance of a wetland consultant. Another option would be to refer the project to the DEP. He said removal of the riprap could be harmful, but he also does not like the thought of just leaving it there. This could be seen as permission to any other residents to do similar damage without filing for permission and then asking for forgiveness later. He said the DEP can fine applicants at a much higher rate than the commission.
14. Mr. McGregor said he likes the suggestion to require a restoration plan.
15. Mr. Lavallee said he does not like the idea of the fine and he would rather see a restoration plan in place.
16. Mr. Christopher said he would rather see money spent on mitigation rather than fines.
17. Mr. Hubbard said he is not sure the commission could fine enough to actually restore the shoreline and that he would rather see the restoration plan.
18. Mr. McGregor suggested the commission provide a list of who to hire for the professional restoration plan.
19. Mr. Christopher said he could provide a list of recommendations.

20. Mr. Arsenault agreed.
21. Mr. Christopher said Mr. Arsenault can come back before the commission with the hired wetland scientist during the next meeting. He said the commission will need a clear indication of what will be involved in the restoration.
22. Mr. Arsenault requested a continuance to June 13<sup>th</sup>, 2023.
23. Mr. Lavallee made the motion to continue, and it was seconded by Mr. Seidenberg.
24. Mr. Arsenault asked when the commission will discuss the other notice of intent for the addition on his property.
25. Mr. Christopher said he thinks that the mess needs to be cleaned up before the second project can proceed.
26. Ms. Steeves said the applicant will need to re-file the notice of intent for the addition once the work for the retroactive NOI is complete.

**Roll Call Vote: Thomas Seidenberg yes, Jim Lavallee yes, Bruce McGregor yes, Mr. Hubbard yes, Tom Christopher yes. The motion was passed.**

#### **Discussion- Restoration on 201 Hill Top Rd**

1. Mr. Christopher said himself, Ms. Steeves, and Mr. Seidenberg conducted a site visit. He said he reached out to David Crossman (the wetland scientist) to plan an additional site walk. He said he received an email saying the owner has engaged a different engineering firm. He said the commission prefers to deal with just one point of contact. He said he had not heard back from Mr. Loring nor Mr. Crossman. Mr. Crossman was designated as the point of contact for the project. He said Mr. Crossman indicated that they would be stockpiling large trees in the upland areas. He said the commission has authorized the owners to grind stumps in the upland areas. He said he has already sent an email for the stump grinding equipment for the stump removal in the wetland areas.

#### **Discussion- Reorganization**

1. Mr. Christopher said he will be retiring from the commission effective at the end of May (2023). He said he will continue to help the commission whenever appropriate. He said he is very grateful to the board.
2. The commission members thanked Mr. Christopher for all that he has done for the town.
3. Mr. McGregor nominated Tom Seidenberg as the Chairman of the commission. The nomination was seconded by Mr. Lavallee.

**Roll Call Vote: Thomas Seidenberg yes, Jim Lavallee yes, Bruce McGregor yes, Mr. Hubbard yes, Tom Christopher yes. The motion was passed.**

4. Mr. McGregor nominated Mr. Lavallee as Vice-Chair and it was seconded by Mr. Seidenberg.

**Roll Call Vote: Thomas Seidenberg yes, Jim Lavallee yes, Bruce McGregor yes, Mr. Hubbard yes, Tom Christopher yes. The motion was passed.**

5. Mr. Christopher said the board is now a 5-member board and the quorum is 3. He said the commission should try to maintain a quorum of 4. He said he would follow up with Administrator Hodges to follow up on the official decision.
6. Mr. Lavalley made the motion to close the hearing and it was seconded by Mr. McGregor.

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

**The meeting was adjourned at 8:04 PM**