

Carlisle Conservation Commission
June 30, 2022
Minutes

7:07 p.m. Parra Introduction to Remote Meeting: This meeting was conducted remotely pursuant 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: Chair Alex Parra, Vice Chair Dan Wells, Lee Tatistcheff (7:40-9:30), Helen Young, Navneet Hundal, Nick Ognibene (7:17)
Members Absent: Brian Murphy
Conservation Staff: Sylvia Willard, Conservation Administrator
Mary Hopkins, Asst to the Conservation Administrator

New and Pending Business: (taken up throughout the meeting as time permitted)

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

Approval of Bills: Willard presented the final FY22 bills. The Commission briefly discussed the invoice submitted by Mark Duffy for work performed under the current Cranberry Bog Maintenance Agreement. It was agreed that future submissions should include a greater level of detail in order to allow a better understanding of the work that has been completed.

Parra said the Maintenance Agreement included mowing of the bog areas last fall while the property was still under an agricultural exemption, but this was not possible due to wet conditions. He reported that Mr. Duffy began mowing the bog areas in June without any notice to the Commission. Because the agricultural exemption had expired and was not extended by the Permit Extension Act, the work was immediately stopped by the Commission and will be undertaken in the future under a Notice of Intent to be submitted by the Cranberry Bog Working Group for managing the bog as a wet meadow.

On the motion by Hundal and seconded by Wells, it was unanimously VOTED to approve the bills as presented. Roll Call Vote: Wells-aye, Hundal-aye, Young-aye, Ognibene-aye, Parra-aye.

Minutes: On the motion by Young and seconded by Hundal, it was unanimously VOTED to approve the May 12, 2022 as submitted and the May 26, 2022 minutes as amended. Roll Call Vote: Wells-aye, Hundal-aye, Young-aye, Ognibene-aye, Parra-aye.

FY23 Election of Conservation Commission Officers: On the motion by Young and seconded by Hundal, it was unanimously VOTED to appoint Wells as Vice Chair and Parra as Chair. Roll Call Vote: Wells-aye, Hundal-aye, Young-aye, Ognibene-aye, Parra-aye.

Encumbrances: On the motion by Wells and seconded by Tatistcheff, it was unanimously VOTED to encumber \$5,000 for the herbicide treatments to be performed by licensed applicator John Bakewell and \$2,200 for the mowing on the Benfield Conservation Land to be performed by in accordance with the now signed contracts.

Yard Waste Protocol: Willard requested guidance from the Commission regarding how they would recommend she deal with situations where she observes yard waste has been placed within the BVW. She asked whether they would recommend she should advise the property owner to stop and to carefully remove the material to a non-jurisdictional location or if she should issue an Enforcement Order. She noted the situations vary greatly from minor incursions to those that could become a significant problem or lead to one if the activity were to continue.

Wells suggested that if a property owner wanted to voluntarily remove the yard waste, they could notify Willard of their intentions in order for her to provide guidance, but in cases where there are obvious violations that are damaging the wetlands, he suggested issuing a written warning by the Commission followed by an Enforcement Order if no action is taken. He also suggested Willard consult with the DEP circuit rider and poll other conservation administrators for suggestions. Parra said that in general the issuance of Enforcement Orders is a last resort, and he suggested that Willard use her judgement as to the severity of the situation in determining whether to first speak with the property owner and/or send a letter advising them to remove the material so there is a record it has been communicated should further action is needed.

Present was Chad Morin of 138 East Street, who said Willard had visited their recently purchased property to do a pre-hearing site inspection for the installation of a gas line (see DOA-375 below) and to provide guidance on current and potential future landscaping projects. During the visit Willard had pointed out some landscaping material that had placed in the wetland by the previous owner. Mr. Morin said they would appreciate some guidance on removing the material. Wells said the debris is located within a potential vernal pool, and he suggested this would be a suitable time to remove the material since the pool is now dry.

September 2022 Meeting Schedule: September 8 and September 29

7:20 p.m. (DEP 125 -1139) Notice of Intent

Applicant: Lauren Marolda

Project Location: 190 Lowell Street

Project Description: Replacement of an existing garage within the same location and removal of a small tree with all work within the 100-foot Buffer Zone of a Bordering Vegetated Wetland

Aiden Schlotman of Stamski and McNary presented the plan via screen share. The proposed project consists of the replacement of an existing 484 s.f. garage with an 808 s.f. garage within the 100-foot Buffer Zone. The proposed garage will be located in the same location as the existing garage. Proposed mitigation measures include five lowbush blueberry plantings to offset the removal of one ten-inch maple tree as well as a drip edge located at the back of the structure to manage roof runoff. A revised plan dated 6/20/2022 was provided in advance of the hearing which includes additional details as requested at the pre-hearing site walk.

There were no comments from the Commission. Willard recommended the use of straw bales vs compost logs due to the steepness of the grade at the rear of the garage. Property owner Matt Marolda asked if they could be provided with flexibility in the choice of plantings vs limiting plantings to lowbush blueberry. The Commission found the request acceptable provided the plantings are native, non-cultivar species. There were no public comments.

On the motion by Wells and seconded by Hundal, it was unanimously VOTED to close the hearing for DEP 125-1139. Roll Call Vote: Wells-aye, Hundal-aye, Young-aye, Ognibene-aye, Parra-aye.

On the motion by Wells and seconded by Ognibene, it was unanimously VOTED to issue a Standard Order of Conditions, with the following Special Conditions: erosion control shall be limited to straw vs compost logs; 2) native, non-cultivar species may be used to substitute the listed low bush shown on the plan for mitigation purposes. Roll Call Vote: Wells-aye, Hundal-aye, Young-aye, Ognibene-aye, Parra-aye.

7:30 p.m. (DOA- 374) Request for Determination

Applicant: Steve and Michele Robinson

Project Location: 87 Bingham Road

Project Description: Remove and replace walls of a three-season porch including the expansion of the porch by nine feet on the front of the porch without excavation.

Site contractor Rick Amodei was present to discuss the proposal for renovation, repair, and expansion of an existing three-season porch. Proposed work includes replacing walls located on the wetland side of the house on top of the existing foundation and an extension of the foundation by approximately ten feet on the non-wetland

side of the property towards Bingham Road. Willard shared the plan, noting there is an existing four-foot-high rock retaining wall that closely defines the level backyard from the wetland and which contains lawn and a swimming pool between the existing house and the wall. Parra said he visited the site recently with Willard and, although the wetlands have not been delineated, there is a fair distance of flat lawn area that would prevent any potential impacts to the wetland. There were no comments from other members or from the public.

On the motion by Young and seconded by Hundal, it was unanimously VOTED to close the meeting for DOA-374. Roll Call Vote: Wells-aye, Hundal-aye, Young-aye, Ognibene-aye, Parra-aye.

On the motion by Wells and seconded by Hundal, it was unanimously VOTED to issue a Negative Determination B3, 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. Roll Call Vote: Wells-aye, Hundal-aye, Young-aye, Ognibene-aye, Parra-aye.

7:46 p.m. (DEP 125-1138) Notice of Intent, Continued Hearing

Applicant: Aileen English

Project Location: 384 River Road

Project Description: Removal of 42 trees within the 100-foot Buffer Zone of a Bordering Vegetated Wetland, 5 of which are located within the BVW

On the motion by Tatistcheff and seconded by Young, it was unanimously VOTED to continue the hearing for DEP 125-1138 at the applicant's request to July 21, 2022 at 7:15 p.m. Roll Call Vote: Wells-aye, Hundal-aye, Young-aye, Ognibene-aye, Tatistcheff-aye; Parra-aye.

8:00 p.m. (DEP 125-1026) Request to Amend the Order of Conditions, Continued Hearing

Applicant: Michael Napier

Project Location: 42 Bingham Road, MAP 15 Parcel 15-27-A

Project Description: Construction of a single-family home with a different footprint than previously permitted and with the addition of a pool and patio, all within the previously approved limit of work

Nathanial Cataldo of Stamski and McNary reviewed the revised plan dated 6/23/2022 which includes the following updates: the plan for the stabilization of the second wetland crossing has been expanded; a third sheet has been provided to the plan set which includes more detailed steps for construction of the gravel driveway and stabilization of the area around the crossing. The revised plan has been reviewed by the environmental monitor David Crossman of B & C Associates and adjusted in accordance with his comments. Mr. Cataldo noted they have also provided the increase in impervious surface area as requested at the previous hearing: the proposed dwelling on the plan of record for the current Order of Conditions has a footprint of 2,661 square feet; the proposed dwelling for the Request to Amend has a footprint of 2,853 square feet; the proposed pool and patio have a surface area of 1,730 square feet; therefore, the proposed changes in the Request to Amend an Order of Conditions will increase the impervious area from the plan of record by 1,922 square feet.

At Parra's request, Mr. Crossman then addressed the open Special Conditions from the existing OOC as outlined in his response letter dated June 23, 2022:

(A5): there was a Tree Protection Plan that was never implemented, which resulted in the tree damage on the Towle Land during the clearing for the SAS; he recommends some mitigation for that at some point. Parra asked Mr. Crossman if he believes there needs to implement a TPP at this point. Mr. Crossman said everything within the Limit of Work has been removed so there is no additional work that would impact the trees.

(A6): the double line of orange construction fencing has been adjusted by survey and inspected by Mr. Crossman and Willard. Willard noted a location where, according to the Plan of Record, the construction fencing should take an angle around a boulder in the vicinity of the septic system and suggested the fencing be adjusted to the septic system side of the boulder.

(A10) there is no portable toilet on site presently as there is no need for it at this time; it will be placed no closer than 50 feet from the wetlands when work resumes

(A11) monitoring has been done weekly after each 0.25 inches of rain until work stopped two months ago

(A12) there has been no sediment trapped behind the siltation fencing on site

(A13) all erosion controls remain satisfactorily in place

(A17) no photographs were taken of the stream prior to the start of construction; Mr. Crossman agreed to provide photographs of the first stream crossing taken when the previous owner was undertaking the project; there are no photographs of the second stream crossing to his knowledge

(A18) the work began before a low flow period; the low flow period never occurred due to the presence of beaver and the consistent rain that fell during most of last year; Mr. Crossman noted the water is presently extremely low due to lack of rain and he suggested work should be started on the first crossing as soon as possible to create the least amount of impact to the stream.

(A19) the work to install the septic connection has not yet occurred; all work covered by this work will be monitored as required

(A22) landscaping details are included on the revised plan set

(A24) plantings will be monitored for two full growing seasons

(A25-A27) Conditions will be met once the driveway has been constructed

(A28) the applicant will need to come into compliance with MassDEP's requirement that the applicant must obtain a 401 Water Quality Certification (WQC) deed restriction

Parra then summarized the remaining outstanding Conditions, which include: tree removal mitigation, adjustment of the construction fencing around the boulder as previously discussed; recording of a 401 Water Quality Certification deed restriction. He requested clarification regarding Mr. Crossman's recommendation that work be allowed to proceed with both crossings as soon as possible. Mr. Crossman said he viewed the driveway crossing as more critical due to the current low flow period because it is the larger of the two crossings.

Parra polled the Commission for comments. Wells said he was a member of the Commission when the first project was reviewed. He recalled the Commission had put a lot of thought and effort into providing very succinct requirements into the OOC, including the requirement that the applicant provide detailed photographs of the second stream prior to construction of the crossing so that it could be returned to pre-construction conditions to the greatest extent possible. Wells said because that and other important, clearly stated Conditions were blatantly disregarded by the applicant, he is not in favor of granting an amendment at this time, particularly since the Request to Amend is a more complex project. Young and Hundal supported Wells' comments. Ognibene also concurred with Wells' comments, noting that although there is some frustration in moving forward with the project, there have been multiple disregarding of the Conditions. Tatistcheff also supported Wells' comments. She said a 50% increase of impervious surface adjacent to what had been a pristine resource is of great concern which she believes is not addressed in the plan.

Parra said he would echo what had been said by the other Commissioners except that he is of the view that the Commission needs to move forward in closing out the existing OOCs by gaining compliance with as much of it as possible at this point. He is not prepared to authorize construction on the house or its amenities. He would like to see a direction via an amended Enforcement Order to proceed with completing the first crossing upon relocation of the construction fencing as discussed, and completion of the second crossing contingent upon whether or not the proposed methodologies are found to be acceptable by the Commission.

Mr. Napier said the erosion controls are now in place in accordance with the OOC and he would like to move forward on the crossings as soon as possible during the current low water period. Willard said the DEP file number needs to be re-posted and the erosion controls need to be inspected and cleared of limbs in several locations before moving forward with any work. Mr. Napier suggested an on-site meeting with Willard and Mr. Crossman in order to ensure they are doing everything the Commission anticipates.

Wells said up to this point the Commission has taken things incrementally and he suggested starting with authorization to proceed with the first crossing before moving onto the second crossing. Hundal said she would also be in favor of taking things in segments, which would allow close monitoring and follow up to ensure things are done properly. Ognibene agreed with the incremental approach given the history at this site. Tatistcheff said she is encouraged the Commission now has a way to move forward. She is also in favor of the incremental

approach, as it would provide a way for the applicant to make some progress and not be entirely stalled. There were no public comments.

(Mr. Napier lost internet connection)

On the motion by Tatistcheff and seconded by Wells, it was unanimously VOTED to amend the Enforcement Order for DEP 125-1026 as follows: allow the first crossing to be installed; to obtain a WQC deed restriction per DEP technical comments; to relocate construction fencing as discussed; post DEP file number; porta toilet to be located within the limits outlined. Roll Call Vote: Wells-aye, Hundal-aye, Young-aye, Ognibene-aye, Tatistcheff-aye, Parra-aye.

On motion Young and seconded by Ognibene, it was unanimously VOTED to continue the hearing to July 21, 2022 at 8:00 p.m. with the representative's approval. Roll Call Vote: Wells-aye, Hundal-aye, Young-aye, Ognibene-aye, Tatistcheff-aye, Parra-aye.

8:52 p.m. (DOA-375) Request for Determination

Application: Boston Gas Company (c/o Jamie Walker)

Project Location: 138 East Street

Project Description: Proposed residential gas service installation resulting in 797 square feet of temporary impacts to the 100-foot Buffer Zone of a Bordering Vegetated Wetland

Environmental Scientist Jeremy Degler of Tighe and Bond reviewed the plan via screen share. The proposed work includes the installation of a residential gas line within a two-foot trench of 474 linear feet in length from East Street. Wetland #1 is located three feet from pavement; Wetland #2 is located 75 feet from pavement. The project includes a sum of 838 s.f. of impacts within the 100-foot Buffer Zone. All work will be conducted within the footprint of the existing paved driveway without any anticipated impacts to resource areas. Mr. Degler will be revising the proposed erosion control measures to include compost logs with biodegradable netting and to replace wetland flags where required in accordance with Willard's previous recommendations. Mr. Degler concluded with a brief overview of the construction process, which is typically completed within one day.

Willard reported she found the wetland delineation adequate for this project but is incomplete in terms of any future projects. Parra asked if the project is exempt since the Carlisle Non-Zoning Wetlands Bylaw does not impose any additional regulations. Willard said a Determination is needed if the Commission wishes to include Conditions.

On the motion by Wells and seconded by Hundal, it was unanimously VOTED to close the public meeting for DOA-375. Roll Call Vote: Wells-aye, Hundal-aye, Young-aye, Ognibene-aye, Tatistcheff-aye, Parra-aye. On the motion Wells and seconded by Tatistcheff, it was unanimously VOTED to issue a Negative Determination B3, 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 condition that the erosion controls are implemented as discussed. Roll Call Vote: Wells-aye, Hundal-aye, Young-aye, Ognibene-aye, Tatistcheff-aye, Parra-aye.

Enforcement Update:

271 Russell Street, David Thomas: The property owner has requested additional time and has been given a revised deadline of July 13, 2022 meeting to provide a plan in accordance with the terms of the Enforcement Order.

Certificates of Compliance:

(DEP 125-1087) 80 Carlton Road; Applicant: Carol and Eric Peters; Project: Construction of an addition to an existing single-family home and removal of approximately 20 trees with all work within the 100-foot Buffer Zone of a Bordering Vegetated Wetland; Issued: 2/18/2020; Amended 6/2/2021:

On the motion by Wells and seconded by Young, it was unanimously VOTED to issue a Certificate of Compliance for DEP 125-1087. Roll Call Vote: Wells-aye, Hundal-aye, Young-aye, Ognibene-aye, Tatistcheff-aye, Parra-aye.

(DEP-125-1113) 542 School Street; Applicant: Meghan O’Sullivan/Cary Spanbauer; Project: Construction of an inground pool and deck; issued: 7/30/2021. This project is complete and well vegetated. I recommend issuing a COC.

Parra recused. On the motion by Young and seconded by Tatistcheff, it was unanimously VOTED to issue a Certificate of Compliance DEP 125-1113. Roll Call Vote: Hundal-aye, Young-aye, Ognibene-aye, Tatistcheff-aye, Wells – aye.

Administrative Approval Request Report:

136 Hartwell Road , Gena Harlow: Replacement of a dead landscape tree with a Silver Maple Tree within the 100-foot Buffer Zone of a BVW and within existing lawn.

413 Brook Street, Kaye Zettell: Removal of three trees located at 4 feet from the foundation, including two dead and one live hemlock tree

211 Bellows Hill Road, Haley Winfield (DEP 125-0979): Removal of one dying elm tree located within a BVW restoration area permitted in 9/20/2019. The owner’s representative has said that the arborist recommends removal to the ground because of disease.

32 Johnson Road, Thomas and Laurel Signorello: Installation of post and rail fencing within the 100-foot Buffer Zone, leaving a six-inch gap between the bottom of the wire mesh backing and the ground to allow for wildlife passage.

Conservation Land Management:

Cranberry Bog Dam #1: Mark Duffy has removed the abandoned beaver lodge under the terms of the Cranberry Bog Maintenance Agreement. The area is to be evaluated as to whether additional material is needed for stabilization.

Greenough Dam: The Commission discussed the quote submitted by Stevens Associates to adapt the spillway to accept boards in the event there is a need to do so in response to drought conditions. The quote includes \$3,600 for designing an adaptation to the two open sections of the new spillway to receive stoplog gates and a modification to the Operations & Maintenance Plan, \$2,500 to administer construction, and \$4,000 for an Emergency Action Plan, if desired. The quote had been requested in response to concerns regarding the lower water level expressed by nearby residents as well as the state’s waterfowl biologist. Abutters farther upstream have expressed concern about the potential for the boards allowing the pond to rise to the level it has been for the previous several years and flooding septic systems, wells and more. There is likely a medium between the two that is possible if there is active management of the proposed boards.

On motion by Tatistcheff and seconded by Hundal, it was unanimously VOTED to authorize Stevens Associates to proceed in preparing a detailed contract amendment, the cost of which is to be funded through the previously awarded CPA grant for repair of the Greenough Dam. Roll Call Vote: Wells-aye, Hundal-aye, Young-aye, Ognibene-aye, Tatistcheff-aye, Parra-aye.

Greenough Barn: Willard will attend the Select Board’s July 12 meeting at their request to discuss plans for removal of the barn and to address the growing concerns regarding trespassing. Former Greenough Barn Committee member Steve Hinton will also attend.

Towle Conservation Land: The Commission will be advertising for a new mower for Towle Field following their approval of a revised mowing protocol as proposed by the Land Stewardship Committee that includes three-

year vs annual mowing intervals. The current mower has indicated he does not have the appropriate equipment to manage three years of growth.

Foss Farm Community Gardens: There have been continued reports to turtle kills on the access road to the Community Gardens, despite the posting of signage. The suggestion was made to require gardeners to lock the entry gate when entering and leaving the garden access road. Willard will communicate the request to Garden Manager Jack O'Connor.

Benfield Conservation Land - Mowing and Access: Jack O'Connor has agreed to mow the Benfield land and a signed contract is now in place.

Subcommittee/Liaison Reports:

Cranberry Bog Working Group: The Commission had voted at their previous meeting to install boards in the flume on the Fiske Street dike once they were able to establish a management protocol. Willard reported she has done some preliminary work in determining the freeboard distance and will be working with engineer Bill Rizzo who has agreed to provide assistance in obtaining more accurate measurements within the next week.

Present for the discussion were Fiske Street residents John Ballentine and Chris Spinney. Mr. Spinney said he thinks the concern here is about the potential for overflowing the dike, which has never occurred. He has done some research that reveals the dam is classified as a low-risk dam as summarized in an Executive Summary submitted to the Commission. He is concerned that the pond will suffer ecological damage due to lower water levels. He requested that he be informed as to when the measuring will be done so that he can be present.

Mr. Ballantine said he has been living near the Cranberry Bog for over 25 years during which he has monitored the water levels. He believes the potential for a future breach such as the one that occurred several years ago on the other dam is due to beaver activity. He suggests future discussions regarding ongoing stewardship management and storm event monitoring in collaboration with the Land Stewardship Committee.

Parra thanked Mr. Spinney and Mr. Ballantine for their input and said he would be more comfortable knowing what the margins are in determining how active the management should be. Parra said the Cranberry Bog Working Group will be discussing water management at their upcoming meeting with members of the Chelmsford Conservation Commission and the Heart Pond Association, who are the entities involved in active upstream management with assistance from Mark Duffy.

9:49 p.m. On the motion by Hundal and seconded by Ognibene, it was unanimously VOTED to adjourn. Roll Call Vote: Hundal – aye, Ognibene-aye, Young-aye, Parra-aye.

Respectfully submitted,
Mary Hopkins

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