

TOWN OF LANCASTER
CONSERVATION COMMISSION

Meeting Minutes

October 18, 2022

Members Present: Chair Tom Christopher, Vice-Chair Tom Seidenberg, James Lavallee, Bruce McGregor, Donald Chaisson and Erin Callanan

Also Present: Jasmin Farinacci (Town Planner)

List of documents presented:

- Conservation Commission Agenda for October 18, 2022
- Notice of Intent- 100 Duval Rd – Orchard Hills Athletic Club
- Request for Determination of Applicability- 0 Lunenburg Rd – Lancaster Land Trust
- Request for Certificate of Compliance- 396 Hilltop Rd – Plante
- Request for Certificate of Compliance- 230 Fort Pond Rd – Shelton
- Restoration Schedule – 201 Hilltop Lane- Loring

7:00 Roll Call Attendance: Tom Seidenberg here, James Lavallee here, Bruce McGregor here, Erin Callanan here, Tom Christopher here.

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

Public Hearing – Notice of Intent; Orchard Hills Athletic Club; 100 Duval Road

Present: Jack Maloney/Dillis & Roy Civil Design Group, Inc., representing applicant

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

Mr. Maloney introduced the site plans for a Notice of Intent to build a deep 4-foot sump manhole to pick up an existing corrugated metal pipe at the top of the bank and having it drop down through a drop manhole. The water will discharge at a lower velocity into a riprap flair at the base of the hill to prevent any further erosion. The original pipe is in disrepair and has started to erode the bank. Mr. Christopher asked the commissioners if they have any questions on the proposed project. Mr. Lavallee asked if the sump will fill up with sediment over time to which Mr. Maloney replied that it eventually the sump would have to be cleaned periodically (similar to a catch basin sump). Mr. Christopher proposed a maintenance plan be added to the order of conditions with a comment that the sump be examined at least annually. Mr. Maloney replied that this is a reasonable suggestion. There were no further questions or comments on the proposed project. Mr. Lavallee made a motion to close the hearing which was seconded by Mr. McGregor to close the hearing.

There was no further discussion and Mr. Christopher called a roll vote to issue an Order of Conditions.

Roll Call Vote: Thomas Seidenberg yes, Donald Chaisson yes, James Lavallee yes, Bruce McGregor yes, Erin Callanan yes. The motion was passed. Mr. Lavallee made a motion that the commission issue a standard Order of Conditions with one added condition which was an annual inspection and

maintenance performed as needed. The motion was seconded by Ms. Callanan. There were not further comments and Mr. Christopher called a roll vote to issue an order of conditions and there was no further discussion.

Roll Call Vote: Thomas Seidenberg yes, Donald Chaisson yes, James Lavallee yes, Bruce McGregor yes, Erin Callanan yes. The motion was passed.

Public Hearing - Request for Determination of Applicability; 0 Lunenburg Rd; Lancaster Land Trust

Mr. Christopher said that the conservation commission voted to issue a positive determination of applicability to the Lancaster Land Trust and that they will have to return with a notice of intent. Mr. Farnsworth requested a continuance to the next meeting. Mr. Christopher asked if any commission members would grant the Lancaster Land Trust a continuance to the next meeting (October 25th, 2022) which was motioned by Mr. McGregor and seconded by Mr. Seidenberg. Mr. Christopher called a roll vote to issue a continuance to the Lancaster Land Trust.

Roll Call Vote: Thomas Seidenberg yes, Donald Chaisson yes, James Lavallee yes, Bruce McGregor yes, Erin Callanan yes. The motion was passed.

Public Hearing – Request for Certificate of Compliance; 396 Hilltop Rd; Plante

Present: Mr. Plante

Not present: Mr. Milisci/ Haley Ward Engineering

The commission granted Mr. Plante a negative determination on the tree removal. Mr. Plante sent in a list of trees which were to be removed and a narrative of changes to the driveway and building to the commission. Mr. Christopher asked if any of the commission members had any questions about the changes to the narrative, which was displayed on the screen for the commission members to review during the meeting. Mr. Chaisson said that the pavement was approved for 340 square feet, but 2860 square feet was paved. He also stated that the retaining wall was submitted and approved for under 141 linear feet, but 170 linear feet was built. Mr. Chaisson asked if the paved area runs the entire length of the originally approved 141 linear feet. He also stated that the plans mentioned a gravel drainage system along the length of the wall. He questioned if this drainage system was always in the plans or if the retaining was to be built without that feature, as it seems to be used to account for additional storm water. Additionally, the 105 cubic foot structure was adequate for the original 1120 square foot roof and 340 square feet of pavement, but this has been doubled to a 2011 cubic foot structure. Mr. Chaisson questioned if the 2011 cubic foot structure would be adequate for an additional 1120 square feet, and if so, there is a deficit of 1400 square feet of impervious area that is unaccounted for. Mr. Chaisson stated that the additional pavement in the jurisdictional lands was unaccounted for and not approved. The applicant failed to amend the original notice of intent to account for the additional pavement and failed to amend the original order of conditions which was issued. 340 square feet was initially approved. Mr. Chaisson questioned how the additional storm water is being accounted for.

Mr. Seidenberg asked what the effect would be of issuing the certificate of compliance for a 3x increase of impervious surface relative to what was initially approved. Mr. Seidenberg stated that it would be inappropriate to issue the certificate of compliance. Mr. Christopher stated that given the changes from

the original plans, Mr. Plante should come back with a full notice of intent. Mr. McGregor agreed that there should be a full notice of intent with an emphasis on the mitigations for handling runoff properly.

Mr. Plante stated that the pre-and post-construction has resulted in negative runoff to the wetlands. The pavement ends short of the back-right corner of the garage and the additional extension of the retaining wall was to enhance the grade away from the wetlands. Mr. Plante stated that the underground recharge infrastructure was not included in the site plans but were installed. He also stated that the work that was done is an improvement in the amount of runoff that enters the wetland area. Mr. Plante said that making an amendment to the original order of conditions would be more in line with what they need to do and close out the existing order of conditions to address the concerns of the commission.

Mr. Lavallee stated that he would like a description of how the site was improved overall after construction. He said he would agree with an amendment to the existing order of conditions. Mr. Chaisson said that the developer/ contractor has made a monumental increase in the project without any notice or without filing an amendment. Mr. Christopher recommended that Mr. Plante submit an amended Notice of Intent. Mr. Christopher asked Mr. Plante if he would like a continuance to which Mr. Plante replied yes. The hearing was continued to November 8th. Ms. Callanan made a motion to issue a continuance to November 8th and was seconded by Mr. Chaisson. Mr. Christopher called a roll vote to issue a continuance to Mr. Plante until the November 8th meeting.

Roll Call Vote: Thomas Seidenberg yes, Donald Chaisson yes, James Lavallee yes, Bruce McGregor yes, Erin Callanan yes. The motion was passed.

Public Hearing- Request for Certificate of Compliance; 230 Fort Pond Rd; Shelton

The motion was made to grant a certificate of compliance to Ms. Shelton which was seconded by Ms. Callanan and Mr. Christopher called a roll vote.

Roll Call Vote: Thomas Seidenberg yes, Donald Chaisson yes, James Lavallee yes, Bruce McGregor yes, Erin Callanan yes, and Tom Christopher, yes. The motion was passed.

Old Business- Restoration Schedule and Plan; 201 Hilltop Lane

Present: Mr. Crossman, environmental consultant B&C Associated INC. responsible for the restoration plan, representing applicant

Mr. Crossman said that the property owners cut trees on the property which were within a buffer zone. There were approximately 6 trees (mostly hemlocks) cut in the area and the site plans state that 10 trees will be planted (8 hemlocks, one red oak, and one pine tree). The new plantings will not be in the same location from which they were cut due to an existing electric line running through the original area. The 10 new plantings will still be within the buffer zone. They also plan to plant approximately 12 shrubs in the buffer zone and overseeding the area with a conservation seed mix. Mr. Christopher said that he did a site visit at the time of the original tree removal and that most of the hemlocks that were removed were infested with hemlock woody adelgid thus the re-plantings are a step in the right direction. Mr. McGregor asked if a project of this scale would notify Dig Safe and Mr. Christopher said that he guesses that Dig Safe would be mandatory. He also said that he can add this to the order of conditions. Mr. Lavallee asked about the size of the red oak to be planted. Mr. Christopher replied that

the trees within the resource areas would be a minimum of 3 to 3.5 inches in diameter and the trees outside of the resource areas would be 2 to 2.5 inches in diameter, which would be part of the order of conditions. Mr. Seidenberg asked for clarification on plantings within the no-disturb zone the LEC rectangular area on the site plan (wetland flags 1-4). Mr. Crossman said that the purpose of the meeting was to propose a base plan and open it up to discussion with commission members and that he is not considering the plans to be finite. Mr. Seidenberg said he would be concerned if only a few plantings were made in the wetland proper and that there is nothing to restrict the no-disturb area.

Mr. Chaisson asked if the stumps in the main cluster of new plantings are the sum of all trees cut within jurisdictional lands in this plan to which Mr. Crossman replied yes. Mr. Chaisson requested that Mr. Crossman include a comprehensive locus plan showing all adjoining parcels, to which Mr. Crossman affirmed that he would provide one.

Mr. Christopher shared the second site plan presented by Mr. Crossman on the restoration schedule for the larger area on the right side of the driveway on the property across from the carriage house. There is a proposal for a septic system within the area. There is also an existing drainage pipe that comes off the driveway and goes right through the center of the disturbed area. Mr. Crossman said that they are going to cut the existing pipe at the end of the 25 foot no-disturb zone and install a stone weir at the outlet to distribute water into the main area of the wetland restoration area to influence hydrology to areas of the wetland that are not receiving water. The weir will help to deflect water to all sides as it comes out of the pipe. Mr. Crossman proposed this as a solution to help keep the area as a wetland once it is planted as a restoration area. The remaining upland area will be planted with oak and shrubs in accordance with a peer review that was conducted on the site.

Mr. Christopher opened the discussion to questions. Mr. McGregor asked for a clarification on the area reserved for a septic system to ensure that the owners are not proposing to build another house in that location. Mr. Crossman confirmed that they are not proposing another home be built in this location, as it would require more cutting in the buffer zone. Mr. Chaisson asked if the area of the proposed septic system was within the 25 foot no-disturb zone and asked for clarification because the site plan was missing the delineation lines. He also said that there is no septic system approved as of now, so the commission does not know what the restoration plans of that area are. He suggested that the reserve area be removed to show what is there and what restoration will take place there. He wants to see an approved pathway forward for that area, and then the applicants can ask for approval not to do that part of the restoration, due to the proposed installation of a septic system. Mr. Crossman clarified that they have always intended to restore that area, but they decided for now to leave that zone out in case the proposed septic system gets approved. He said that he can send the restoration plans for that area. Mr. Seidenberg said that he would also like to see the restoration plans in the area for the septic system. Mr. Lavallee asked for clarification on the sheet flow. Mr. Crossman replied that the flow would be directly south, but he plans to re-direct it to the east, west, and south as it comes out of the pipe. Mr. Chaisson asked for clarification on if the concentrated flow was coming from subsurface drainage for the driveway and other areas. Mr. Crossman said that it is coming from the catch basin off the driveway. Mr. Lavallee said that the flow might require inspections after large storms. Mr. Christopher said that this could be added to the order of conditions.

Mr. Seidenberg said that one of the lots on the plan was significantly composed of resource areas. He said that it would be very challenging to site a house on this lot due to the wetland and resource areas.

Mr. Chaisson said that the creation of lots (via subdivision of land) may lead to issues if the Planning Board endorses a lot that is considered not buildable due to the presence of delineated wetlands and resource areas. This could lead to the creation of a lot well after the wetland state and local restrictions have already been established. Mr. Seidenberg said that there should be an effort to also include buffer zones in addition to resource areas in new lots created by sub-divisions. Mr. Christopher said that he sent a copy of the restoration plans to the former conservation agent, David Koontz. Mr. Koonstz commented that he was pleased with Mr. Crossman's site plans. Mr. Crossman said he would put together revised plans by the November 8th meeting. Mr. Christopher requested that the revised plans come with a detail sheet on the planting. Mr. Seidenberg made a motion to grant a continuance to Mr. Crossman and the Lorings until the November 8th meeting and the motion was seconded by Mr. Lavallee. Mr. Christopher called a roll vote.

Roll Call Vote: Thomas Seidenberg yes, Donald Chaisson yes, James Lavallee yes, Bruce McGregor yes, Erin Callanan yes, and Tom Christopher, yes. The motion was passed.

Other Business- Emergency Temporary Replacement of an Oil Tank; 217 White Pond Rd; Bilodeau

Present: Mr. Bilodeau

Mr. Christopher gave a background to the project. There was a 275-gallon oil spill into White Pond in December of 2021. Two emergency orders were issued for the remediation (Ecotec); however, an official Order of Conditions was never issued to the project. Ecotec filed for a notice of intent which was never approved by the commission. A notice of Intent has been filed and most of the remediation has been completed aside from some plantings. Mr. Christopher drafted an Order of Conditions for Mr. Bilodeau. Mr. Bilodeau is requesting permission to install a double walled steel tank in the same location to heat the structure for his tenants at 217 White Pond. Mr. Christopher recommended that the commission should issue an emergency temporary (6 months) replacement of the oil tank. Mr. Christopher shared site photos showing the area of the old oil tank and new concrete bases that were installed. The earth under the old oil tank and the bank were excavated to extract contaminated dirt, all of which has been restored. The original proposal and order of conditions mandated for new vegetation to be planted in the area of the restoration which has not been completed yet. Part of the order of conditions will be for Mr. Bilodeau to hire a company to replant the area (a condition in the original proposal). Mr. Chaisson recommended that the permit be granted for 9 months rather than 6, which would extend the permit until June of 2023. Mr. Christopher said that Mr. Bilodeau has up to 3 years to do the planting, but this is not ideal.

Mr. Bilodeau said that he was under the impression that they would install the new oil tank under the house. He said he was going to put the temporary tank back where the original tank was, but he likes the idea of switching to gas heating. Mr. Christopher said he will put together an order of conditions with the change of 9 months to replace the temporary oil tank and he asked the commission members to have it signed by the following Monday. Mr. Chaisson made a motion to complete the planting work and allow installation of a temporary oil tank for the next 9 months or until the heating conversion work is done and the motion was seconded by Mr. Seidenberg. Mr. Christopher called a roll vote.

Roll Call Vote: Thomas Seidenberg yes, Donald Chaisson yes, James Lavallee yes, Bruce McGregor yes, Erin Callanan yes, and Tom Christopher, yes. The motion was passed.

Meeting Minutes from September 13, 2022, that must be approved

Mr. Christopher said that the commission needs to approve meeting minutes so that they can be documented as part of an ongoing court procedure.

Mr. Seidenberg made a motion to approve the meeting minutes from 09/13/22 and the motion was seconded by Mr. Lavallee. Mr. Christopher called a roll vote.

Roll Call Vote: Thomas Seidenberg yes, Donald Chaisson yes, James Lavallee yes, Bruce McGregor yes, Erin Callanan abstained, and Tom Christopher, yes. The motion was passed.

Mr. Lavallee made a motion to adjourn the meeting and the motion was seconded by Mr. Seidenberg. Mr. Christopher called a roll vote.

Roll Call Vote: Thomas Seidenberg yes, Donald Chaisson yes, James Lavallee yes, Bruce McGregor yes, Erin Callanan yes, and Tom Christopher, yes. The motion was passed.

The meeting was adjourned at 8:44 P.M.