

Town of Lunenburg Conservation Commission

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Patricia Adams
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Jack Rabbitt
Jeffrey Viviano
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Nadia Madden,
Conservation Administrator

June 15 2022
7:00 PM
Minutes

ZOOM REMOTE MEETING

Call to Order at 7:05

Participants: BP, JR, RB, PA, JV, MR

Associates: MW and RT.

Not present: CC

Announcements

Public Comment

BP: Shared his take aways from the Select Board comments during Conservation Commission appointment process:

- The Commission's meetings are too long and not respectful of the public's time. Individual members should ask themselves if all their comments really add value or are necessary to the process. We were urged to try to improve the "user experience" for the applicants.
- Commissioners were urged to "stay in their lane". This means administering the inland act and not getting distracted by other issues unrelated to compliance with the state or local wetlands regulations. All our votes should be based on wetlands considerations. Votes based on other issues will not stand up in court.
- The authority of the Commission lies with the Commission as a whole and not with individual commissioners. Once the commission has voted on an issue, Individual commissioners should accept the decision and not work against it as individuals. The Commission should work as a team.

Minutes of previous meetings – June 1, 2022.

ML moved/JV seconded to approve. Roll Call vote 5 in favor with 1 abstain (JR).

Appointments/Hearings – commences at 7 PM

1. Appointment: 205 Sunset Road, Beers Property

The owners Ryan Coffren and Marsha Beers shared an as-built plan "Updated plan for stairs 6-9-2022". JR commented that the committee has the right to request that the structure be taken back to what is approved within the 30-foot no disturb line. JR also expressed concerns regarding habitat by permitting platforms within the 30-foot boundaries. RC gave a short presentation about

the field changes to site work and the potential impacts to the bank from shortening the existing landings. JR inquired about kayaks on the bank and applicant explained they have installed kayak racks on the dock and are not storing anything on the ground on their property. Associate member RT shared a few pictures from the site walks on Saturday with the opinion that the supports did not have any impact on the bank. RC asked which bylaws were being violated by the project. Comment from Paula Bertram, member of the public, that the applicant had done everything possible to avoid impact. NM noted that the applicant had sent their project for review by MESA and received a “no take” from Natural Heritage for the bald eagle habitat. RB said that the applicant had a gross miscommunication with the field changes and that the work does not conform with the original plans, and that both the structure and the floating docks will create additional erosion and prevent plant growth. JV said that the deck should remove foot traffic from the steep bank which will be better for erosion, and that the dock can be stored on the rocky shoreline which will be exposed during the drawdown. He thinks they need to go with the original 124 sq feet approved and the stairs, and asked if the applicant would be willing to take one of the platforms away. RB noted that the Commission should not condone storage on the lakebed in a meeting. BP thought the removal of the landings will create erosion issues in the long run if people spend more time on the bank. BP requested a straw poll from the Commission regarding the structure size. RB, JV, PA, and ML thought the applicants should return the structures with the originally approved size for the landings. RB suggested that the applicant return with a plan that is more consistent with the original plan.

JV moved to continue/RB seconded to approve. Roll call vote unanimous in favor.

PUBLIC HEARINGS

Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws a public hearing will be held on a Notice of Intent by Ed McSweeney for the Construction of a single family home, garage and driveway at lot 3 Holman St.

Nadia noted that there have been issues with abutter notification and that the hearings are being re-advertised.

RB moved to continue to July 6th/JV seconded. Roll call vote unanimous in favor.

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 Ed McSweeney for the Construction of a well and a water line in the buffer zone Lot A Northfield Road

RB moved to continue to July 6th/JV seconded. Roll call vote unanimous in favor.

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 Ed McSweeney for the Construction of a single family home , garage and driveway at lot 4 Holman St.

RB moved to continue to July 6th/ML seconded. Roll call vote unanimous in favor.

Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaw, The Conservation Commission will hold a public meeting on a request for a determination and a bylaw waiver request by Dan Dugas for the extension (overhang) of an existing roof at 60 South Row Road.

DD says the closest approach from the overhang to the lake is 25’.

JV said that any new structures within 50 feet needs to be taken down, including the extension to the roof. RB agreed. BP suggested that a lattice be put up instead so that the surface is not impervious (i.e. so that water goes through it). RB recommends that the applicant continue and submit plans. JV suggests keeping the bones and removing the roofing, then using the supports to put up a lattice or a pergola. JR recommended getting measurements from the corners of the house to the high water

mark (both with new roof and old).

JV moved/ML seconded to continue to July 6th. Roll call vote unanimous in favor.

CONTINUED PUBLIC HEARINGS

Pursuant to MGL ch 131, s 40 and Lunenburg Wetlands Bylaw and regulations as listed in chapter 239, a public hearing on a Notice of Intent (DEP # 208-1260) from V and V Lunenburg LLC for the redevelopment of a restaurant to a marijuana retail facility within the river front at 42 Summer Street.

NM said the applicant has requested a continuation.

JV moved/ML seconded to continue to July 6th. Roll call vote was unanimous in favor.

Pursuant to MGL ch 131, s 40 and Lunenburg Wetlands Bylaw and regulations as listed in chapter 239, a public hearing on a Notice of Intent by Hickory Hills Association for the approval of a whole lake management plan at Hickory Hills Lake at Townsend Harbor Road.

Paula Bertram presented “Addendum to Hickory Hills Notice of Intent” (new submission as of 6/15/22) with additional information on the planned treatments for the lake. Barley straw is proposed but would be covered in an additional RDA to the Commission. Their main concern is fanwort and they would like to move ahead with diver suctioning. John Fortune presented on the proposed drawdown. BP asked if the addendum would be the list of approved activities under the OOC. PB said yes. RB asked that the prior NOI for the drawdown be submitted as part of the application for the benefit of the new members of the Commission. JF offered to send them. RB asked JF to report the statistics on mussels and the fishing as part of the application so the commission has information. RB also asked about the PAC treatments (Alum) and if Hickory Hills had done any pre and post treatment testing to determine phosphate levels before and after the treatment to determine if the treatments affected the phosphate and thus the algae growth, as without testing there is no way to determine if this was due to the PAC treatment or just general conditions.. BP moved to close the hearing with additional changes to be made through a field change. RB noted that there is no DEP number yet so the hearing cannot be closed tonight. ML asked how the water quality can be ranked. JF said that there are signs of clean water such as presence of species such as freshwater jellyfish and that they are conducting water quality testing as well. PB says the fanwort presence is much less than what it was prior to treatment, while there has been an increase in phosphorous. Carl Strathmeyer says water quality is a B or a B+, and that the influx of phosphorous is a major threat to the lake water quality which is why they are doing stormwater testing to identify P influxes. RB stated that varied drawdown is recommended by the state.

ML moved/RB seconded to continue to July 6th. Roll call vote was unanimous in favor.

Pursuant to MGL ch 131, s 40 and Lunenburg Wetlands Bylaw and regulations as listed in chapter 239, The Conservation Commission will hold a public hearing on a Notice of Intent by Fitchburg Land property Owner LLC to construct a 367,000 square foot warehouse and distribution facility with parking and storm water controls at 260 Falujah Road.

NM said applicant has asked to continue and that we need a vote from the conscomm requiring peer review.

RB moved/ML seconded to peer review by Graves engineering of the wetlands regulations DEP and bylaw. Roll call vote was unanimous in favor.

RB moved/ML seconded to continue to July 6th. Roll call vote was unanimous in favor

Pursuant to MGL ch 131, s 40 and Lunenburg Wetlands Bylaw and regulations as listed in chapter 239, The Conservation Commission will hold a public hearing on a Request for a Determination by John Welton for the construction of stairs, a landing and a dock within the 100 foot buffer zone at 205 Sunset Lane Map 129 Lot 68.

The applicant John Welton presented the prior plan as well as an updated plan submitted on 4.25.22. RT asked about the trees being removed and if they are being removed because they are dead or because they are in the way of building the stairs. JW said they are for both. NM asked where the applicant's home is and if they own a home in Lunenburg. JW says their home is in Shirley and this is the only property they own in the town. NM said that the building inspector had questions about the stairs being built being to code, and asked if the applicant has shared the plans with the building department. JR questioned the safety of parking on the street as there is a guardrail on that side of the street.

JV moved/PA seconded the RDA with the conditions that the stairs are to not to exceed 4 feet width, with the landing at the water's edge not to exceed 8x10', and that four trees be planted 2" in diameter on the side of the stairs. Roll call vote, 3 in favor (BP, PA, JV) 3 opposed (JR, RB, and ML).

JR asked for more details on the stairs and plans prior to continuation. JV said that the Commission reviewed a very similar plan and approved it, and that we should be consistent. RB noted that parking is an issue and is within the 100 foot buffer. ML asked if the applicant can get a letter granting permission to park on the curb from a neighboring property owner.

NEW BUSINESS:

Bequest from Sean H Kelley:

BP said Sean Kelley of 77 Peninsula Drive has left his net estate to the Conservation Commission. He will be working with Town Council on receiving the gift.

DEP – guidance on failure to act shared by NM.

755 Reservoir Road – Dock – Homeowner was not present, they need to file an RDA for a new dock. BP said they can schedule a pre-filing meeting as needed.

OLD BUSINESS:

Update on encroachment issues at:

192 Townsend Harbor Road
214 Townsend Harbor Road
240 Townsend Harbor Road
104 Woodland Drive
116 Woodland Drive

214 and 240 Townsend Harbor Road have both written letters confirming that they have removed their encroachment onto town land. They will be removed from the encroachment list going forwards

Hollis Road residence:

Update on maintenance work and request for reimbursement

ML presented an invoice from heating for \$305.43 from the resident at Hollis road.

ML moved/BP seconded to reimburse the tenant for the bill. Roll call vote was unanimous in favor.

NM noted that the resident needs to present proof that they paid the bill (cancelled check or credit card receipt) in order to be reimbursed. ML says he can get this from the tenant.

The tenant has been maintaining the pollinator habitat on a volunteer basis, as lease calls for her to volunteer a certain number of hours to maintain the property. There is a potential charge of \$645 that will be coming up from getting a goat to get rid of poison ivy. They are still waiting for a soil report for adding vinegar to the soil to remove the poison ivy, with clear plastic as an alternative.

ML moved/BP seconded to spend \$650 on using goats for removal of poison ivy. Roll call vote was unanimous in favor.

Certificates of Compliance:

798-802 West Street: RJ Tibault requests a CoC for an older OOC for a septic system. Nadia stated that the Commission went out on June 11 and the site has been fully revegetated.

PA moved/JV seconded to issue a CoC for 798-802 West Street . Roll call vote was unanimous in favor.

Extension Permit

Administrator's Reports/action items:

131 White Street: JV said these are large pines, mostly dead or dying. JV asked if they can replant 3 trees in the area closest to the brook. RB recommends that the commission require an RDA for removal of 20+ trees.

JR moved/ML seconded to ask applicant to submit an RDA with replanting plans for trees cut within 30 feet no-disturb buffer. Roll call vote was unanimous in favor.

372 Townsend Harbor Road: NM said the applicant wants to plant arborvitae along a runoff trench on her property. The closest approach is 25" from the water and planting and loaming are listed as exempt under the bylaw and covered by an administrative determination. Grading along the trench is almost flat.

RB moved/ML seconded to approve the administrative determination. Roll call vote was unanimous in favor.

386 Sunset Lane: Homeowner Richard Tremblay asked to remove some trees that have broken and fallen into the water. He will replace them with trees that grow to a lower height so that they survive on this lot.

JR moved/ML seconded to approve the administrative determination. Roll call vote was unanimous in favor.

ENFORCEMENT:

Violations (Enforcement Actions and Administrative Hearings)

238 Fire Road 16

Butch Magurn provided the 6.9.22 plans with regrading back up to 308 (AB) and an additional 3 trees on the mitigation replanting (MIT). RB asked if the wildflower mix is what they plan to replant with along with the trees. JR asked for the revegetation plan along the driveway and asked if they plan to add topsoil as well to replant trees. BP said that the straw poll of the Commission at the last meeting did not require additional trees along the driveway. BP said that the applicant supplied everything required from the last meeting, and requested a motion to accept the remediation plan and assign the administrator to monitor the plan being followed.

JV moved/ PA seconded to accept the remediation plan and remove the stop work order to have the applicant move forward with remediation of the site per the plan. Roll call vote was 5-1 (JR opposed).

BM asked if he has approval to put his rolling dock in from his prior NOI. RB asked to show it on the approved plan. BP asked BM to bring it as a field change and come back before the commission for approval.

NON 23 Cove Road: NM said that the work there appeared to be clearing vegetation by Unitel next to the utility pole.

EO 4 Gabes Place: replanting plan submitted. NM to take commission out for site visit.

NON 205 Sunset, Beers lot – discussed earlier this meeting

EO 408 Electric Ave: Cease and Desist letter issued.

EO 75 West St: Concern was on the far side of West street. There was additional dumping and fill on that side of the street and their camper was parked there as well

EO 24 Hemlock Road: NM was contacted by homeowner who said Unitel had cut trees recently.

Open Space and Land Use

Update on trails grant – BP said the last sets of signs have been ordered and he is planning to close out the grant.

Committee Reports – Any Update

Communications / public comment

Members of the commission thanked JR for his hard work on the Commission. JR reflected on his 8 years of service on the Commission and expressed thanks for the opportunity to serve.

NM asked about rescheduling site walks and they will be on Friday 7/1 instead of Saturday 7/2.

RB asked for clarity from the Select Board comments that the meetings are too long and improving the user experience for applicants.

RB/JV M/S to adjourn at 11:02pm. Unanimous vote to adjourn, roll call vote.

Adjourned