

Leominster Conservation Commission Meeting
6:01 pm, July 11, 2023

Jim Chambers, Stephanie Quinlan, Mike Cichy, Bob Sicard, Vice Chair Richard Gullick, Chair Chuck Raymond, 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 the construction of a single-family house and associated site work in a wetland buffer zone. Address: 43 Stagecoach Road (Lot 1), Map and Parcel 325-52 . DEP File #199-1177.

Brian Marchetti of McCarty Engineering presented on the project. The work for this lot consists of grading in the buffer zone associated with the construction of a new single family house located outside of the buffer. The closest distance from the wetland line to the area of disturbance is approximately 35 feet. Erosion controls consist of straw wattles and silt fence which is already in place following the recommendation of the agent.

Mr. Kremp summarized the history of project up to this point, including meeting with the landowner/builder, Eric Lind, starting summer of last year. Mr. Kremp had explained to Mr. Lind that work within 100 feet of the wetland needs permits from the Leominster Conservation Commission. Mr. Kremp later discovered soil grading and machine work in the buffer on February 16. Mr. Kremp contacted Mr. Lind who stated that a contractor who wasn't aware of the wetland had done this work. Mr. Lind agreed to have proper erosion controls around the perimeter of work and cease all work in the buffer until after securing an order of conditions for that work, which he did as soon as the weather permitted on April 12.

Mr. Marchetti stated that several trees had been removed from the buffer zone to prepare the site.

Claude Chapdelaine, 32 Scenic Drive, asked if the house under construction had all required permits secured and if not then why not. Mr. Marchetti explained that they have all permits except for the order of conditions from the conservation commission. They hadn't gotten the order of conditions because the house itself was outside of the buffer zone and they are submitting an NOI for the grading in the buffer. Mr. Chapdelaine asked why they are allowing this activity when the applicant did work without the permit. Dr. Gullick and Mr. Kremp explained to Mr. Chapdelaine, and the room at large, that it is possible for the Commission to deny an order of conditions and require the applicant to restore the area to its previous state in situations similar to this. The project is currently out of compliance as they don't have a permit. However, the work done is "permissible" under the procedure laid out in the MA Wetlands Protection Act and once secured, would bring the project back into compliance which is the reason for the current hearing.

Mrs. Anne Wusk, 21 Rheault Circle, asked if the Commission permits the work and abutters later experience issues related to the work on this site, is there nothing that can be done to correct these issues at that time. Mr. Kremp explained that once the order of conditions is secured, the

applicant will need to complete the work according to the order. If there are alterations that go beyond what was permitted, the applicant will be required to correct those prior to receiving a certificate of compliance. Mr. Raymond followed this up encouraging all the abutters to report violations or issues they encounter related to this project and the wetlands in question.

Clare Freda, Leominster City Council, asked who discovered the violation which brought us all to this meeting. Mr. Kremp explained that Mr. Lind originally reached out to Mr. Kremp to ask about permitting requirements. Mr. Kremp had explained the jurisdiction and permits under control of the Conservation Commission and instructed Mr. Lind to prepare an NOI prior to starting work in the wetland buffer. Mr. Lind subsequently hired a contractor who performed the soil grading in the buffer which Mr. Kremp observed on February 16, 2023 which initiated this current proceedings. Councilor Freda asked why the applicant is able to proceed with this work when he didn't obtain the proper permits before beginning. Mr. Kremp, Mr. Raymond, and Dr. Gullick explained that although it is not ideal, this is a continuation of this Commission's policy of requiring after-the-fact NOIs when unpermitted work is discovered. Dr. Gullick mentioned the possibility of requiring restoration or change of plans upon the NOI review process.

Mr. Kremp recommended that the Commission vote to approve the order of conditions with the boilerplate special conditions for DEP File #199-1177. Dr. Gullick made a motion to approve the order as stated. Mr. Cichy seconded. Motion passed 6-0.

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 the construction of a single-family house and associated site work in a wetland buffer zone. Address: 43 Stagecoach Road (Lot 2), Map and Parcel 325-52 . DEP File #199-1178.

Brian Marchetti of McCarty Engineering presented on the project. The work for this lot consists of the construction of a single-family house with associated soil grading in the buffer zone. Erosion controls consist of straw wattles and a silt fence which is already in place following the recommendation of the agent. The existing shed on site will be demolished prior to house construction. The existing hillside leading down to the wetland area will be graded and bumped out an additional 10-15 feet from where it is now. No trees will be or have been removed from this area. The slope will be reseeded with a slope seed mix including wildflowers, herbs, and shrubs. No alteration to the wetland area is proposed.

Following discussion about some of the Commission's concerns for revegetating the above referenced slope, the applicant and Commission agreed to a condition that once the grading is finished, McCarty will present a landscape plan including proposed seed mix and species prior to seeding.

Mr. Lind mentioned that during demolition, he estimated close to ten 40-foot dumpsters of trash and debris were removed from the yard around the old house.

Mr. Raymond asked what the plan is for stormwater coming off the roof. Mr. Lind stated that they haven't developed a stormwater management plan but that per the Building Department's

recommendation, the roof runoff will be directed to French drains around the perimeter of the foundation.

Claude Chapdelaine, 32 Scenic Drive, expressed concerns about the slope of the property and how it will direct runoff to the wetland and affect neighbors further downstream. Mr. Marchetti, Mr. Raymond, and Mr. Chambers stated that this is true of existing conditions and that the construction of two houses on these lots can be expected to have relatively low impact to the wetlands area in terms of water falling on and flowing through the site.

Mrs. Anne Wysk, 20 Rheault Circle, asked about tree replacement across both lots as well as removal of old cars on site. Mr. Raymond stated that the applicant will be in touch with the agent when it comes to plantings. Mr. Kremp answered the question of the cars by pointing out that they have been where they are presently located for decades and it would be an impactful and expensive project to remove them from the forest which Mr. Lind is free to choose not to do as the property owner.

Mr. Kremp recommended that the Commission vote to approve the order of conditions with the boilerplate special conditions and the added condition that the landscape architect consult with the agent prior to seeding the graded slope after construction for DEP File #199-1178. Mr. Chambers made a motion to approve the order as stated. Mr. Sicard seconded. Motion passed 6-0.

Continued Hearings

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.

Mr. Kremp summarized his communications with Mr. Simoes and Mr. Quatralo on the status of the NOI application. Mr. Kremp asked the Commission to clarify whether they would like to have the coop located 50 feet from the stream bank or from the wetland boundary. Dr. Gullick read part of the minutes from May 9, 2023 which stated that they continued the hearing at that time until Mr. Simoes was able to hire a professional to flag the wetland boundary. Dr. Gullick would prefer to see the chicken coop over 50 feet from the wetland boundary. Mrs. Quinlan stated she would like to see the same.

Dr. Gullick made a motion to continue the meeting until July 25, 2023. Mr. Chambers seconded. Motion passed 6-0.

Regular Meeting

Certificate of Compliance - 148 Johnny Appleseed Ln (DEP file #199-1123)

Mr. Kremp stated that the construction is complete and grass is grown in and so recommended that the Commission approve a complete certificate of compliance. Mrs. Quinlan made that motion. Mr. Sicard seconded. Motion passed 6-0.

Extension Permits - Hillery Road (Lot 7A)

Mr. Kremp summarized the last few weeks since the request was made in which he visited the site and reflagged the wetland line. He also related the recommendation from DEP that the Commission deny the extension request at this time and advise the applicant to reapply at a time closer to their present deadline, such as February or March. Mr. Kremp read the following conditions in which an extension request can be denied as received from Mia McDonald at Mass DEP.

An extension request may be denied by the commission, and a new **NOI** required if (310 CMR 10.05)(8)(b):

- No work has begun, except if there are unavoidable delays in getting other permits e.g., appeals
- New information, not available at the time the Order was issued, indicates the interests of the Wetlands Protection Act are not being protected by the OOC e.g., site conditions have changed or a wetland resource boundary delineation is incorrect
- Incomplete work has led to damage to the interests of the Act
- There is a violation of the OOC, Act, or regulations
- The regulations have been amended and the existing OOC no longer complies with the regulations.

Mr. Kremp recommended that based on new information not available at the time of the order issue date in the form of wetland scouring upstream and through this property that the Commission deny the request now and allow the applicant to request an extension again early next year.

Mr. Sicard made a motion to deny the extension request. Mr. Cichy seconded. Dr. Gullick abstained. Motion passed 5-0.

Communications

- Harwood Terrace mitigation consultants

The Commission discussed the two quotes received from the applicants including their credentials and the focus of their letters.

Dr. Gullick stated that although Dr. Jacobs was exceedingly qualified, the focus of both his first and revised quote focused too much on the properties of Hillery Road. Mr. Bobrek's experience and credentials are just as appropriate to take on this job as well as having a better price.

Mr. Cichy stated that based on their websites and their credentials, Dr. Jacobs had more experience and should be the consultant they settle on.

Mr. Chambers stated his concern with the focus of Dr. Jacobs's focus and the origin of his contact with this Commission through Councillor's Bodanza and Angelini and the effect this has had on his understanding of the situation.

Councillor Sue Chalifoux-Zephir, Leominster City Council, 900 West Street, stated that City Council does not hire engineers for the City. She went on to say that the drainage problems around West Street and Hillery Road are continually getting worse. Rain from earlier today was standing on the road when she left for this meeting at 6 pm. She stated that she was happy that the Mayor has given the Commission the authority and the financing to hire a consultant to address this issue.

Mr. Kremp clarified that the Commission was paying the consultant out of the Wetland Fund which is available to the Commission to enforce the MA Wetlands Protections Act. He further clarified that this arose from a violation notice which the agent presented to the property owner for scouring in the wetland soils downslope from Harwood Terrace and above 50 Hillery Road.

Councillor Chalifoux-Zephir asked how the original order might have gotten approved by this condition if the plan proves to be insufficient. Mr. Kremp clarified that although a site plan may appear appropriate and the Commission told by an engineer that it may be appropriate, even if they approve it under those circumstances, they can later issue an enforcement order to have the applicant correct an insufficiency in their design to protect the interests of the Act.

Dr. Gullick made a motion to engage with Mr. Bobrek based on his submitted quote. Mr. Chambers seconded. Mr. Cichy voted nay. Motion passed 5-1.

- North Nashua River stabilization work beginning (DEP File 199-1152)

Mr. Kremp summarized the history of the erosion along the banks of the North Nashua River and the sewer main running parallel to the bank which would eventually become exposed if left as it is. Based on that, a stabilization project was proposed last year and approved by the Commission due to the catastrophic failure of this sewer main into the River which would occur otherwise. The contractor will begin laying down erosion controls this week and will be in touch with the agent as the project proceeds.

Old Business -

Monoosnoc Brook E. coli

Mr. Kremp was able to get in touch with the property owner at 85 Water Street and put him in touch with Shawn Comaeu at DPW who will collaborate with him to perform more testing on site.

Meeting Minutes -

May 9, 2023

Dr. Gullick made a motion to accept the minutes as they appear with edits on the drive. Mr. Cichy seconded. Motion passed 6-0.

June 13, 2023

Mr. Chambers made a motion to accept the minutes as they appear with edits on the drive. Mr. Sicard seconded. Motion passed 4-0.

June 27, 2023

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

Pierce Street Subdivision

Mr. Kremp related the news that the landowner would potentially still be interested in selling the land 'as is' for conservation land. With that, Mr. Kremp asked the Commission to vote in support of the City applying for the purchase of the Pierce Street property through the Local Acquisitions for Natural Diversity (LAND) Grant for \$500,000. Mr. Cichy made a motion to give the Commission's support to the City's application as described by the agent. Mr. Sicard seconded. Motion passed 6-0.

Adjournment

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