

TOWN OF LANCASTER
CONSERVATION COMMISSION

Meeting Minutes

May 9th, 2023

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

Also Present: Charlotte Steeves (Conservation Agent)

List of agenda items presented:

1. Retroactive Notice of Intent – 35 Holiday Lane- Arsenault
2. Notice of Intent- 267 Brockelman Road- ZPB 2020-16, LLC.
3. Meeting Minutes 4-25-23

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

Retroactive Notice of Intent – 35 Holiday Lane- Arsenault

Present: Dominic Arsenault (applicant and owner)

1. Ms. Steeves shared the plans that were submitted with the NOI. She said there was a patio constructed in the 25 foot no disturb zone. There is also a floating dock and a deck that was enlarged. She said the erosion controls are still in place.
2. Mr. Christopher said there is encroachment in the buffer zone. She said the boat dock does not have a chapter 91 permit. He said 40% of the shoreline is riprap and under the wetlands protection act, no more than 10% of the bank can be altered within a property. He said there are a number of violations and the commission would be within their authority to mandate removal of all of the unauthorized work that was done.
3. Mr. Arsenault said there was miscommunication. He said he bought the house in 2019 and the septic system had already been redone by the previous owner. He said he was not aware of conservation issues. He said he learned from this, and he hired a civil engineer, and he was granted a DEP number and a motion to continue. He said he did not know he was not allowed to proceed and he would have never done the work if he was aware of the restrictions. He said he went through the meetings and got the DEP number, then filed a new NOI for a planned addition. He said he thought the professional he hired would have told him that the work had to be approved by the commission first. He said the silt fence and haybales in place were professionally done. He wants to make things better.
4. Mr. Lavallee commented that the whole house is within the buffer zone to White Pond. He asked if there is a new notice of intent for the patio.
5. Mr. Arsenault said this is a filed retroactive NOI for the unauthorized work that was done, and there is a new NOI for the proposed addition which is separate.
6. Mr. Christopher said that the new NOI was withdrawn without prejudice until the retroactive NOI is dealt with. He will have to re-pay the filing fees once the retroactive work is dealt with.

7. Mr. Arsenault said he submitted a plot plan from his civil engineer. He said he is already working to get a chapter 91 permit for the dock.
8. Mr. Lavallee said there was a similar situation on spectacle pond which resulted in a substantial fine. The owners amended the situation, and the commission allowed that applicant to let the construction remain in place. The applicant made a newsletter to educate people about the commission and regulations which resulted in the commission forgiving the fine. The fine was \$5,000.
9. Mr. Lavallee asked for clarification on that is on the property now, and what was there before.
10. Mr. McGregor agreed that he would like to see what happened on the property, going through what was there and what was put in.
11. Mr. Seidenberg wanted to know what was there before the riprap was put into place. He said he assumes that the bank may have been serving a purpose for wildlife or water quality before the riprap was put in. He said he is not sure if he would have agreed to filling a significant area of the bank with stone. He said he is not sure if the commission should require restoration.
12. Mr. Hubbard said he would like to see the condition of the banks before the patio was constructed and what erosion controls are in place. He said he would like to understand if there are any repercussions or further damage that a potential restoration might cause.
13. Mr. Christopher asked if there is riprap all along the property line.
14. Mr. Arsenault said the riprap extends from each side of his property and it is about 3-4 feet from where it meets the water to the top of the bank. He said many other properties have nice retaining walls and he did not know the laws. He said he wanted to prevent erosion. He said there were a couple existing trees there before. He said a beaver knocked those trees down. He said the old retaining wall that was there was staggered and curbing. He said it looked like a makeshift wall and it was halfway sloping into the pond. He wanted to make the area clean so he can walk out into it. He said he did not dig into the bank. He said the water is very close to his house. He put the riprap in there to make it look nice and to keep the land intact. He said he did not know this was a violation. He said he cleaned up the old retaining wall. No trees were taken down other than what the beavers did.
15. Mr. Christopher said If they ask Mr. Arsenault to remove the riprap, it would have to be done in September or October when the water level is down. However, removal of the riprap might cause more damage. He said it would be better to plan new vegetation to provide habitat for terrestrial animals. He said the habitat of the pond changes when the water level is down. He said a low vegetation planting that would sprawl over the rocks would be the most appropriate, specifically some native vines. He said Mr. Arsenault can hire a landscaper to make the replanting plan a reality. He said this would be the most practical way to deal with this and the least expensive for Mr. Arsenault. He said he would rather see mitigation than money for a fine.
16. Mr. McGregor said he agreed. He said the goal is to help mitigate runoff.
17. Mr. Seidenberg said he viewed areal images of what the area used to look like. He said it looked like there was 5-8 feet of shore with dirt and plants which was serving a function that the commission is bound to protect. He said it is hard to determine the significance of the bank. He said he is concerned if they overlook this violation, it gives incentives to the neighbors to do similar work without permission from the commission.
18. Mr. Hubbard asked if there were any mitigation put in place when the patio was constructed.

19. Mr. Arsenault said there is no drainage relative to the patio. He said there was a lot of loam and mud. He said when it rained, the loam washed into the pond. He said he was able to pitch it in a way that the water re-enters the ground. He said the patio was constructed with sand bedding with a quarter inch of crushed stone. He said the last layer was sand. He said he was not sure if the pavers were impervious.
20. Mr. Christopher said it is hard to get away from the destruction of the bank. He said past projects have involved riprap as a solution. He said there are other low growing shrubberies that could be planted at the top of the bank in a closed tight pattern that would provide a natural barrier to any further encroachment.
21. Mr. Lavallee said it is important to document conditions before and after, and what materials were used during the construction. He said a proposed planting plan showing neutral or better site conditions, this could provide a path forward.
22. Mr. McGregor asked if there is gravel on the right-hand side.
23. Mr. Arsenault said this is correct. He said he wanted to continue leveling out the property due to the pitch. He said there was a small retaining wall.
24. Mr. Christopher said it would be helpful to schedule another site walk with Mr. Arsenault present.
25. The commissioners debated who would attend the meeting as to not reach a quorum. They decided the site walk would be at 10:00 AM the following Wednesday.
26. The motion was made to continue the hearing by Mr. Lavallee and seconded by Mr. Hubbard.

Roll Call Vote to continue the hearing to May 23, 2023: Thomas Seidenberg yes, Jim Lavallee yes, Bruce McGregor yes, Dennis Hubbard yes, Tom Christopher yes. The motion was passed.

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

Present: Tom Corbett and Andres Kendall (Representing applicant)

1. Mr. Christopher said that the applicants had requested a continuance to May 23rd to give CEI enough time to complete the additional environmental review for the commission and planning board.
2. Mr. McGregor made the motion to grant the continuance 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.

OTHER BUSINESS:

Louis Denatale on 21 Mountain Laurel Lane on Fort Pond

1. Mr. Denatale said there is a big retaining wall that is falling over on the property. He said he is looking for guidance on the paperwork.
2. Mr. Christopher said he knows the property reasonably well and the retaining wall is a major project. He said normally, the commission would ask the applicant to hire an engineer to come

up with a plan. He said the plan should include dewatering and stabilization of the shoreline. He said it would be best to see the work take place during the fall due to lower water levels.

3. Mr. Denatale said he had already talked with an engineer. The engineer said the removal of the wall would be the hard part. He said the wall has no rebar in it and the wall was poorly made. He said he likely will be able to do the demolition himself, but he is worried about getting cement into the pond. He said the wall is holding the house up and he was wondering if he could jack the wall back up to save it. He asked if he needed to hire a structural engineer for the removal.
4. Mr. Christopher advised the hiring of a civil engineer. He said a rubber dam would have to be set up and water removed from the area due to the water levels. However, the water levels will drop in the fall and the water removal may not be required. He estimated that this project would not take more than a week- 10 days. He said Mr. Denatale should come back with a filing soon so the commission can review everything.
5. Ms. Steeves said she sent Mr. Denatale an email with filing instructions.

Request for stump grinding 201 Hill Top Rd- Loring

1. Mr. Christopher said himself, Ms. Steeves, and Mr. Seidenberg visited the site that morning and he had referenced that he was concerned that Mr. Loring was contacting the commission, rather than their site manager, Mr. Crossman. He said he reviewed the special condition relative to grinding stumps. He said the commission needed to review whether the stumps be ground out excavated out. He said if the stamps were to be ground out, the commission would need more information on the type of equipment that would be used. He said Mr. Crossman's plan referenced a rubber tire excavator, but he does not think this type of equipment is practical. He said the commission needs to be communicating with Mr. Crossman, as he is the contact point for the restoration. He also said the commission needs more clarity in what type of equipment is being used and when it plans to be started.
2. Ms. Steeves said once the work starts, she can check on a weekly basis. She wanted to know what exactly she should be looking for or if there is anything specific.
3. Mr. Christopher said Ms. Steeves needs to monitor the size of the replanting. The diameter should be 3-3.5 inches, and this needs to be strictly enforced. He said he could provide equipment for the measurement. He said the wetland delineation controls needs to be reinstalled. He wants to know if the erosion control will be replaced before or after the stumps are dealt with.
4. Ms. Steeves said she has experience measuring trees for DBH.
5. Mr. Christopher said he would draft an email to Mr. Crossman discussing these points.

Review and approve meeting minutes:

1. Mr. Lavallee said for 267 Brockelman, bullet point 7, the units had 240% capacity of secondary containment, and this should be noted in the minutes.
2. Mr. Seidenberg said the vote was to continue the hearing, not issue the OOC.
3. Ms. Steeves said she would change this.
4. Mr. Hubbard said for the violation on Center Bride Road, there is a typographical error.
5. Mr. McGregor made the motion to approve the minutes with those changes. It was seconded by Mr. Seidenberg.

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

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 8:05 PM