



Meeting of the Conservation Commission July 25, 2018

5:00pm: Site Visit - 115 Avery Street
6:00 pm: East Longmeadow High School
School Committee Conference Room
180 Maple Street, East Longmeadow, MA

MINUTES

Present: Chairman Craig Jernstrom; Vice Chair Robert Sheets; Clerk Jeffrey Bosworth; Mary Ellen Goodrow (6:03pm); Thomas O'Brien; Anthony Zampiceni;
Absent: William Arment; Director of Planning & Community Development Constance Brawders

Chairman Jernstrom called the meeting to order at 6:00pm.

APPROVAL OF MINUTES:

The minutes of January 10, 2018 were not yet prepared for review and vote. Ms. Berns will get the draft minutes as so far prepared to Mr. O'Brien so that he can fill in names that are missing.

The minutes of July 11, 2018 were reviewed. Clerk Bosworth moved to accept the minutes of July 11, 2018; seconded by Mr. Zampiceni. **The motion to accept the minutes of July 11, 2018 passed unanimously (6-0).**

OLD BUSINESS:

1. Public Hearing Continuation: Notice of Intent for Somers Road, Lot #1 (Assessor's Parcel 79-30-J) by Todd Cellura of Sovereign Builders, Inc., 135 Southampton Road, Westhampton, MA 01027 (Case Continued from May 9, May 23, June 13, June 27, July 11).

John Masik of R. Levesque Associates presented the draft deed restriction with regard to dredging and fill limitations, and indicated that Mass DEP will not issue file numbers without the Commission's acceptance of it as proposed. Mr. Masik gave a brief summation of the deed restriction as proposed that would control the amount of dredging that can be done on site. Clerk Bosworth clarified that this has to do with the proposed replication of wetlands on the site. Mr. Masik explained that this requirement all came about due to the work needed to tie in the sewer line, which would be going through a wetland area near lot #4. The proposed deed restriction would apply to all four lots and would prevent any dredging and fill displacement of more than 880 square feet throughout the parcel. Chairman Jernstrom pointed out that the term "dredge" as used in the proposed deed restriction may be incorrectly used, as per the definition provided by 310 cmr 10.04. Aside from that technicality, the rest of it looks acceptable. It was suggested that a discussion with the regional DEP representative, Mark Stinson, take place to clarify the use of the term, as well as why the restriction needs to apply to all four lots. Mr. O'Brien agreed, expressing concern for the future lot owners' rights. Vice Chair Sheets moved to continue the hearing to the next meeting, after a discussion

could be accomplished with Mark Stinson for clarification of the term “dredge” and the necessity of having the restriction apply to all four lots; seconded by Clerk Bosworth.

The motion to continue the hearing to August 8, 2018 at 6pm passed unanimously (6-0).

2. Public Hearing Continuation: Notice of Intent for Somers Road, Lot #2 (Assessor’s Parcel 79-30-J) by Todd Cellura of Sovereign Builders, Inc., 135 Southampton Road, Westhampton, MA 01027 (Case Continued from May 9, May 23, June 13, June 27, July 11, 2018).

Vice Chair Sheets moved to continue the hearing to August 8, 2018 at 6pm; seconded by Clerk Bosworth. **The motion to continue the hearing to August 8, 2018 at 6pm passed unanimously (6-0).**

3. Public Hearing Continuation: Notice of Intent for Somers Road, Lot #3 (Assessor’s Parcel 79-30-J) by Todd Cellura of Sovereign Builders, Inc., 135 Southampton Road, Westhampton, MA 01027 (Case Continued from May 9, May 23, June 13, June 27, July 11, 2018).

Clerk Bosworth moved to continue the hearing to August 8, 2018 at 6pm; seconded by Vice Chair Sheets. **The motion to continue the hearing to August 8, 2018 at 6pm passed unanimously (6-0).**

4. Public Hearing Continuation: Notice of Intent for Somers Road, Lot #4 (Assessor’s Parcel 79-30-J) by Todd Cellura of Sovereign Builders, Inc., 135 Southampton Road, Westhampton, MA 01027 (Case Continued from May 9, May 23, June 13, June 27, July 11, 2018).

Vice Chair Sheets moved to continue the hearing to August 8, 2018 at 6pm; seconded by Clerk Bosworth. **The motion to continue the hearing to August 8, 2018 at 6pm passed unanimously (6-0).**

NEW BUSINESS:

5. Request for Determination of Applicability, Case RDA 2018-05, filed by April Knight and Michael Tami. The request is to determine whether the work done on a .53 +/- acre parcel located at 26 Orange Street (Assessor’s Parcel ID 2C/50/1) in the Residential-Commercial zoning district is subject to Wetlands Protection.

Clerk Bosworth read the legal notice into the record. Eric Levesque of Juliano’s Pools described the proposed pool project, which is to install a 20’ x 32’ mountain lake style in-ground pool. Chairman Jernstrom pointed out that it is only a slight intrusion into the 100’ buffer zone, as the pool is still 71’ away from the wetland, and the proposed silt barriers were adequate. Vice Chair Sheets agreed. Vice Chair Sheets moved to issue a negative three (3) determination based on the conditions laid out in the July 13, 2018 proposal; seconded by Clerk Bosworth. **The motion to issue a negative three (3) determination for the proposed pool installation at 26 Orange Street passed unanimously (6-0).**

6. Request for Determination of Applicability, Case RDA 2018-06, filed by Richard Barrows. The request is to determine whether the work done on a .79 +/- acre parcel located at

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.

The matters listed are those reasonably anticipated by the Chair to be discussed at the meeting. Not all items listed may, in fact, be discussed.

Other items not listed may be brought up for discussion to the extent permitted by law. Massachusetts General Laws, chapter 30A, Section 20(e) requires any person making a video or audio recording of the meeting to notify the Chair at the start of the meeting.

115 Avery Street (Assessor's Parcel ID 4/13/46) in the Residential-Business zoning district is subject to Wetlands Protection.

Clerk Bosworth read the legal notice into the record. Chairman Jernstrom reported that at the site visit, it was obvious that the work done was 15' from the brook and definitely in the riverfront area, but the tree was definitely dead and a hazard. It was the opinion of the Chair that a Notice of Intent would not be necessary, just some guidelines. Clerk Bosworth agreed. A negative three (3) determination was proposed by the Chair with the following conditions:

- a.) Only invasive species may be removed and only approved species may be planted.
- b.) No excavation equipment may be used in the area.
- c.) Allow the natural regrowth of vegetation and do not extend the lawn area.
- d.) The Commission will be allowed to follow up in a year to inspect and ensure no additional clearing has taken place.

Chairman Jernstrom recommended the Mass Audubon Society and 310 cmr as resources to identify invasive species and approved species to replant. Clerk Bosworth moved to issue a negative three (3) determination, subject to the conditions proposed; seconded by Mr. Zampiceni. **The motion to issue a negative three (3) determination for the work associated with the tree removal at 115 Avery Street, subject to the conditions stipulated above passed unanimously (6-0).**

ADMINISTRATIVE MATTERS:

7. UMASS Amherst publication, distribution and discussion: Their Land, Their Legacy
The material was reviewed and acknowledged for the Commissioners' information and reference.
8. Discussion of DRAFT revisions to the General By law under **10.011 Conservation Commission – Consultant Fees – Definitions**

Chairman Jernstrom indicated that in his research, there is verbiage in other town's bylaws that allow for an escrow account. He indicated that some other things he would like to see edited, are having the ability to levy fines and having a minimum buffer zone requirement. He suggested possibly having a two person subcommittee dedicated to additional research. Clerk Bosworth brought up the Towns of Ludlow and Hampden as being good examples of peer review procedures. He indicated that he would like to see the applicant be allowed to have a choice of two or three consultants, in case of any conflict of interest. Chairman Jernstrom raised concerns about definitions being included in the bylaws. Ms. Goodrow felt that looking at bylaw revisions as a whole, rather than just the peer review now, would be favorable. Vice Chair Sheets was in agreement, as were the rest of the Commissioners. Ms. Goodrow, Clerk Bosworth and Chairman Jernstrom expressed interest in being part of a subcommittee to review and revise the Conservation Commission bylaws. Vice Chair Sheets moved to create a subcommittee comprised of the three members to review and revise the bylaws; seconded by Mr. Zampiceni. **The motion to establish a Conservation Commission Bylaw Subcommittee comprised of Mary Ellen Goodrow, Jeffrey Bosworth and Craig Jernstrom passed unanimously (6-0).**

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.

The matters listed are those reasonably anticipated by the Chair to be discussed at the meeting. Not all items listed may, in fact, be discussed.

Other items not listed may be brought up for discussion to the extent permitted by law. Massachusetts General Laws, chapter 30A, Section 20(e) requires any person making a video or audio recording of the meeting to notify the Chair at the start of the meeting.

9. Open Meeting Law Complaint

Clerk Bosworth recused himself from deliberation. Vice Chair Sheets surmised from his review of the documents that there had been a violation. Mr. O'Brien stated that since the complainant's outcome of the item in question was favorable, this is basically a warning to change procedures moving forward. Vice Chair Sheets clarified that the item in question was not on the agenda to begin with, which was a violation of Open Meeting Law. Chairman Jernstrom read from the complaint form a section that indicates the Conservation Commission (public body) should have been able to review and discuss the complaint as well as respond to the Attorney General's office, or delegate a representative to do so, only after review of the complaint. In previous meetings, the Commission was told by Director Brawders that the complaint was being handled by the Town's Counsel and opportunity for discussion was not forthcoming. Mr. O'Brien said it seemed the Commission was being kept in the dark throughout the process. Chairman Jernstrom also pointed out that in section 3 of the response, it is indicated that Director Brawders was not anticipating deliberation, but his recollection was that the Commission was asked by her to deliberate, and Vice Chair Sheets agreed with that recollection. Chairman Jernstrom also said that if no deliberation was to occur, Mr. Bosworth should not have been asked to leave the room. He stipulated that he should have known not to deliberate and vote, since the matter was not accurately reflected on the agenda, however Director Brawders had requested the Commission to do so, and that is why they did. Ms. Goodrow agreed that deliberation and voting should not have been allowed. Mr. O'Brien asked what the outcome of the violation was on Mr. Bosworth's project, and it was agreed that the outcome was favorable. The Commissioners all agreed that moving forward, tighter restrictions must be followed as to agenda items and voting. There was discussion as to why the Commission was not allowed to deliberate and respond to the complaint, but rather they were circumvented and it was sent directly to the Town's Counsel. Ms. Goodrow suggested drafting a response to the Town Manager with their concerns. Chairman Jernstrom said he would work on a draft and have it for the next meeting for the Commission to review and approve.

PROJECT MONITORING:

10. DEP File #s 150-0420 through 150-0426 (spreadsheet distribution and project assignment)

Chairman Jernstrom explained the history of project monitoring, and the need to bring the practice back. Ms. Berns was tasked with updating the status of each case for the next meeting as well as including 2015 and 2018 filings on the spreadsheet. Assignments of project monitoring would be done at that time.

ADJOURN:

Vice Chair Sheets moved to adjourn at 7:26pm; seconded by Clerk Bosworth. **The motion to adjourn at 7:26pm passed unanimously (6-0).**

DATE OF NEXT MEETING:

The next scheduled meeting of the Conservation Commission is August 8, 2018.

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.

The matters listed are those reasonably anticipated by the Chair to be discussed at the meeting. Not all items listed may, in fact, be discussed.

Other items not listed may be brought up for discussion to the extent permitted by law. Massachusetts General Laws, chapter 30A, Section 20(e) requires any person making a video or audio recording of the meeting to notify the Chair at the start of the meeting.