

City of Leominster Conservation Commission - Meeting Minutes
May 9, 2023.

The meeting opened at 6:03 PM.

Chair Chuck Raymond, Vice Chair Richard Gullick, Stephanie Quinlan, Jim Chambers, Mike Cichy, Bob Sicard, and Conservation Agent Nick Kremp present.

Pursuant to MGL CH 131 § 40, Massachusetts Wetlands Protection Act, the Leominster Conservation Commission will hold a Public Hearing on a Notice of Intent for tree removal, construction of a coop, and associated machine work. Address 445 North Street, Map and Parcel 289-1 . DEP File #199-1173.

The property owner, Mr. Phil Simoes, presented on the project. Since the last meeting he has placed hay bales around the open portion of the coop to prevent runoff to the stream. He also bought water test kits and tested the water 20 feet upstream and downstream of the coop. They test for nitrates, iron, copper, pesticides, and coliform bacteria. He explained that the kit is color coded so that it turns yellow if positive for coliform bacteria and purple if negative, with both the tests showing as purple.

Mr. Raymond asked about the wetland delineation provided. Mr. Simoes stated that the delineation was done by Norse Environmental who would be happy to answer any questions from the Commission through the agent.

The issue of the chicken coop was raised. Mrs. Quinlan mentioned that the Centers for Disease Control recommends a minimum of 50 feet for chicken coops located near potable wells. She continued that while the resource area is an intermittent stream and not a potable well, it is a sensitive receptor. Mrs. Quinlan stated that a 50 ft minimum distance from the wetland boundary would be a good compromise while some of the other Commission members stated they might consider a 50 ft minimum just from the stream bank. Mr. Kremp supported this minimum distance from the stream as a good standard.

Mr. Cichy raised the question of agricultural exemptions and questioned why the construction and operation of the coop would not qualify for this exemption.

There followed a short discussion about the validity of the test kits and whether or not the Commission should bother with reviewing and interpreting water test kit results.

Mr. Kremp explained that although agricultural activities are permissible in the buffer zone, new agriculture is subject to the NOI process.

Mr. Simoes had previously provided a printout from MassGIS's online mapping tool including parcel boundaries, house location, and a wetland delineation marked in pen. The Commission found this difficult to interpret as it failed to show a proposed location for the chicken coop. Mr. Kremp recommended that the Commission ask Mr. Simoes to

return with a professionally rendered map showing the location of each wetland flag and existing structures and proposed new location of the coop.

Dr. Gullick made a motion to continue the hearing until after Mr. Simoes is able to hire a wetland consultant to produce more detailed maps showing the location of wetland flagging and the proposed new coop location. Mrs. Quinlan seconded. Motion passed 6-0.

Enforcement - Violation Notice to Harwood Terrace (DEP #199-1145)

The property owner, Josh Brennecke, was present to discuss the violation and its resolution. Mr. Kremp started this portion of the hearing by summarizing the history of the site since the original NOI hearing. The violation being discussed was issued due to scouring in a wetland downstream from a storm pipe which conveys water from upslope of the driveway to the downslope side. There followed a site visit on Friday, May 5 by some of the Commission and Mr. Brennecke, during which a fallen tree was observed blocking the intermittent stream and apparently diverting the flow towards the wetlands with the scouring. Mr. Brennecke had the log removed from the stream over that weekend with the permission of Mr. Kremp. Mr. Brennecke stated that he believed the log was the primary cause of the scouring and asked that the Commission suspend the cease and desist which accompanied the violation notice.

Mr. Kremp explained that when there are new wetland alterations downstream from an active work site, there is a reasonable presumption that the work is contributing to the alteration and is therefore responsible for correcting it.

Mr. Raymond asked for input from any abutters present.

Mr. Mark Bodanza, Ward 4 City Council, on behalf of Mrs. Nancy Moses of 20 Hillery Road, recounted the recent history of increased flooding in her basement. He further stated his belief that the original order granted to Mr. Brennecke violated the Leominster Stormwater Ordinance, specifically subsection f, paragraph subsection (a)1. "No owner of any (property) shall allow water discharging from their property to flow onto any abutting property (private or public), sidewalk, public property or public right-of-way that will cause detriment or cause a nuisance. Groundwater, rainwater and surface water run-off shall be controlled within the property boundaries of the land where it is generated, or it may be discharged into a DPW approved drainage structure, swale or water body."

Mr. Bodanza also went on to describe reports from two other neighbors on Hillery Road who have also described a noticeable increase to an existing flooding issue in that area.

He stated that he has spoken with Mayor Mazzarella about this flooding issue and they are in agreement that the City should hire a stormwater professional to look into this issue.

Mr. Brennecke pointed out that he has not added any impervious surface to the site. He went on to describe how the chute which naturally channels the water downhill appears to have become clogged (by his estimate since December) with leaves and debris thus redirecting the water towards Mrs. Moses's house.

Ian Fraser, 50 Hillery Road, made a statement confirming that his complaint to Mr. Kremp of flooding and washout on his property is what led to the violation notice being discussed and that he moved into his house in 2016 and has also had the worst flooding on his property since around December of 2022.

The property owners of Lot 7A, Hillery Road, Raymond Hoy and Diane Peralta, made a statement as read by Mr. Hoy. "We purchased this land three and a half years ago to build our dream home. We designed it, received the plans. Met all the requirements. And then COVID hit, costs skyrocketed. Three months ago we realized that our dream was not possible and made the difficult decision to sell and move on. Since then we've had two sales fall through, the last one a week before our closing date. This was due to water issues coming down the mountain which we knew nothing about until last week. We did nothing wrong. Unfortunately, now our neighbors are dealing with flooded basements and water issues. While our intent tonight is not to point fingers or place blame, we ask that this issue is addressed and that a plan is put in place hopefully in a timely manner so that not only us but everyone else in our neighborhood affected can resume their lives. We also respectfully ask that our order of conditions be extended another three years from the expiration date. Thank you."

Peter Angelini, 783 West Street, Ward 5 City Councillor spoke. He made the assertion that water which used to sheet flow down Monoosnoc Hill is being concentrated by the pipes running under Mr. Brennecke's driveway and released to the other side more quickly than before his alteration. He also made the point that whatever solution there is to the flooding issue, that the Commission should be wary of solutions which look to carry water off site and to the Monoosnoc Brook more quickly as this will only lead to more problems downstream. He agreed with the call for a professional engineer to look at the issue and propose a solution to be put in action.

Mr. Kremp stated his belief that the log which blocked the intermittent stream before Mr. Brennecke removed it was likely exacerbating the runoff and led to the scouring. He recommended that the Commission move to suspend the cease and desist until continued alterations are observed after subsequent rain events on the condition that

Mr. Brennecke agree to pursue hiring an engineer to investigate options for slowing the flow of water leaving the stormwater pipes.

Mr. Chambers made a motion to lift the cease-and-desist order at 60 Harwood Terrace and to ask Mr. Brennecke to hire an engineer to review the plans and ensure that the site plans comply with the stormwater ordinance and see what can be done to mitigate the stormwater leaving the site. Mr. Cichy seconded. Motion passed 6-0.

1771 Lock Drive restoration update

Mr. Kremp updated the Commission on the progress of the restoration of the riverfront area as related by Matt Marro, Matthew S. Marro Environmental Consulting. There have been several Arborvitae planted as a natural barrier to truck traffic. The area behind the trees has been reseeded with a wildflower mix.

New Business - 9 Penny Lane Restoration

Mr. Kremp summarized the current situation with the restoration. Mr. Kremp had been contacted by an abutter who was supposed to receive a fence along his property abutting the site as part of the approved order. However, there is an ongoing property dispute inherited with the property which the current landowner was unaware of. A cell phone company has an easement on the property to construct a cell tower but in the same area which the wetland restoration was designed on. Work approved by the order cannot proceed until the restoration is complete and the restoration cannot proceed until the property dispute is resolved.

Old Business - Clean-up day last Sunday

Five members of the Commission cleaned up the end of Pioneer Drive and some of the adjacent wetlands and meadow. They removed 8 trash bags worth of material as well as two 55-gallon barrels and about 3 gallons of hazardous waste.

Communications -

43 Stagecoach Rd update

The applicant was previously asked to install erosion control barriers around disturbed soils and cease work in the buffer zone until an order of conditions was received. Mr. Kremp conducted a site inspection on April 12 to find that they had complied, but the erosion control was ineffective due to improper installation and not being dug in. Mr. Kremp explained this and they reinstalled the controls properly by Mr. Kremp's next inspection on May 2. The property owner is working with McCarty Engineering to do a survey and prepare an NOI to be ready around early June.

Stabilization plan for unpermitted activity on View Street (Map 123, parcel 14-1)

Mr. Carl Dimassa was asked to propose and implement a short-term stabilization while preparing a long term plan through an NOI filing. He has since hydroseeded the slope, thus stabilizing it and has confirmed that he will be working with Haley Ward Inc to prepare an NOI.

Meeting Minutes -

4/11/23

Mr. Sicard made a motion to accept the minutes with edits as they appear on the drive. Mr. Cichy seconded. Motion passed 5-0.

4/25/23

Mr. Chambers made a motion to accept the minutes with edits as they appear on the drive. Dr. Gullick seconded. Mrs. Quinlan and Mr. Raymond abstained due to past absences. Motion passed 4-0.

Ordinance Planning

Mr. Raymond and Mr. Chambers agreed to work with Mr. Kremp in an informal subcommittee to begin preparing a wetland ordinance proposal.

Adjournment

Dr. Gullick made a motion to adjourn the meeting. Mrs. Quinlan seconded. Motion passed 6-0.