

TOWN OF LYNNFIELD CONSERVATION COMMISSION

MEETING MINUTES

WEDNESDAY, MARCH 27, 2019, 6:00 PM

H. Joseph Maney Hearing Room, Lynnfield Town Hall

Members present:

Commissioners; Chairman Paul Martindale, Don Gentile, Jan Solomon (arrived 6:11pm), Chris Martone, Angelo Salamone, Bill Thompson (arrived 6:27pm), Melanie Lovell, Administrator Emilie Cademartori.

6:00pm Chairman Paul Martindale called the meeting to order.

6:01pm – Continued Public Hearing: Notice of Intent – 119 Chestnut Street DEP File #209-0630

Applicant: Eric Gould

Project: Construction of in-ground pool, patio, cabana, filling, grading and landscaping within 100' of BVW.

Greg Hochmuth, from Williams & Sparages was present to provide the project update. The continuation of the hearing was done to permit a site visit and to make revisions to the plan. Plans to stabilize the steep slope include removal of some material to reduce the slope pitch, slope seeding and vegetating, and use of biodegradable erosion control blankets. Plans also include pulling out some material from the 25' no disturb, installation of a small row of boulders, and planting of 2 RedBud trees at the top of the hill.

Lovell asked if the proposed Silky Dogwoods would do well in the proposed location, since they normally like wet soil, to which Hochmuth noted that they should do well and their location would not be in direct sun. Agent Cademartori asked about sequencing for the landscaping and pool installation, with her concern of significant washouts. Chair Martindale suggested a row of hay bales at the top until the area was fully vegetated, to which Hochmuth agreed was a good idea. Martindale asked for confirmation that the 6-8 mature trees at the bottom of the slope would be untouched, to which Hochmuth did confirm. Martindale questioned the use of Silky Dogwoods. Hochmuth suggested adding a condition that included monitoring of that vegetation for perhaps 1 or 2 growing seasons. Jane Bandini, Lynnfield Tree Committee chair, questioned the use of this monoculture, and suggested using several species. Gentile asked if there were other good options to which Hochmuth replied Pepperbush, and perhaps low bush Blueberry. Hochmuth suggested that if the hearing closes tonight, the Board could condition a planting plan with a mix of plants to be submitted at a later date, before construction begins.

Solomon asked if “dirty” material would be removed from the fill. Hochmuth responded yes, citing a note on the plans regarding unsuitable material removal. Lovell noted that the new planting plan “looks great”.

On a motion duly made by Lovell and seconded by Gentile the LCC voted (6-0) to issue an Order of Conditions for 119 Chestnut Street, subject to submission of an approved planting plan prior to construction.

On a motion duly made by Gentile and seconded by Solomon, the LCC voted (6-0) to close the public hearing.

6:17pm - New Public Hearing - 165 Lowell Street - Lynnfield Wetland Bylaw Chapter 240

Applicant: Andrew Zuroff - Boston Clear Water Company, LCC

Project: To redevelop an existing water supply facility including construction of an addition to an existing building, removal of debris, construction of a berm, clearing of brush and installation of walkway within 100’ of BVW.

Paul Marchionda, of Marchionda & Associates presented the project; specifically 6 items related to the local by-law. Richard Nylen, Atty for the applicant, was also present.

Items 1 and 2 - extension of the concrete pad and construction of a building addition on top of the pad. Under current conditions, all run-off coming down driveway flows untreated into the wetland. With the building, there will be 665 sq. ft. of run-off that will now be converted into clean roof run-off.

Martindale asked if the new building would be the same height as the existing building, to which Marchionda said, no, and that it could be a little less. Gentile asked if there would be any excavation; Marchionda said no - the existing pavement would be swapped out for the concrete slab. Martindale asked if the 2 buildings would connect; the answer was yes. Martindale asked to confirm that there would be no additions to the existing building; Marchionda confirmed.

Item 3 concerned the removal of the debris pile, to which Martindale said that it had already been slated for removal. Marchionda said that a 6” berm was proposed for behind the debris pile. Martindale asked if Marchionda would be willing to pull in the berm some distance, instead of following the BVW along sharp corners. Marchionda said that the limitation of space would preclude this, and arcing the area would encroach on the storage area.

Solomon noted that this area was inside the 25’ no disturb, and added that there were vehicles parked here. Marchionda said that vehicles have been parked here for 50 years. Solomon refuted this statement. Cademartori added that once the debris pile was removed, the area would be loamed and reseeded - questioning why the area would then be used for storage. Marchionda responded that the area had been used as it is now for many years. Gentile asked if the area behind the debris pile was vegetated. Marchionda said that the debris pile is up against the wetlands area, and that there is nothing being proposed that hasn’t been done in the past.

Item 4 concerns the pruning of vegetation by the stone house. Vegetation is dense up against the building, and too close to the water supply. Marchionda wants to hand-prune the vegetation. Martindale suggested that a routine vegetation pruning maintenance procedure would be needed.

Item 5 is the installation of a pervious walkway. Traffic takes place in between the buildings, and is now just a pathway. Martindale asked about a lockable gate at the entrance, and asked Marchionda if the plan should include a gate, to which Marchionda said yes. Solomon questioned the need for a 5' pathway width, to which Marchionda replied that it was minimal for transferring equipment. Solomon questioned who would be accessing the stonehouse, and the need for 5' width; Marchionda repeated that 5' was reasonable.

Martindale suggested 3-5' pruning around the house on the wetland sides. Salamone suggested 7-10'. Martindale said that 15' into the wetlands is an unnecessary disturbance. Gentile agreed, and suggested going further only on the upland side. Martindale agreed that a compromise of 5' on the wetland side and 15' on the upland side would make sense.

Gentile asked again if the area under the debris pile would be kept as a no disturb zone after the clean-up. Marchionda stated that he was not going to say what would take place there, to which Martindale said that he would need to come back to the Commission with this information. Marchionda further stated that the activity there had been taking place for "a long time". Gentile again questioned the no disturb designation. Solomon said that the no disturb area needs to be left as a no disturb area. Martindale noted that the area would need to be left as a no disturb, and there was "no wiggle room"; again proposing a change to the berm area. Marchionda said that he would not commit to this without consulting his client.

Gentile asked how old the debris pile was. Marchionda said that it was older than 5 years. Marchionda noted that the new building would house equipment. Salamone questioned why a permit would need to be given for a no disturb area. Gentile noted that the new building (approximately 18' x 28") will be shielded from the wetland by the existing building. Cademartori agreed with Marchionda that more run-off would be cleaner, and the request for the extension of the pad is a 1 for 1 swap of impervious foundation material. Further, storage of equipment would be inside instead of outside as is done today.

Bill O'Brien, abutter at 155 Lowell Street said that there were so many inaccuracies in the Marchionda's presentation. He said that the pathway was "a ruse" and opined that the intention was to make some kind of "amusement park". A statue is already in the no disturb zone. There is a table with a "shrine look to it" that is recent. There had been a shed on the concrete slab, and it was taken out in 2012. There were never vehicles parked in the area where they are parked now. The previous owner parked a box delivery vehicle in the garage every night. The volume runoff down the driveway makes the proposed roof run-off look like a "rounding error". The present owners have been asked to remove the debris pile a number of times, and have never done it. This action would amount to setting a precedent against the Commission's stance of "No disturb meaning No disturb".

Thompson asked how the water would be delivered. Marchionda answered that water is self-delivered through vending machines. The water is fed via “jockey pumping”. Martindale asked if the water line had been replaced, to which Marchionda replied that it was patched only.

Martindale suggested that the 6 items be raised and voted piecemeal. Lovell suggested issuing a continuance to allow for another site visit. Solomon said these items are not simple, but are variances and the Commission is “not in the business of granting variances”.

Atty. Nylen spoke about his client enduring “a hardship”, essentially the tight space, the fact that the client didn’t create the hardship, and the bylaw is not being harmed by the work proposed. He added that they have addressed the issues without doing further harm. He suggested a 4’ walkway as a compromise. He further stated the primary benefit of the pathway was for erosion control, and reduction of contaminants near a public water supply.

Gentile asked what the “hardship” was which required the building addition. Marchionda noted that storage of equipment inside the building was required, such as generators and other equipment now exposed outside. Atty. Nylen added that the hardship was the inability to cover/store this equipment.

Thompson asked if there was a plan to develop an increased amount of water available for sale so that more delivery vehicles would be anticipated. Martindale replied that the owner is on record as saying further development was planned.

Abutter Bill O’Brien remarked that when the owners purchased the property they knew it was backing up to the wetland. With respect to the walkway, O’Brien added that the purpose of the walkway was for people to walk back to the statued area to use it as a shrine. There would be no reason for the public to come purchase water at a self-serve stand and then walk back to the area in question. “No disturb means no disturb”.

Martindale proceeded to raise the 6 items for vote, individually. The first item concerned annual hand pruning of vegetation, to which Cademartori suggested that after the first pruning, she could inspect the cut area.

On a motion duly made by Salamone and seconded by Lovell, the LCC voted (7-0) to permit annual hand pruning of vegetation around the springhouse to 5’ on the wetland sides, and 10’ on the upland side.

On a motion duly made by Gentile and seconded by Lovell, the LCC voted (2-5) to allow a 4’ pervious pathway to be constructed to the stonewell house. The motion failed.

On a motion duly made by Lovell and seconded by Thompson, the LCC voted (4-2-1) to remove the debris pile, by not going in to the debris pile to remove material, and subsequently staking the cleared area as a no disturb area.

On a motion duly made by Gentile and seconded by Thompson, the LCC voted (5-1-1) for construction of a 6” berm along the BVW as discussed.

On a motion duly made by Lovell and seconded by Martone, the LCC voted (4-3) to extend the pad over the existing paved area, and construction of connected building addition approximately 18' x 28' as indicated on the plan.

On a motion duly made by Gentile and seconded by Lovell, the LCC voted (7-0) to close the public hearing for 165 Lowell Street.

On a motion duly made by Salamone and seconded by Gentile, the LCC voted (5-1-1) to issue an OCC to include conditions made for each individual item for 165 Lowell Street.

Cademartori asked a procedural question regarding the DEP superseding order still under appeal and therefore not standing. Gentile confirmed that work under the OCC for 165 Lowell Street, per the local bylaw could not commence until the DEP superseding order was settled. The lawyer noted that a stay has been issued. The issues covered under the local bylaw and in the superseding order will be discussed at a later date.

7:24pm – Continued Public Hearing Notice of Intent – Definitive Subdivision Road A DEP File #209-0628

Applicant: HPI, LLC

Project: Construction of stormwater management from a nine-lot subdivision within 100' of BVW and BLSF

and:

Continued Public Hearing Notice of Intent – Lot 5 Road A Subdivision DEP File #209-0629

Applicant: HPI, LLC

Project: Construction of an in-ground pool, patio, cabana and retaining wall, including tree removal and landscaping activities associated with a new single-family home within 100' of BVW and BLSF.

Chris Sparages and Greg Hochmuth of Williams & Sparages were present for the project. Sparages said that, since the February 26, 2019 ConCom meeting, 2 site visits have been held. The plan has been revised so that all improvements are beyond the 50' no build line. A proprietary device will now replace the BMP forebay so that the infiltration basin can be shifted outside the 50'. The 10 trees in the original plan will not now need to be removed to permit original location of the basin. The emergency spillway is also shifted to avoid disruption to any trees.

Hockmuth noted the extensive invasive vegetation affecting the trees now, including Asian Bittersweet, Japanese Barberry, Buckthorn and Burning Bush. No phragmites are present. He suggested their management plan - identifying invasives with pink flagging, pulling invasives up by the roots without use of herbicides, burning the pulled invasives, heavy seeding, use of salt marsh hay, and restoring with native species on a 1:1 basis. The work can be done within 2 weeks, include minor soil amendments, a watering protocol (via water tank brought in onsite), and a rigorous 5-year monitoring plan for these new species. Recommended species are included in a prepared planting plan fact sheet. The area would extend from the Reed to the Coletta properties - the entire wooded buffer.

Sparages said that the revised plans and stormwater report would be submitted to Bill Jones for review by week's end. Bill Jones noted that omitting the forebay was a good decision. At Jones' suggestion, the bottom of the basin will be a gravel bottom, which makes it more difficult for woody plants to take hold.

Martindale asked if the large size of the basin was necessary, as well as the dead-end round-about as big as designed, as he was concerned with the proximity to Reedy Meadow. Jones replied that the review is being held pending further discussions. He remarked that the roof run-off of individual homes will help. The Town DPW policy prevents chambers constructed under a roadway. It is also difficult to put in scattered septs around the subdivision with infiltration systems installed. Sparages noted that the drawings are still in working status and certain details will be further developed.

Solomon suggested that if the stub road was used, the system could be shifted further away. Jones noted that the Planning Board approved not using the stub road. Martindale remarked that allowing that variance shifts the problems to the ConCom, forcing infrastructure closer to Reedy Meadow. Residents on Cranberry Lane do not want the stub road to be used. Regnante added that the stub road is required to be included on the plan. Sparages stated that they have proceeded with their definitive plan based on the stub road not being utilized. The Planning Board also requires the applicant to allow for an easement identified for any future access.

Solomon noted that if the stub road was used, an easement would not be necessary at another access point. Atty. Ted Regnante answered that Charlie Wills had originally laid out the stub road, per Planning Board regulations, and that the use of cul-de-sacs are quite common in Lynnfield subdivisions.

Gentile asked about the status of any wildlife habitat studies. Jones indicated that their firm did not have staff to do this research. Cademartori said that the species in question were generally upland - not wetland - species. She called various state experts on bird and amphibian life, specifically noting the Rusty Blackbird. This bird forages on the shoreline and a dense understory is important. The experts expressed that the 50' no disturb was adequate. The amphibian specialist agreed that the salamanders were most likely in the Meadow, in great numbers, and preserving as much of the upland area would be important.

Thompson asked if grading would take place within the 50', to which Sparages answered no with the exception of the spillway.

Lovell remarked that she was happy that the plans have been revised to save the trees, and that she was very impressed with the invasive species management plan. Martone asked about preservation of the understory within the 50', to which Jones said that he believed the understory will be enhanced with the proposed planting plan. Lovell suggested the use of signage to heed visitors/residents about the new plantings. Cademartori said that she would expect routine ConCom signage to be used. Hochmuth added that deer fencing would also be used until plantings were established.

Sparages added that there would be no public access to the Meadow from the subdivision.

Abutter Paige Wilkins, 3 Cranberry Lane, thanked Hochmuth and Sparages for the revised plans. She was happy that the stub road would not be used, citing Summer Street School traffic, noise, etc. Abutter MaryAnn Coletta, 6 Cranberry Lane, agreed with Wilkins. She asked about the invasive species wrapping the trees on adjacent properties currently, and how to remove them. Martindale answered that this could be discussed at a future date.

Jane Bandini asked Bill about plants that could be used near the road area in place of grass. Jones replied that plants could be used, but they would not necessarily do better than grass with respect to handling water flow. Sparages added that a flatter area will be graded for maintenance access.

Cademartori said that a joint meeting with the Planning Board could be held to discuss the presentation at the peer review. She suggested that the ConCom meet ahead of the Planning Board meeting on April 16 to discuss all but this issue. Regnante added that he'd like to get Jones' and Cademartori's comments and work out the technical details before any meeting with the Planning Board. Jones said that April 16 was too soon, and that he would prefer to bring the matter to ConCom first.

Solomon asked Cademartori for confirmation that the isolated wetland did not need any further investigation as to its identification as a vernal pool. Hochmuth responded that their firm believes due diligence was done. Cademartori added that she feels there is documentation to support that the salamanders are not solely being supported by this single resource.

On a motion duly made by Solomon and seconded by Thompson the LCC voted (7-0) to continue both hearings until May 21, 2019.

8:45pm - Updates/Correspondence and Administrative Matters:

Minutes of February 26, 2019: February 26, 2019 draft meeting minutes were postponed for review.

Special presentation: Chair Paul Martindale presented the most recent LCC member Bill Thompson with a handmade walking stick fashioned from a Black Walnut tree limb from Thompson's property.

Partridge Island Trail: Cademartori reported that the DPW cut back the vegetation encroaching on the boardwalk. The boardwalk is ready for Richard Wolnewicz, Mass Audubon Society, to complete the scheduled repairs.

Pine Hill Lot: The LHS cross-country coaches have marked a trail, which has been GIS mapped by our DPW intern. Boundaries will now be confirmed by the intern, with a follow-up trail marking to be scheduled with the coaches. Once the path is confirmed, the DPW could begin working clearing a path. Solomon noted that there are a number of animals that the DPW will need to be cognizant of in marking the path; fox dens, turkeys, fisher cat, owls, deer, and others. The coaches are excited that their runners will now have the opportunity to train in the woods, even if their meets will not be held there.

Correspondence: Agent Cademartori distributed a letter from resident Jill Guiliano regarding the proposed rail trail.

70 Walnut Street ConCom purchase: The site was surveyed today. A work party should be scheduled because the invasives are endangering the trees.

Organic Lawn Care Seminar - March 20: Seminar successfully held in collaboration with Wakefield ConCom. Largest attendance to date - 26 attendees. Pesticide Awareness Committee chair Patty Fabbri is working to schedule a meeting with presenter and organic lawn care expert Chip Osborne with DPW director John Tomasz regarding the use of pesticide-free maintenance of Town properties.

Open Space: The MAPC contract is signed and submitted for MAPC-generated maps for the Open Space & Recreation Plan. Signs for conservation areas are on order and will be paid for by the DPW.

May 15 collaborative seminar with Ipswich River Water Association, Conservation Commission and Lynnfield Center Water District: A public forum/seminar focused on water conservation is slated for Wednesday, May 15 at the Lynnfield Middle School auditorium. This is a collaborative effort designed as public education regarding water conservation prior to the start of the growing/lawn watering season.

Bostik dam removal: There are many agencies involved, and the project will need to go through the detailed MEPA process first. Cademartori asked DEP to file with Lynnfield as one of the affected communities.

Ipswich River Watershed Association legislative breakfast - Gentile reported that he, Thompson and Cademartori attended the breakfast Friday, March 22 and found it to be very educational and informative.

Boston Clear Water Court Case: Martindate updated members that the LCC won the court case. A higher court cannot overturn the decision, so the building of the equipment storage building on the hillside cannot ever be done. The LCC successfully extended, with cause, the 100' buffer in court which will be a precedent for other commissions. Now, a conversation can begin regarding submitting a potential amendment in the wording for 100' buffer in our bylaw

which can be brought before Town Meeting in the Fall. Cademartori said in her discussions with a consultant for the Road A project, the consultant suggested that our bylaw language is too vague with respect to extending to the 100' buffer, and the language should be strengthened. Also suggested was a review of the City of Peabody's bylaw language. Martindale suggested making the language less vague now before meeting again. Gentile warned that an amended bylaw may not be upheld in Superior Court as a precedent for a follow-on case, if it differs from the original bylaw used.

Open Files - none at this time.

Bills: No bills at this time.

9:08pm - On a motion duly made by Solomon and seconded by Lovell the LCC voted (7-0) to adjourn the meeting.

NEXT REGULAR MEETING – Tuesday, April 16, 2019

As recorded and submitted by Jennifer Welter