

Town of Lunenburg Conservation Commission

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August 16, 2023, 7:00PM, ZOOM REMOTE Minutes

Roll Call: Rich T., Bob P., Mike L., Chris S., and Mary W.

Absent: Rich B., Jeff V.

Call to Order at 7pm

Announcements/Public Comment –

Peter Cowley (72 Peninsula Dr.) – stated he submitted an application to do a guided Owl Prowl walk to look for owls at the Lane property. Mary noted that they received the application. There is no charge but will accept donations. Peter clarified they will not use electronic owl calls – just participants doing calls.

Motion: Bob P., Second: Mike L.

To approve the Owl Prowl at the Lane property.

Roll Call was unanimous to approve.

Butch & Joanne Magurn (238 Fire Road 16)—noted they are on the agenda under “deterred due to office staff shortage” for a Certificate of Compliance to close out an Order of Conditions. Mary stated that they cannot address it tonight because they do not have administrative staff to walk the property. Butch noted that Nadia had okayed it last year and the state had looked at it.

Minutes of previous meetings – 5/17/23

Motion: Bob P., Second: Rich T.

To approve the 5/17/23 minutes.

Roll Call Vote: Rich T., Bob P., Mike L and Mary W. -all aye, Chris-abstained.

Appointment-Sue and Gary Ropiak regarding tree removal within buffer zones – tabled --no one present.

NEW 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 Request for Determination of Applicability by Vasilios Halkiadakis for installation of stone trench and drainage pipe at 429-433 Electric Avenue. Greg Roy (Dillis & Roy), representing the applicant, stated they were having issues with groundwater seepage in the Lunenburg Liquor store. Mary screen-shared the site plan. They are proposing installing a foundation drain of a stone trench with 6” PVC pipe going to the wetland. The job will take 2-3 days and will use erosion controls, rip-rap and overseed with conservation seed mix. The rest of the work will take place in the pavement and no trees will be removed. Rich B. and Mike did a site visit and shared photos.

Motion: Bob P., Second: Mike L.

To issue a negative determination for this RDA.

Roll Call Vote was unanimous to approve.

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 Lunenburg Skate Park, Inc. for the proposed construction of a skate park and drainage basin at 100 Chestnut Street (DEP #208-1290). Greg Roy (Dillis & Roy), representing the applicant, screen-shared the site plan and noted he talked to Matt Marro regarding the limit of the wetland. Matt flagged the area and he believes it is only jurisdictional under local bylaws. They filed with DEP and the area will be 3,014 sq ft. The skate park was relocated to align with the Park's master plan and have tightened the area to save the removal of 8 hardwood trees. There is no alternation within the 30' and will remove a few trees between the 30' & 50'. As mitigation, 5 new trees will be planted along the edge of the retention basin. Bob noted the DEP had extensive comments regarding stormwater and Greg replied the DEP made changes to the stormwater calculations but it is not a DEP issue in this part of the park.

Motion: Mike L., Second: Rich B.

To approve the Skate Park NOI as proposed.

Roll Call Vote was unanimous to approve.

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 Robert J. Correa for the construction of a garage at 932 Flat Hill Road (DEP # 208-1300)- James Tetreault (Azimuth Land Design) screen-shared the 3rd version of the site plan for the proposed construction of a garage to the left of the existing house. He noted that all the property is on riverfront and the limit of the inner riparian zone runs through the house. They have moved the garage and are proposing mitigation per feedback from the Commission. The grading has been slightly changed to lessen alteration and have added proposed plantings behind the garage. An infiltration system will take run-off from the house and the new garage. They will take 5 trees down and plant 6 new trees as well as 11 shrubs. DEP had asked about the flood zone and James noted the 500 year flood line is at elevation 301, which is well back of the work area. James clarified that about 4,000 sq ft will be disturbed and Bob asked to add the floodplain on the map. James said they are asking to be permitted as a redevelopment project – not a pre-1996 lot. Ginny Albertson (50 Upland Ave.) asked James to substitute native shrubs, such as dogwood or spicebush for the butterfly bushes. James asked for a continuance to the next meeting.

Motion: Chris S., Second: Rich T.

To continue 932 Flat Hill Rd. hearing to 9/6/23.

Roll Call Vote was unanimous to approve.

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 Determination of Applicability by Michael Masciarelli for Tree Removal at 131 Island Road. – Michael screen-shared the site plan and noted the Commission asked for revisions at the 7/5/23 meeting. He will replant 5 trees (1 Maple, 2 Dogwood, & 2 Cherry) and add 34 shrubs. He clarified that the arborvitae shrubs will go along the property line and will not impact the power lines. Bob asked why they are being asked to replace trees that are not within the 30' buffer and Mary replied the Wetlands Protection Act asks to protect the tree canopy within the 100'.

Motion: Bob P., Second: Mike L.

To issue a negative determination for the plan presented. Roll Call Vote was unanimous to approve.

Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws a public hearing on an Amended Order of Conditions by Nicholas Easton for repair and construction of existing deck at 441 Townsend Harbor Road (DEP #208-1240). Bob stated that Rich B. asked Nick to come back with a new design, reconfiguring the deck so it would not extend into the resource area. Nick confirmed that the deck will be the same, cantilevered over the resource area but with the supporting posts out of the water. He said he could call the Commission when the deck was down but Bob replied that they do not do approvals in the field. They want to see a plan noting the piers, with an accurate reference to the high water mark and not overhang into the resource area. Nick noted that Dillis

& Roy had said the plan was approved. Mary screen-shared the plan but all agreed it was not accurate. The Commission discussed the prior Order of Conditions and Nick noted that was for the house. Mike L. stated that the deck was not part of the original request.

Motion: Rich T., Second: Mike L.

To continue 441 Townsend Harbor Rd. hearing to 9/20/23.

Roll Call Vote was unanimous to approve.

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 Larry Coffren and Marsha Beers for the Relocation of an Existing Deck at 205 Sunset Lane (DEP # 208-1299)- It appeared that no one was present and the Commission agreed to vote for a continuance.

Motion: Mike L., Second: Chris S.

To continue the hearing to 9/6/23.

A roll call vote was started but held when the engineer was present.

Seth Donohoe (Dillis & Roy) stated that the applicant was originally granted a Negative Determination of Applicability but there was a slight departure from what was approved. The biggest issue is the lower landing area overhangs the bank of the lake and the 2 supports touch the bottom of the lake. They are submitting an NOI to relocate the lower landing to the top of the bank. Seth screen-shared the site plan, showing the new location of the lower landing. He also noted that they will do a planting area on either side of the structure as mitigation. It will be a mix of lower story shrubs and seeded with a New England conservation mix. Bob added that the DEP did not have comments. Seth screen-shared the standalone as-built and Marsha Beers stated that they were regretful about what had happened. They will keep the existing deck and incorporate the mitigation. The lower deck is 8.5' x 14' and Seth said it will just slide up-gradient to the east. Mary stated they are not inclined to approve additional square footage, because they do not want to set a precedent. Marsha said that they did not understand that they had to come back if they were changing something. She noted there is erosion in that area and they want to preserve it. The Commission discussed and agreed to continue. Seth added that he will discuss other options with Marsha.

Motion: Rich T., Second: Mike L.

To continue hearing to 9/6/23.

Roll Call Vote was unanimous to approve.

Certificates of Compliance:

54 Pine Acres Road – Natt Dutton & Brandon Duchard (David E. Ross Associates). Natt noted this goes back to 1997 and Adam Burney had done a site walk. Mary read Adam's report from 8/10/23 site visit in which he said the site was in compliance and he recommended issuing a Certificate of Compliance.

Motion: Bob P., Second: Mike L.

To approve the Certificate of Compliance for 54 Pine Acres Road.

Roll Call Vote was unanimous to approve.

43 Summer Street – Ian Ainslie-- Adam Burney did a site visit on 8/23/23 to see the reconstructed parking area, noting it was in compliance and recommended issuing the Certificate of Compliance.

Motion: Bob P., Second: Mike L.

To approve the Certificate of Compliance for 43 Summer St.

Roll Call Vote was unanimous to approve.

386 Sunset Lane – Mary read Adam Burney's site visit report from 8/10 to check the patios with pavers and stated they were in compliance. He recommended issuing the Certificate of Compliance.

Motion: Mike L., Second: Bob P.

To approve the Certificate of Compliance for 386 Sunset Lane.

Roll Call Vote: Mary W., Bob P., Mike L. and Chris S.- all aye. Rich T. abstained.

475 Leominster-Shirley Road- Mary read Adam Burney's site visit report from 8/10 during which he observed the warehouse was constructed, the site stabilized, the stormwater facilities were in place and functioning. Jeff Walsh (Graves Engineering) also reviewed the site and stated it was in compliance with the plans. They recommended issuing a Certificate of Compliance.

Motion: Mike L., Second: Chris S.

To approve the Certificate of Compliance for 475 Leominster-Shirley Road.

Roll Call Vote was unanimous to approve.

NEW BUSINESS:

Open Meeting Law, Public Records Law, and Conflict of Interest – Bob stated that the Supreme Court ruled that you cannot cut someone off during public Comment if they are rude and/or making wild comments because it is considered free speech. He added that you can limit it to 3 minutes and it has to go through the chair.

Update on Timber Rights Fund –no update.

PACC- Mary noted that Eric Foster said he can make videos for the Commission on rules, information, brochures, etc.

Meeting with Select Board- Mary and Bob met with the Select Board to provide visibility to the Grant Award. Bob also did a press release and one to the Lunenburg Ledger. Bob received approval to proceed with litigation on the Chase Road Encroachment. They made the Select Board aware of issues with the staffing shortage in the office and Bob will be meeting with Julie about hiring a 10 hour temp to help out. They talked about salary and keeping the Chair involved.

Emergency Certifications- Adam Burney issued 3 emergency orders and Bob counter-signed them.

338 W. Townsend Road – A tree split and was in danger of falling on a structure. Adam issued an emergency permit.

164 White St.- Rain had washed away the dam below the spillway and Adam Foster (owner) wanted to get it reinforced.

32 Hemlock Road – The DPW was given an emergency permit to make a gulley to redirect water.

The DPW also completed a driveway apron.

(Bob left the meeting.)

OLD BUSINESS:

Grant Application Proposals – no update

Hickory Hills Well -208 Northfield Road – they are waiting for DPW comments.

Mushrooms Signs – Mary stated that Bob talked to Town Counsel, who said it was okay if they want to add disclaimers. Discussion was tabled to the next meeting.

Update if any on encroachment issues at:

950 Chase Road- Mary noted that Bob got permission to pursue litigation.

315 Lancaster Ave. & 26 Mulpus Road – no updates.

Hollis Road Residence:

Update on Maintenance Work- Mike talked to Chris Ruth and Nick Morrison about repainting the building and the trim. Nick quoted the trim painting at \$4,800 and the rest of the house at \$6,400. Chris R. suggested approving the trim paint now and do the rest of the house next year. The trim has been compromised and bare in spots.

Motion: Mary W., Second: Rich T.

To approve \$4,800 for painting the trim. Roll Call Vote was unanimous to approve.

Pollinator Habitat Open House Update- Mike reported that the Open House was success and he read several comments from attendees plus a list of pollinators spotted. He also removed a hornet's nest from an apple tree, using the bag method – no spray.

ENFORCEMENT:

Violations (Enforcement Actions and Hearings)

NON 205 Sunset (Beers lot)- (was discussed earlier in meeting.)

Town Beach Erosion- Mary noted that with the intense rain and repaving of the road above the curb, there has been some erosion, which triggered a violation. However, the DPW was quick in responding by putting in a new curb to correct the problem.

143 Island Road – no update

Motion: Mike L., Second: Chris S.

To adjourn at 9:49pm.

Roll Call Vote was unanimous to approve.

Respectfully submitted,

**Jane Ranley
Minutes Clerk**