

Town of Lunenburg Conservation Commission

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September 20, 2023, 7:00PM, ZOOM REMOTE Minutes

Roll Call: Mary W., Bob P., Rich T., Rich B., Mike L., Chris S. and Leah Grigorov (Administrator)

Absent: Jeff V.

Call to Order at 7pm

Announcements

Minutes of previous meetings – August 2, 2023

Motion: Bob P., Second: Mike L.

To approve the minutes for August 2, 2023.

Roll Call Vote was unanimous to approve.

Leah noted that she has a working document in the google drive for the meeting minutes. She cautioned that if Commissioners make edits on the document that they are not communicating through it.

Public Comment- Bob P. stated it is wonderful having Leah here. He has been loving her detailed and thorough reports/recommendations. Also the purpose of the quick notes is to advise Ashleigh as to what has to be sent out through DocuSign. Leah replied that she did them for the last meeting and had captured the motions, votes, discussions, and follow-ups.

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 Notice of Intent by Peter and Lily Koronis for the demolition of existing dwelling and detached garage, and construction of a new single-family dwelling, driveway, and septic tank at 38 Oak Ridge Road (DEP # 280-XXXX) – Ryan Proctor (Dillis & Roy), Peter and Lily Koronis – Ryan screen-shared the existing conditions plan for the property, showing the house partially within the 50' buffer zone and a portion within the 30' no-disturb buffer zone. There is also a garage which is mostly outside of the 100' buffer and a shed. Currently the parking is near the garage and house is accessed by a series of walkways to get to the existing dwelling. The corner of the existing deck is 22' from the high water mark on Lake Shirley. Ryan screen-shared the design plan and noted the owners have engaged ATA Construction to design a new home. The proposed new home will be moved quite a bit further away from the wetland than the existing dwelling. Ryan indicated the position of the existing and proposed house, with a elevated deck. Also the existing garage will be demolished and replaced with a new garage, along with a new paved driveway and access to the property. A new septic system is proposed which will be within the 100'buffer zone and they have submitted this to Nashoba Board of Health. Ryan has included an impervious area summary on the plan which shows a net decrease from the existing site. They will be going before the ZBA to get a special permit since it is a non-conforming lot. They do not have a DEP file number yet. Mary noted that the Commissioners did a site visit and she asked Ryan which trees will be going and which are staying. Ryan pointed out the trees to be removed,

which are mostly pines with 1 dead. He added that there will be an area next to the proposed house which will be disturbed but will be a good area for mitigation plantings. Ryan drew in the 30' and 50' buffer lines. Mary asked Ryan to provide a schedule of proposed plantings. Rich T. inquired for the location of the existing septic and Ryan will have that info for the next meeting. Rich asked about the proposed deck that will be located where the existing deck is located. Ryan replied the new deck will be where the old existing house is located and it will be completely outside of the 30' no-touch. Rich B. asked if there will be any work within the 30' no-touch zone and Ryan replied just the removal of the existing house. Any walkways and walls within the 30' zone will be remaining. Rich B. asked for an estimate of how much fill will come off for the re-grade and Ryan will bring that information to the next meeting. He added that there is an esker on the upper portion of the site that they are proposing to remove and the owners are speaking to the neighbor to the south due to it being partially on their property. They will extend the erosion control barrier out around the limit of work. Rich B. asked to see a view of the site showing the change in grades. Ryan stated the proposed walkout slab will be at 305' and the existing was 309'. Leah asked Ryan if he has a signature page for the WPA3 form with the neighbor's signature and Ryan said he will obtain one. She also asked Ryan to note on the revised plans that the erosion control will be silt fencing and wattles, along with a detail. Bob P. asked Ryan to identify the 7 trees to be removed and asked to see a schedule of new trees on the plan. Rich B. asked to have a more detailed plan for the work involving the neighbor's property. Mary stated that the following tasks for Ryan: proposed replantings schedule including trees, before & after elevations without house, broaden view to show work on adjacent property, signature form for work on neighbor's property, update erosion control to include wattle and silt fence, update NOI to show 2 parcels included in proposed work, and schedule of fill to be taken out.

Motion: Rich B., Second: Rich T.

To continue the hearing to 10/4/23.

Roll Call Vote was unanimous to approve.

Bob asked Ryan when he would be going to the ZBA and Board of Health. Ryan replied the ZBA meeting is 9/27, they have submitted to the Board of Health and waiting for an initial review from Jim Gareffi.

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 Denise Charpentier for the removal of an existing dwelling and construction of a single-family dwelling at 6 Peninsula Drive (DEP # 208-XXXX)- Ryan Proctor (Dillis & Roy) and Denise Charpentier – Ryan screen-shared the site plan for the project and noted the new dwelling will be constructed in the same space as the existing dwelling which will be torn down. The construction of the dwelling will be partially in the buffer zone, but the new septic system will be outside of the 100' buffer. The new deck will be in the same position as the old one, which is within the 50' buffer zone but nothing will be done closer to the edge of Hickory Hills lake. They will keep the existing paved driveway but modify it near the garage to give turnaround space. There will be an increase in impervious area within the buffer zone but they will be installing a roof infiltration system under part of the driveway as mitigation. Also there will be stone recharge trenches along the house and driveway. They are proposing removing 4 trees- 2 on the property and 2 on the abutting property, owned by the applicant's brother, who has granted permission to take the trees down. His letter was included in the Notice of Intent package. For mitigation, the site plan shows a few areas of proposed landscape plantings and Ryan will submit the plan for the shrubs/trees at the next hearing. They are also proposing an open joint fieldstone patio to replace the existing sand area which gives access to the existing dock. Ryan noted that they go before the ZBA on 9/27/23 for a special permit and have submitted to the Board of Health. There is no variance required as the septic system is fully compliant. Ryan indicated the flood elevation line and the impervious area summary on the plan. Mary asked to have some trees added in the replanting schedule. Ryan noted the increase in impervious area will be between the 50' and 100' due to the new dwelling construction. Bob P. asked about the impervious building figure within the 50' and Ryan

clarified that it will be just the replacement deck which will be the same size as the existing one. Bob also asked for clarification on the new patio where the sand area currently is and Ryan stated it will be pervious with open-joint fieldstone, using grass or gravel in between. Mary asked to add semi-pervious area to the impervious area table. Leah asked to have the neighbor's property reflected on the WPA3 form and a detail of the straw wattle/silt fence added. She asked Ryan if the erosion control could be underwater during construction and Ryan replied he did not anticipate that happening but would modify the barrier if necessary. Leah suggested putting a row of erosion controls beyond the 30' closer to the work area and add the barrier near the water when constructing the fieldstone patio. She also asked to have the work on the patio reflected on the WPA form since it is within the 100 year flood and on the bank. Rich B. asked for elevation of the flood plain and Ryan replied 370.6'. The elevation for the sand area is 369.8 (lower portion) and 370.8' at the top. Bob P. suggested having the work on the patio be done during the lake draw-down as a condition. Denise Charpentier stated that she has lived in the house for 60 years and the water never came close to the high water mark. Matt Charpentier noted that the sand area is boarded on all sides and not a sand beach.

Motion: Bob P., Second: Mike L.

To continue the hearing to 10/4/23.

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 Robert J. Correa for the Construction of a garage at 932 Flat Hill Road (DEP # 208-1300) – James Tetreault screen-shared the revised site plan with notes added from the previous hearing. He noted that no additional trees will be removed outside of the work area, ground cover will be revegetated with combination of bark mulch, leaf litter and 4# of wetland/wildlife seed mix and a line of stones to demarcate the revegetated areas. James noted that about 5 trees will be cut at the front left corner of the proposed garage but he did not have an exact location of those trees. Mary stated that she would like to know exactly what they are permitting them to cut and James replied he had not understood that request. He noted that 4,032 sq ft of area will be degraded by the construction and 6,100 sq ft that will be revegetated by 8 trees, shrubs, and bark mulch. Rich T. asked how many trees in that work area could be subject to coming down. James replied that just the 5 but there will be some minor grading under the tree canopy which is beyond the limit of work and noted on the site plan. One area of low vegetation will be made into lawn. Robert Correa (property owner) stated that there are 2 or 3 trees at the corner of the proposed garage, 2 in the corner of the building and 1 in the driveway area near the 316' mark, so there will be 5 or 6 trees to come down. Leah talked to Kimberly Roth (DEP) who told her that if the project was more than 10% of alteration in the riverfront area, there should be a 100' corridor of undisturbed vegetation or to the maximum extent possible. She suggested the Commission consider whether the applicant has done everything possible to have as much of a vegetated corridor as possible. Mary noted that there will be a net gain of about 2,100 sq ft of naturalized area that was not there before. James also noted that they will be getting infiltration for runoff from the garage and the house, where there was none before. Leah asked James to update on the WAP form the amount of planting area. She noted that the DEP considers plantings as temporary alteration but not degradation. Leah also asked for the updated plan (9/13/23) with the new notes and updated WPA form. James confirmed that the erosion barrier will be straw wattle and silt fencing. Bob asked if the alternative analysis was submitted and James said it was. There were 8 properties for sale and several were larger ones, possibly for subdivision, with one with wetland impact but they were more expensive than the additional parcel Mr. Correa has no work in. Bob noted that Leah requested the final OOC not be issued until a final plan has been submitted and received by the administrator. Leah stated they could close the issue and distribute pending the receipt of the WPA form.

Motion: Rich B., Second: Bob P.

To approve the NOI for 932 Flat Hill Rd. and hold the approval paperwork until the office receives the documentation requested.

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 Eaton for repair and construction of existing deck at 441 Townsend Harbor Road (DEP # 208-1240)- Mary noted that Nick was not present and asked for a motion to continue.

Motion: Mike L., Second: Rich B.

To continue the hearing to 10/4/23. Roll Call Vote was unanimous to approve.

Mary asked Leah to have Ashleigh contact Nick to be on the next agenda.

Certificate of Compliance:

238 Fire Road 16 – Butch & JoAnne Magurn – Leah reported that she did a site visit and met with the Magurns to look at the property. She noted that the site was stable, all the grass was at a mowable height, the erosion controls had been removed, and the area for the compensatory flood storage was stabilized and established. The homeowner mentioned he lost 1 tree for mitigation plantings and replaced it. That tree is doing well and they have been in for 2 full growing seasons. DEP didn't have any concerns with closing. Leah recommended the Commission close and issue a certificate.

Motion: Bob P., Second: Rich T

To approve the Order of Conditions for this property. Roll Call Vote was unanimous to approve.

NEW BUSINESS:

Topics unknown 48 hours in advance of meeting – Leah reported that she had 2 updates. She will not be able to do site visits because she is moving to Amherst at the end of the week but she can still help out virtually. She noted that Commissioners can take pictures when they do a site visit and send them to her to add to the file. With new filings, she will look at aerials shots and they can also contact Adam.

39 Island Road - Leah stated that she was notified for a potential enforcement issue for 39 Island Road and screen-shared pictures of their excavation for a replacement of a retaining wall. They had put straw bales out and there were cattails on the other side of them. They did not know about the wetlands regulations and Leah estimated the work is within the 50' but outside the 30'. She met with the homeowner and told him he would need to cease and desist with the work. She will write out an enforcement order and put it on the October agenda for the Commission to ratify. She will sign the cease and desist order which will state the homeowner will have to stop all work until a Notice of Intent has been filed. The homeowner was concerned about the work near the foundation and Leah will note that he can work in a 6' area to stabilize near the house. She encouraged him to hire someone to do the wetlands work. Previously there were wooden railroad ties there and they planned on putting down pea stone, with a new retaining wall on it. Bob asked if the work is on their property or the Lakes? Leah said they fully believe it is on their property and someone from the Homeowners Association has been in contact with them. Leah will also tell them to make sure they are in compliance with the Homeowners Association as well. Rich B. asked how tall the wall is and Leah responded that she did not know but thinks the homeowners graded down and plan to lay the pea stone over it. They will back fill and whatever they don't use will be taken off site. Leah will ask about the height of the wall and it will need to be noted on the NOI. Rich B. asked if they need a building permit for the wall and Leah will check with the Building Department. Mary said she found a photo on Zillow that shows a 3'-4' wall. Bob stated that it looks like they want to change the grade which is a regulated activity. Leah gave the homeowners suggestions for

hiring someone for the project. Bob noted that the lakefront land on this lot is owned by Hickory Hills Landowners Inc. and they will need permission from HHL. Leah screen-shared the GIS map for the property and said the work appears to be on the homeowners property, but she will note the issue in her email.

Update on Timber Rights Fund – no update.

Update on Shawn Kelly Estate – Bob P. stated the court approved that the Estate can send the town the check for the bulk of the estate and it should be arriving in a week or so. Mary asked how they will keep track of those funds. Bob replied that someone needs to set it up in an account so it will be tracked in Munis and they can request a report. Bob said he will also keep track of it and any time they want to spend any of the money, they will need to go through the Select Board.

OLD BUSINESS:

Grant Application Proposals Update: Mary reported that the LSR Grant has been approved by NHESP and the Snow Riders are starting their fall trail work. Bob noted the Kiosk material can be purchased at Maki's using the existing PO. Mary stated one of the proposals was grant budget support to purchase the gravel to top the existing Cowdrey parking areas on 2A and Mulpus. She has the figures for amounts and can get quotes. Bob suggested Powell and Mary noted there are people in the snowmobile community that are that business too. Bob advised Mary to talk to Julie Belliveau (Procurement).

[Hickory Hills Well] 208 Northfield Road- Mary reported that an appeal had been submitted by the Woodlands to DEP, who did a site walk. They have approved the project and have upheld the decision by the Commission. A copy was sent to the Water District and they can proceed with their project.

Mushroom Signs – Bob noted the Commission asked him to get an opinion from the Town Attorney on whether they need a disclaimer on mushroom signs. The Commission discussed the legal opinion at a meeting without any resolution. He told the volunteer that made the signs that they could put them up and add a disclaimer later. Then he read in the meeting that he did not attend that the signs should not go up and he apologized for that. Mary noted the Commission wanted to see the signs before they approved it. Bob noted he had sent a picture of the sign that says "there are 25 mushrooms that can be found at Robbs Hill- can you find them all?" Mary mentioned she saw 1 of the signs at the Lane Property and it already states the disclaimer of "do not eat or touch mushrooms". She noted that there is nothing in their bylaws that prohibits anyone from posting a sign.

Motion: Bob P., Second: Chris S.

To retroactively approve the signs Mary described as appearing at the Lane Property.

Roll Call Vote was unanimous to approve.

Update if any on encroachment issues at:

950 Chase Road – Bob met with Town Counsel who advised him that litigation can be lengthy and take 3 years to get on the court schedule, so he suggested they just be patient.

315 Lancaster Ave.- Bob said they told Anna previously that they were going to get a survey but the Commission has not heard from them. He suggested Adam or Ashleigh send an inquiry for an update.

26 Mulpus Road – Bob reported they sent a email that they were going to comply and he will take a look, as well take pictures.

Hollis Road Residence:

Update – Maintenance Work- Mike L. reported that Nick Morrison is continuing to paint and repair the trim work. He received an email from Chris Ruth (Facilities) who stated that the 2 windows in the attic needed to be replaced, which has been done. The original quote which was approved was \$4,800 plus

possibly a little extra. The windows last year were \$14,764 plus the \$4,800 plus a little extra will still be way below in the Hawes Fund for the project.

Pollinator Habitat -Mike T. presented their proposal for fall plants for \$221.43 and he asked the Commission to vote to approve. Mike read a list of the plants which will be purchased from Blue Stem Natives. Bob noted that the plant purchases come from the Hawes account.

Motion: Rich B., Second: Mary W.

To spend the amount of \$221.43 for the new plantings for the Pollinator Habitat.

Roll Call Vote was unanimous to approve.

Mike L. reported that he has taken down 2 more hornet's nest, which is 4 for the year.

Administrative Determination:

73 Horizon Island Road – Bob noted the homeowners have a dead tree to take down. Leah looked at the tree and said it is in a landscaped bed between the house and the road. She saw no issue with taking it down.

Motion: Bob P., Second: Mary W.

To approve taking down the tree.

Roll Call Vote was unanimous to approve.

Extension Request Permits:

100 Summer Street- Leah read a letter from the engineer asking for a 3 year extension to 2/2027, to allow them to finish the work.

Motion: Bob P., Second: Rich T.

To approve the extension request.

Roll Call Vote was unanimous to approve.

1387 & 1381 Mass Ave- Leah stated it was for a garage and a pool and the original extension would have expired 9/11/23 but with the Covid tolling, it is now 12/16/24. She said they may not realize they have the extra time. Bob noted that they started on the project a couple months ago. Mary suggested letting them know they can wait until the fall of 2024 because they may not need to extend.

Motion: Bob P., Second: Mary W.

That the applicant be advised that it does not expire until December 2024 and if they need an extension, to apply in the fall of 2024.

Roll Call Vote was unanimous to approve.

Notice of Project Change:

Certificates of Compliance:

Northfield Road Lot A - Leah reported that she spoke to the applicant's representative and the issue was the special condition to place boulders along the boundary line. The applicant wants to come back in winter when they can put the boulders in on frozen ground. Leah told them to come back to the Commission once it is done and they will do a site visit to confirm it.

ENFORCEMENT:

Violations (Enforcement Actions and Hearings)

NON 205 Sunset (Beers lot) – Mary noted this was delayed until October.

Town Beach Erosion- Mary noted the violation was communicated to the Parks Department and a curb was installed quickly.

Motion: Bob P., Second: Mike L.

To formalize the closure of that enforcement. Roll Call Vote was unanimous to approve.

143 Island Road – Leah reported she did a site visit and told the homeowner that he should work with a landscaper to replace the 4 plantings that were removed. The Commission had shown interest in an after the fact RDA. Leah screen-shared photos of the replacement trees. She forwarded the RDA to Ashleigh who is working with the homeowner. Leah noted that the debris which was thrown into the 20’-30’ area has been removed.

10 Massachusetts Avenue – Leah did a site visit and screen-shared pictures. She noted the last time they looked at it, there was a lot of cut vegetation thrown down creating a berm. The erosion controls were not put in and she gave them a deadline of 9/27/23 to put them in. She told them to send pictures. She estimates they are 50’ away and not in the wetland. They asked what would happen if the erosion controls are not in place next week and Leah told them they could do an enforcement order, fines and require permits. One of the Commissioners will do a site visit to check. Leah noted that the property owner will be expanding in the back on the slope and will riprap the downward part of the slope. She would want them to leave the erosion controls in until the riprap is put in and stabilized. Mary suggested they apply for an RDA and Leah stated they should assume the work is being done in the buffer zone.

Motion: Bob P., Second: Mary W.

To ask 10 Mass Ave to file an RDA.

Roll Call Vote was unanimous to approve.

Emergency Certification: none

Open Space and Land Use:

Bob thanked John Jones for submitting his bird study and he will follow up with some questions about mowing the area between the parking lot and bridge. Rich Pierce hayed it in August and hoped to do a 2nd cut. He said a telephone pole bridge would not support farm equipment and suggested a culvert. Bob is going to go to take measurements.

Public Comment: Bob thanked Leah for her comprehensive reports and great work. He asked if there are plans for someone to do site visits and Leah replied she will work with Adam on that. She will continue to do administrative items and the Assistant Town Manager will re-advertise for a full time administrator.

Motion: Rich B., Second: Mike L.

To Adjourn at 9:37pm.

Roll Call Vote was unanimous to approve.

Respectfully submitted,

**Jane L. Ranley
Minutes Clerk**