

Carlisle Conservation Commission
September 8, 2022
Minutes

Chair Parra - Introduction to Remote Meeting: This meeting was conducted remotely pursuant an Act extending to March 31, 2023 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, Helen Young, Navneet Hundal, Brian Murphy
Conservation Staff: Sylvia Willard, Conservation Administrator
Mary Hopkins, Asst to the Conservation Administrator

New and Pending Business:

Signatory Authorization: On the motion by Hundal and seconded by Young, it was VOTED to authorize the Administrator to sign documents on behalf of the Conservation Commission. Roll Call Vote: Young, aye; Hundal, aye; Murphy, aye; Parra, aye.

Approval of Bills: On the motion by Young and seconded by Hundal, it was VOTED to approve the bills as submitted. Roll Call Vote: Young, aye; Hundal, aye; Murphy, aye; Parra, aye.

Minutes: On the motion by Hundal and seconded by Young, it was VOTED to approve the minutes of 6/9/2022, 6/30/2022, 7/21/2022 as submitted. Roll Call Vote: Young, aye; Hundal, aye; Murphy, aye; Parra, aye.

Tree Removal Guidelines for Homeowners & Application: On the motion by Young and seconded by Hundal, it was VOTED to accept the Tree Removal Guidelines and Application as prepared. Roll Call Vote: Young, aye; Hundal, aye; Murphy, aye; Parra, aye.

Review of Carlisle Special Orders of Conditions: Parra requested a specific time be reserved for a discussion of the revisions at the next meeting when additional members will likely be present.

Appointment Recommendation - Sudbury, Assabet, and Concord (SuAsCo) Wild & Scenic River

Stewardship Council: On the motion by Young and seconded by Hundal, it was VOTED to recommend Dan Cook for appointment to the SuAsCo Wild & Scenic Rivers Stewardship Council. Roll Call Vote: Young, aye; Hundal, aye; Murphy, aye; Parra, aye.

Fall 2022 Meeting Dates: October 13 and 27; November 17; December 15

7:15 p.m. (DEP 125-1141) Notice of Intent, Continued Hearing

Applicant: Matthew and Lisa Dacey; Project Location: 66 Lion's Gate Road

Project Description: Construction of an 18' by 42' swimming pool, grading, retaining wall, shed, hardscaping, tree removal and landscaping with work within the 100-foot Buffer Zone of a Bordering Vegetated Wetland.

Ian Ainsley of Meisner Brem Corp shared the revised plan reflecting the following changes based on the discussion at the previous hearing and comments from a recent site walk: four granite bounds have been added along the rear as a permanent limit of work; the existing lawn area to be converted to meadow habitat, as included in the Landscape Plan, has been added; seed mix specifications are now provided; square footage of both the meadow and the tree removal area have been added (1,100 sf each); trees to be removed have been numbered and labelled more clearly.

Mr. Ainsley noted a fence gap was not added as the Commission had requested at the previous hearing due to conflicts with the state pool code.

Young expressed concerns about allowing a pool in this location if it is not possible to provide wildlife gaps within the fencing. Present was Landscape Architect Elizabeth Morss, who confirmed state pool code prohibits gaps within fencing. Hundal said she is a pool owner and suggested chain link fencing, available in various colors, would suffice in addressing the need for wildlife gaps for areas within the Buffer Zone and would also meet state regulations. Mr. Dacey clarified that the majority of the proposed fencing is black chain link, with decorative cedar fencing proposed in the front of the property. Parra said the fencing appears to be more like a boundary line fence than a pool enclosure, and he asked why the fencing is not more related to the pool if its purpose is to act as a pool enclosure. Morss said that from a design perspective, this layout provides better views and more usable space. Morss and the applicants agreed to consider running the fencing in the planting bed, then running it along the edge of lawn once outside of the Buffer Zone.

Regarding the proposed granite bounds, Hundal suggested a greater reveal should be provided, similar to those within the easement which have a 16 to 18 inch reveal. Parra pointed out there is a fairly steep slope as you move toward the septic field and requested an additional boundary marker on the Buffer Zone line.

With regard to the proposed tree removal, several Commissioners identified trees which did not appear hazardous to them. Present was applicant Matt Dacy, who said that after further discussion, they concluded they are most concerned with the trees at the front of the house and are now comfortable leaving tree #2. Mr. Ainsley asked the applicants how necessary they believed it is to remove the other trees the Commission has identified as non-hazardous. Mr. Dacey said they were willing to take another look and asked if, from a process standpoint, they would be allowed to proceed with the project and hold off on the tree removal for the time being. Parra said, as a matter of process, they have heard his comments and what he would feel comfortable voting to approve. He said if they were to separate the project into two separate filings, they would have a delay on the tree removal. He suggested an option would be to continue the hearing to allow time for the applicants to take another look at the trees and/or provide additional evidence. Mr. Ainsley said the applicants are trying to get the pool installed sooner vs later, and he asked them if they were willing to keep the trees identified by the Commission and return later with a request to amend the OOCs. Mr. agreed to leave trees 1, 2, 3 and 6 in order to move forward.

On the motion by Hundal and seconded by Murphy, it was VOTED to close the hearing for DEP 125-1141. Roll Call Vote: Young, aye; Hundal, aye; Murphy, aye; Parra, aye. On the motion by Hundal and seconded by Young, it was VOTED to issue a Standard Order of Conditions with additional Conditions as follows: boundaries must provide a reveal of 18 inches or greater; provide an additional granite boundary marker as discussed; tree #s 1, 2, 3 and 6 are to be left in place; fencing within the 100-foot Buffer Zone shall be chain link. Roll Call Vote: Young, aye; Hundal, aye; Murphy, aye; Parra, aye.

For the record, Willard stated that although Hundal was not present at the previous hearing, she provided a signed statement confirming she had listened to the recording.

**7:53 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 Young and seconded by Hundal, it was VOTED to continue the hearing at applicant's request to September 22, 2022 at 8pm. Roll Call Vote: Young, aye; Hundal, aye; Murphy, aye; Parra, aye.

**7:54 p.m. (DEP 125-1140) Notice of Intent, Continued hearing
Applicant: Martha and Kenneth Bedrosian; Project Location: 44 Bedford Road**

Project Description: Construction of a detached three car garage, installation of utilities, mitigation plantings and paving of an existing dirt driveway with work within the 100-foot Buffer Zone of a Bordering Vegetated Wetland.

On the motion by Murphy and seconded by Hundal, it was VOTED to continue the hearing at applicant's request to September 22, 2022 at 8pm. Roll Call Vote: Young, aye; Hundal, aye; Murphy, aye; Parra, aye.

**7: 55 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.**

On the motion by Young and seconded by Hundal, it was VOTED to continue the hearing at applicant's request to September 22, 2022 at 8:15 pm. Roll Call Vote: Young, aye; Hundal, aye; Murphy, aye; Parra, aye.

**7:58 p.m. (DEP 125-1143) Notice of Intent
Applicant: Datra Oliver; Project Location: 125 Craigie Circle
Project Description: Replacement of a sewage disposal system within the 100-foot Buffer Zone of a Bordering Vegetated Wetland**

Robert Melvin of Stamski and McNary shared the plan for the repair of a sewage disposal system to replace the existing, failing system. The existing system is to be removed and the proposed system will be approximately located in its place. The existing system is 38 feet from the (BVW); the proposed system will be located at 51 feet from the BVW. The location and configuration of the system was chosen based on setback requirements for the well and property lines. The BOH hearing is scheduled for next week. They have received a letter from the BOH technical consultant with no comments at this time.

A portion of the proposed work is located within an area of Estimated Habitat of Rare Wildlife; Mr. Melvin has filed with NHESP but has not yet received a response. He believes this may be due to the fact that the proposed work is exempt because it is a repair sewage disposal system, with all associated work to occur within maintained lawn area. Willard requested that she be provided with a copy of the letter of determination when it is received.

Willard shared several comments following a site visit: there is yard debris in the BVW between WFs 5 and 6; there is a pile of pea stone near WF 7, which would qualify as a fill and should be removed; there is a large multiflora rose bush between WFs 10 and 11 and various other invasive species throughout the site; the lawn for this house is consistent with the BVW line – she recommended the Commission consider plantings to separate the lawn from the edge of the wetland.

Following a discussion regarding potential approaches to invasive plant removal, Parra suggested the hearing be continued until the project receives BOH approval. Other requirements moving forward include: a proposal to removal of the pea stone from within the BVW; although the Commission cannot condition approval of the septic system upon removal of invasives, they could provide the applicant with a Continuing Condition allowing their removal if the applicant wishes; identification of an alternative location for placement of yard debris is recommended.

Present was the applicant, Datra Oliver, who said they are trying to close on the sale of the property by September 15 and asked if it were possible to condition approval to allow moving forward with the process. Mr. Melvin suggested the Commission could consider issuing an OOC with the Conditions of removing the pea stone and the yard debris, and, if there any plan changes required by the BOH, they would return with an Amended OOC. Parra said under no possible scenario would the appeal period of the OOC have run ten business days from issuance. Additionally, closing attorneys are not typically in favor of closing under such circumstances.

Commissioners were not in favor of closing the hearing prior to receiving BOH approval because that would set a new precedent and would not be fair to past applicants who were required to wait for BOH approval.

On the motion by Murphy and seconded by Young, it was VOTED with the applicant's approval to continue the hearing to September 22, 2022 at 8:15 p.m. Roll Call Vote: Young, aye; Hundal, aye; Murphy, aye; Parra, aye.

8:21 p.m. (DEP 125-1142) Notice of Intent

Applicant: Rodenhiser Excavating; Project Location: 52 Indian Hill Road

Project Description: Construction of a repair sewage disposal system to replace the existing, failed system.

Present were Nathaniel Cataldo of Stamksi and McNary and property owner Ariella Rebbi. Work within the 100-foot Buffer Zone of a BVW consists of installation of a septic tank, pump chamber, and a portion of a force main. The proposed soil absorption system will be located in the northeast corner of the lot to maintain a greater than 100-foot setback to the BVW and private well. The existing sewage disposal system will be abandoned in place in accordance with Title V regulations. Mr. Melvin clarified that although the NOI indicated the plan was for a failed system, a Title V has not been issued; the purpose of constructing a new system is the owners are trying to be proactive by getting ahead of a future technical failure, since the house and septic system were constructed in 1975. The plan has received BOH approval based on a slightly revised plan dated 8/29/2022, with changes limited to the labelling of setbacks.

On the motion by Young and seconded by Murphy, it was VOTED to close the hearing for DEP 125-1142. Roll Call Vote: Young, aye; Hundal, aye; Murphy, aye; Parra, aye. On the motion by Young and seconded by Murphy, it was VOTED to issue a Standard Order of Conditions based on the plan dated 8/29/2022. Roll Call Vote: Young, aye; Hundal, aye; Murphy, aye; Parra, aye.

8:31 p.m. (DEP 125-1144) Abbreviated Notice of Resource Area Delineation

Applicant: Bryan Duby, Cadyco Revocable Trust; Project Location: 0 Bingham Road, Map 16, Parcel 31-4 & 32-5; Project Description: Confirmation of wetland resource areas

Robert Melvin of Stamski and McNary provided an overview of the Resource Area Delineation plan. Parra said the Commission had sent the ANRAD filing out for bids prior to the hearing, as has become their practice in order avoid holding up the applicants. Only one of the two reviewers contacted is available, and he has responded with a quote of \$5,000. Mr. Melvin said the applicant is hoping for additional quotes, since it came in substantially higher than he was expecting. Parra asked Mr. Melvin if he had any suggestions. Mr. Melvin said he would be happy to provide contact information for an additional reviewer. Parra said the Commission would be willing to seek a bid from an additional reviewer recommended by the representative if the Commission believes the person is qualified to perform the review. The Commission will also seek an additional bid from peer reviewer John Rockwood of EcoTec, Inc.

On the motion by Murphy and seconded by Young, it was VOTED with the representative's approval to continue the hearing to September 22, 2022 at 8:15 p.m. Roll Call Vote: Young, aye; Murphy, aye; Hundal, aye; Parra, aye.

8:42 p.m. DEP 125-11xx) Notice of Intent

Applicant: Artem Fandin

Project Location: 212 Acton Street; Project Description: Razing an existing home to the foundation and construction of a new single-family home within the outer 100 feet of the Riverfront Resource Area and within the 100-foot Buffer Zone of a Bordering Vegetated Wetland.

Young recused as an abutter. Parra said, with apologies, the Commission must continue the opening of evidence due to lack of a quorum. On the motion by Hundal and seconded by Murphy, it was moved to continue the

hearing to September 22, 2022 at 8:30 p.m. Hundal, Murphy, and Parra concurred. Willard will schedule a site visit in advance of the next meeting in order to identify any issues prior to the continued hearing. Mr. Fandin asked if the Commission was able to review the plan and convey concerns before the next meeting to expedite the process. Parra clarified that under the open meeting law the Commission is not able to deliberate outside of a posted meeting and cannot have a pre-vote. Hundal said the Commission will be conducting a site visit prior to the next meeting during which there will be discussions and questions that are designed to elicit more information to provide the applicant with feedback.

Enforcement Orders:

155 Woodridge Road - George Kapsalis: Parra said the property owner had submitted substantial information prior to the meeting confirming the project has been undertaken. Mr. Kapsalis is now asking if he will be required to have his wetland scientist certify to the Commission that the work has been completed in accordance with the terms of the Enforcement Order. Members of the Commission agreed that a site visit is needed in order to make the decision.

42 Bingham Road, Michael Napier: Status report – survey staking has occurred, and new erosion controls have been installed in the first crossing and wetlands replication area. Mr. Napier is waiting for delivery of the culvert and wing wall.

271 Russell Street, David Thomas: Parra said this matter dates to March, 2022 when the violations were initially identified and discussed with the property owner on site. The Commission issued an Enforcement Order in May, which required a delineation of the BVW and the vernal pool boundary no later than May 20, 2022. The flags were then to be survey-located onto a stamped plan also showing all cut stumps and logs and a mitigation proposal provided to the Commission no later than June 23, 2022.

Willard said Mr. Thomas has been notified that non-compliance with the EO would be discussed at this meeting; he has also been requested to attend numerous previous meetings to provide updates. Prior to tonight's meeting he was informed via email and certified mail that further enforcement action may be discussed unless attempts are made to address the requirements of the Order. Willard said Mr. Thomas had indicated he was unable to attend previous meetings due to family and other obligations; she had asked him if there was a better time, but there has been no response.

Parra said there has been no appreciable action in close to six months since the violations and required actions were communicated to the property owner. He asked members of the Commission for their view on what should be done. Murphy asked if the Commission had ever fined in the past. Parra said in his experience, the Commission has attempted to avoid that process and has always striven to achieve compliance non-coercively. He said the Commission has the authority under the Carlisle Wetlands Protection Bylaw to issue fines, but the fines can mount up quickly to a significant amount of money. He said given the number of enforcement issues that have arisen lately, the Commission has recently established a process in working with Town Counsel through which they are now able to issue tickets with fines.

Murphy said in this case the property owner is not responding to other attempts to gain compliance. Hundal said she does not want the Commission to look punitive, but there needs to be some kind of recourse when there is willful neglect of the issue and, in this case, she believes this is the path the Commission needs to take. Young concurred. Parra said the Commission has been very patient and has tried to accommodate Mr. Thomas but that does not seem to be working.

On the motion by Murphy and seconded by Hundal, it was VOTED to authorize Willard to inform Mr. Thomas that, absent full compliance with the requirements of the EO by September 22, the Commission will vote on issuing daily fines thereafter. Roll Call Vote: Young, aye; Hundal, aye; Murphy, aye; Parra, aye.

1215 Curve Street, Tamara Murray: Ms. Murray reported the site contractor has been ill for the last two weeks; she expects the footings will be delivered within the next week or two; Ms. Murray will communicate the need to have the construction entrance repaired and agreed to provide an update at the next meeting.

Request to Amend OOC:

(125-1135) 19 Estabrook Road: Laura Burnes of Adams and Beasley was present to request red line approval for the following proposed plan changes: (1) removal of the wire mesh from the existing chain link fencing and allow the posts to remain in place; (2) vista pruning – existing limbs to be minimally trimmed to remove interference with tennis court and to allow more sunlight for the proposed new plantings; (3) revised planting plan (per submittal).

On the motion by Hundal and seconded by Young, it was VOTED to approve the proposed red line changes. Roll Call Vote: Young, aye; Hundal, aye; Murphy, aye; Parra, aye.

Conservation Land Management:

Land Use Permit Boy Scout Troop 135 On the motion by Murphy and seconded by Young, it was VOTED to issue a Land Use Permit to Karen Gettings on behalf of Boy Scout Troop 135 for holding Tuesday evening meetings and activities at Foss Farm from 6:00-7:30 p.m., subject to the Condition that any fires must be contained and in the parking lot. Roll Call Vote: Young, aye; Hundal, aye; Murphy, aye; Parra, aye.

Cranberry Bog - Dam #1 Repair: Willard reviewed the progress plan for this project and has recommended that the work be extended approximately 50 feet west along the dam. A revised plan is in process.

Greenough Dam – Amendment for Engineering Services: The discussion was tabled for the next meeting when more members will be present to provide input.

Towle Conservation Land:

Willard is working with the Land Stewardship Committee to obtain additional information to be included in the Request for Proposals for the mowing under the new protocols.

Great Brook Farm State Park: Willard has been in communication with the state engineer regarding the status of the culvert replacement and has been told plans are in process.

Benfield Conservation Land: Willard will be following up with DPW Superintendent Gary Davis regarding the status of renting equipment to complete the edge clearing project.

Foss Farm - petroleum spill: The DPW has cleaned up the spill site. The spill did not require any further action because it only impacted a small area.

Subcommittee/Liaison Reports:

Cranberry Bog Working Group: CBWG Chair Ken Belitz has resigned due to an injury. Parra said the group now needs at least one if not two additional members and he encouraged anyone interested to come forward. Applicant Ariella Rebbi of 52 Indian Hill Road indicated she is interested in volunteering and will attend the next meeting to observe.

Project Updates:

Stillmeadow Farm: A significant issue has been identified regarding the placement of the entrance of the Common Driveway off West Street access to Lots 10, 11, 13. There was a meeting of all parties on site on Wednesday to address the issue of the work that is inconsistent with the Plan of Record. The applicant and engineers have agreed to relocate the entrance to the approved location and will be providing a restoration plan.

The site manager has requested permission to remove three large pine trees that are located on both sides of the driveway to Lots 16 & 17. The approved limit of work goes through each of the trees. There was an attempt to

leave them in place but that has resulted in significant root damage, destabilizing the trees which will fall over the driveway when they come down. The Commission will discuss allowing the removal under a red line plan change to be discussed with the representative at the next meeting

61 Judy Farm Road: Willard reported she was recently contacted by the owner regarding an issue she had reported to him in December, 2021. For the benefit of new members, she said the project was permitted in 2014 for the conversion of an existing driveway to a single-family home into a common driveway leading to two additional homes. Work began in late 2019 and then work stopped without completion. There have been several extensions and the current OOC is valid into 2023. The owner is now interested in resuming work. Willard visited the site last week to check erosion controls. There are concerns with a headwall associated with a wetland crossing which Willard has communicated to the applicant and to the Planning Board. The applicant will be required to return to the Commission if any plan changes are required by the Planning Board

9:29 p.m. On the motion by Murphy and seconded by Hundal, it was VOTED to adjourn. Roll Call Vote: Young, aye; Murphy, aye; Hundal, aye; Parra, aye.

Respectfully submitted,
Mary Hopkins

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