

TOWN OF LYNNFIELD CONSERVATION COMMISSION

MEETING MINUTES

TUESDAY, JUNE 18, 2019, 6:30 PM

H. Joseph Maney Hearing Room, Lynnfield Town Hall

Members present:

Commissioners; Chairman Paul Martindale, Chris Martone, Janice Solomon, Angelo Salamone, Bill Thompson, Melanie Lovell. (Director Emilie Cademartori absent)

6:35pm Chairman Paul Martindale called the meeting to order.

6:36pm - Discussion: Creation of Bylaw review subcommittee

Martindale opened discussion with comments that director Cademartori has mentioned wanting tighter or additional language in our bylaw. He recommended formation of a bylaw review subcommittee to review ConCom bylaws and make recommendations for approval in time for Town Meeting. Martindale suggested the subcommittee comprise members Lovell, Gentile and Cademartori.

6:37:pm - Emergency beaver dam breaches

Cademartori issued emergency beaver dam breach permits on June 11, which the Commission needs to ratify.

On a motion duly made by Salamone and seconded by Solomon the LCC voted (6-0) to validate the emergency beaver dam breach permits.

6:39pm - Request from Selectmen regarding use of funds for demonstration planting area - Pillings Pond bank at Rotary Park

Martindale brought a suggestion forward from the previous week's Pillings Pond Task Force meeting. Martindale would like to ask the Selectmen for the funds that had been donated to the Town by the Pillings Pond Association when it dissolved years earlier (approximately \$3,500). These funds would be conveyed to the LCC for the purpose of designing and installing a demonstration bank planting area at Rotary Park. The demonstration area would serve to show pond abutters some of the best practices in limiting untreated runoff entering the pond. It could be replicated by pond abutters in a way that would also increase the aesthetic beauty of their landscaping. The design would include diagrams and instructions for abutters.

On a motion duly made by Lovell and seconded by Thompson the LCC voted (6-0) to request funding from the Pillings Pond Association donation made to the Town for the purposes of designing and installing a demonstration Pillings Pond bank planting area.

New Public Hearings

6:43pm – Notice of Intent – 70 Oakridge Terrace

_____Applicant: Ivaylo Vladov

Project: Construct addition and new entryway to existing single family home within buffer to Pillings Pond

Homeowner Ivaylo Vladov and contractor Bob Bagley were present to summarize the request, including an addition to the home and septic system installation. The ZBA has approved a special permit. The addition will be placed as far as possible from the Pillings Pond.

On a motion duly made by Lovell and seconded by Solomon the LCC voted (6-0) to close the hearing and to issue an OOC for 70 Oakridge.

6:50pm - Request for Determination - 45 Lakeview

Applicant: Ft. Defreitas

Project: Removal of existing septic system and installation of tight tank in the buffer zone to Pillings Pond

Jim Kavanaugh, Design Engineer was present to summarize the project. An old septic system is in the buffer zone. There is very little room on the site. A tight tank replacement system will be installed, as there is too little room for installation of a septic system, at only one foot from the property line. Martindale asked about access to the site to which Kavanaugh replied that he has secured approval to enter upon the neighbor's property. Lovell asked how many trees would be removed to which Kavanaugh replied none. Solomon inquired about the gas line relocation. The gas company will relocate the line closer to the house. Some of the construction work will be done in the buffer zone, but will not alter the resource area.

On a motion duly made by Solomon and seconded by Lovell the LCC voted (6-0) to issue a Negative 3 determination for 45 Lakeview.

7:00pm - Request for Determination - 30 Pinewood

Applicant: Kimberly Salem-Jackson

Project: Tree removal and replanting in the buffer zone to Pillings Pond

Bob Moses, Arborist was present for the project. Martindale asked if the infiltration trench was designed and if a planting plan was available, to which Moses replied that he was there only for the trees. Martindale asked if Moses was involved in the replanting of any removed trees. Moses did not have a plan for this in hand. Martindale indicated support for removal of the 5 trees as they are degenerating and losing their crowns. However, there are questions about other elements on the plan requiring more information to give a determination. The applicant needs to further distinguish what is existing, what is proposed, who is going to be doing the work, how the silt fence will be constructed, etc.

At Martindale's request, Moses reviewed the 5 trees; Number 4 is a cluster of red maples which is 30% in decline. Number 1 is a Red Oak showing signs of decline with signs of carpenter ant infestation. Number 1 and 2 are both leaning toward the house. Number 5 is a "snag" (a tree that has lost its crown). Lovell asked if any of the 5 trees shade Pillings Pond, to which Moses replied that there are other trees behind these 5 candidates that are closer to the Pond. Thompson said that he visited the site today and remarked that he did not agree that all the trees should be removed. He said that the snags are important within the no disturb zone. Tree #2 looks very healthy. Tree #4 could be pruned. Tree #1 is growing straight and appears healthy. He suggested trimming the trees to continue to provide wildlife habitat. He suggested scheduling a site visit to which Lovell agreed.

A site visit is scheduled for Tuesday, July 9 at 6:00pm.

7:00pm - Request for Determination - 87 Oakridge Terrace

Applicant: Zubin Bagwadia

Project: Installation of seasonal dock in Pillings Pond

Homeowner Zubin Bagwadia was present to summarize the project. Bagwadia would like to add a dock on Pillings Pond. Plot plan and photos were presented. The dock will be seasonal and will be stored in the winter in an area that is not in any BVW. There should be no detrimental effects for the Pond. Lovell asked about adding this property to the July 9 site visit. No trees will be affected. Martindale also instructed Bagwadia to secure approval from the Board of Selectmen.

On a motion duly made by Thompson and seconded by Lovell the LCC voted (6-0) to issue a negative determination for a removable dock for 87 Oakridge.

COC Requests

7:25pm - Request for Certificate of Compliance - 24-38 Broadway - File #209-0600

_____Applicant: Ship Mall, LCC % Micozzi Management, Inc.

Project: Restaurant demolition and reconstruction of shopping center, associated parking and landscaping

Martindale remarked that a site visit was conducted. Linden Engineering has reviewed and the only outstanding issue that is still unresolved is the unstable bank at the rear that is vegetated with Japanese Knotweed. The Knotweed will need to be removed and the bank should be stabilized and revegetated.

Contractor Tim Rafferty indicated that removal of the Knotweed has begun, and replaced with grass seed and loam. Martindale suggested issuing a partial COC if helpful, to which Rafferty agreed.

On a motion duly made by Lovell and seconded by Solomon the LCC voted (6-0) to issue a Partial COC for 24-38 Bradway #209-0600.

7:29pm - Request for Certificate of Compliance - 5 Pizzuti Way - File #209-0500

_____Applicant: Hayes Engineering on behalf of Shawn Getchell

Project: Single family home (470 Salem Street/Stony Ridge subdivision Lot 4)

Homeowner Shawn Getchell and Bill Jones of Hayes Engineering were present to summarize the project. Martindale asked if the subdivision has a Homeowners Association, to which Getchell affirmed. Part of the stormwater system for the subdivision is attached to 5 Pizzuti Way. Solomon asked if the Commission will have permanent access to the property to check the detention basin. Martindale replied that the homeowner agrees to grant access for a contractor to check the detention basin on behalf of the HOA in order to complete the ConCom's required annual stormwater maintenance report.

On a motion duly made by Lovell and seconded by Solomon the LCC voted (6-0) to issue a Certificate of Compliance for 5 Pizzuti Way.

7:35pm - Request for Certificate of Compliance - 35 Lincoln Avenue - File #209-0273

Applicant: Christopher LoConte

Project: Addition to existing single family home and septic upgrade

Homeowners learned of an open OOC after selling the house. The COC for the addition and septic upgrade was never issued. Christopher LoConte has conferred with Cademartori. Martindale noted that the plan does not locate the septic system. Solomon asked if the Commissioners needed to see all the elements on the as-built before considering issuing a COC. Bill Jones indicated that this is routine procedure. Martindale suggested issuing the COC conditioned with supplying a revised as-built that shows the location of the septic system.

On a motion duly made by Lovell and seconded by Thompson the LCC voted (6-0) to issue a Certificate of Compliance for 35 Lincoln Avenue DEP #209-0273 with the condition that it be held until a revised as-built for the property, including the location of the septic system is submitted.

Continued Public Hearings

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 & BLSF

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

Applicant: HPI. LLC

Project: Construction of 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, Williams & Sparages, Attorney Ted Regnante and Bill Jones of Hayes Engineering were present to provide a project update. Sparages recounted the project history, including meetings with various boards and dealings with area environmental organizations. The subdivision will now be identified as Tuttle Lane, named for a Lynnfield veteran.

Bill Jones indicated that there are 4 issues of Planning Board questions; 1) the connection to Cranberry Lane, 2) a connection to the Reed property, 3) the island in the cul-de-sac, and 4) the length of the street from Summer Street to the cul-de-sac.

Martindale said that if the plan will not show any connection to the Reed property, the Commission would like to see the basin moved further from the resource area. Solomon added that less trees would be removed. Sparages indicated that this would be a wholesale change, requiring much time and expense and considered it an “unfair” ask. He added that Bill Jones had already done his detailed review. Sparages remarked that the “goal posts keep moving” to which Martindale replied that is because the project has not had all the decisions in place to present before the Commission. He suggested that the buffer zone could be extended to 100' from Reedy Meadow, but acknowledged that it would impact Lot 5. Regnante added they have been working cooperatively with all parties, particularly with Mr. Reed and his attorney. One measure of this is offering to Mr. Reed a 20' ROW within the stub to the Reed property. And, if the retention basin needs to be moved, then it will block the ROW that has been offered “in good faith” to Mr. Reed. Martindale suggested reducing the size to 8 lots to allow for additional room to move the basin,

and added that Reedy Meadow is an important resource. Sparages responded that they had conferred with NSESP and MESA before coming to the Commission, and believe that the project is approved in their eyes.

Solomon noted that it was unfair to ask for approval of a plan that may include the future possibility of a connection to the Reed property, and reiterated that the game has changed and that Reedy Meadow is very important. Lovell said that the Commission does not vote to protect the future interests of an abutter to the subdivision. If there is now more data that allows the Commission to move the basin further away from the resource, then that is a positive development for the Commission to consider. Salamone asked Regnante to repeat what he had said earlier about meeting both criteria of the State and local bylaws. And, if so, could the Commission withstand an appeal if it denies the request. Regnante indicated that he did not think so, and that the process would take 2 years and probably kill the project. Martindale indicated that the appeal would also likely favor the local bylaw, to which Regnante disagreed. Martindale indicated that the Commission has the ability to extend the buffer to 100' whenever the Commission feels the resource area is threatened.

Bill Jones asked the Commission if there was anything that could be done to mitigate some of the impacts? Thompson agreed with Lovell that the future interests of an abutter was less important than the Reedy Meadow ecology. Martindale suggested moving the basin further away while taking some area away from one or more of the lots. Jones suggested a more narrow easement/access to the Reed property while moving the basin further away. Sparages and Regnante agreed to revisit the plan and consider these possibilities.

Michael Hannon, the subdivision home builder, requested a 3 minute recess with his team, to which Regnante declined saying it was no longer necessary.

On a motion duly made by Lovell and seconded by Salamone the LCC voted (6-0) to continue the hearing until July 16, 2019.

8:33pm - Other Project/Property Updates

2 Broadway - DEP File #209-0413 - Project Update

Applicant Gregg Monistiero and his attorney Ruth Silman were present to provide the update.

There have been changes to the original NOI over the last few years. Jones said that upon his review of the changes, the erosion control looks good. Monestiero said that the only change is the retaining wall which is now in, covered and stabilized.

There is a footbridge going to the back parking lot which Monesterio no longer needs since it will no longer hang a drain underneath. It doesn't need to be part of any connecting nature path, and would function only to allow undesired access to the parking lot. It could also pose a liability.

The amendment to the NOI will be requested at the July ConCom Meeting. Also requested will be a 2 year extension.

On a motion duly made by Lovell and seconded by Solomon the LCC voted (6-0) to lift the Cease & Desist Enforcement Order for 2 Broadway.

35 Elmwood - Septic installation in buffer with no permit

No one was present for this project. The plans just arrived today and have not yet been reviewed. There is nothing that can be decided at this point until the site plan is available with the floodplain areas delineated.

Tree Bylaw and Regulations Study

Included in the packet are items for board review: draft prepared by Martindale; Tree removal policies/regulations from Towns of Wilmington, Reading and Harvard. Martindale asked Board members to review for discussion at the July 16 ConCom meeting.

Boston Clear Water - 165 Lowell Street - Work not permissible in the buffer area

Martindale informed Board members of work that was done recently in the buffer area. Both Martindale and the new field inspector, Patrick McDonald, each conducted a site visit on June 18, 2019. Patrick made copious notes and measurements on a plan and took multiple photos detailing the work not permissible in the buffer area; installation of granite benches within the 25' no disturb area, clearing of trees in making a pathway and other disturbances. Members reviewed the plan and photos.

Abutter Bill O'Brien noted that he was not able to observe when this most recent work and spoke passionately about what he believes are multiple infractions occurring on the site.

Martindale then reported that Town Counsel Tom Mullen notified the attorney for Boston Clear Water at 1:55pm June 18, indicating that the Commission would likely vote to issue a Cease & Desist order at their June 18 ConCom meeting. Atty. Mullen further requested that Boston Clear Water cease all work at the site until the matter can be reviewed.

Martindale read a proposed draft EO. A discussion about fines and frequency of inspections ensued.

Martindale gave Bill O'Brien permission to call him or the ConCom office at any observance of an infraction.

On a motion duly made by Lovell and seconded by Salamone the LCC voted (6-0) to issue a Cease & Desist Enforcement Order to Boston Clear Water; Boston Clear Water summoned to appear at the July ConCom meeting with failure to appear resulting in daily fines being levied starting July 16, 2019; and Patrick McDonald, Field Inspector, to regularly monitor the site..

Minutes - May 21, 2019

The May 21, 2019 meeting minutes were reviewed and corrected.

On a motion duly made by Lovell and seconded by Salamone the LCC voted (6-0) to approve the May 21, 2019 meeting minutes as corrected.

Bird Audio Grant application as proposed by Chris Martone

This grant could result in \$5,000 in wildlife acoustic recorders and studies. Martindale noted that when he was at Camp Curtis Guild, a study being conducted by a biologist used acoustic recorders to record activity of a rare bat species.

Martone has offered to do the heavy lifting for this grant as it could be used to monitor the marsh bird activity before and after a rail trail is installed through Reedy Meadow. Martindale suggested that when writing the grant, the rail trail not be specifically mentioned, but rather write the grant to speak generally to the effects of encroachment on habitat from development, noise, etc. Monitoring over 5-10 years time would present good data with or without the installation of a rail trail.

Martone suggested that he first talk to the company that supplies recorders and software to determine the effort involved in set-up, monitoring and data analysis of the bird activity. Martindale further suggested that Martone try and connect with the biologist at Camp Curtis Guild to understand what has been involved in his project.

On a motion duly made by Lovell and seconded by Salamone the LCC voted (6-0) to adjourn the June 18, 2019 meeting, at 9:27pm.

NEXT REGULAR MEETING – Tuesday, July 16, 2019

As recorded and submitted by Jennifer Welter