

Conservation Commission

March 17 2021

Meeting (Virtual) Minutes

Commissioners present: Terry, Amy, Jim, Tim, Zywia, Sue

7:15 pm – Terry read the virtual meeting disclaimer and guidelines.

7:20 pm – 3 & 11 Fort Pond Road - Paul Kirchner with Stamski & McNary presented the ANRAD review. Paul noted that Amy Green, Tim McKinnon and Tom Tidman had walked the site on 3/17 with Dave Crossman of B & C Associates, to review the flagging line. There is an esker extending through the site bisecting the wetlands at flag # 9, and flag # 51. The Town of Acton Bylaw setbacks would preclude any work on the esker, thus the flagging line does not extend to the end of the esker.

While on the site walk, wetlands flagged were moved at the Commissions request in two locations, flag # 60 was moved away from wetlands approximately 8', now referenced as flag # 60R, and flag # 63 has been moved away from wetlands a distance of approximately 10', now referenced as flag # 63R. New flag locations are shown on revised plan dated: *3/17/21, Stamski and McNary, Inc. “Resource Area Delineation Plan,” for Celestine Properties, LLC, dated February 3, 2021.*

Paul noted that this ANRAD is only to establish the wetlands (BVW) boundary and that no determination is being sought for the FEMA 100 yr floodplain line. No determination will be made for the limit of Bordering Land Subject to Flooding (BLSF). DEP file # 85-1294. Tim noted that the water height in Grassy Pond is presently above the 100 year floodplain elevation.

Hearing closed at 7:30 pm, Tim moves to issue an Order of Resource Area Delineation, for Bordering Vegetated Wetlands, with no determination being made regarding Bordering Land Subject to Flooding. Amy 2nd, roll call vote unanimous.

The Chairman announced that the 12 Spring Hill Notice of Intent hearing scheduled for 7:30 pm has been continued to April 7th at 8:05.

7:30 pm Request for Determination - Road resurfacing – Town of Acton, Qin Pang reviewed the streets to be mill this year, these are streets being added to the 5 year re-paving list Paul Campbell had approved by the Conservation Commission back in 2019. No additional drainage structures are planned and no widening of road surface, just milling and re-surfacing for the following streets: Acorn Park Drive, Walnut Street, Beechnut Street, Palmer Lane, Hazelnut Street, Captain Handley Road, Alexandra Way, Reeves Street (off Alexandra Way), Harris Street

(dead end east of Rt 27), Fernwood Road, Nagog Hill Road, Maple Street, Central Street (Littlefield Rd to town-line).

Closed at 7:45 pm, Amy moves Neg 3 Determination, Jim 2nd, Roll Call Vote – unanimous.

7:50 pm – Tim moves to approve the minutes of February 17th, 2021, Amy 2nd, Roll-Call Vote unanimous.

8 pm – Notice of Intent (Continuation) 47 Conant Street – Brian Butler with Oxbow Associates introduced the development team with him this evening: Molly Obendorf with Stamski and McNary, Alex Parra the project Attorney, and Developer Joe Levine.

Mr. Butler noted that questions voiced by the Commission at the previous hearing were discussed earlier in the day (3/17) on a site walk, specifically: treatment of the slope on the west side of the common drive starting with a row of boulders on the 3' wide shoulder and the introduction of native shrubs to the slope along with a meadow mix. Amelanchier Canadensis “shadblow” and Hamamelis virginiana witch hazel were considered as a native shrub species with wildlife value that would do well on the slope. (40 – 3 gallon) shrubs were suggested for the area.

Commissioners discussed the common drive and how they might regulate the use of pesticides, herbicides and the use of salt in the buffer zone. A common drive agreement will be necessary.

Alex Parra – we could draft a common drive agreement for the Commission to review.

Mr. Butler noted that there is a zero foot setback in the Town Bylaw for outfall structures, Sec 3.2 (1). Molly Obendorf added that if there was another location along the common drive where the outfall structure could have been located, it would have been. This location allows for the elevation gradient necessary from the infiltration structure under the driveway.

Chairman opened questions up to the public:

Attny Kremer – the outfall structure could be located further away from wetlands if the proposed development wasn’t so densely designed, how about smaller houses?

Attny Kremer – Homeowner agreements are much more enforceable (stronger) than common drive agreements.

Attny Kremer – asks that the Conservation Commission slow the process down and not close the hearing until she has received response to a records request made to the Town of Acton, needs response to the issues with abutter notification regarding the meeting location, notice to abutters was inaccurate.

Attny Parra – establishing a common drive agreement is an enforceable document going forward.

Elizabeth Green - 44 Conant Street, did not receive a registered letter regarding the meeting location, was unclear where the meeting would be held and had no intention of going to Town Hall to a public meeting.

Joe Levine, I spoke with Ms. Green and explained what was being proposed.

Attny Kremer – the issues around enforceability should be ironed out before the hearing is closed. There are actually three houses on the common drive agreement. The notice to abutters was unclear and it's not fair to expect people to come to town hall to a public meeting. The public records request should be reviewed prior to the close of the Notice of Intent hearing.

Attny Kremer – Has a peer review for the project been completed?

Molly – No, we have not received any peer review questions or comments.

Attny Kremer – crafting an enforceable common drive agreement should be crafted with Town Counsel, not the applicant's attorney. A draft of the common drive agreement should be in hand prior to closing the hearing.

Jim Colman – We need to have Town Counsel tell us if the notification to abutters we're currently using is defective. Have Town Counsel tell us how to correct the notification to abutter's form, if it's inaccurate during this time of virtual meetings.

Attny Parra – we will modify the notification to abutters and re-notify.

Terry – we will request that the applicant allow us to continue the hearing to April 7th @ 7:20 pm. In addition to the re-notification to abutters, please also include the following for the next hearing: (1) a planting plan for the buffer zone slope area, include the boulder line, (2) Peer Review comments with responses, (3) results of the records request.

Mr. Maitland stated that the Notice of Intent hearing for 47 Conant Street shall be continued to April 7th @ 7:20 pm.

Commission Business:

Commission will hold a public virtual meeting on March 24th @ 7:30 pm to continue the discussion regarding (a) "Accessory Structures in the 100' buffer zone" and (b) pre-application meeting with applicants.

At 9:05 PM, it was moved and seconded to adjourn the meeting.

The motion was approved [unanimously].

Documents and Exhibits Used During this Meeting

RDA filing for Town of Acton Road Resurfacing

ANRAD filing for 3 & 11 Fort Pond Road

Letters from abutters for 47 Conant St. continued hearing

These documents may be found here: <http://doc.acton-ma.gov/dsweb/View/Collection-12997>

Terry Maitland

Terrence Maitland, Chair

Meeting adjourned @ 9:05 PM