

TOWN OF LANCASTER
CONSERVATION COMMISSION

Meeting Minutes

October 25th, 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), Charlotte Steeves (Conservation Agent)

List of documents presented:

- Conservation Commission Agenda for October 25, 2022
- Notice of Intent- 1257 North Main Street- Gonzalez
- Abbreviated Notice of Resource Area Delineation – 10 Fire Road 54 – Quill

7:01 PM Roll Call Attendance: Tom Seidenberg here, Donald Chaisson here, James Lavallee here, Erin Callanan here, Tom Christopher here.

Not Present: Mr. Greg Jackson

Bruce McGregor checked in at 7:04 PM

Chairman Tom Christopher called the meeting to order at 7:01 PM.

Public Hearing – Notice of Intent; 1257 North Main Street; Gonzalez

Present: Chris MacKenzie/Dillis & Roy Civil Design Group, Inc., representing applicant

Chairman Christopher read the public hearing notice into the record thereby convening the public hearing. Mr. Mackenzie shared his screen with the site plan, which was allowed by Ms. Farinacci. Mr. Mackenzie said that there is a wetland at the back of the property and a brook with a 100-foot riparian zone (shown on the site plans in red) and a 50 foot and 100-foot wetland buffer zone lines delineated on the map. They proposed a Presby septic system because it fit into the site better and allows for a lower profile system. It will still need to be pumped. All the work will occur between the 50- and 100-foot buffer. Some site grading will occur within the 50-foot buffer, but the leach area is entirely outside of the 50-foot buffer, there is also an erosion control barrier around the whole area. The existing system has been around for a long time, and they do not know much about it. The Board of Health details that the existing system is shared between the Gonzalez property and an abutting house. The plans are to update the septic system for the Gonzalez property, but the abutting property will have to figure out an alternative eventually. Mr. Mackenzie said that there is a possibility that the existing system may be a little larger than what is shown in the site plans, but they will not know until they start working on the site. He said if this is true, they may have to alter the system size and make it wider and less long. With the Presby system, 32-foot-long sand bed is the minimum allowed without a special approval. There will be a new septic tank and pump chamber will be installed.

Chairman Christopher said he was troubled by the shared existing system and asked if the neighbor has an easement to be using the system. The abutting neighbor, Mr. Prentiss, said that he does have a 12-foot easement for the existing septic system. Chairman Christopher said that documentation of the easement should be part of this meeting and be recorded. He questioned if the stream on the property was the Nashua River, to which Mr. Mackenzie said the stream is a tributary.

Mr. Seidenberg said that the site plan was not in the packet and that he did not have a chance to review it. Mr. Christopher said he has the plans in electronic format and that he can send it to the commission. Mr. McGregor said he would like to hear what Mr. Prentiss has to say, because Mr. Prentiss was having issues with his Zoom microphone and was asked to mute. Mr. Christopher asked if Mr. Prentiss could leave the meeting and check back in to see if the microphone improves. Mr. Early (an abutter to 1257 N Main Street) requested that his property line be surveyed and included in the site plans, and he clarified that the stream runs through his property. Mr. Prentiss reiterated that he has an easement and a 12 foot right of way to the existing septic system. He said he does not want to lose his right of way to the septic system. Mr. McGregor asked if Mr. Prentiss currently has a new septic system or if he is relying on the existing one. He also asked if the owners of the septic system were planning to remove it. Mr. Mackenzie said that they did not want to dig in that area and risk damaging the existing system. The Board of Health will require that they do soil tests in the area of the existing system prior to construction. Mr. Christopher asked if the Gonzalez residence was currently being used and Mr. Mackenzie said no, since the residence was being gutted and without power or heating. Mr. Seidenberg asked where the existing leach field is and Mr. Mackenzie said it is not clear, and the understanding is that there may be some stone within the 12-foot easement, but there is no record of that. Building the Presby system would not be destroying an existing leach field. Mr. Seidenberg asked for clarification if they dig and find anything, they can not build a new system. Mr. Mackenzie said if they dig an exploratory hole and find they are interfering with the existing system, they will have to reconfigure the leach area to be 20-foot pipes instead of 30-foot pipes. But they try to keep the system within the 11 feet of the property line and within the minimum allowed size. Anything they find will remain intact and functional.

Mr. Seidenberg said that he sees two trees marked on the site plans and he asked if they were significant. Mr. Mackenzie said one might be a cherry tree and that there will be minimal root damage and minimal grading needed with the installation. Mr. Christopher said he was concerned about a cesspool and that he would like an investigation as to what that is on the plan, and that he agrees that sideline of abutting properties should be surveyed and shown on the site map. Mr. Mackenzie confirmed that the property has been surveyed already. Mr. Christopher said that the right of way with the existing septic system should be detailed on the plan. Mr. Mackenzie said this would be hard to accomplish because there are no records of the cesspool. Mr. Prentiss said the existing leach field goes on to this property and Mr. Mackenzie said that he can not confirm this. Mr. Prentiss said he would like as much room as possible if he ever needs to replace the existing system. Mr. Chaisson asked if the right of way is parallel to the sideline (front to back on the lot) going back towards the road. Mr. Mackenzie said there is a right of way for access purposes as well as a separate easement for the septic system. Mr. Chaisson asked if the new system would infringe on the right of way, Mr. Mackenzie replied no. Mr. Chaisson asked if the system passed title 5 when the property was transferred, and Mr. Mackenzie replied no. Mr. Prentiss said that he can make copies of the easement and the right of way and send it to the commission. Mr. Christopher said he would like to see where the leach field is, along with all of that information in the

plan. Mr. Mackenzie said he was unable to find any information, but he would be glad to show the easement and the right of way on the site plan if that information is sent to him by Mr. Prentiss. Mr. Christopher said he would not approve the plan the way it is currently presented and that he would issue a continuance to Mr. Mackenzie, given a new plan is presented showing the right of way, easement, location of the adjacent septic system, and any supporting information. Mr. Mackenzie requested a continuance to November 8th, 2022. There was no further discussion and Mr. Christopher called a roll vote to issue a continuance. Thomas Seidenberg made a motion to issue the continuance which was seconded by Ms. Callanan.

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

Public Hearing - Abbreviated Notice of Resource Area Delineation – 10 Fire Road 54 – Quill

Present: Bill Hannagan of Hannagan Engineering, representing applicant

Mr. Christopher excused himself from the public hearing as he is a direct abutter to 10 Fire Road 54, and asked vice chair Mr. Seidenberg to take over the discussion. He retained his right as a private citizen to express an opinion in the deliberation if it affects his interests. Mr. Seidenberg read the public hearing notice. Mr. Hannagan shared his screen with the Resource Area Delineation that was conducted on the Quill property. There is an existing dwelling on Fort Pond. They did an index to show the overall land area of the property including wetlands closer to the existing house. Any wetlands on other area of the property were not delineated. The original plan had a series of flags numbered A1-A13 and flags closer to the shoreline numbered B1-B8, and there is an area in question marked as C1-C23. On original report, the C series of wetlands was not part of the review. The new site plans include the C series of wetland flags and it is included as a jurisdictional wetland on the current plans. They received updated report from Charles Caron to identify and set boundaries of wetlands and buffer zones on the property prior to any construction. They do not currently have a DEP file number and plan to ask for a continuation.

Mr. Seidenberg said that he was expecting a note that the wetlands on the East side of the plan were not delineated, and he would like that to be explicit on the plan, and Mr. Hannigan said he would add this. John Bowen of Fire Road 55 said he was concerned that this is the first construction being done in this area and the first time wetlands are being considered. He wants to make sure that the wetlands are classified properly, as this could affect his property and the ecosystem on Fort Pond. He is concerned that the designations on the initial plan were not correct. He said that he hired Pat Garner (a hydrologist and wetland scientist) to do an external report and evaluate what was done on the Quill property. Mr. Hannigan expressed concern that the external report was not submitted to the commission prior to the public hearings, and he wants to make sure that submittals are done properly. Mr. Bowen said that the report was submitted to the commission last Wednesday and made available for public review. Mr. Seidenberg said that the report was public record and that he can send a copy to Mr. Hannigan.

Mr. Garner was asked to review the wetland resources on the site. He said that he was concerned about the C series wetlands being designated as a non-jurisdictional wetland. He said there is no such thing as a non-jurisdictional wetland. He said in the report that this was an isolated vegetated wetland and there is fringe vegetation along Fort Pond which would also constitute as a bordering vegetated wetland, and this was not shown on the original plans. He said he is concerned that A series and C series wetlands have all of the characteristics of being vernal pools. These do not show up on MassGIS as vernal pools

but Mr. Garner is certain that these wetlands will qualify for vernal pool certification. He recommends a spring evaluation of the property conducted by a qualified third party expert (peer review). John Bowen requests that the commission conduct the vernal pool testing in the spring. He said he was concerned that the property was first reviewed incorrectly and then re-evaluated to upgrade the area in the back to a wetland. He requests that the commission hire an independent peer review in the spring. Mr. Garner said that filing a notice of intent would be difficult without knowing the status of the C series wetland is a vernal pool or not (which would have to be done in the spring). There would also be a 100foot buffer zone around the potential vernal pool. Mr. Hannigan said vernal pools buffer zones do not extend beyond the 100foot wetland area and that anything within 100feet within the wetland boundary would be the buffer and would be buildable. He said that they could presume that this is a vernal pool and go ahead with filing the NOI and planning construction. Mr. Seidenberg said that under the wetland bylaw, 100foot out from a vernal pool is defined as a resource area. If this is determined to be a vernal pool, the 100foot area surround the vernal pool would be considered a resource area and Mr. Garner affirmed this. Mr. Bowen said it would be inappropriate to confirm any plans without knowing if there is a vernal pool and that he thinks the commission should require testing for a vernal pool at the proper time of the year, and have Mr. Hannigan come back to the commission once he has that done.

Mr. Lavallee said he was not ready to approve the ANRAD and that the plans should be updated accordingly. Mr. Chaisson said the boundary of the resource area of a vernal pool is 100feet out from the annual mean high water line of the depression, according to the bylaw. He said that this is another good reason to identify where the high water line for the potential vernal pool is. Mr. Harrigan said it would make sense to continue the hearing until the next meeting (November 8th). Mr. Seidenberg said he would like a peer review. Kelly Smith (an abutter to Fire Road 54) said that she wants to make sure the areas are preserved and that the review is done in a scientific manner. She said she supports having a peer review. Mr. Bowen said he does not see a benefit of continuing the public hearing because there will still be no definitive information on the vernal pool (wrong time of the year). Mr. Harrigan said that he will need to talk with the client and with Chuck Caron (the scientist who conducted the initial wetland reviews) before making any definitive decisions. Mr. Glenn of 225 Cleaver Road seconded that the peer review is necessary. Ms. Bola of Fire Road 56 said she would like the testing by a third party to occur in the spring and this was also supported by the Putnams of Fire road 53.

Mr. Seidenberg asked for the commissioners to call for a motion of continuance for Mr. Hannagan and the Quills (November 8th 2022). The motion was made by Ms. Callanan and seconded by Mr. Chaisson. Mr. Seidenberg called a roll vote to issue the continuance.

Roll Call Vote: Donald Chaisson yes, James Lavallee yes, Bruce McGregor yes, Erin Callanan yes, and Thomas Seidenberg, yes. The motion was passed. (Mr. Christopher was recused from the roll vote).

Mr. Seidenberg made a motion to adjourn the meeting and the motion was seconded by Mr. Lavallee. Christopher called a roll vote and there was no further discussion.

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 8:13 P.M.

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