

**EAST LONGMEADOW CONSERVATION COMMISSION
MEETING NOTICE**

Date: April 10, 2019

Time: 6:00 PM

Place: School Committee Conference Room
East Longmeadow High School, 180 Maple Street, East Longmeadow, MA

MINUTES

Chairman Jernstrom opened the meeting at 6:02 pm and called the roll.

CALL THE ROLL:

- Present: Craig Jernstrom, Chair; Jeffrey Bosworth, Clerk; Anthony Zampiceni; Robert Sheets; Tom O'Brien; Mary Ellen Goodrow
- Staff Present: Constance Brawders, Planning and Community Development Director; Bethany Yeo, Planning and Community Development Administrative Assistant
- Absent: William Arment

APPROVAL OF MINUTES

February 13, 2019

Motion to approve minutes made by Commission member Jeffrey Bosworth; second by Commission member Anthony Zampiceni by a vote of six (6)- zero (0).

March 13, 2019

Motion to move approval to April 24, 2019 made by Jeffrey Bosworth; second by Anthony Zampiceni by a vote of six (6)- zero(0).

OLD BUSINESS

1. **Review and approval of Restoration Plan under WPA Enforcement Order for 53 Tanglewood Drive** (Assessor Parcel ID 72-7-11) for violation by Adriano and Giovanna Bocchino of 53 Tanglewood Drive in East Longmeadow, MA 01028 for removal of trees, alteration of terrain, and construction of a walls within the Riverfront Resource area adjacent to an unnamed tributary to the Mill River (Cont. from February 13, March 13, 2019).
The Chair explained the applicant's request to be continued to the May 14, 2019 meeting to accommodate a site visit prior to review from the Commission. Discussion ensued. A site visit was scheduled for Saturday April 27, 2019 at 9 AM.
2. **Continued Public Hearing for Case #NOI 2019-01-Notice of Intent (WE 150-439): Purves Street** (Assessor's Parcels 13-9-1, 13-8-3, 13-7-5 and 13-6-6) filed by Laplante Construction of 61R North Main Street in East Longmeadow, MA for a Commercial/Industrial project within a Buffer Zone of a Bordering Vegetated Wetland.

In accordance with the Americans with Disabilities Act (ADA), if any accommodations are needed, please contact Constance Brawders at 413-525-5400 x 1701 or (constance.brawders@eastlongmeadowma.gov) or MassRelay 711. Requests should be made as soon as possible but at least 48 hours prior to the scheduled meeting.

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Prepared by: Daniel Nitzsche, GZA GeoEnvironmental, Inc., 1350 Main Street, Ste. 1400, Springfield, MA 01103. (Cont. from January 30, 2019).

The Chair explained the request by applicant for continuance to April 24, 2019 meeting as well as the need for a site visit. Discussion ensued. A site visit was scheduled for Wednesday April 24, 2019 at 4:45 PM before the meeting.

3. **Case #NOI 2019-03-Notice of Intent: Lot 16 Hidden Ponds Estates** (Assessor's Parcel ID 23-77-0) filed by Al Joyce, Redstone Ponds, LLC, P.O. Box 79, East Longmeadow, MA 01028 for a single family home project within a Buffer Zone of a Bordering Vegetated Wetland. Prepared by: Al Joyce, Redstone Ponds, LLC, P.O. Box 79, East Longmeadow, MA 01028. (Cont. from 02-13-2019 & 03-12-2019).

The applicant, Al Joyce was present for discussion. The Chair explained that a site visit had been conducted and they had received revised plans for the NOI. The Chair inquired if Joyce planned on removing the pre-existing pavement on Lot 16. Joyce replied that he would like to remove the asphalt but was unsure if it was permitted due to grading, tree removal, and shrub removal not being permitted within the limit of work zone set in place by the Commission. The Chair pointed out that the asphalt served as an impervious surface therefore he believed it would be advantageous to remove it. Tom O'Brien commented that he would suggest removing the pre-existing asphalt but keep the vegetation by the bank as is. The Chair suggested a restoration approach: allowing for the removal of the pre-existing asphalt with the condition that native plantings are planted in the area. Joyce asked for clarification on what vegetation falls under "native plantings". Mary Ellen Goodrow explained that native plantings included any vegetation that is native to the area such as trees, blueberry bushes, etc.

Comment open to public. No comment. The Chair stated his satisfaction with removal the pre-existing asphalt.

Motion to approve the Notice of Intent for Lot 16 with the conditions discussed by Robert Sheets; second by Jeffrey Bosworth by a vote of six (6)- zero (0).

4. **Case #NOI 2019-04-Notice of Intent: Lot 17 Hidden Ponds Estates** (Assessor's Parcel ID 23-77-0) filed by Al Joyce, Redstone Ponds, LLC, P.O. Box 79, East Longmeadow, MA 01028 for a single family home project within a Buffer Zone of a Bordering Vegetated Wetland. Prepared by: Al Joyce, Redstone Ponds, LLC, P.O. Box 79, East Longmeadow, MA 01028. (Cont. from 02-13-2019 & 03-12-2019).

The applicant, Al Joyce was present for discussion. Joyce distributed the revised site plan for Lot 17. Goodrow inquired about the revised limit of the work line. Joyce replied that the revised site plan shows a twenty (20) foot limit of work line. The Chair suggested moving the angle of the limit of work line so it can increase five (5) feet to twenty five (25) feet on Lot 18. Zampiceni pointed out Lot 17 has both asphalt and concrete and inquired of the applicant if he is intending to remove both surfaces. Joyce replied that he would like to remove the asphalt however; the concrete cannot easily be removed as it was originally a pier for a high rise diving board. Joyce stated he could remove the asphalt at the same time as the excavation work is being completed for the foundation. Discussion ensued. The Chair summarized the discussed conditions stating that the existing asphalt may be removed from

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the site and native vegetation must be planted outside of the limit of work line. Furthermore, the limit of work line shall be adjusted post construction to match up with the limit of work line on Lot 18. Joyce stated he was satisfied with those conditions. Motion to approve the Notice of Intent for Lot 17 with the conditions discussed by Anthony Zampiceni; second by Jeffrey Bosworth by a vote of six (6)- zero (0).

5. Case #NOI 2019-05-Notice of Intent: Lot 18 Hidden Ponds Estates (Assessor's Parcel ID 23-77-0) filed by Al Joyce, Redstone Ponds, LLC, P.O. Box 79, East Longmeadow, MA 01028 for a single family home project within a Buffer Zone of a Bordering Vegetated Wetland. Prepared by: Al Joyce, Redstone Ponds, LLC, P.O. Box 79, East Longmeadow, MA 01028. (Cont. from 02-13-2019 & 03-12-2019).

The applicant, Al Joyce was present for discussion. Joyce distributed the revised site plan for Lot 18. Discussion ensued regarding the limit of work line.

Goodrow expressed her concern that leaving the limit of work line as is it drawn on the site plan allowed for the felling of the trees growing along the bank of the resource area.

Goodrow inquired if the Commission could stipulate that some of the trees, excepting those that are unhealthy, along the bank must remain. Joyce expressed his concern of the potential for some of the tall pines falling on the house. Joyce stated that the bank of the resource area consists of rock and predicted very little erosion occurring if the trees currently growing there were removed. The Chair reminded the Commission that part of their responsibility as a Commission is to protect the resource area. By clear cutting the bank it will allow for more sunlight to shine into the resource area, potentially disturbing the wildlife living within and near the wetlands. Goodrow suggested that a certain percentage of trees must stay. The Chair suggested a third (33%) of the trees must remain on the slope for stabilization and flagging must be placed. Joyce commented that he would like to cut down any of the dead trees and any of the tall pines.

The Chair suggested an alternative option: to continue the hearing to accommodate a site visit where the Commission is able to mark the trees they would like to remain.

Motion to continue the public hearing for Hidden Ponds Estates Lot 18 to the April 24, 2019 meeting by Jeffrey Bosworth; second by Anthony Zampiceni by a vote of six (6)- zero (0).

NEW BUSINESS

6. CC 2019-02: Request for Certificate of Compliance for Fields At Chestnut (Mass DEP File #150-363) –Request by applicant for Request for Certificate of Compliance for Unit III-22, 48 Broadleaf Circle; Unit IV-18, 15 Ribbon Grass Lane; Unit V-26, 16 Clover Lane (Assessor's Parcel ID 7-74 & 7-75). Applicant: Dan Roulier & Associates, 11 South Road, Somers, CT 06071

The Chair explained that a letter was included with the request stating that the above mentioned units are outside of the jurisdiction of the Conservation Commission.

Motion to approve the certificate of compliance made by Anthony Zampiceni; second by Jeffrey Bosworth by a vote of six (6) - zero (0).

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- 7. CC 2019-03: Request for Certificate of Compliance for 176 Chestnut Street (Mass DEP File #150-210)** –Request by applicant for Request for Certificate of compliance for 176 Chestnut Street (Assessor’s Parcel ID 29-58A). Applicant: James Lefebvre, 7 Mosher St., West Springfield, MA 01089.

The Chair stated that the above mentioned address is outside of the jurisdiction of the Conservation Commission. Motion to approve the certificate of compliance made by Anthony Zampiceni; second by Jeffrey Bosworth by a vote of six (6) - zero (0).

- 8. Case #RDA 2019-03-Request for Determination of Applicability: 84 Somers Rd** (Assessor’s Parcel ID 28-21-0) filed by Massachusetts Electric Company d/b/a National Grid, 49 Callender Avenue, East Longmeadow, MA 01028 for an Embankment Stabilization Project within the 100-foot Buffer Zone to inland Bank of a quarry pond. Prepared by Tighe & Bond, Inc., 53 Southampton Road, Westfield, MA 01085.

Representing the applicant was Stephen Ecrement from Tighe and Bond, Inc. Ecrement summarized the reason for the Request of Determination of Applicability is to stabilize an embankment between Quarry Pond and the East Longmeadow Department of Public Works (DPW) yard. The embankment has eroded and eroded part of the paved lot of the DPW yard which may potentially compromise the infrastructure in National Grid’s sub-station.

The Chair stated that his only condition for the proposal is that the Commission shall inspect the erosion controls prior to the commencement of the work.

Motion to approve a negative no. 3 determination made by Robert Sheets; second by Anthony Zampiceni by a vote of six (6)- zero (0).

The Director stood and started to present information to the commission pertaining to 244 Shaker Rd. The chair said we need to open the public hearing first. The director continued and there was deliberation between commissioner O’Brien about a notation on old site plans saying the property that the NOI is for was to be conveyed to the town.

- 9. Case #NOI 2019-06-Notice of Intent: 244 Shaker Rd** (Assessor’s Parcel ID 18-35-0) filed by SIVAD Development Partners LP, 1 Monarch Place, Suite 1300, Springfield, MA 01144 for the construction of a proposed bank and commercial building within the Buffer Zone to Bordering Vegetated Wetlands and Isolated Vegetative Wetlands. Prepared by Robert Levesque Associates, Inc., 40 School Street, Westfield, MA 01085.

Representing the applicant was Robert Levesque for RLevesque Associates, Inc. Atty. Jim Martin representing SIVAD was also present for discussion.

Levesque described the NOI filed under the Wetlands Protection Act due to a Bordering Vegetative wetland that comes down towards the proposed development site from the East and runs down an existing culvert which is a partially crushed old clay pipe. Therefore, despite having no wetland impacts they are within the Buffer Zone thus the NOI filing. Levesque explained that the majority of the vegetation within the wetland is invasive. He also offered to add to the buffer area for the privacy of the neighbors behind the proposed development site as well as between the two proposed building sites. Storm water application: Specific storm water analysis that details the pre and post development drainage. Two bio-retention basins, designed to handle up to and including the 100 year storm per the DEP storm water management standards.

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Tom O'Brien inquired if the clay pipe will be reconstructed. Levesque replied that while they could, the remaining portion of the clay pipe was not crushed and good water flow was observed. Furthermore, the inlet to the pipe is in the wetlands.

The Chair opened the hearing up to the public for comments and questions.

Brian Murphy, 195 Canterbury Circle spoke against the proposed development. Stating that he was provided with a site plan when he bought his home that illustrates the development site was originally proposed to be conveyed to the town for Open Space and Recreation. Mr. Murphy conveyed his confusion with the proposed development in light of the site plan he was provided years prior.

[A REVISED SITE PLAN SHOWING THE LAND IN QUESTION IS UNDER THE OWNERSHIP OF THE DAVIS FAMILY WAS FOUND IN THE ARCHIVED FILES OF THE PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT]

Kate Roman of 185 Canterbury Circle asked how far the development encroaches into the Buffer Zone. Levesque explained that on one side they will be approximately a couple feet from the Bordering Vegetative Wetlands and on the other side approximately twenty (20) ft.

The Chair explained that the Conservation Commission has jurisdiction over anything that falls within the 100 ft. Buffer Zone.

Christina Holmes of 181 Canterbury Circle spoke against the proposed development and expressed her opinion that open space and conserved land is a valuable characteristic of East Longmeadow.

Ralph Page of 306 Prospect Street expressed concerns with drainage and how close the development is to the wetlands, pointing out that typically the Commission aims to keep developments at least twenty five (25) ft. from a resource area.

Levesque explained that there are currently invasive species hugging the wetlands and what he would like to do is invasive species control to remove the invasive plants and replace with lawn that can be maintained and will not be choking out the vegetation in the wetlands.

Comments brought back to the board.

O'Brien inquired if the wetlands occurred due to the topography or the soil type. Levesque replied that it is arguably seeping out of the slope and following the topography and explained that the soil map is not consistent with the location of the wetlands.

The Chair suggested an underground retention basin and expressed his personal concerns with the development being so close to the wetlands.

Levesque explained that a sub-surface retention basin was not an option due to the seasonal ground water being too high.

Goodrow asked if the pre-existing parking lot will remain. Levesque explained that the old parking lot will be removed and replaced with a drainage basin.

Motion to continue the public hearing to the May 8, 2019 meeting made by Anthony Zampiceni; second by Jeffrey Bosworth by a vote of six (6) - zero (0).

Motion to move agenda item Executive Session to the end of the agenda made by Jeffrey Bosworth; second by Anthony Zampiceni by a vote of six (6)- zero (0).

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PROJECT MONITORING

Bella Vista Estates

Atty. Brian Fitzgerald the Trustee for Bella Vista Holdings Realty Trust and Anthony Carnevale from AC Home Building who is the general contractor for the development were present for discussion. Atty. Fitzgerald discussed his concerns with the issuance of the enforcement orders that they requested a total stop work order which is not within the jurisdiction of the Commission to request. Atty. Fitzgerald submitted a letter to the Commission outlining his concerns regarding the enforcement orders.

The Chair stated that he agreed with Atty. Fitzgerald in that a total stop of work is not under the Commission's jurisdiction.

Atty. Fitzgerald also stated his concern with the order of the votes and lack of information regarding when the meeting was where the Commission voted to order the enforcement order. He also expressed his concern in respect to the demand to remove the wood chips for the wetland area as it had been discussed at the February meeting.

The Chair stated that the wood chips are currently biodegrading and not as significant of an issue as it was when the enforcement issue was originally discussed.

Mr. Carnevale submitted a report issued by Dan Nitzsche on April 10, 2019 to the Commission. Carnevale explained to the Commission that between the issuance of the second enforcement order an agreement had been formed between Atty. Fitzgerald, Carnevale and the owner of 57 Capri Drive (who has a temporary cul-de-sac) to turn her temporary cul-de-sac into a permanent cul-de-sac and eliminating the use of a wetlands crossing, another issue stated in the Enforcement Order. Carnevale noted that the modification must be approved by the Planning Board first.

The Chair shared his satisfaction with this potential modification to the plans and the elimination of the wetlands crossing. The Commission members agreed.

Carnevale shared that their goal is to submit the modified site plan for the Planning board by April 25th to be on the agenda for the Planning Board's May 21st meeting.

Tom O'Brien suggested making a motion to rescind both enforcement orders.

Atty. Kevin Maynard spoke in favor of Tom O'Brien's suggestion, stating that is it possible to rescind the enforcement orders, examine what has or has not been done on the sites and issue a new order if one is necessary.

Motion to rescind the enforcement made by Tom O'Brien; second by Mary Ellen Goodrow by a vote of six (6) - zero (0).

Motion to continue to April 24, 2019 Meeting made by Tom O'Brien; second by Mary Ellen Goodrow by a vote of six (6) - zero (0).

Other projects as listed on spread sheet.

Avery Street- the Chair reported that the applicant had contacted him regarding the felling of trees. The Chair had told him that they must put up silt fences when felling trees.

OTHER BUSINESS

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- Review and Comments for Planning Board
- Discussion of Conservation Land
 - Anthony Zampiceni suggested a discussion of what can be done to improve the conservation lands and trails in town to increase awareness of the conservation lands available for public use. Mary Ellen Goodrow agreed that increasing signage, parking spaces and educating/informing the public about the trails in town would be a good idea.
- Arbor Day
Thomas O'Brien will attend on behalf of the Conservation Commission.
- Web page updates
- Discussion of Conservation Commission account balance from fees collected

Ms. Brawders reported on her communication with the Accounting Department regarding the Conservation Commission account balance stating that the current information dates back to 2010. Since fiscal year 2010, the fund has had revenues of \$21,505. It has had expenses of \$4,373.04 all of which occurred between June 2011 and August 2011. These expenses were all related to mapping the trail: \$3,876 was in payroll, \$454.98 for a weed whacker, \$42.06 for other supplies (i.e. bug spray). Ms. Brawders reported that the current balance is \$59,730.04 and the Town Accountant would like to be notified before the Commission appropriates funds. The Chair reported that the fee schedule for the Conservation Commission must be posted separately from the bylaw.

AT 8:15 PM ROBERT SHEETS EXCUSED HIMSELF FROM THE MEETING
ADMINISTRATIVE

- Policies and procedures of Commission

Requesting Certified Abutters List:

The Chair stated his opinion that applicants filing Request for Determination of Applicability (RDA) should not be required to submit a Request for Certified Abutters list and corresponding stamped envelopes. The Ms. Brawders reported that when she began work as the Director of the Planning and Community Development department it was part of the pre-existing application process. Mr. Brawders spoke in favor of notifying abutters as it provides greater transparency in government. The Chair admitted that while the practice does have some merits he does not believe it is a fair to the applicant as it is not a requirement under the bylaw. Atty. Kevin Maynard stated that it is a policy issue not a legal issue but also stated he was in agreement with the Chair, that the applicant filing a RDA should not need to notify abutters unless it is under the bylaw to do so. The Commission unanimously voted to end the Abutter's notification policy for Request for Determination of Applicability filings.

Submission deadlines:

The Chair stated that it had come to his attention that applicants were instructed not to submit a filing on the same day as a Conservation Commission meeting and inquired why and when this policy was put in place. The Director stated that the procedure was put in place during the previous administrative assistant's term wherein she found the procedure helped to instill order to the application intake process. The Director stated that this procedure is no longer in effect citing that a conservation filing had been accepted earlier that day. Discussion ensued.

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Atty Maynard stated that the town must accept filings anytime they are open. The Commission voted unanimously to rescind this policy.

Staff Change Memo:

The Chair discussed the staff changes memo submitted by Ms. Brawders at the previous meeting regarding the withdrawal of staffing at Conservation Commission meetings.

The Chair stated that they do need at least one staff member present at meetings to take the minutes and provide the case files. Mary Ellen Goodrow agreed with the Chair and shared her experience with taking minutes while participating in discussion noting that it was challenging to multi-task in that situation. Goodrow also expressed her concerns that inaccurate minutes may lead to legal ramifications.

Ms. Brawders stated the dilemma that the processes she has implemented and other boards have adhered to, help to increase clarity, efficiency and consistency yet she continues to experience push back from the Commission to adhere to the same processes. Discussion ensued regarding the previous administrative support provided to the Commission from former employees of the Planning and Community Development Department.

Tom O'Brien made a motion to have a representative from the Planning and Community Development Department attend the Conservation Commission meetings for the purpose of minute taking and administrative support; second by Anthony Zampiceni by a vote of five (5)-zero (0).

Tom O'Brien made a motion for the Conservation Commission to hold two meetings per month on the second and fourth Wednesdays of the month; second by Jeffrey Bosworth by a vote of five (5)- zero (0).

Jeffrey Bosworth commented that the Conservation Commission is there to serve the public and stressed the importance of being accessible to applicants as needed.

Atty. Kevin Maynard suggested the Commission include a rolling agenda item for Policies and Procedures so they may tackle issues.

Forms:

The Chair stressed that it is the Commissions responsibility to fill out corresponding forms for applications according to the regulations. Ms. Brawders suggested that the applicants should present the blank forms to the Commission as part of the application packet. The Chair stated that this suggestion contradicts the instructions posted on the webpage which state that the applicant is responsible for filling out the forms.

Mary Ellen Goodrow addressed the disconnect between the Commissioners and Ms. Brawders, stating that there must be compromise on both sides to move forward in a productive, respectful and positive manner.

Ms. Brawders shared staff limitations in terms of hours available to spend at meetings based on employment contracts which limit the number of hours per week an employee can work before hitting comp time.

Jeffrey Bosworth inquired if it were possible to submit applications to the Commission electronically. Ms. Brawders informed him that the Planning and Community Development department is transitioning toward electronic practices to save money, paper and time.

Jeffrey Bosworth inquired why a Tax Affidavit is required as part of the application submittal packet. Ms. Brawders explained that requiring the Tax Affidavit is a policy put in place by the town.

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As this time the Chair entertained a motion to adjourn to executive session to discuss the character of the Director of the Planning and Community Development and not return to the open session to adjourn.

Atty. Kevin Maynard explained the rights of the Director.

Motion to adjourn to executive session by Jeffrey Bosworth; second by Anthony Zampiceni by a vote of five (5)-zero (0).

ROLL CALL: **Craig Jernstrom**
 Jeffrey Bosworth
 Mary Ellen Goodrow
 Anthony Zampiceni
 Thomas O'Brien


EXECUTIVE MEETING ENTERED AT 9:15 PM

***EXECUTIVE SESSION**

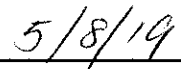
- Pursuant to MGL Ch. 30A, §21 (a) (1) To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual.

ADJOURN 9:45 PM

DATE OF NEXT MEETING: April 24, 2019



Jeffrey Bosworth, Clerk



Date

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