

TOWN OF LYNNFIELD CONSERVATION COMMISSION

MEETING MINUTES

August 17, 2021, 6:30 PM

H. Joseph Maney Room, Lynnfield Town Hall

Members present:

Commissioners; Vice Chairman Kirk Mansfield, Erin Hohmann, Jan Solomon, Angelo Salamone, Jared Yagjian, Director Emilie Cademartori

6:37pm - Vice Chairman Mansfield called the meeting to order.

New Public Hearing

6:38pm - Review Draft Revisions to Rules and Regulations - Ch. 213 Stormwater Bylaw - Article II

Director Cademartori noted that changes to federal standards have required revisions to the Rules and Regulations for the Chapter 213 Stormwater Bylaw. Most of the changes consist of language clarity. The draft has been developed with assistance from the Town's MS4 compliance consultant.

On a motion duly made by Yagjian and seconded by Hohmann, the LCC voted (5-0) to approve the revised Rules and Regulations for Chapter 213 Stormwater Bylaw - Article II.

New Public Meeting

6:45pm - Request for Determination – 47 Homestead Road

Applicant: Monica Audette

Project: Construction of 568 ft² deck in the 100' Buffer to Bordering Vegetated Wetland and Riverfront Area

The applicant Monica Audette summarized the project. Cademartori suggested that because the accessory structures were more than 50' from the Beaver Dam Brook at the rear of the property, and that there was no BVW, there was no need for an order for the deck project. Solomon asked about the homeowners' lawn chemical treatments, to which the homeowner said that the property is maintained as it was prior to purchase of the house.

On a motion duly made by Yagjian and seconded by Hohmann, the LCC voted (5-0) to issue a negative determination (3, 5,6) for 47 Homestead Road.

Continued Public Hearings

6:55pm - Notice of Intent – Transmission Line S145/T146- DEP #209-0654

Applicant: Andrew Cole, New England Power Company

Project: Maintenance activities, including repair, removal or replacement at 38 structures; installation of 2 new structures within Bordering Vegetated Wetland and its 100 ft Buffer, Bordering Land Subject to Flooding and Estimated Habitat of Rare Wildlife.

Director Cademartori explained that in the previous hearing the DEP file number and the comment letter from National Heritage had not yet been provided. The board is now free to discuss. Yagjian, Solomon and Salamone remarked that they were not present at the July meeting. Cademartori explained that they were free to vote if they had read the minutes, and signed the Mullin certification.

On a motion duly made by Hohmann and seconded by Solomon, the LCC voted (5-0) to close the public hearing and issue the OOC for #209-0654

7:00pm – Abbreviated Notice of Resource Area Delineation - 12 Hampton Court

Applicant: Victoria Ricciardiello

Project: Verify the delineation of Bordering Vegetated Wetland located on and/or adjacent to the property.

On a motion duly made by Yagjian and seconded by Solomon, the LCC voted (5-0) to continue the hearing to the September 21, 2021 LCC meeting.

7:01pm - Notice of Intent – 99 Crest Road

Applicant: Mary Jo Milano

Project: Installation of 194 feet of stone rip rap along the shoreline of Pillings Pond; work is proposed within Bank, Land Under Water, Bordering Land Subject to Flooding, and the 100 ft buffer to Bordering Vegetated Wetland.

The applicant submitted a written notice to continue the hearing to the August 17, 2021 meeting. Cademartori indicated that the applicant's engineer was unable to provide comment on the peer review. Hohmann asked if there were other issues regarding walls on Pillings Pond, to which Cademartori said that her hope was that the outcome of the peer review for this property would result in a general recommended approach to wall design.

On a motion duly made by Salamone and seconded by Solomon, the LCC voted (5-0) to continue the hearing to the September 21, 2021 LCC meeting.

Other Open Permitting Items

7:06pm - Request for Certificate of Compliance- DEP File # 209-0422 - Windsor Estates

Cademartori said that the applicant has submitted many of the missing items per the enforcement order. However, the proposed design of the detention basin is still missing. Hopefully, the work will be performed before the September meeting, and the applicant will be able to provide an as-built. Cademartori suggested a site visit just before the September meeting, in anticipation of completion of the work. A site visit is penciled in for either September 15 or 16 at 6:15pm.

7:10pm - Violation – 3 Cooks Farm Lane

Cademartori noted that the applicants James and Rosalie Giardina submitted a proposal from a landscaper to do the restorative work. Cademartori also noted that the enforcement order includes a requirement for a pre-construction visit by Town staff, and some level of site supervision during the work.

On a motion duly made by Salamone and seconded by Hohmann, the LCC voted (5-0) to issue an enforcement order for 3 Cooks Farm Lane including the requirements as described above.

7:12pm - Violation – 36 Elmwood

Homeowner Bryan Last, the homeowner's engineer Michael Novak and the homeowner's attorney Glenn Wood were present. Atty. Wood explained that his firm had researched the title history of the property back to 1917, explaining that the Town owns Pillings Pond as of a taking in 1973, and that the abutters own the land surrounding. Further, his opinion is that the owners own all the land down to the existing water's edge. Michael Novak then ran through a series of aerial photographs beginning in 1953, highlighting the location of the water's edge over time. Atty. Wood remarked that the area of the bar and patio has always been in the "upland" part of the land, and that his firm is confident that the homeowner owns all the land at the end of the street, and has exclusive rights of use for this land.

Cademartori noted that the street end of Elmwood Rd. was included in the original subdivision layout, although the street wasn't taken as a public way all the way to the edge of the pond. Further, the area of the patio was always beyond the described title on the deed by dimension. Atty. Wood restated his position, and added that ownership rights are not jurisdictional for a ConCom. Cademartori disagreed and noted that an NOI needs to be submitted by a true owner.

Salamone added that a public way's partial improvement doesn't change the fact that the unimproved portion of a public way remains a public way. Solomon said that there are 17 public access points to get to the Pond and that the ends of all the "Woods" roads are public access points. Atty. Wood said that he intended to pursue an NOI for the project, with the goal to present it to the

LCC at the October meeting. Cademartori said that she would need to refer the matter to Town Counsel. Members asked about other structures, to which homeowner Last said that since he purchased the property in 2015, he has only improved the structures that were already in place. He also added that he uses organic measures for lawn care. Last also said that he would pursue filing a request for Certificate of Compliance from an earlier OOC.

7:45pm - Violation – 12 Grey Lane

Homeowner Vicki Kvedar was present for the discussion. Cademartori gave a brief account of the tree removal project, which was stopped by Field Inspector Patrick McDonald once alerted by neighbors. She said that trees had previously fallen on “critical structures” on her property and she had hired a tree company to remove trees. At that time, she was on vacation, and had not consulted the ConCom prior to having the work performed. Cademartori noted that 2 prior permits were done on this property, the most recent in the Kvedars’ name regarding a septic system.

Cademartori asked how many trees were removed, to which Ms. Kvedar said 6. Some of the removed trees may have been in the wetland, and some in the buffer. Yagjian suggested that staff determine the location of the trees relative to the wetlands and buffers, rather than have the homeowner incur the expense to hire a wetland scientist. Before mitigation can be considered, Cademartori suggested a site visit, which is penciled in for either September 15 or 16 at 6:45pm.

Continued Public Meeting

8:05pm -Request for Determination – 163, 165, 175 Lowell Street

Applicant: Anthony Gattineri, Boston Clearwater

Project: Remove all tree limbs, branches and vegetation overhanging buildings within the 25 ft buffer; remove all saplings 3.3 inches or less and remove all dead, diseased, cracked and broken limbs within the 100 ft buffer (but outside the 25 ft) to Bordering Vegetated Wetland.

The applicant’s attorney Richard Nylen was present. He had submitted a letter earlier that evening describing the reduction in work that the applicant would like to perform, limited to 165 Lowell street, and roughly described as removal of branches that overhang the spring house and distribution house, and moving of the religious statue and stone base.

A discussion ensued with board members as to the definition of “sapling”, “tree”, “slash”, etc., - words used in Nylen’s letter, and the markings of trees - meaning marked for removal or retention. Solomon expressed much concern about receiving a letter so late before the meeting which did not provide enough time for review. She also expressed reluctance to provide approval for such work when there could be misunderstandings from Nylen’s letter.

Solomon also expressed concern about machinery that might damage trees and vegetation in the moving of the statue, to which other board members suggested that the earlier path has already been developed and that only minimal to no extra damage should occur.

Cademartori suggested that since the work is allowed under the Wetlands Protection Act but the local bylaw considers it as an alteration of resource area, the Board make a Determination that the area and work are subject to the Bylaw (positive #5), and that it will be Negative 3 in that the work will be in the Buffer per the Act but it will not alter the wetlands under the Act. Although the work is in the Buffer, and will alter the area under the Bylaw, the ConCom will allow the work to occur and not require the filing of an NOI.

Cademartori further suggested that a motion be made subject to a written clarification submitted by Nylen that can then be signed by members. The clarification will also include details on how the religious statue will be transported and installed. It will also include providing notice to Field Inspector Patrick McDonald so that he can oversee the work.

On a motion duly made by Salamone and seconded by Yagjian, the LCC voted (4-1 abstain) to issue a determination stating that the area and work are subject to the Bylaw (positive #5), and that the work will be in the buffer per the Act but it will not alter the wetlands under the Act (negative 3). The issuance is also subject to a revised submission letter from Atty. Richard Nylen that includes an updated description, identification and location of the tree trimming work, further details on the transportation and placement of the statue and stone base (including the condition of restoration of any damage caused by the use of any such equipment), and that Field Inspector Patrick McDonald will have access on site for all work.

Administrative Matters

8:40pm - Pillings Pond Treatment Updates

Cademartori reported on the latest treatment of the pond, and noted that there is no notice of an algal bloom. She also updated the board on water testing work by Owen Blacker, a UMASS Amherst college student intern. He will be sampling the water at 3 sites on Pillings Pond which may provide some valuable information about inflows to the Pond from stormwater events.

8:43pm - 70 Walnut Street Pocket Park

Hohmann inquired about the improvements suggested for ConCom land at 70 Walnut Street. Cademartori reported that the DPW will be replacing the white fencing on either side of the road. She also said that the parcel is in dire need of eradication of the invasives, such as Bittersweet.

Mansfield said that the Historical Commission is amenable to replacing the historical Gerry's Cider Mill sign at the site. Jennifer Welter had suggested this pocket park for an Eagle Scout project, and has elevated the request to the Eagle Scout master. However, there has not yet been a response.

8:50pm - Pine Hill Conservation - Abutter encroachment update

Solomon asked for an update. Cademartori reported that the DPW had earlier offered to install a bark mulch path for the time being so that visitors and X-C runners are more comfortable. In the meantime, a letter will be written to the Bossi's as well as to the other abutters who have put yard waste and trash on ConCom property. Cademartori wants the property to be safe and welcoming for the upcoming X-C season. Yagjian would like to pursue more aggressive progress on these encroaching abutter issues.

9:02pm - Minutes - July 20, 2021

On a motion duly made by Hohmann and seconded by Mansfield, the LCC voted (5-0) to approve the July 20, 2021 meeting minutes, as corrected.

9:10pm - Adjournment

On a motion duly made by Salamone and seconded by Yagjian, the LCC voted (5-0) to adjourn the August 17, 2021 meeting.

NEXT REGULAR MEETING – Tuesday, September 21, 2021

As recorded and submitted by Jennifer Welter.