

Town of Lunenburg Conservation Commission

Bob Pease, Chair
Kenneth Jones, Vice-Chair
Richard Bursch
Catie Childs
Carl Luck
Jack Rabbitt
Jeffrey Viviano
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Lunenburg, MA 01462

Matthew S. Marro,
Conservation Administrator

MINUTES

March 3, 2021
7:00 PM

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Topic: Conservation Commission

Time: Mar 3, 2021 07:00 PM Eastern Time (US and Canada)

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No participant ID is needed, just press # when asked. All participants who are not members of the commission or staff will be muted by the chair. Computer and app users may use the "raise hand" feature to request to speak. To access the raise hand feature, open the participant list by clicking on participants. To

raise your hand, click on the button at the bottom of the participant list. The chair will call on you and unmute you. Telephone audio users may dial star (*) 9 to request to speak after joining the meeting. Members of the public must give their name and address before they begin speaking. Please direct all comments to the chair.

If you have trouble accessing zoom or have general questions you can send an email to lcc@lunenburgonline.com during the meeting. Emails containing questions or comments that are to be read aloud at the meeting must be signed with full name, address and phone number.

Please be aware that if you are using video, other people will be able to see you and that anything that is broadcast will be recorded.

The agenda lists all the topics which may be discussed at the meeting and are those reasonably anticipated by the Chair. Votes may be taken as a result of these discussions. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by Open Meeting Law. Each vote taken in this meeting will be conducted by roll call vote.

AGENDA

Call to Order Announcements

Public Comment *Comments are to be limited to 3 minutes and on a subject matter under the direct jurisdiction of the commission. Comments about current agenda items are to be made during the comment period of the specific agenda item*

JR: Mentioned he had some input on the land use regulation revisions he will submit to MM for the inclusion into the website.

CL thanked the public for the participation and encouraged anyone to send in any comments and asked residents if they read any documents, they should read the one by Sharon Jordan for the useful historic information it contains

Minutes of previous meetings –February 17, 2021 Minutes approved with CL and JR abstaining.

Appointments/Hearings –commences at 7 PM

Appointment

CONTINUED PUBLIC HEARINGS

Pursuant to MGL ch 131, s 40 as amended and Under Lunenburg Protective By Law chapter 335, The Conservation Commission will hold a public hearing on a Notice of Intent by Tom Wu and Scott Benjamin for work at Map 137 Parcel 12 at Fire Road 12 for the restoration of the buffer zone . The supporting documents are available for review at the Conservation Commission office by calling 978-582-4146 ext 431 by appointment. Emailing a PDF is also an option on request by emailing [lcc@lunenburgonline](mailto:lcc@lunenburgonline.com) (to be continued to the March 17, 2021 meeting)

Continued to March 17, 2021 by motion of RB and a second by JV with a unanimous vote to approve.

Pursuant to MGL ch 131, s 40 as amended and Under Lunenburg Protective By Law chapter 335, The Conservation Commission will hold a public meeting on a request for a Notice of Intent by Proctor Masonry for work at 203 Fire Road 16 for the construction of replacement retaining walls and the removal of trees affecting the current wall structure. The supporting documents are available for review at the Conservation Commission office by calling 978-582-4146 ext 431 by appointment. Emailing a PDF is also an option

on request by emailing lcc@lunenburgonline, the meeting is scheduled for February 3, 2021 at 7 PM by Zoom meeting link to be issued by February 1, 2021. The public is invited to attend.
(to be continued to the March 17, 2021 meeting)

Continued to March 17, 2021 by motion of RB and a second by JR with a unanimous vote to approve.

Pursuant to MGL ch 131, s 40 as amended and Under Lunenburg Protective By Law chapter 335, The Conservation Commission will hold a public meeting on a request for a Notice of Intent by Northfield Associates for work at Lot 1, 30 Gilcrest Street for the construction of a single family home. The supporting documents are available for review at the Conservation Commission office by calling 978-582-4146 ext 431 by appointment. Emailing a PDF is also an option on request by emailing lcc@lunenburgonline, the meeting is scheduled for February 17, 2021 at 7 PM by Zoom meeting link to be issued by February 11, 2021. The public is invited to attend.

Lot 1 Greg Roy representing the applicant. Mr Roy reviewed plan revisions and comments from Abutter Turner that he met on site and resolved any concerns as well as the DEP number. The limit of work was pulled away from the wetland about 10 feet and permanent demarcation in the form of boulders was added along with a stone infiltration trench added to the end of the driveway. He reviewed the site walk with Mr. Turner and a wetland delineation report.

A motion was made by RB to issue a standard order of conditions. JV seconded and the commission approved the motion by roll call vote

Pursuant to MGL ch 131, s 40 as amended and Under Lunenburg Protective By Law chapter 335 The Conservation Commission will hold a public meeting on a request for a Notice of Intent by Northfield Associates for work at Lot 2, 30 Gilcrest Street for the construction of a single family home. The supporting documents are available for review at the Conservation Commission office by calling 978-582-4146 ext 431 by appointment. Emailing a PDF is also an option on request by emailing lcc@lunenburgonline, the meeting is scheduled for February 17, 2021 at 7 PM by Zoom meeting link to be issued by February 11, 2021. The public is invited to attend.

Greg Roy appeared representing the applicants. He reviewed the comments from DEP and changes on the plan. With no questions a motion was made to approve a standard Order of Conditions by a motion of JR and a second by JV with a unanimous vote to approve the motion.

PUBLIC HEARINGS AND MEETINGS

Pursuant to MGL ch 131, s 40 as amended and Under Lunenburg Protective By Law chapter 335, the Lunenburg Conservation Commission will hold a public hearing for a Notice of Intent by Cynthia Ritchie for work at 137 Flynn Road to build a natural stone wall along the waterfront to protect against future erosion of the edges of the land and beach.

A motion was made to continue to March 17 at 7 PM by RB with a second by CC and a unanimous vote to approve the motion. Brett Ramsden came on later on in the meeting. He noted he had difficulties with the log on and the chairman reminded about going to the town website. Mr. Ramsden noted that updated drawings were being drawn up and they will be ready for the 17th.

Under Lunenburg Protective By Law chapter 335, the Lunenburg Conservation Commission will hold a public hearing for a Notice of Intent by Joann Magurn for work at 238 Fire Road 16 for the construction of a single family home with a drive way crossing.

Brian Butler, representing the applicant, reviewed the prior hearing history. He also reviewed the appeal of the denied Order of Conditions to Mass DEP. He reviewed the history of the appeal site walk and noted he is anticipation the issuance of a superseding order of conditions. He noted this notice of Intent was filed under the local by law only. He outlined the features of the site including the existing cart road that is 900 feet in length and that the site was formerly used for camping. He

noted that there is plumbing, and concrete pad features formerly used for camping. Mr Butler outlined the comments from the fire chief recommending a 12 feet wide driveway but not required it. DPW had no comment. Mr. Butler outlined the resource areas, their location and its relation to the proposal. He noted the Bordering land subject to flooding and its extent. He noted the reason they did not relocate the access as it would involve work regrading and cutting trees and would still be within the buffer zone area of the isolated wetland. He noted that the 900 square foot crossing of the flood plain was not consequential. He outlined the function of the culvert that would provide for the wildlife crossing and a secondary culvert that would function in a similar manner. He noted the retaining walls were not considered a barrier as the culvert would allow for migration. He stated that the use of the exiting roadway would minimize any work required. He noted that there would be 28 white pine trees that would be altered and outlined the mitigation/planting areas on the plan as well as the compensatory flood storage areas. He outlined the erosion controls. He noted that there would be removal of concrete on site with re naturalization of the areas. He also reviewed the location of the house proposed. He noted the septic system was approved. He noted that the proposed house is not typical of a lake front lot being 15 acres in size. He also noted that this design does not inhibit wildlife habitat activities. He noted that DEP advocated the use of a stable and paved surface.

JR noted that his prior opinion was that the proposed activities would cause degradation of the site. He asked if the fire chief asked for a radius turn and noted that there was a recommendation for a 12 foot wide driveway. Butch Magurn noted that his conversation with the fire chief noted that the fire department had no jurisdiction on the driveway and he and Joann Magurn were open to a 12 foot driveway. JR asked about the status of the appeal to DEP. Brian Butler noted that Dep representative Gary Dulmaine indicated he was told a superseding order would be issued. JR asked if the trees to be removed included the driveway. Brian Butler noted that there was no trees to be removed in the driveway be limbs removed only. He reviewed the replacement standards and reviewed the national definition of trees. JR asked about the septic system. It was noted that it was approved. CL asked what minimum definition of tree counts were used. CI asked if the agent approved the septic system or was it the Board of Health. Butch Magurn noted it was a Board of health permit. CL noted that the narrative clearly states the resubmittal was forwarded to ask for a revote of the full board. RB questioned if the application was an back-door appeal of an application that had not been approved by the commission and if the application should be allowed. BP noted that the application had a paved driveway and the application that had not been approved was for a gravel driveway so the application was different than the one that had failed to gain approval. The commission agreed the chair should seek a opinion from town counsel.

The meeting was continued to March 17 by a motion of CL and a second by JV and a unanimous vote to approve the motion.

CC excided the meeting at 945 PM

Pursuant to MGL ch 131, s 40 as amended and Under Lunenburg Protective By Law chapter 335, the Lunenburg Conservation Commission will hold a public hearing for a Notice of Intent by Richard Tremblay for work at 386 Sunset Lane for repairs to five existing retaining wall, the construction of a kayak rack, the reinforcement of existing fencing, the removal of a stump, the replacement of 2 existing concrete patios, and the removal and replacement of an existing driveway.

Continued March 17, 2021 by motion of RB and a second by JV with a unanimous vote to approve. CL recused himself.

Pursuant to MGL ch 131, s 40 as amended and Under Lunenburg Protective By Law chapter 335, the Lunenburg Conservation Commission will hold a public hearing for a Notice of Intent by Empire Management Corp for work at 757 Chase Road for the demolition and reconstruction of a Commercial building with grading and parking.

James Alamonte represented the applicant. Brian Lafferty and Brandon Ducharme were also present. Mr. Alamonte represented the applicant. He outlined the properties owned by the applicant as shown on the submitted plans. He outlined the details of each proposed construction areas on the plans. He outlined the septic utility and the water utilities. He outlined the wetland resource areas and the relation to the resource areas. The proposal is to construct a new

dealership generally in the same location. There would be a new dealership building proposed that will make the use of the facility more efficient and will be within branding specifications by Subaru. He noted the new curb cuts and new landscaping as well as the new storm water infrastructure and a three percent decrease in impervious surface meant to satisfy DEP storm water requirements. He outlined the upgrades and expansions to the storm water system. There is no work within the 30-foot buffer zones and minimal work within the 50-foot buffer zone. He outlined the work proposed within the entirety of the 100-foot buffer zones and the mechanics of the storm water system. He also outlined the proposed erosion control barriers. He outlined the subsurface infiltration system designed to handle the storm water infiltration system. He noted the other board's approvals that have been granted. BP asked about the demolition work of the former Mazda Dealership. Mr. Alamonte noted the building will be remaining. JR asked if there was any fuel storage. The applicant answered no. Brian Lafferty confirmed no fuel storage. JR asked about oil storage. He noted there will be some bulk oil storage in the building and a waste oil burner. The oil storage is contained by a double walled tank. JR asked if there is a holding tank designed and a response plan. It was noted that the design will be finalized by a plumber. JR asked what monitoring and containment was called for. The applicant noted that a plumbing engineer would be retained for a final design.

RB asked about guardrails on the north side of the parking lot. The applicant noted it is planned for and there was snow storage proposed out of the buffer zone. RB asked to continue to allow for the other boards to finish their work. RB asked what size storm the detention basin was designed for. The applicant noted that he would firm out the details. JR asked if the 100-year storm water was sufficient. MM noted that the regulations had the 100 year as a maximum. KJ asked if the well exiting would be abandoned and the answer was yes. KJ noted that there was no DEP number yet. BP asked about the meeting dates of the other boards considering the application.

He suggested that perhaps we should wait to the April 7, 2021, meeting. The applicant agreed. RB asked for a schedule of construction to be developed. The applicant agreed.

A motion to continue to April 7, 2021 was made by RD and seconded by JR with a unanimous vote to approve the motion.

ENFORCEMENT:

Violations (Enforcement Actions and Administrative Hearings).

Leominster Road- Illegal Dumping activity (site visit to occur after snow has melted)

EO 90 Ruth Street

EO- Town of Lunenburg Fire Road 12 ENF 2019 NOI FILED *Town admin signature obtained and awaiting drawing.*

NON - 9 Valley Road- Working on NOI

EO 615 Townsend Street- monitoring time line

EO Fire Road 16

NON 48 Oak Ridge

New Business

Jack Rabbit – Tree definition – Not acted on

Old Business Continued Workshop for continued discussion of changes of the land use regulations and the creation of a document to inform the public about the land use regulations.

RB read a statement outlining the reasons why he had placed the hunting with firearms initiative on the regulation review. He had noted that hunters in Lunenburg are both tax paying and license payers. He also noted the educational and safety course requirements that hunters go through. He cited that overpopulation of deer in Massachusetts and cited mortalities of deer by auto accidents and starvation due to overpopulation and that hunting is an effective way of population control. He noted that in 40 years in the state there have only been three incidents of fatal

accidents recorded. He noted the two parcels that are the only ones now under consideration and why they are the ones selected. He suggested different ways to spread information on safety and hunting laws in the town of Lunenburg.

CC excused herself from the meeting at 9 PM.

CL felt a workshop extra meeting could be very productive and can help to address concerns and felt that perhaps we should adjourn this session in favor of reconvening for the workshop. BP expressed that with all of the amendment requests placed in by members that the session could continue this evening in addition to the extra session. He noted section 3.1.4 adding language for the reporting of missing signs. Both CL and RB stated that adding the language may not be necessary. BP suggested adding appendix A and B for permitting forms and fishing and hunting guide excerpts. BP noted that he had sent the appendix for hunting to Pat Huckery for review who suggested the wording of the law be added and that a comment that there is no pheasant hunting in Lunenburg as it is not stocked.

ML had a question regarding an organized group charging a fee noting a situation that if a local school has a hiking course for which they charge a student fee for, would it be require a permit application from Lunenburg. MM noted the college would be a not for profit activity and the permitting would be required for a for-profit activity. CL noted that the different between profit and nonprofit was not spelled out in the proposed regulation. KJ noted that with the current wording it should apply to all organizations profit or nonprofit.

CI asked about Pheasant hunting and noted that he had spotted a family of pheasant at the northwest town forest. BP noted that Ms. Huckery's comment stated that there was no pheasant stocked in Lunenburg. CL felt the note is not relevant. JV stated that he did not see Pheasant hunting in Lunenburg as there is not the population not the appropriate field space to make Pheasant hunting desirable. CL noted that in the land grant management program had provisions in the document for procedures for changes to it that he was concerned could conflict with the procedures for changes in the draft document the commission is working on. BP noted he reached out to the appropriate state official to answer the questions if the commission need the commonwealth's permission to make changes in the land uses noted in the land management plan. The response was deemed vague in language by BP. He replied to the communication and reiterated the original question. CI noted his concern was the land management plan that was accepted and that if local land use policy was changes would change the land use management plan outside of a written procedure. He noted an example that the current plans on Table rock and The Lane property only allow bow hunting and a change to that may have to follow a different procedure. RB asked if a simple change to the land use plans referring to the local land use policy would suffice. CL noted that the process outlined in the land management plan be added to the local regulations to be consistent with process. BP noted that Brandon Kibbe had written the document to be consistent with the current local regulations. RB suggested simply updating each land management plan once the regulation was completed. BP noted that he wanted to defer action until such time as the commonwealth responded to the follow-up questions. The langue of requiring a 2/3 majority was discussed. RB noted that the commission has no other requirements on any other business it does requiring a 2/3 vote and suggested that not be adopted. KJ JV and BP agreed. It was noted that the police department would aid in enforcement. CL made a motion that the notification language be changed to reporting to the agent and the police as appropriate. CL noted that the ultimate responsibility for enforcement falls on the commission. After examination RB noted that the agent is not a 24 hour position and keeping the word or gives the residents the option of who to report it to if the agent is off duty.

The issue of the definition of passive recreation was examined. BP noted it was verbatim from the state standards. It was decided that the language of the CMR be left as is. JR read language for a preamble for the terms "quiet enjoyment" and the addition of language adding community gardens. He asked what are the goals of this endeavor. CI reviewed 1.4 regarding the prohibition of certain types of guns to eliminate the terms "the use of" and to change "is" to "are". RB noted

that per the second amendment people should be allowed to carry. JV asked CL if concealed carry was an issue. CL noted he was not in favor of any firearms possession on conservation lands. JV noted he disagreed with CL on this issue. CL referred to a ruling from legal that the commission has a right to ban them. KL noted he was not in favor of a firearms ban. JR noted that he felt the open carry has a different effect than concealed carry. He felt that concealed weapons only should be allowed with the exception of hunting weapons during the times of the year and areas that it would be appropriate. RB and BP noted they were against banning firearms. CI also proposed adding language from the current hunting regulations mentioned in the appendix, being moved from the appendix section. KJ noted that he felt it was not necessary and redundant. JV noted that there was a prior conversation where it was decided not to move the section.

CI suggested that 1.6 reflect the language of the current regulations in section 2.20 regarding dogs. BP noted it was discussed prior however, it would be reconsidered. JR noted that based on the WMA regulations there was requirement that dogs be kept on a lease, however he felt that Dogs could be kept under direct vocal control. KJ, JV and RB felt it was sufficient as currently read. CI clarified the town by law and would send it to the commission for further review.

CL suggested inserting that in addition to the smoking restriction, that language for grills and portable stoves be added. JR noted he agreed with CL. KJ, RB, JV and RB felt it would be sufficient as is.

CL asked for a motion to adjourn, JR seconded. During discussion KJ asked what the chairman wanted to do. BP noted that he wanted to go through CL's suggestions as JR also has some lengthy presentation and wanted to give JR sufficient time for his presentation at the next meeting. The motion was declined by a vote of BP, KJ, JV, RB to decline.

1.9 CL suggested language adding "in accordance with change process as outlined" RB had no opinion on this issue, KJ had no issue with it, JV was also in agreement with the suggestion.

CL asked that sections 2.5 and 2.7 be reinserted into the new document. CI wanted to know why we should delete those items. RB noted that there was existing state law that dealt with public behavior and containers. JR asked about further language concerning quiet enjoyment. BP noted that it during previous discussions it was decided it would be eliminated due to varying perspectives on what constituted quiet enjoyment citing KJ's example of how snow mobiles are allowed, however could be perceived as nuisance by some. CL felt that it was not sufficient to delete the language in order to rely on other mention of general laws. RB noted that there were other laws in effect that cover the items from the original language. KJ noted that examples of others "quiet enjoyment" activities and that there were a variety of spaces on conservation lands where activities that were perceived as a disturbance such as snowmobiles, Hunting, mountain bikes and meditating. KJ echoed RB's concern as to who would be the arbiter of such a regulation item.

CL asked the alcoholic and glass containers being prohibited be reinserted. KJ asked CL what the issue was with glass. CL noted that he was concerned about safety. KJ noted that he has seen plastic and glass containers on land however, felt adding in the regulation was necessary. CL felt that glass was still an issue and he also felt alcoholic beverages should not be on the property. RB reviewed section 205-10 of the local code for consumption of alcoholic beverages. CI noted that the issue was possession not consumption. RB re-read the section of local code noting possession prohibition of open containers. KJ noted it can be left as is. JV agreed with KJ. RB also agreed with KJ and JV. JR agreed with CL. BP noted he would like to ask CC about this issue at the next meeting.

Section 2.1 and 2.11 CL suggested that 2.1 be deleted and 2.11 be made 2.1 and add language that refined the line. He felt the sections were redundant. All members agreed with the suggested change A review of section 2.4 requiring tree stands be removed by the end of the applicable

hunting season. KJ noted that he was in agreement with CL and asked JV and RB if state law would require them to be removed at the end of the season. BP suggested that it could be inserted into the beginning of section 2.4 and read the proposed language. Members were in agreement with BP's suggestion.

CI noted Town Counsel recommended that Hunting Hill be added to the list in section 2.5. BP noted that he had extensive conversations by email with Elizabeth Newell of the Commonwealth and was forwarding that correspondence to the commission for review. ML asked a question if lead free ammunition was present in Massachusetts. RB noted that lead shot is not allowed for the use of shot for water fowl. BP recounted his conversation with the commonwealth and that it was there interpretation that when the CR was signed for hunting hills, there would be further restrictions on hunting in all forms on the hunting hills conservation land. Town Counsel would be shown that conversation so he could render an opinion on it.

4.2 CL suggested that the language be added that the LCC Administrator be the point of contact for reporting violations to make it clear to the public who drives the enforcement. It was noted by BP that a meeting with the police chief resulted in a commitment from the chief that they would assist the commission in enforcement. KJ had no objection to the language however, it was noted that the Conservation Commission is the body that reports to the public and the administrator would report to the commission. MM noted that he had no issue and that there was a need for one point of contact to prevent a disconnect between the public and the commission. KJ suggested adding the language for follow up reporting.

BP reviewed follow up actions for the next meeting. BP noted he would like to have a special meeting on March 10, 2021 and requested that JR present new items that have not been decided by the commission and he wanted to work with the commission on the Q & A document. He asked RB to write an answer for the Q & A about the hunting issues and the reasons for the proposed expansions. BP further noted that there were over 9 meetings on the land use regulations and a very unusually heavy participation by the public. JR reviewed the basics of what he was planning on presenting. He would send MM the materials of his presentation for posting.

All other items were tabled to the next meeting:

Update on trails grant – status report, if any.

Certificates of Compliance

Extension Permit –

Committee Reports – Any Updates

Administrator's Reports/action items:

Administrator's determination –

Open space and land and Trail use issues and strategies:

- *Forestry Planning /Encroachment on town open space (draft plan discussion) Update on Rayno/Hollis*

Communications / public comment

Adjourn

With no further public comment the meeting adjourned on March 4, 2017 at 12:05 AM by a motion of RB and a second by KJ with a unanimous vote to approve the motion.

Meeting schedule: Next meeting is March 17, 2021 at 7PM
