

Town of Lunenburg Conservation Commission

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Conservation Administration

April 3, 2024, 7:00PM, ZOOM REMOTE Minutes

Roll Call: Bob P., Jenny P., Rich B., Mike L., Chris S., Mary W., and Sophie Dorow (Admin.)

Absent: Jeff V.

Call to Order at 7pm

Announcements and Public Comment – none

Minutes of previous meetings – 8/16/23, 9/6/23 and 3/6/24

Motion: Bob P., Second: Chris S.

To approve the minutes of 3/6/24 as distributed.

Roll Call Vote: Bob P.-aye, Jenny P.-aye, Rich B.-aye, Mike L.-aye, Chris S.-aye, and Mary W.-aye.

Motion: Chris S., Second: Mike L.

To approve the minutes of 9/6/23.

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

Motion: Bob P., Second: Chris S.

To approve the minutes of 8/16/23.

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

Appointments – none

Requests for continuation – 171 Arbor Street to continue to 4/17/24. Brian Marchetti stated he was ok with a continuation and noted the assessment by Fisheries & Wildlife saw evidence of the Blanding's Turtle. They have redesigned the plan from 4 lots to 3 lots, with a common driveway and the plan was accepted by National Heritage. They now need to modify the frontage for approval and are working on acquiring 12' of frontage from the neighbor. They may need to continue to May to work out issues.

Motion: Chris S., Second: Bob P.

To continue 171 Arbor St. hearing to 4/17.

Roll Call Vote: Bob P.-aye, Mike L.-aye, Chris S.-aye, and Mary W.-aye. Rich B.-abstained and Jenny P. not eligible to vote.

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 Dave Katralis for the removal of dead trees and addition of an open deck within the Buffer zone of a wetland at 189 Hemlock Drive. Dave Katralis stated he has some dying trees that he would like to remove to stop damage to his roof and shed and is willing to replant new trees. Sophie estimated there are 8-10 trees within the 30', 8 within the 50', 8 within the 100' and a couple outside the 100'. Dave will obtain a list of

replacements when the landscaping businesses reopen. Sophie screen-shared photos of the marked trees, noting beaver damage on some and that 15 looked unhealthy. Dave and Sophie identified the species of trees. Dave confirmed the proposed deck would be a 12' x 12' open deck. Bob asked to continue the RDA and asked Dave to provide a replacement plan with information about the size and placement of the trees. Mary asked to add quantity and species, noting a minimum of 2 replacements for each large tree.

Motion: Rich B., Second: Mike L.

To continue 189 Hemlock Drive hearing to 5/1/24.

Roll Call Vote: Bob P.-aye, Jenny P.-aye, Rich B.-aye, Mike L.-aye, Chris S.-aye, and Mary W.-aye.

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 Jan Willem for laying of a naturalized stone steps and crushed stone path within the Buffer zone of a wetland at 141 Hemlock Drive. Jim van Ess (owner) stated they recently bought the house, which is built on a sloping piece of land, down to the lake, with 20'-25' of waterfront. Sophie screen-shared the application and site plans. Jim noted the area leading to the dock is muddy and would like to put natural bluestone on a bed of crushed stones. An 8' walkway from the house will narrow to 6' at the waterline. Sophie did a site visit in December and observed some clearing on the site. Jim stated that he had some dead pine trees and received permission in October from Hickory Hills to remove them. They told him that he also needed permission from the Conservation Commission. Jim said he left numerous messages at the office in November without any responses, so he took the trees down in December. Mary asked Sophie if she found the NOI for the construction of the house and Rich B. stated that it had not been recorded at the Registry of Deeds. The Order of Conditions was issued in October 2018 and with the Covid extension, was due to expire last year. Jim stated the title was clean when they purchased the house. Rich noted the property is still bound by the Order which needs to be completed and signed off on so a Certificate of Compliance can be issued, prior to moving forward. Currently, it shows up at the Registry of Deeds as an open lien. Sophie screen-shared a drawing showing trees removed and Jim confirmed trees that were cut. Rich said he was not sure how the grading was done in the 30' and area needs to be re-vegetated and stabilized. He recommended to have a landscaper stake the position of the walkway. They need to close the OOC, issue the COC and then address the RDA. He also asked for specifics on materials used and to put in drainage. Bob screen-shared the 2018 Tree Plan for existing and proposed removal, with all trees survey-located. Jim will schedule a site walk in May with Sophie. Mary noted they will work with Jim on the enforcement issue.

Motion: Mike L., Second: Rich B.

To continue 141 Hemlock Drive hearing to 5/15/24.

Roll Call Vote: Bob P.-aye, Jenny P.-aye, Rich B.-aye, Mike L.-aye, Chris S.-aye, and Mary W.-aye.

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 John & Annette Gallagher for the reconstruction of the existing deck within the 50' and 100' Buffer zone of a wetland on Lake Shirley at 376 Sunset Lane. – Greg Roy (Dillis & Roy), representing the owners, John & Annette Gallagher – Greg screen-shared the site plan of an existing house on Lake Shirley with 2 driveways. Application is to reconstruct an existing deck which is not in safe condition in the 50' no build. Also the applicant would like to add a 4' metal safety fence at the top of the retaining wall near the water. The existing deck is 32.5' from the water and they are proposing adding a gutter system under the deck which will divert water to a new drywell. The DEP file number is #208-1321 and they were asked to add the 100 year flood elevation. No work will be done in the flood plain and no trees removed. The current deck is impervious and it is lawn outside of the deck. The safety fence will be driven or dug by hand. Rich asked the applicants if they would be ok with an open seam deck and John replied he preferred the gutter system but would do the open seam if required. Sophie did a site walk and screen-shared a sample picture of the proposed fence

material. The Commission discussed the pervious vs impervious deck and whether to allow the proposed expansion of the deck. Greg stated that they will revise the plan, excluding the gutter system and committing to a standard deck with open slats.

Motion: Rich B., Second: Bob P.

To approve the application with special conditions that the decking be standard open seam decking, that the expansion be allowed, the proposed dry well to be denied and simple hand construction installation of the safety fence.

Roll Call Vote: Chris S.-aye, Mike L.-no, Rich B.-aye, Jenny P.-aye, Bob P.-aye, and Mary W.-no.

Mary stated that they carried the approval with the majority.

Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws a public hearing for a Request for an Amendment to the Order of Conditions DEP#208-1310 by Matt Mitrano for new site improvements of a staircase, reconstructed porch with expanded footprint, reconstructed concrete walkway & masonry walkway within the buffer zone of a wetland on Lake Shirley at 386 Sunset Lane- Greg Roy (Dillis & Roy) representing Matt Mitrano. Greg pointed out that this was Rich Tremblay's former property, which had an Order of Conditions for replacement of lake walls, other walls, and various improvements. The Commission closed the COC last year. A septic upgrade was done under a NOI, which is still open and transferred to the new owner, Matt Mitrano. Matt has a building permit to make interior renovations to the house and to add dormers. They are proposing some changes to the exterior footprint of the house. Since they have an open OOC, they are asking for an Amended Order of Conditions to do the proposed work. The proposed changes are as follows: 1.) Removing a 12" Maple and 24" Oak, which will be replanted, 2.) Remove existing concrete walkway and replace with open joint pavers, 3.) Add 6' diameter circular, open tread staircase to give access to lower level from 2nd floor deck, 4.) Remove and construct larger porch approximately 70' to 80' from water's edge. Matt noted the maple tree is broken at the top. The Commission discussed the trees to be removed and whether to be replaced. They asked for clarity on paver material and whether staircase could be attached on the south side of the deck, closer to the 50' buffer line. Greg noted that they will have erosion protection.

Chris & Alan Kullberg (380 Sunset Lane) – Chris stated that as an abutter, she has observed the 12" maple slowly dying and that she would be in favor of replacing it with something healthy.

Rich noted that since it is within the 30', it would need to be replaced by 2 red maples. The Oak is outside the 30' so no replacement is required. Matt asked if the Commission could approve the porch and stairs now but Greg said the ZBA has a 30 day appeals process, which is beyond the next Conservation Commission meeting.

Motion: Chris S., Second: Mike L.

To continue 386 Sunset Lane hearing to 4/17/24.

Roll Call Vote: Bob P.-aye, Jenny P.-aye, Rich B.-aye, Mike L.-aye, Chris S.-aye, and Mary W.-aye.

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 an Abbreviated Notice of Resource Area Delineation by Kevin O'Brien at 390 Howard Street (DEP # 208-1304) – Sophie noted neither Mr. O'Brien nor Matt had requested a continuance. She said the check was received for the 3rd party review.

Rick Perkins (520 Howard Street)- stated he is below the development and asked what could be done about the retention ponds that are not retaining water during heavy rains. He has put silt fence up to divert water. Mary noted that they cannot discuss this without the applicant present. Bob added that stormwater is not under the jurisdiction of the Commission. Jenny suggested attending a Stormwater Task Force meeting and/or contacting Bill Bernard at the DPW. Bob said to contact the zoning official that enforces

stormwater issues. Rick stated that silt is also coming from where Kevin put in his road. Mary told Rick to contact Sophie to get permission for a site visit to look at siltation flowing from uphill.

Motion: Rich B., Second: Chris S.

To continue 390 Howard Street hearing to 4/17/24.

Roll Call Vote: Bob P.-aye, Rich B.-aye, Mike L.-aye, Chris S.-aye, and Mary W.-aye (Jenny P. not eligible to vote).

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 Stefan McSweeney for the construction of a single family home and associated site work at 255 Sunny Hill Road (DEP #208-1320). (Continued from 2/21/24 to 4/3/24). Brian Marchetti (McCarty Engineering) representing Stefan McSweeney, reported that the applicant did a site walk with Commissioners in February and there were questions about the wetland lines. MaryAnn DiPinto (wetland scientist) revised the flagging with Commissioners and the plan was updated. They have shifted the driveway 10' further north, away from the Paton property, added a 2'-3' plunge pool going to a culvert under the driveway to intercept run-off from upland properties, and shrank the house to pull it further from the buffer zone. The entire house is out of the 50' no-structure zone but the driveway will require a wetland fill for access. They are proposing replication on the plan. Brian screen-shared the revised plan showing updates to the driveway and revised wetland lines, with about 1,570 sq ft of wetland fill. They are proposing 1:1 replication on the northern edge of the property, with 41 shrubs -- high bush blueberry, elderberry, and grey dogwood. The house has been raised a couple of feet to accommodate the culvert and shrunk by 10' on the long side. Bob noted that replication needs to be 2:1. Mary asked if Ms. DiPinto had defined the edge of the riverfront and noted that it seemed like there was river current coming up to the land. Bob replied that they did not discuss that but he pointed out wetland plants and asked about doing soil cores. The Commission questioned the placement of the wetland flags and noted that some looked like they went through the wetland – not at the perimeter. Chris asked about DEP comments and Brian replied the comments related to stormwater issues with the subdivision of the 4 lots. Rich B. requested a 3rd party consultation for the wetland and riverfront delineation. He also confirmed that a 2:1 replication is required. He asked Brian to provide a narrative on the division of the land since 1978 and list of incursions on the buffer zones. Jenny screen-shared the NOI comments which suggested the 3rd party review and Bob read a list of companies to contact. Mary asked Sophie to contact a few for quotes. Rich B. added that they need to replicate with the same species and to follow the bylaw requirements. He recommended they stake the center line of the driveway and the corners of the proposed house. Mary stated they will do a site walk after the 3rd party review.

Ken Paton (290 Leominster Rd -abutter) – said he appreciated having the driveway moved away from his property line. He screen-shared an aerial photo of the site, pointing out ponding water which should be part of the wetlands. He shared a sewer line map that shows the 30' buffer up to his property line, as well as a plot plan of subdivisions by former owner Bill Drumm. He noted that he has 2 drains on the property line and shared a video of water going to the catch basin during a storm. Brian stated that the culverts will be buried under the driveway to move water to the other side and prevent erosion. This will take care of the water coming down from the upper properties.

Motion: Chris S., Second: Mike L.

To continue 255 Sunny Hill Road hearing to 4/17/24.

Roll Call Vote: Bob P.-aye, Rich B.-aye, Mike L.-aye, Chris S.-aye, and Mary W.-aye (Jenny P. not eligible to vote).

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 by MaryLyn Yonika for removal of trees at 34 Hemlock Terrace. (Continued from 3/6/24 to 4/3/24) Sophie reported that she did a site visit and noted 7 trees in the 30', 1 tree in the 50' plus a red oak. She screen-shared a list of tree species and their distance from the water. Several trees are close to the house and porch. MaryLyn stated that her

current insurance company requested that no trees hang over the house and noted that she may need to only trim branches on the red oak. Bob noted that the lot is heavily treed and replication would not be required. Rich B. asked MaryLyn to leave the stumps on trees within 6'-8' of the house and they will check after the removal to see if others were damaged.

Motion: Chris S., Second: Mike L.

To allow removal of 8 trees at her discretion, leaving the stumps in place. When trees are removed, MaryLyn will contact the office to let the Commission look to see if the canopy is intact, to ensure no trees needed to be added in place.

Roll Call Vote: Chris S.-aye, Mike L.-aye, Rich B.-aye, Jenny P.-aye, Bob P.-aye, and Mary W.-aye. Sophie clarified that it is a negative determination.

NEW BUSINESS:

Topics unknown 48 hours in advance of meeting none

OLD BUSINESS:

Update on Title Searches – Bob noted he forwarded an update from Adam Costa on the title searches, in an email to Heather. There are 2 properties by Flat Hill Rd, but the Select Board wants to build a detention pond and he would like some clarity before the Commission invests any money. The Town Manager has not responded yet. The property in the middle of Cowdrey is actually 2 properties- 1 of which the town already owns and the other needs more probate work. Bob asked for a motion to do the probate work but Mary asked to table this until they know how much it will cost.

Office Operations – Mary discussed staffing solutions with the Select Board. Sophie suggested using Sharepoint instead of Google Drive and no one objected. She still needs to use Google for photos and Jenny said she can work with Sophie on that issue. (*Chris left the meeting*) Sophie has been working on migrating forms and workflows to *open.gov* so applications can be done online. The RDA application should be live in a few days and the NOI will take 4 weeks to be available. Mary stated they can streamline operations with *open.gov* and increase resource bandwidth on clerical tasks. They will continue to have Jane do the minutes and a new assistant has been confirmed for 10 hours/week. She asked Heather about increasing the assistant's hours at first to help catch up. To give Sophie extra technical support, they can start using consultants. Heather has added a warrant to the Town Meeting to set up a revolving fund for that. Mary suggested looking at increasing fees and they will need to hold 2 advertised hearings in order to change them.

Town Website Changes – Bob will meet with Kara.

April Earth Day Events – Mary noted they are working with the Parks Department and will split the \$85 ad fee for the Ledger.

Motion: Bob P., Second: Mike L.

To give budget support up to \$85 from the Timber Right Fund if Parks cannot pay.

Roll Call Vote: Jenny P.-aye, Mike L.-aye, Rich B.-aye, Bob P.-aye, and Mary W.-aye.

Wetlands Brochure in Tax Mailing – will discuss at next meeting. Mary questioned placement for QR code link to the regulatory page and will discuss with Kara.

ENFORCEMENT: Violations (Enforcement Actions and Hearings)

10 Mass Ave - Smit Patel -Sophie did a site visit and noted more work done: excavation, replacement of a town pipe, removal of soil and pavement. There was water leaking from a pipe which contributed to sediment erosion down slope into a bordering land subject to flooding. She noted that Leah had sent a letter addressing the wetland area. Sediment was bypassing the erosion controls into a pipe outlet, to a naturalized stream and into a brook. It is just outside the 200' riverfront with connecting wetlands. Smit Patel stated that he saw Leah in September 2023 and filed an e-DEP WPA form 1 on 9/26/23. He added that Leah stopped responding later and he was out for 6 months due to an injury, so he was not

working there. He talked to Mary and Sophie at a site visit and called a contractor to put up silt fencing but no one came. Smit fixed the fencing but on the same day, Lunenburg PD served him to stop work. He said he did not encroach on wetlands and Leah told him he could work 50' from the wetland. He had a contractor fix the broken pipe in the parking lot and screen-shared a photo of the silt fence. Sophie could not find a submission to the Commission and Mary told him to file with the town within 30 days. He can work with Sophie to get a proper site plan from an engineer. He understands that he cannot work until the paperwork is filed and he is responsible for maintaining the silt fence.

Certificates of Compliance:

305 Arbor Street – DEP # 208-387 and # 208-472 – Special conditions of no work past erosion control or within 30'. **Regarding #208-387**, Sophie did a site visit but there was still a lot of snow on the ground. It was difficult to see the wetland replication and she was not comfortable in saying it was in compliance. Brian Marchetti (McCarty Engineering) stated this work was done 20 years ago and the owner wishes to transfer the property to his daughter. The Title company found 2 open orders for the septic and wetland crossing. He noted that Sophie did a site visit with John Plithka, from his office, and there was no evidence of erosion. Brian could only get the 1998 septic plan from Whitman and Bingham, which he screen-shared. The overflow of septic was in the buffer zone. Sophie screen-shared her site pictures with the snow and said she will do another visit. Brian was unable to obtain documentation for **#208-472** and Rich B. replied he would be okay if they had a rough description and no erosion was evident. Sophie stated she was ok with approving the certificate.

Motion: Bob P., Second: Mike L.

To approve the Certificate of Compliance for DEP # 208-472.

Roll Call Vote: Bob P.-aye, Jenny P.-aye, Mike L.-aye, Rich B.-aye, and Mary W.-aye.

Motion: Mike L., Second: Bob P.

To continue DEP # 208-387.

Roll Call Vote: Rich B.-aye, Mike L.-aye, Jenny P.-aye, Bob P.-aye, and Mary W.-aye.

Bob asked to make a motion:

Motion: Bob P., Second: Rich B.

To authorize the expenditure of \$1,070 from the Timber Rights Fund to purchase additional trail markers. **Roll Call Vote: Jenny P.-aye, Mike L.-aye, Rich B.-aye, Bob P.-aye, and Mary W.-aye.**

Certificate of Compliance:

41 Country Road- Scott Buonopane – Sophie did a site visit and had some concerns about areas on the side of the road that were not vegetated. The buffer area boundary signs were more than 20' apart and were from the town of Billerica, with the town whited out. There were areas with bare soil but no erosion issues. On the left hand side of the road, the erosion control was buried. The area appeared to be pushed by equipment and she noted rusted car parts, tractors and washing machine partially buried within the buffer zone of the brook that runs near the property -well within the 200' zone. Scott replied that the junk was not buried on his property, but he will take care of the boundary signs. He noted that the lawn was hydroseeded but did not take. He is having it hydroseeded again. Sophie will do another site visit too. Scott said he is having a closing on 4/15 and asked if it can be done before that. Bob and Rich replied no. Rich added that they will need to see it revegetated since it is in the Riparian zone. Scott will be in contact with Sophie for a site walk.

Northfield Rd Lot A – Brian Marchetti (McCarty Engineering) stated they finished the work and filed for a Certificate of Compliance in August 2023. Brian shared a photo of the boulders that were placed on the west side of the house along the drainage ditch. Sophie did a site visit and had no concerns.

Motion: Bob P., Second: Mike L.

To approve the Certificate of Compliance for Northfield Rd, Lot A.

Roll Call Vote: Jenny P.-aye, Mike L.-aye, Rich B.-aye, Bob P.-aye, and Mary W.-aye.

Motion: Bob P., Second: Mike L.

To Adjourn at 12:17am.

Roll Call Vote: Rich B.-aye, Bob P.-aye, Jenny P.-aye, Mike L.-aye, and Mary W.-aye.

Respectfully submitted,

Jane L. Ranley
Minutes Clerk