



EAST LONGMEADOW CONSERVATION COMMISSION

Wednesday, May 13, 2020

06:00 PM

Zoom Webinar

Amended **MINUTES**

Chair Craig Jernstrom opened the meeting at 6:14 PM and called the roll.

CALL THE ROLL

Present: Craig Jernstrom, Chair
Thomas O'Brien, Vice Chair
Jeffrey Bosworth, Clerk
Frances Corgnati

Absent: Erin Lynch
Anthony Zampiceni

Staff Present: Bethany Yeo, Acting Director of Planning & Community Development; Ryan Quimby, IT Director; Mark Stinson, MassDEP Circuit Rider

APPROVAL OF MINUTES

April 22, 2020

Motion to approve made by Vice Chair, Thomas O'Brien; second by Clerk, Jeffrey Bosworth and approved by a vote of four (4)-zero (0).

CERTIFICATE OF COMPLIANCE REQUESTS

None at this time.

OLD BUSINESS

1. **WPA Enforcement Order #1: 15 Yorkshire Place (Mass DEP File #150-207)** for violation by Matthew C. Castanho, 15 Yorkshire Place, East Longmeadow, MA 01028 for unpermitted work in the Buffer Zone of a Bordering Vegetative Wetlands.
2. **WPA Enforcement Order #2: 15 Yorkshire Place (Mass DEP File # 150-207)** for violation by Matthew C. Castanho, 15 Yorkshire Place, East Longmeadow, MA 01028 for unpermitted removal of permanent limit of work line markers and violation of existing enforcement order. Clerk Jeffrey Bosworth inquired if the Commission would entertain a discussion of levying fines for this case.

Chair Craig Jernstrom opined the first enforcement order was a common violation and fines were not necessary however, he opined fees would be more appropriate for the second enforcement order where the violations continued despite the first enforcement order which instructed a cease and desist of all work.

Vice Chair Tom O'Brien stated, he was not in favor of issuing fines prior to hearing from the homeowner. Vice Chair Tom O'Brien also pointed out, an even number of Commissioners present could create a tie vote and cause more issues. Frances Corgnati stated her concern of the repeat violation and spoke in favor of issuing a fine albeit a small amount. Frances Corgnati also inquired of past practices of the Commission with issuing fines and inquired if the Commission had the authority to do so. Mark Stinson, DEP Circuit Rider explained that it is under the Commission's bylaw and it is up to them if they want to move forward with levying fines. Mark Stinson also commented that the case file was opened in the late 1980s and questioned if there was ever a recorded Certificate of Compliance for the parcel, furthermore

was the current homeowner ever made aware of that there was an Order of Conditions associated with the property. The Chair stated the homeowner had not been aware of the Order of Conditions prior to receiving the first enforcement order. Clerk Jeffrey Bosworth provided Mark Stinson with a review of the events from his perspective.

Vice Chair Tom O'Brien reminded the Commission that not all members of the public are aware of Conservation regulations or the presence of Conservation Commissions. Vice Chair Tom O'Brien opined that seeing as the homeowner would have expenses towards hiring a wetlands specialist and creating and implementing a restoration plan, he saw no reason to require further payment in the form of a fee. Discussion ensued.

The Chair confirmed the restoration plan had been filed the day prior, although had not been reviewed by the Commission at that time. Mark Stinson advised the Commission to focus on ensuring the restoration of the resource area.

Pete Levesque, Wetlands Scientist, and the homeowner, Matthew Castanho was present for discussion. Matthew Castanho explained the misunderstanding was sincere and since the issuance of the first enforcement order, he has complied with all requirements mentioned in the Enforcement Order. Chair Craig Jernstrom confirmed that the homeowner had responded promptly and effectively. Pete Levesque also provided an account of the situation and spoke in support of the homeowner's compliance. Chair Craig Jernstrom stated a positive outcome of the violation was that a significant amount of invasive species (Bitter Sweet) had been removed from the resource area.

Mark Stinson advised the homeowner that, any additional work (including that of future removal of invasive species) within the resource area/Buffer Zone would require the filing of a Request for Determination of Applicability (valid for 3 years) or a Notice of Intent (may be continued every 3 years with no limit) regardless of the restoration plan.

Motion to move forward with the enforcement orders and restoration plan without levying a fine made by Clerk Jeffrey Bosworth; second by Commissioner Frances Corgnati and approved unanimously four (4)-zero (0).

3. **WPA Enforcement Order #1: Hidden Ponds Estates Lots 19-20 (Mass DEP 150-0447)** for violation by Al Joyce, Rose-Bud Builders, P.O. Box 79, East Longmeadow, MA 01028 for removal of twelve (12) trees larger than 1-1/2" diameter outside the Limit of Work line and inadequate erosion controls.

Discussion ensued between the Commission and Mark Stinson regarding differences between sediment controls and erosion controls. Mark Stinson advised that if only a small amount of sediment flushed into the resource area it was better to leave it than create greater disturbance in removing it. Chair Craig Jernstrom stated the site had created a multitude of erosion and sediment issues prompting the Commission to require Al Joyce to hire an Erosion and Sediment Specialist in the Enforcement Order. Mark Stinson advised for future reference, if a site has poor soil, increasing the Limit of Work Line might help prevent erosion/sediment issues. Vice Chair Thomas O'Brien, opined Lot 19 had been mitigated well and the basin appeared to be in good shape considering the challenges the project location presents. Chair Craig Jernstrom respectfully disagreed stating he would not be satisfied with current erosion controls unless the erosion control system was altered.

Al Joyce was present for discussion. Discussion ensued regarding options to solve the sediment issues. Mark Stinson advised Al Joyce of Erosion Control Specialists in the area he could hire. Al Joyce stated he had plans to place sod on the island at Redstone Drive and that he would contact one of the Erosion Control Specialists mentioned the following day.

NEW BUSINESS

4. **Vote and Ratification of WPA Enforcement Order #2: Hidden Ponds Estates Lot 3 (Mass DEP 150-0428)** for violation by Al Joyce, Rose-Bud Builders, P.O. Box 79, East Longmeadow, MA 01028 for inadequate erosion controls.
Chair Craig Jernstrom explained he had not drafted the Enforcement Order yet. The agenda item was continued to the May 27, 2020 meeting.
5. Request by applicant to discuss erosion control measures for Lot 3 Hidden Ponds Drive (Mass DEP File # 150-0428), Lot 4 Hidden Ponds Drive (Mass DEP File # 150-0446), and Lots 19-20 Redstone Drive (Mass DEP File # 150-0447). Applicant: Al Joyce, Rose-Bud Builders, P. O. Box 79, East Longmeadow, MA 01028.
Items addressed in previous discussion.

NEW PUBLIC HEARINGS

6. **Case OCC 2020-1: Request for Amendment to Order of Conditions (Mass DEP File # 150-429)**—Request for Amendment to Order of Conditions (Mass DEP File # 150-429) for 34 Halon Terrace (Assessor's Parcel ID 21-24-8) filed under the Wetlands Protection Act, DWW Policy 85-4 and Town of East Longmeadow Wetlands By-law for the approval of a smaller barn, increased parking, a fence and plantings. Applicants: Peter Sares and Michelle Sares, 34 Halon Terrace, East Longmeadow, MA 01028 (Continued from April 22, 2020)
Heather Comee [Heather Comee Wetland Consultant, 572 East River Road, Hunginton, MA] and Peter Sares, applicant, were present for discussion. Heather Comee explained the changes in the site plan which included a smaller barn, increased parking space, a fence and plantings as well as an existing asphalt driveway rather than the formerly approved gravel driveway. Peter Sares explained his misunderstanding that he had to adhere to the approved site plan, which resulted in the paved driveway.
Mark Stinson explained the procedural options to the Commissioners and applicant:
 - a) Issue an Amended Order of Conditions
 - b) Mention the amendment in the minutes creating no need for an Amended Order of Conditions
 - c) Refuse to amend the Order of Conditions and request a new Notice of IntentChair Craig Jernstrom opened the hearing for public comment. No comment for or against the petitioner was made by the public. **Motion to close the public hearing made by Clerk Jeffrey Bosworth; second by Vice Chair Tom O'Brien and approved by a vote of four (4)-zero (0).**
Clerk Jeffrey Bosworth stated his concern regarding storm water runoff from the paved driveway. Peter Sares stated landscaping paper used to filter out sediment so water can drain easily would be installed to mitigate any increase in water run-off, if any.

Motion to approve the Amended Order of Conditions made by Vice Chair Tom O'Brien; second by Clerk Jeffrey Bosworth and approved by a vote of four (4)-zero (0).

7. **Case NOI 2020-2: Notice of Intent for 110 Somers Road** (Assessor's Parcel ID 39-30-C-2) for the removal of invasive plants, cutting of the understory shrub layer, and selective pruning of existing mature trees within the Buffer Zone on a 5.04 +/- acre site. Applicant: Brownstone Gardens III Inc. c/o Christopher Carr, 24 Deer Park Drive, East Longmeadow, MA 01028.

Commissioner Frances Corgnati recused herself from the discussion and vote due to a conflict of interest. A quorum was not present and the agenda item was continued to the following meeting May 27, 2020.

Motion to postpone to May 27, 2020 made by Clerk Jeffrey Bosworth; second Vice Chair Thomas O'Brien and approved by a vote of four (4)-zero (0).

8. **Case NOI 2020-3: Notice of Intent for Porter Road Bridge (E03004-5LL-MUN-BRI)** (ROW between Parcel 58-40 and 70-50) for the redevelopment of existing roadway and structures within the 100-ft Buffer Zone, 200-ft Riverfront Area and Lands Subject to Flooding, as well as temporary access to South Branch Mill River for in-culvert repairs. Applicant: Bruce Fenney, Superintendent, East Longmeadow Department of Public Works, 60 Center Square, East Longmeadow, MA 01028.

Vice Chair Thomas O'Brien recused himself from the discussion and vote due to a conflict of interest. A quorum was not **present and the agenda item was continued to the following meeting May 27, 2020.**

Motion to postpone to May 27, 2020 made by Frances Corgnati; second Clerk Jeffrey Bosworth and approved by a vote of four (4)-zero (0).

PROJECT MONITORING

9. Bella Vista Estates
10. 108 Old Farm Road
11. 101 Old Farm Road

Plantings would be completed by May 22, 2020 and would be ready for a final site visit inspection by the Commission.

12. 39 Pondview Drive

Chair Jernstrom stated that the homeowner had received approval from the Commission for a pool within the Buffer Zone however had recently installed a patio surrounding the pool, which was not part of the Request for Determination. Mark Stinson inquired if the area the patio was placed had been converted from lawn. Chair Craig Jernstrom confirmed. Mark Stinson explained that under Minor Activities as described in 310 CMR 10.2(2) (b) e., patios were an exempt activity. Mark Stinson further advised that the regulations do not define what a pool/patio/etc. is precisely.

Mark Stinson advised that under 10.022B patios are exempt

13. 116 Elm Street

The Chair stated a second letter should be sent out to remind petitioners to complete the plantings.

14. 53 Tanglewood

Chair stated only three of thirteen trees had been planted and suggested sending out another letter to urge them to complete the plantings.

Discussion of enforcement of plantings ensued between the Commissioners and Mark Stinson. Mark Stinson advised that unless the enforcement order specifies a date in which the plantings needed to be completed, the Commission does not have the authority to enforce directly but may send letters urging the petitioner to complete the restoration plan as approved. Chair Craig Jernstrom stated he would check the file to see if any specific dates were mentioned and follow suit.

15. Projects [See Project Monitoring spread sheet]

81 Avery Street

The Chair shared that the resident at 81 Avery Street had been instructed to file a Request for Determination of applicability.

12 Chatham Cr

The Chair reported that there were dirt bike tracks and walking trails created through the resource area and part of the Town owned conservation land. The Chair stated that although not a tremendous amount of damage had been done, a letter should be sent to the homeowner advising them that they are not permitted to continue such activities on town owned conservation land and beyond the Limit of Work Line.

OTHER BUSINESS

16. Policies and Procedures of the Conservation Commission

Commissioner Frances Corgnati inquired where she could see the project monitoring notes in the spreadsheet. Bethany Yeo advised referring the minutes to find project monitoring updates. Mark Stinson advised the Commission to authorize the Acting Planning Director to be able to sign documents electronically on behalf of the Commission.

Motion to authorize Bethany Yeo, Acting Director of the Planning & Community Development department to sign electronically for the Commission pursuant to issues voted on in the meetings made by Vice Chair Thomas O'Brien; second by Commissioner Frances Corgnati and approved by a vote of four (4)-zero (0).

17. Discussion of Levying Fines for Violations

Mark Stinson referred the Commission back to their bylaw from questions regarding levying fines for violations and suggested called Angela, the Conservation Agent in Palmer, MA for more information as it is a bylaw question, not a Wetlands Protection Act question. Mark Stinson also suggested updating the bylaw to have applicants post a bond for larger projects.

ADJOURN Motion to adjourn made by made by Clerk Jeffrey Bosworth; second by Commissioner Frances Corgnati and approved by a vote of four (4)-zero (0) at 8:19 PM.

Respectfully submitted.

Bethany Yeo,
Director of Planning & Community Development