

Town of Lunenburg Conservation Commission

Bob Pease, Chair
Kenneth Jones, Vice-Chair
Richard Bursch
Catie Childs
Carl Luck
Jack Rabbitt
Jeffrey Viviano
Michael Larouche, Associate



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Matthew S. Marro,
Conservation Administrator

MINUTES

May 19, 2021
7:00 PM

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Topic: Conservation Commission Meeting
Time: May 19, 2021 07:00 PM Eastern Time (US and Canada)

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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.

Call to Order Announcements

Chairman Pease called the meeting to order with all members except RB in attendance

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.*

Michael Shank spoke about an enforcement issue in which Until cut trees under his service line prior to his purchase of the property without permission. Michael stated he was working on cleaning up the legacy debris near the brook. Mr Shrank is scheduled for an RDA so JR motioned, KJ seconded and a unanimous vote to close the enforcement order.

Public comment: Andrea Adams wondered what was going to happen with 101 Pleasant Street. BP noted that they did ask for an extension so the hearing would be continued.

Phyllis Luck 50 Sunset Lane, based on her six years on the Select Board, reminded the conservation commission have a recommendation. She spoke on behalf of Michael Larouche and Carl Lucks appointment and reappointment.

JR asked if the appointment was on the agenda.

BP noted that the talent bank applicant that was going to be present tonight that he had withdrawn. He also noted that the Selectman's office told him that the deadline had passed last Friday. CL asked why we couldn't still do the recommendation. BP noted that he thought a discussion about a recommendation had the opportunity to be divisive. BP asked if CL would participate. CL noted that he felt he could with the position to be filled. He noted that he would recuse from any discussion from the commission regarding himself. JR noted that the commission input should be critical to the process. CL recalled the time the commission had a mass resignation because there was no recommendation and the selectmen appointed someone else. JR wanted to know when the Board of Selectmen sent requests for a recommendation. BP noted that the recommendation between the last meeting and the deadline had come and gone and that as the deadline passed he felt that he could not make a recommendation absent the opportunity to meet and discuss a recommendation. JR felt the commission could still make a recommendation.

Minutes of previous meetings –May 5, 2021 Minutes May 5 Lot2 Northfield Road. KJ moved and there was no second. Check decision.

4th paragraph down. JR wanted to remind that there be sentence inserted where the magurn s thanked CL for his work. CL seconded and the commission voted unanimously to approve.

Appointments/Hearings –commences at 7 PM

Appointment:

1 Talent Bank Applicant

Public Hearings

Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws a public hearing on a Notice of Intent by Kevin Hill for work at 41 Country Road will be held. Work proposed is the construction of a single family home, driveway and septic grading within the buffer zone.

MM noted the applicant has asked for a continuance to June 2. CC moved to continue. JR seconded and the commission voted unanimously to continue by roll call voted.

Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws a public hearing on a Request for a Determination by Debra Anderson for work at 25 Crescent Terrace will be held. Work proposed is Placement of fence and removal of 14 trees within the buffer zone.

Debra Anderson represented herself. She noted where the property line was where the fencing was proposed to go. She had outlined the trees to come down in order to do the fence construction. She had asked to remove the birch trees totaling 14 and that there were some that were by the roadway and several of the others are dead or dying.

BP noted during the site visit that two of the birches were dead or dying and he noted that he wasn't sure why the others need to come down. JR supported BP's position. CL noted that he couldn't tell where the 30 or fifty foot was shown on the plans or what trees were marked.

KJ asked for the purpose of the fencing. BP noted that property exchanged that had taken place due to intrusion by an abutting property and that the property line was not an intuitive one. KJ asked about the existing wooden fence. It was noted that the fencing was on abutting property. MM noted that there were trees by the water were invasive and should be removed. MM noted that he could geolocate the trees to be removed and superimpose them on the orthophoto. Andrea Adams asked if the trees would need heavy equipment. BP noted they could be removed by hand.

KJ moved to issue a negative determination and that MM Geo-locate the trees to be removed. CL seconded and the commission voted unanimously to approve the motion by roll call vote.

Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws seven public hearings on individual Notices of Intent for work at 150 Holman St lots 1 – 7 by PSG Realty will be held (Notices of Intent individually filed for each lot). Work proposed is the construction of a seven lot subdivision within 100-feet of a wetland resource area.

BP noted the Commission would use one hearing for the 7 NOIs. Holman lots 1 through 7 (individual NOIS for all 7 lots) Brian Marchetti and Maryann Dipinto were present representing the applicants. Brian Marchetti spoke about the project and its history. He noted that Maryann Dipinto noted and documented no flow on the stream as required under wetland regulation and the stream stats calculations. Maryann Dipinto noted that during a non drought period (11,12, 15 and 16 of September 2019) she took the photos from the culvert. She noted that the watershed was

determined to be too small. The water shed she noted to be 0.15 square mile and the watershed must be more than one half square mile before a stream can be considered perennial. Brian noted the delineations of the wetland Maryann Dipinto completed. He noted the lots in question. Brian Marchetti reviewed how the seven lots meet the stormwater management requirements of the wetland protection act. He noted that the septic were reviewed by the Board of Health.

MM noted the Board of Health told him the office had no record for 2 of the lots on Northfield Road. He also noted that he reviewed the wetland line and there was no issue with it. Mr Marchetti reviewed the locations of the wetlands and vernal pool on site and how the houses were sited and reviewed the stormwater control hardware.

Lot 1. He noted that the septic was outside the 100 foot buffer zone and noted the grading of the driveway off of the road way leading to a forebay and stormwater control system and how it leads to a rain garden and the design elements and plantings within the rain garden. He noted there were no structures within the no structure zone and the no touch zone.

BP asked about the common driveway. Mr. Marchetti noted that there was a requirement under local zoning by law that requires the first 100 feet must straddle the property lines. Andrea Adams asked of the total acreage was slated for construction. Mr Marchetti noted that it was 5.4 acres. Andrea Adams also asked about the stormwater management maintenance planning. She noted that the rain garden variation in species was important to prohibit from becoming a monoculture or a wetland. Mr Marchetti noted the design of the rain garden was for minimal maintenance designed to have several tiers of maintenance thresholds.

Mary Ann noted with regard to all of the lots, all of the stormwater will be diverted to all of the wetlands as they did pre construction.

JV moved to issue an order of conditions as designed with the condition that the approvals be given from planning board. KJ seconded. JR asked why we would approve it without the approvals from the other boards. CL noted he supported JR's position and asked if there was going to be a peer review from the planning board and wanted to hear from the other boards. Mr Marchetti noted that the planning board review was only to the stormwater management system and any changes should not affect the layout. KJ noted regardless that multiple board will have to approve and he has no issues approving it. CC noted she would want to wait and hear from the other boards. The vote on the motion was CC no, KJ yes CL. No JV, No BP, yes. As the vote was tied the motion did not pass.

Lot 2: He noted the location of the house also in relation to lot one as it would be purchased by a family and that it was revised to reflect a reduction of 3500 square feet of impervious driveway. He noted the stormwater design was essentially the same as lot 1. JR noted demarcation of the 30 foot no touch zone and asked if that would be considered. Brian Marchetti noted that the design was greater than 50 foot. BP noted that could be considered at the next meeting.

JR noted that we should consider it for all of the lots and made it in the form of a motion. CL seconded. CL wanted to elaborate that there was a large amount of wetlands surrounding the lots that it should be considered. The Commission approved the motion by unanimous vote.

Lot 3 Brian Marchetti outlined lot 3 which was essentially the same as lots one and 2.

Lot 4. Brian Marchetti noted the only difference was minor grading within the 50 foot no touch zone. JV suggested moving the erosion control around the proposed well head. JR asked if reserve areas were designated. Brian Marchetti indicated where the reserve area was on the plans. Andrea Adams asked if the wells were drinking wells and were they approved from the board of health and where they were located. Brian Marchetti indicated they were.

Lot 5 Brian Marchetti reviewed the lot and noted that there were no impacts within 50 feet of the wetlands.

Lot 6. Off of Northfield and there is the lot line splitting the proposed common driveway. He outlined

the stormwater runoff. JV noted again the erosion protection should be around the well head. Brian Marchetti noted he will change that.

Lot 7 Off of Northfield. Mr Marchetti outlined the lot layout and the stormwater management system. He noted that there was grading up to the 30 foot no touch zone, however, there was no work proposed within 30 feet of the wetland. JR noted that the septic areas were different sizes and asked of that was due to the sizes of the proposed homes. Brian Marchetti noted that it was due to differences in lot subsurface conditions. CL noted that maintenance was going to be a critical factor in the crafting of the orders of condition of the lots and how they would be reported on. MM noted that there was a boiler plate condition on reporting requirements and he would highlight them and send them out. CL noted that his concerns should be relative to tracking for the future. JR asked if Presby requires three year reports. Brian Marchetti noted that there was no reporting required. Maryann Dipinto noted that perhaps the tracking of storm water management reporting can be done with the planning board. ‘

JV moved to continue all of the hearings to the June 2, 2021 meeting at 7 PM. KJ seconded and the commission voted unanimously.

Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws a public hearing on a request for a determination for work on beach raking at 90 Ruth Street by Brian Dalmasso.

Valerie Martin represented the applicant. MM reminded the commission about the enforcement order and that the commission required the determination to memorialize the action that was taken. MM suggested that the commission work with the applicant on the future for potential ideas and management techniques for controlling the erosion events. JV , based on a question to the applicant established that the times it happens were during heavy rain events in the spring and the fall. CI liked the suggestion that MM proposed and that it highlights the process in the commission working to maintain visibility in erosion prevention. He noted that adding sand is not allowed without a filing and that perhaps solving this problem would eliminate that need. CI moved to continue to the June 2, 2021 meeting. JR seconded and the commission voted unanimously to approve the motion

CONTINUED PUBLIC HEARINGS

Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws a public hearing on a Notice of Intent by The Town of Lunenburg, Thomas WU and Scott Benjamin will be held. Work proposed Restoration of a parking area to a naturalized state on town property at Fire Road 12

Fire Road 12 MM narrated the history of the file and the work needed to be done he recommended the commission issue an Order allowing for the removal of the pavement planting of grass and a prohibition of parking materials on the area for storage purpose. He also noted the order be issued with a letter by town counsel outlining what needs to be done.

KJ noted that he also feels we should put boulders at the end of the lot. KJ moved to continue to the June 2 2021 meeting CC seconded and the commission voted unanimously.

Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws a public hearing on a Request for a Determination of Applicability for work at 73 Peninsula Drive by Daniel Murphy will be held. Work proposed is the removal of trees within the buffer zone

Daniel Murphy represented himself and outlined the trees that he wishes to remove. He noted the pine trees are very tall and is concerned about the trees especially close to his house. JR noted that he had no issues with the removal of the double pines and that there was an area that trees were

pruned out and that the area should be allowed to grow back.

CL noted there was a picture of the cut area and he felt there was a larger one in the area that was taken down that should be replanted. He indicated he would have an issue with allowing the whole cutting as it was not necessary as there is a shade value. JR noted that the saplings has grown in . JR counted 8 pine trees requested to be cut down. The applicant is also willing to replant. CI noted that on his property he has large pines that he is not concerned with coming down. He noted that other than the double pines he would not support removing the other pines.

He would support replanting with Oaks. He noted that they should be planted closer to the lake. KJ state that he had seen many large pine trees around the lake areas fall and asked if the two along the lake could be saved as they do provide the shade value and would be in favor with the replacement with Oak. CC noted that she had pines on her property fall and she is in favor of the removal of the ones closer to the house as long as they were replanted.

MM noted that in that region of the lake he notes a predominance of white oak and recommended that the oaks used should be the required species.

CL indicated he as only in favor of the four pines closer to the house. JR asked if there was any discussion with hickory hills. Mr Murphy indicated not at this point. JR and BP noted the specific in deed requirements for approvals by hickory hills. BP gave the applicant the contact information to approach Hickory Hills Landowners. BP recommended that the applicant revise the plans and work with MM. Based on the applicants request the meeting was continued to June 16, 2021 at 7 PM on a motion by JV and a second by KJ and a unanimous vote to approve the motion

Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws a public hearing on a Notice of Intent by Christopher and Suzanne DeGeorge will be held. Work proposed is improvement of access to Lake Shirley and control of erosion within 100-feet of a wetland resource area at 48 Pearl Street.

The meeting was continued to June 2, 2021 at 7 PM by a motion of KJ and a second by CC with a unanimous vote to approve the motion.

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.

The meeting was continued to June 2, 2021 at 7 PM by a motion of KJ and a second by CC with a unanimous vote to approve the motion

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

The meeting was continued to June 2, 2021 at 7 PM by a motion of KJ and a second by CC with a unanimous vote to approve the motion.

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, Joann Magurn and Butch Magurn were present representing the applicant. Mr Butler outlined the proposed changes including the changes to the retaining walls, and shrinking of the home by 12 feet on one side for a more comfortable fit within the 50 foot no structure zone. The pump chamber was also removed from the 50 foot no touch zone as well as the conventional septic tank. He noted the addition of a passive trench proposed to capture runoff and control it from

impervious runoff. The stockpile areas have also been removed. The erosion control has been established as the limit of work.

JR thanked the Magurns the work they had completed in the changes. JR noted that he still had an issue with the driveway and its width. Mr. Butler noted it was all a paved surface and that the initial 12 foot width was shrunk to 10 feet to address the wishes of the commission. Mr Butler noted the written proposed waiver. JR asked if they intend to subdivide the property. Butch Magurn answered no. Mr Butler noted in his letter a specific condition proposed that there could be a perpetual condition prohibiting work within the 50 foot zone with the exception of a potential dock and an exception for a pathway to the dock. CL noted a stockpile note at the 50 foot no touch zone. It was noted by the applicant it was a Scribner's error and will be removed on an updated plan.

CL noted the driveway to the standalone garage had a gravel driveway . It was noted by the applicant that it was also to be paved and that it was another Scribner's error.

CL asked about the limits of paving in one area of the foundation. Brian Butler noted it was in order to ensure an elevation of 305 of the patio and walk out. It was noted that grading was avoided within the 30. CL asked if the grading at the 307 line was the limit of grading and if the grading was going to be inside of the 307 contour. BP noted that there was existing side walk in the area. Mr Magurn reviewed the impervious area to be removed. CL noted that the area north of 305 elevation has some vegetation to be removed. Mr Magurn noted that there were replacement plantings proposed (mitigation). CL expressed concerns about the maintenance long term of the recharge trench. Butch Magurn noted the trench was similar to a diaphragm trench and has a filter fabric that would hold back any silt and that the topping can be replaced over time and the required maintenance would consist of the removal of the leaves. CL asked about the locations of plantings and a planting plan. Mr Butler noted the locations of the planting areas. CL questioned where the 12 replacement trees would be located. Mr. Magurn asked CL for suggestions as to where the replacement trees should go. CL noted he was still looking for the list of waivers. Mr Butler noted that the list was reduced to one . CL disagreed noting that the garage was within the 30 foot no touch zone and that the crossing would require waivers and that sections of the paved roadways is also a waiver. Mr. Butler noted that there was no pavement proposed within the 50 foot no structure within the 50 foot line in that area. KJ noted that the waiver request included the entire driveway. KJ noted that they have been considering this proposal for a long time and feels like they have made a lot of progress and feels that with the changes he feels he is in favor of the proposal and desired to vote on it tonight. JV also expressed he was comfortable. CC is ready to vote in favor tonight.

KJ moved to approve the amended plan pending the changes of the Scribner's errors and that the waiver for the driveway be granted with a perpetual condition that any further construction in the 50 foot zone with the exceptions noted on the dock. CL asked why after the change of mind without voting on a full commission. CL noted that while he appreciates the efforts of the applicant however that he feels the project does not meet by law due to the location alternatives not being acceptable and that there was multiple resource area impacts and would support moving the no touch zones. He noted multiple trees to be removed and to there was insufficient replacement and that there were several waivers that should be considered. He still has serious concerns regarding the conversion of the 8 foot cart path that has not been used for 50 years that would require trees to be removed and that the proposed stockpiles are not spelled out. It is also noted that although it was asserted that only 5 percent of this site would be impacted and that it has some out now that the lot could be subdivided in the future. He noted that the proposal has impacts within 50 feet in all areas. He also noted that Lake Shirley is a class 5 impaired lake and that the cumulative long term issues would negatively impact the lake. JR noted that the by law allows the commission to go beyond the limits of the state wetland regulations and that he was encouraged that there was progress made and that there should be more discussions and that it should be constructed. He expressed concerns as to why there has to be removal of vegetation for a view of the lake. He noted that he felt the commission should not move ahead.

KJ to Jacks point what is the hurry? He noted that the commission has been working on this proposal for a very long time and that there are some commissioners that will not vote for it no matter what the applicant proposes and that this is a sufficient compromise and that at some point some individuals will not be open to compromise and as there is four commissioners in favor it does

not matter if there is a full commission or not. BP noted that it was the applicant that wanted the full commission to vote. He noted that it was a 15 acre parcel with over 1200 feet of lake frontage and as such it is considered a waterfront property. He noted that although the commission could deny the waiver he feels it is appropriate to grant the waiver as the pathway is well established, there will not be any need to cut trees to access the lot. JR noted that based on his exploration of the lot with CL there would be upwards of 1000 trees for the accommodation of one home. JR noted that there will be trees that will have to come down and that the embankment will have to be cut. He noted the access is crested and you will have to either cut into it.

CL noted that he disagrees with the statement that there will not be a tree removed. He has examined it. The vote was KJ yes CC yes CL no JR no JV yes and BP yes the motion carried 4 votes to 2. Andrea Adams stated that each project is based on its own merits and she appreciates the exhaustion of the applicant and the commission and noted to the commission to stick with it and listen to your arguments and it is the commissions decision to bear the burden of. Greg Bittner noted that as a former member of the planning board that vital access was granted with conditions. CI noted that they were not aware of any conditions of the planning board mentioned. A revote was taken. KJ made the same motion as prior. CL proposed an amendment to the motion pending review of the planning board conditions to ensure that it does not interfere with the commission decision. JR seconded. MM asked for clarification if it was his assignment to explore the decision with the planning board. CI clarified that the document be reviewed by the commission to ensure it was not going to interfere. Greg Bittner noted he could not remember any special conditions and was not speaking to any conditions of this proposal. MM noted that he spoke to Adam Burney about it has access and the only time covered was that if the lot was subdivided it would create the need for a new vital access. CI restated his motion amendment that the commission review the planning board decision. KJ no CC yes JR yes JV no Bp no the motion was tied 3 to 3 The motion to approve was KJ yes, CC Yes CL no JR no JV and BP yes the motion carried 4 to 2.

Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws a public hearing on a Notice of Intent by MA Pleasant LLC will be held. Work proposed is construction of a six lot subdivision , Roadway, utilities and a proposed wetland crossing at 101 Pleasant Street

101 Pleasant CC moved to continue to June 2 2021. KJ seconded and the commission approve the motion by unanimous roll call vote.

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 .

386 Sunset Lane CC moved to continue to June 2, 2021. JV second and the commission approve the motion by unanimous roll call vote. WITH CL RECUSING.

CC left the meeting at 10:40 PM

Old Business- Review of land use forms

Old business review of land use forms. The proposed changes for the form were reviewed. After review, KJ moved to accept the changes . JV seconded and the commission voted unanimously to approve the motion by roll call vote.

Next steps in implementing new land use rules.

BP noted that he has consulted with Brandon Kibbee about potential changes to the land use plan at the Lane and Table Rock Property . CI noted that the commission should examine on a future

agenda item for establishing signage to delineate the lots and the hunting areas properly. BP mentioned that the commission should meeting with the three party group of hunting hills.

ENFORCEMENT:

Violations (Enforcement Actions and Administrative Hearings).

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

EO 313 Leominster Road Michael Shank- MM noted the violation and that it was completed by Unitil . Mike Shank noted that he had cleaned up the crossing on the property. KJ noted that it sounds like 2 separate issues and that if there was action required taken that it can be taken under enforcement. JR moved to lift the enforcement order and wait until the determination hearing. KJ seconded the motion and the commission voted unanimously to lift the enforcement order.

EO 615 Townsend Street- monitoring time line

MM noted the timeline is about to expire

NON 467 Lancaster Ave – Monitoring site regrowth through the 2021 growing season

EO Fire Road 16- Clean up to commence

NON48OakRidge

MM noted that he spoke to the owners. The original structure was a pergola with a canopy top that kept blowing off due to heavy wind. They had fastened in a plastic top to provide covering as the owner and her mother north have cancer issues and need to stay out of direct sunlight. CL expressed concern that there is an ongoing expansion of activities. MM noted there appears to be no expansion of the patio itself and will check on the record to address CL's concerns.

EO 205 Arbor Street- MM still awaiting DEP's opinion

New Business

Update on trails grant – *status report, if any.* BP is going to talk to Karen Brochu concerning the trails grant funds.

Certificates of Compliance

Extension Permit –

Committee Reports – Any Updates

Administrator's Reports/action items:

Administrator's determination – 54 Pine Acres Drive Removal of three trees

Open space and land and Trail use issues and strategies:

- *Forestry Planning/Encroachment on town open space (draft plan discussion) **Update on Rayno/Hollis road for scheduled June 16, 2021 meeting***

KJ noted that we should inspect the wood lots Gary marked and he is going to come to the next meeting . The Commission will inspect during the next site inspection.

Communications / public comment

JR revisited the recommendations of the Commission appointments and urged the other members to call the Board of Selectmen if there is not going to be any discussion.

CL and JR thanked KJ for his service and has brought a lot of value to the conversation.

Adjourn;

The meeting adjourned at 1130 PM by a motion of KJ a second of JV with a unanimous vote to

approve the motion

Meeting schedule: Next meeting is June 2, 2021 at 7:00 PM

