

Carlisle Conservation Commission
January 24, 2019
Minutes

Pursuant to the notice filed with the Town Clerk, Vice Chair Melinda Lindquist called the meeting to order in the Clark Room at the Town Hall at 7:25 p.m. Also present were Commissioners Steve Smith, Lee Tatistcheff (8:15 p.m.), Dan Wells and Helen Young and Conservation Administrator, Sylvia Willard. Not present were Chair Angie Verge and Commissioner Ken Belitz.

7:15 p.m. (DEP 125-1055) Notice of Intent, Continued Hearing

Applicant: Sean J. Kavanagh

Project Location: 481 Cross Street

Project Description: Replacement of an existing, failed septic system in the same general location with site grading and stabilization ground cover within the 100-foot Buffer Zone of a Bordering Vegetated Wetland

Lindquist opened the Continued Hearing for DEP #125-1055 under the Massachusetts Wetlands Protection Act and the Carlisle Wetlands Protection Bylaw. *She requested a motion to continue to February 28, 2019 at 7:15 p.m. at the representative's request pending completion of the Board of Health's review of the plan. The motion was moved by Wells, seconded by Young and all voted in favor.*

7:26 p.m. (DEP 125-1061) Notice of Intent, Continued hearing

Applicant: John Nelson

Project Location: Skelton Road, Map 1, Parcel 1 Lot 7 River Road

Project Description: Paving of common driveway and any minor associated grading within the 100-foot Buffer Zone of a Bordering Vegetated Wetland and the 200-foot Riverfront Area

Lindquist opened the Continued Hearing for DEP #125-1061 under the Massachusetts Wetlands Protection Act and the Carlisle Wetlands Protection Bylaw.

Daniel Gannon of Stamski and McNary, Inc. was present to discuss the revised plan for this previously approved project for which the Order of Conditions expired before the work was completed. The remaining work includes paving the Common Driveway and minor associated grading. (NOTE: It was stated in error by the representative at the December 13, 2018 hearing that a binder coat had been applied to the Common Driveway before the OOCs expired.) In addition to the finishing the roadway, the applicant is now proposing fencing at two feet north of the proposed road from STA 6+48 to STA 8+24.

Lindquist asked if the fencing was being proposed for safety reasons or for privacy purposes. Gannon said he was not sure whether safety or privacy concerns were driving the request. He estimated the length of fencing proposed within the Riverfront Resource Area at approximately 175 feet. Wells asked if fencing detail had been included with the revised plan, since there is a substantial stretch for which the fencing is being proposed within the Riverfront Area (RA) which could create a barrier to wildlife passage. He recommended they incorporate measures to include a gap at the bottom of the fencing for this purpose if they have not already finalized the specifications. Willard noted the fencing is also being proposed to extend across a public trail easement to land that is owned and managed by the Sudbury Valley Trustees. Gannon said he has spoken with the applicant about the fencing and it was his understanding that the abutters were satisfied during the initial application process with the gaps and gates in the fences farther up the roadway that would provide access for the other properties.

Willard reported the revised plan was just submitted the previous day and said she had not had time to review the proposed fencing. She suggested scheduling a site visit to include both a representative from the Trails Committee and from the

Sudbury Valley Trustees in order to determine whether it would be an impediment to their maintenance work and, if so, to discuss potential solutions.

With no further comments, *Lindquist requested a motion to continue the hearing for DEP #125-1061 to February 7, 2019 at 7:15 p.m. pending submission of a revised plan, including fencing detail and pending a site visit with concerned parties as discussed. The motion was moved by Wells, seconded by Smith and all voted in favor.*

7:37 p.m. (DOA-354) Request for Determination of Applicability

Applicant: David W. St. Onge

Project Location: 31 Hillside Drive

Project Description: Removal of 14 trees within the 100-foot Buffer Zone of a Bordering Vegetated Wetland. A couple of the large trees are borderline BVW

Lindquist opened the meeting for DOA-354 under the Massachusetts Wetlands Protection Act and the Carlisle Wetlands Protection Bylaw.

Property owner David St. Onge presented the proposal for the removal of 14 trees as noted on the plan. The work is being proposed to address safety concerns due to the close proximity of the trees to the house. St. Onge said Marquis tree has evaluated the execution of the plan and has proposed to bring in a large crane that will be staged in the driveway in order to limit damage to the wetland and to protect nearby trees. Willard noted the property owners submitted a Request for Determination of Applicability for the removal of 5 trees within the 100-foot Buffer Zone that received approval in 2014.

Wells asked about the condition of the trees proposed for removal. St. Onge said it is difficult to tell condition with white pines, as they can appear in good health and just snap in half in windy conditions. In this case, the property owners are concerned about the height, width and closeness to the house of the trees proposed for removal. He said they would be willing to leave totems of the trees located close to the wetland. When asked how many totems they would be leaving, St. Onge said they plan to leave tree numbers 2, 3, 4 and 5, with tree #'s 6-10 to be taken down to stumps because of their close proximity to the oaks they are leaving.

Willard recalled the property owners had indicated they would be doing some planting of winterberry, serviceberry and spicebush in conjunction with a previous filing for the construction of the home and asked if they are also proposing planting with this request. St. Onge said they did some planting associated with the previous filing and are willing to do additional planting associated with the current proposal.

Willard asked the Commission if they would be requiring a Planting Plan with the current request. Wells suggested three shrubs per tree proposed for removal seemed reasonable and asked if the Determination could be conditioned, since this was not a Notice of Intent filing. Willard clarified that the Determinations can include Conditions and this case, requiring a Planting Plan as well as a site inspection to confirm plantings are done in accordance with the proposal could be included. Wells suggested that the Planting Plan include plantings in the area labeled "standing water", since this could be amphibian breeding habitat. Barbara St. Onge, who was also present for the meeting, said the area in the vicinity of the intermittent stream where current tree removal is being proposed is densely vegetated, so she suggested future plantings might be more appropriate on the opposite side of the house. David St. Onge suggested they could do some planting near the driveway, since the area in the back of the house will still be shaded. Wells asked Willard if, after having seen the site recently, she would suggest an area better suited for plantings. Willard said since they will be removing trees within such close proximity to the

wetland, she would suggest wetland plants such as sweet pepperbush and winterberry. Barbara St. Onge said they would like to do some replacement planting for the River Birch in the open space to the left of the driveway that had been planted in accordance with the previous Planting Plan that did not survive. She suggested

perhaps including serviceberry and Dwarf Blue Spruce to provide shelter for birds. Wells recommended 3 shrubs per tree proposed for removal, including names and locations, leaving at least 4 – 5 totems for trees being cut that are located within close proximity to the stream, and with the requirement that the Administrator be contacted for a final inspection following tree removal and replacement planting.

With no further questions or comments, *Lindquist requested a motion. Young moved to issue a Negative Determination/B3 for DOA-354: the work described in the Request is within the Buffer Zone, as defined in the Regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following Conditions: (1) a minimum of three shrubs per tree removed must be planted; (2) a Planting Plan showing the location of replantings and including a proposed list of straight species, native plants; (3) a minimum of five totems must be left following the tree removal, the locations of which must be included on the Planting Plan; (4) the office of the Conservation Commission must be notified of the date of the tree removal to schedule pre- and post-removal inspections. The motion was seconded by Wells and all voted in favor.*

Certificates of Compliance:

(DEP 125-0911) 295 Hanover Road; Applicant: Matthew & Jennifer Herweck, Owner: Jeffrey T. and Mary Beth Doyle, Project: Construction associated with a single-family house with a pool and associated grading and utilities; Issued: 2/28/2012 (COC denied) Willard reported the granite bounds have been installed on the property as required in order to designate the area that is the border with the conservation restricted land. Following a site inspection, the Carlisle Conservation Foundation (CR Grantee) has requested a letter from the engineer confirming the bounds were set in accordance with the previously established requirements.

(DEP 125-468) 92 Kimball Road; Owner: Michael Davin; Project: Construction of a portion of a house and grading to occur within the 100 foot Buffer Zone of a BVW; Issued: 4/29/1997 The current property owner, Elizabeth DeVincent, is in the process of obtaining cost estimates for removing the unpermitted fencing installed by the previous owner pursuant to receiving approval from the Commission to do so at the previous meeting. The current owners will be provided with specific procedures that must be followed in order to protect the buffer zone and resource area prior to the fence removal. The request for a COC will be reconsidered once the installation has been completed and the disturbed areas satisfactorily revegetated.

(DEP 125-1051) 9-11 Lowell Street; Owner: Kevin Smith; Project: Installation of a septic system, Issued: 8/14/2018 Willard reported becoming aware after-the-fact that the septic system had been installed prior to her being contacted to inspect the erosion control installation and without the posting of a MassDEP sign as required by the OOCs. Upon her inspection she found that no erosion control had been installed and some of the disturbed area was now loose and unstable with no evidence of vegetation. The Commission considered requiring that the erosion control be installed to stabilize the area for winter but determined this would not be necessary since there is a stone wall at the location where the erosion control was required to be installed and the area between the wetland and the disturbed area is forested.

Since the property has changed ownership, the new owner will be required to post the DEP signage and the request for a COC will be deferred until the spring when the disturbed area can be evaluated to confirm it has become satisfactorily vegetated and stabilized.

(DEP 125-1018); 269 Rutland Street, Lot 2; Applicant: Turnkey Builders, LLC, Project: Construction of a single-family home, septic system, well and grading. The house is entirely within the 100-foot Buffer Zone:

Willard reported the lawn is sparse and as a result erosion is occurring during rain events. It is also occurring along a swale near the bridge. She also reported a large deck and stairway were constructed that were not included on the Plan of Record.

Although it was not mandatory to include the driveway pullout shown on the Common Driveway plan, it is also not in place. The Common Driveway pull out Planting Plan is included on this plan as well. The plan calls for two rows of 10 plants within the vicinity of a vernal pool. The plants were planted too close to the roadway, at approximately 6" in places, and as a result, some will likely not survive plow season. Wells asked if a monitoring report has been submitted. Willard said there were no monitoring requirements included in the OOCs. The site will be re-evaluated in the spring once the plantings have been relocated/replaced and once the disturbed areas can be evaluated as to whether they are satisfactorily vegetated.

(DEP125-1019): 269 Rutland Street (Common Driveway); Applicant: Turnkey Builders, LLC; Project: Construction of a common driveway including an open bottom box culvert over an intermittent stream

Willard reported the Common driveway has a wetland crossing placed downstream from a former unpermitted crossing that has not been seeded. The driveway shoulders had been disturbed along Lot 1 and along the Fire Department pullout and were muddy and needed loam and seed. The site will be reevaluated in the spring to determine if additional seeding will be required and to re-assess the plantings along the roadway within the vicinity of the vernal pool.

(DEP 125-1020): 267 Rutland Street, Lot 1; Applicant: Turnkey Builders, LLC., 269 Rutland Street, Lot 1; Project: Construction of a single-family home, septic system, well and grading

Willard reported the lawn is sparse and eroded in places with soil up against the limit of work barrier. No work has been done to address the request made in the fall to stabilize the area.

8:00 p.m. Michael Schmidt (33 Pilgrim Path), and Don Allen, (61 Pilgrim Path): Unauthorized tree removal possible, likely grading, and installation of a maintained lawn on their property within the 100-foot Buffer Zone of a Bordering Vegetated Wetland

Property owners Michael Schmidt and Don Allen were present to discuss the unauthorized and unpermitted activity that had occurred on their properties. The lawn that resulted from this work is located behind and connected to a lawn for the existing home located at 846 Bedford Road. The owner of 846 Bedford Road had been informed of tonight's scheduled discussion but was unable to attend.

Schmidt and Allen estimate the work likely occurred during the summer of 2016, but the incursion was not discovered until the owner of 846 Bedford Road requested a variance from the ZBA to build a garage within close proximity to their property lines. The affected property owners have since had their property boundaries surveyed and wetlands delineated onto a Plan dated October 19, 2018, which shows the areas of clearing/disturbance, estimated at 12,000 square feet, some of which occurred within the inner 50 feet of the 100-foot Buffer Zone and up to 65 feet over the property lines. They are now requesting guidance from the Commission as to what their options are for remediation relative to issues within the Commission's jurisdiction. The Commission determined more research is required including consulting with MassDEP to determine to what extent the activity is within their jurisdiction from a wetlands standpoint.

Project Updates:

(DEP 125-0986) 570 West Street/Lion's Gate - John Pearson: Site Stabilization Update: Willard reported visiting the site over the last several days and found the erosion control barrier along the south side of the roadway that was compromised by winter snowplowing has not yet been repaired, resulting in runoff down the driveway. She will follow up with the property owner and continue to monitor the site.

162 Nowell Farme Road - ATF NOI submission pending since May, 2018: Willard reported the property owner has signed a contract with a wetlands firm and has indicated a NOI will be submitted shortly.

81 Russell Street/Garrison Place - Excavating/stockpiling for compensatory storage: Willard reported the compensatory storage area that had been constructed outside of the timing parameters has been hydroseeded with a tackifier and is now satisfactorily stabilized. Willard will continue to monitor the site.

Bedford Road/Woodward Village: Water Supply Well Installation Update: Erosion controls have been checked and photographed in advance of the drilling. Tree protection is in place and tree removal is expected to begin this week, weather permitting. A Notice of Intent filing for the development is in process for submittal within the next couple of months.

Rockstrom Conservation Land - CR Violation - Tree removal; Stephen Herbst; 605 School Street: Approximately six Red maple trees of 10" DBH or less were felled on the Rockstrom Conservation Land. Some of the trees were felled into and some removed within the Bordering Vegetated Wetland and its 100-foot Buffer Zone and within the inner 100 feet of the 200-foot Riverfront Area (Spencer Brook) and in Bordering Land Subject to Flooding. This work has been done in violation of the Massachusetts Wetlands Protection Act, the Carlisle Wetlands Protection Bylaw and the terms of Conservation Restriction (CR #52) encumbering the property granted to The Trust of Reservations (TTOR).

The Commission determined that the replacement of the trees and associated restoration work will require the issuance of an Enforcement Order (EO) to ensure the work is undertaken in a manner that protects the wetland resource areas and the conservation land during this restoration work and is undertaken in a manner likely to be successful. The EO will require that a Restoration Plan be submitted on or before April 30, 2019 including the following requirements: (1) planting of 6 red maple trees (*Acer rubrum*) of 2 inches caliper each, 6 Sweet-pepperbush (*Clethra alnifolia*) and 6 Winterberry shrubs (*Ilex verticillata*) - straight species of two to three feet in height; all trees and shrubs must be provided with deer protection (2) prior to this work the area must be surveyed by a qualified land surveyor and the wetlands delineated by a qualified wetland scientist; (3) a Planting Plan must be submitted to the Conservation and to TTOR for their review and approval, including methodology of planting due to the remote location of restoration work; (4) upon approval of the final plans, the work to install the plants shall begin no later than June 1, 2019 under the direction of the wetland scientist; (5) two years of monitoring will be required, including an annual monitoring report submitted by the wetland scientist by October 31, 2019 and October 31, 2020, with the requirement that any plants that do not survive must be replaced; (6) four boundary markers spaced at 100 feet shall be installed to permanently delineate the property line.

Smith asked if there was a provision to fine the violator since he has admitted knowing he was doing work beyond his property line. Tatistcheff explained the Commission prefers to work with property owners and avoid levying fines except when it is absolutely necessary. Lindquist noted the work associated with the restoration will likely be more costly than fining.

FY20 Budget Update: The draft red-line Position Description for the Assistant to the Conservation Administrator has been submitted to the Board of Selectmen's office for review at their upcoming meeting, Tuesday, January 29th. There will be a follow-up meeting with the Personnel Committee in early February.

Lyme Disease Subcommittee: The Board of Health has requested a replacement following Helen Young's resignation as the Commission's liaison. Lindquist said she had previously been a member of this committee and personally felt there is not a need to provide a ConsCom representative on a regular basis. The Commission will inform the BOH Agent a representative will attend future meetings on an as-needed basis only.

ConsCom Goals and Objectives:

Greenough Dam Repair: A Community Preservation Act grant application will be submitted concurrently with the EOEEA application.

Open Space and Recreation Plan Revision Initiation: The current plan will expire in September of 2020. Willard is currently working on recruiting individuals to assist with the update. Young had previously volunteered to assist once the project is underway.

Plant List for Buffer Zone Projects: Verge is working on a list to be published on the ConsCom web page to assist property owners with selecting plants that are native to this area.

Tree Removal Policy: Tatistcheff had drafted a policy several years ago which Lindquist has recently restructured for review Winter/Spring 2019.

8:55 p.m. With no further business, Lindquist requested to adjourn. Motion moved by Tatistcheff, seconded by Smith and all voted in favor.

Respectfully submitted,
Mary Hopkins
ConsCom Administrative Assistant

DOCUMENTS PRESENTED:
Pilgrim Path Tree Removal Violation: Satellite and pre and-post disturbance photographs submitted by Michael Schmidt of 33 Pilgrim Path