

Carlisle Conservation Commission
April 28, 2022
Minutes

7:00 p.m. Chair Alex Parra Introduction to Remote Meeting: This meeting was conducted remotely pursuant to an Act extending to July 15, 2022 certain Covid-19 measures adopted during the State of Emergency. For this meeting, the Conservation Commission convened via Zoom web conference as posted on the town's web site identifying how the public may join. No in-person attendance of members of the public was permitted, but every effort was made to ensure that the public could adequately access the proceedings.

Members Present: Alex Parra, Chair; Dan Wells (7:00-8:15), Vice Chair; Lee Tatistcheff; Helen Young (7:15), Navneet Hundal (7:00-8:00) Nick Ognibene, Brian Murphy
Conservation Staff: Sylvia Willard, Conservation Administrator
Mary Hopkins, Assistant to the Conservation Administrator

Administrative Matters/Discussion Items: (taken up throughout the meeting as time permitted)

Signatory Authorization: On the motion by Tatistcheff and seconded by Hundal, it was VOTED to authorize the Administrator to sign documents discussed at this meeting on behalf of the Conservation Commission. Roll Call Vote: Tatistcheff – aye; Ognibene – aye; Wells – aye; Murphy – aye; Hundal – aye; Parra - aye. Motion passed.

Approval of Bills: On the motion by Hundal and seconded by Tatistcheff, it was VOTED to approve the bills as presented. Roll Call Vote: Tatistcheff – aye; Ognibene – aye; Wells – aye; Murphy – aye; Hundal – aye; Parra - aye. Motion passed.

June Meeting Dates: June 9 and 30

Meeting Format: The Commission discussed returning to in-person meetings and ultimately agreed to continue meeting via remote participation through July 15, 2022 when the Acts of 2022 suspending certain provisions of the Open Meeting Law expire.

Tree Removal Guidelines: The Commission discussed the revised draft based on comments from the previous meeting. Willard asked the Commission if they were comfortable with allowing removal of up to 5 trees within Jurisdictional Areas under the Administrative Approval process, noting the current process has allowed up to 3 trees. Parra said it provides flexibility to adjust as appropriate.

Tatistcheff said she would feel differently about a request for removal of five trees of 30 inches in diameter holding the bank of a river vs five trees of similar diameter located within a landscaped yard at 75 feet from a resource area. She said she is comfortable based on the fact that requests can be approved, denied, or referred on to a NOI or RDA under the guidelines. She noted the draft guidelines discuss the different values of trees and suggested applying that to mitigation requirements as well. She would like to see the mitigation requirements framed in a way that is more achievable by removing words like “shall” and “required” unless they will be required of everyone in every situation.

Hundal supported Tatistcheff's remarks. She said she would like to see the mitigation section include language that allows for some variation based on what is being asked by the homeowner. She does not want the Commission to be seen as a difficult body to work with so that people may just do things on their own.

Ognibene suggested there could be a lesser requirement for volume of replacement if native species are used and a greater requirement if not, which could be a way to provide some flexibility.

Hundal asked if when a homeowner wants to remove a tree due to potential hazard to home structure, is the replacement required to be located within proximity to where the tree proposed for removal is located. Willard

said it depends, citing a recent situation where there was a violation involving removal of a 36-inch triple oak tree located 20 feet from the house at the top of a steep slope that leads down into the wetlands that was taken down. She said in this case, she is recommending some trees be planted behind the tree that had been cut on slope to hold the steep bank in place.

Wells said he had not had an opportunity to review the revised draft and asked if the intention is to apply the guidelines to the entire 100-foot Buffer Zone or does it specify within 50 feet of a wetland. Willard said the guidelines include the entire Buffer Zone, but what the Commission requires is dependent on how close the removal is to the wetland as well as the reasons for removal.

Wells said he has reviewed the town of Weston's tree removal policy, which ends at 50 feet from the wetland. He suggested it is perhaps more reasonable to include fairly strict guidelines within 50 feet of a wetland, and if that is not sufficiently clear under the Administrative Approval process, a NOI or RDA would be required. Tatistcheff said she would like to see it explicitly stated that the guidelines apply only to Administrative Approvals and not necessarily to NOIs and RDAs.

Parra said he thought of the mitigation standards within the policy as a kind of default in that, unless exempted or that some other provision is made, this is what should be expected.

Willard will incorporate comments and provide a revised draft at the next meeting.

7:24 p.m. (DEP 125-1130) Notice of Intent, Continued Hearing

Applicant: Chris Buono, South Street Carlisle, LLC

Project Location: 0 South St, Map 5 Parcel 54 & 56

Project Description: Construction of a single-family home, water supply well, tree removal, grading, construction of a driveway with wetland crossings, wetland fill and in the 100-foot buffer zone of a bordering vegetated wetland.

On the motion by Tatistcheff and seconded by Hundal, it was VOTED to continue the hearing to May 12, 2022 at 8:00 p.m. at the representative's request. Roll Call Vote: Young – aye; Tatistcheff – aye; Ognibene – aye; Wells – aye; Murphy – aye; Hundal – aye; Parra – aye. Motion passed.

Enforcement Updates:

178 Brook Street - J. Lars Bernard: Present were the property owner, J. Lars Bernard, and wetlands consultant David Crossman of B & C Associates. Parra restated his apologies for being unable to discuss the proposed mitigation schedule at the last meeting due to losing a quorum.

Mr. Crossman reported they have revised the previously proposed mitigation plan based on comments as follows: vegetation planting has been relocated to the area where the trees were removed; proposed plantings now include 5 trees in addition to 12 shrubs; the area on the side of the slope where the previous owner had been disposing of lawn debris for a number of years has been cleaned up. Addressing comments from the previous meeting regarding the 200-foot Riverfront Area, Mr. Crossman provided a plan via aerial photographs confirming the Riverfront Area does not extend to the disturbed area. He also provided a site plan confirming the floodplain elevation at Brook Street is 124 feet, which is well below the area in which they are working.

Parra noted there are two different versions of the plan – one dated 3/30/2022 and the more recent dated 4/21/2022. Mr. Crossman said the plan dated 4/21/2022 includes 12 shrubs vs 16 shown on the 3/30/2022 plan. Willard noted there appear to be several stumps that are located within the town right-of-way. Mr. Crossman suggested the two shrubs proposed within the right of way could be relocated onto the subject property.

A poll of the Commission confirmed all concerns had been adequately addressed. Parra said the Commission would be issuing an Enforcement Order that incorporates the narrative and the most recent plan and allows

mitigation planting to begin immediately following recording at the Registry of Deeds. Mr. Bernard agreed to submit a revised plan showing the relocation of the 2 shrubs currently shown within the town right-of-way.

On the motion by Wells and seconded by Tatistcheff, it was VOTED to approve the mitigation schedule and plan dated 4/15/2022, with the Conditions requiring submission of a revised plan relocating the two shrubs shown within the town right-of-way onto the subject property and a dated mitigation schedule. Roll Call Vote: Young – aye; Tatistcheff – aye; Ognibene – aye; Wells – aye; Murphy – aye; Hundal – aye; Parra – aye. Motion passed.

42 Bingham Road: Michael Napier: Present were the Applicant and David Crossman of B & C Associates. Willard reported all work has stopped on the property, subject to approval of the next steps to be provided by the Commission. Parra noted the original EO required the oversight of an environmental monitor and requested clarification regarding compliance with this requirement. Mr. Napier said he there had been some confusion regarding the requirement for a peer reviewer which has since been resolved and Mr. Crossman is still on board and Stamski and McNary is now in the process of drafting a plan to address the issues associated with the second crossing.

Mr. Napier had visited Willard earlier in the day to speak with her about the confusion that has resulted from the submission of a new NOI. Additionally, he has received some feedback from MassDEP and has also spoken with their wetlands analyst. His intention is to withdraw the new NOI and to submit a Request to Amend the existing Order.

Parra said tonight's discussion will focus on the Enforcement Order (EO) relative to the previous NOI, with the primary issue being the instability of the second crossing. Mr. Crossman said nothing has happened on the site for almost two months. He first addressed comments from the previous meeting relative to the silt observed in the downstream side of the brook. He noted the material has been in that location since the tree clearing was done for the first crossing and confirmed no additional silting has occurred within the brook. He said the main issue they are trying to address is getting the heavy equipment across the stream without causing any further damage. The applicant is now working with Stamski and McNary to prepare a revised plan for the crossing and intends to submit a Request for an Amended OOC in place of the current NOI. Mr. Crossman concluded by stating he did not believe a peer reviewer is required since there have been no wetlands changes within the boundary.

Mr. Napier said he is anticipating an update from Stamski and McNary by early next week and hopes to submit the Request for an Amended OOC no later than May 6 in order to meet the 5/26/22 filing deadline. Parra reminded the applicant and his representative that the EO requires that no work be done until the revised plan for the crossing has been approved by the Commission.

271 Russell Street: David Thomas: Unpermitted Tree Removal and Erosion: Willard reported issuing a verbal stop work order after having observed five large trees had been felled, at least two of which within the BVW according to a property plan dated 6/11/1998. Also of note was the fact that wood frogs were heard calling from within the wetland resource area during a site visit with the property owner, indicating the presence of a vernal pool within the wetland. Additionally, an unpermitted public roadway drainage feature is directing runoff onto the property causing erosion downslope and into the resource area.

Parra said it looks as if portions of the trees had been dropped near, if not into, the wetlands, and there should be some mitigation for the cutting. He said the erosion is of some concern, although it is not known if it is Mr. Thomas' responsibility because it appears there is some directed drainage off Russell Street onto his property that was not appropriately installed. He suggested the erosion/drainage issues should be addressed with the DPW.

Wells recommended the property owner should be required to hire a wetland scientist to flag the wetland boundary and the vernal pool boundary. The flags should then be survey located onto a plan showing the 100-foot Buffer Zone. The plan should also include survey located cut stumps and logs, to be submitted with a Mitigation Plan to be provided by the wetland scientist. He agreed that although it may not be the property owner's fault, the Commission should encourage Mr. Thomas to work with the DPW to come up with a solution

to address the erosion into the resource area caused by the drainage from Russell Street. Tatistcheff questioned whether requiring the owner to address the drainage issues within the EO is appropriate and suggested the town and DPW may share some responsibility. She recommended the Commission send a memo to the DPW indicating an EO has been issued and requesting their participation in finding a solution.

On the motion by Tatistcheff and seconded by Wells, it was VOTED to issue an Enforcement Order to David Thomas of 271 Russell Street, with requirements as discussed. Roll Call Vote: Young – aye; Tatistcheff – aye; Ognibene – aye; Wells – aye; Murphy – aye; Parra – aye. Motion passed.

Land Use Permits:

All Conservation Lands - Judy Asarkof: Request to use all conservation lands, daytime, or evening, through to Dec. 31 for public and private nature study. The Commission will request additional information regarding scheduling and locations in order to avoid potential usage conflicts.

Camping Land Use Permit:

On the motion by Tatistcheff and seconded by Murphy, it was VOTED to issue a Camping Permit to BSA Scout Troop 7 representative Misty Cheney to allow camping at Foss Farm from May 13-15, 2022 as outlined in their request. Roll Call Vote: Young – aye; Tatistcheff – aye; Ognibene – aye; Murphy – aye; Parra – aye. Motion passed.

Certificates of Compliance:

(DEP 125-1128) 80 Captain Wilson Lane: Applicant: Justin Neal; Project: After-the-fact permitting for landscaping; Issued: 12/202021 This filing was for a permit for work undertaken on 125-0945 that was not permitted.

(DEP 125-0945) 80 Captain Wilson Lane: Applicant: Justin Neal; Project: Construction of a single-family home, driveway, septic tank, and grading; Issued: 8/12/2013.

On the motion by Tatistcheff and seconded by Young, it was VOTED to issue a Certificate of Compliance for DEP 125-0945 and DEP 125-1128. Roll Call Vote: Young – aye; Tatistcheff – aye; Ognibene – aye; Murphy – aye; Parra – aye. Motion passed.

(DEP 125-703) 610 Bedford Road, Christopher Spriano; Project: Construction associated with an abutting lot associated with the transfer of land; Issued: 4/12/2005.

On the motion by Tatistcheff and seconded by Ognibene, it was VOTED to issue a Certificate of Compliance for DEP 125-703. Roll Call Vote: Young – aye; Tatistcheff – aye; Ognibene – aye; Murphy – aye; Parra – aye. Motion passed.

Red Line Change Request:

(DEP 125-1133) 142 Bedford Road: Property owner Vanessa Moroney presented a request to revise the erosion control line to be more consistent with the plan for the development of her home by following the fence line for safety and access purposes, as shown on the sketch plan submitted with the request.

On the motion by Ognibene and seconded by Young, it was VOTED to approve the red line change as requested. Roll Call Vote: Young – aye; Tatistcheff – aye; Ognibene – aye; Murphy – aye; Parra – aye. Motion passed.

Conservation Land Management:

Cranberry Bog Dam #1: The Mass Division of Fisheries and Wildlife have provided approval to remove the now abandoned lodge and repair the dam. The Commission requested that Willard discuss the removal of the lodge and dam with Mark Duffy in conjunction with his Maintenance and in-kind services contracts.

Cranberry Bog Restoration: The CPA funds for the NOI will be available next week; Willard will contact the engineers to get the process going.

8:47 p.m. On the motion by Tatistcheff and seconded by Young, it was VOTED to adjourn. Roll Call Vote: Young – aye; Tatistcheff – aye; Ognibene – aye; Murphy – aye; Parra – aye. Motion passed.

Respectfully submitted,
Mary Hopkins

All supporting materials that have been provided to members of this body can be made available on upon request