

Conservation Commission Meeting Minutes

Minutes of February 8, 2017

Members Present: Steve Parretti, Chair; John Marc Aurele, Joshua Soojian, Jim Cooper, and JoAnn Schold

Meeting called to order at 6:33PM

Certificate of Compliance

Boutilier Estates – ZPT Energy Solutions, LLC

Mr. Ernest Mylar made the presentation on behalf of ZPT Energy Solutions.

They are requesting a Certificate of Compliance on an Order of Conditions that was in effect on the original Subdivision approval known as Boutilier Estates DEP File#197-0517.

Boutilier Estates is being rescinded through the Planning Board and they needed to file a request for Certificate of Compliance from Conservation in order for the Bank to release the mortgage on Boutilier Estates.

A letter from Hannigan Engineering, attached with their request, confirms work under the original subdivision approval was never done.

Hearing no further comments from the Board or public, Mr. Parretti asked for a motion.

MOTION: Mr. Marc Aurele moved to approve the Certificate of Compliance for Boutilier Estates Subdivision DEP File#197-0517

SECONDED: Mr. Soojian – Discussion: None – VOTE: All in Favor

Certificate of Compliance

10 Sabina Circle, Lot 9 – Steven Gallo, R.H. Gallo Builders

A Certificate of Compliance, previously issued, referenced the wrong Book and Page. This is a reissue of that Certificate referencing the correct Book and Page.

Hearing no comment from the Board or public, Mr. Parretti asked for a motion.

MOTION: Mr. Marc Aurele moved to reissue the Certificate of Compliance for 10 Sabina Circle

SECONDED: Mr. Soojian – Discussion: None – VOTE: All in Favor

Notice of Intent

25 Lakeview Drive Cont (demo, renovate, construct addition onto home)

Mr. Jason Dubois, DC Engineering, Bill & Pam Keyes in attendance.

Mr. Dubois presented the application request.

Continued from last meeting because no DEP number was issued at that time.

The applicant was looking to put an addition on the existing house, change the 3-season room to a full time living area, put in a paved patio along the water, replace the landscaping wall in the same area as the patio, remove the boat house and put in a boat ramp at the water and remove two trees.

Ms. Schold inspected the site and had no further comments.

Mr. Marc Aurele asked for the healthy tree by the patio not be removed and the retaining wall be moved back to the healthy tree, so it continues to provide shade and protection to the waterfront.

Mr. Dubois explained the location of the tree being in the middle of the patio and has gotten big over the years that it now blocks that entire side. It would also be in the way of the retaining wall being constructed.

Mr. Marc Aurele concern was removal of that tree would create an area of erosion.

Mr. Dubois said by putting the retaining wall in, they can slop it level. The grade behind the wall won't be changed much.

Mr. Marc Aurele asked the wall be pulled back a foot from the patio and place crushed stoned between, to catch any flow coming off the patio from entering the water.

Mr. Dubois noted they were before the Zoning Board for a variance on the garage and asked about moving the garage into the buffer zone that would be approximately 70-feet from the water.

The Commission agreed they should continue this hearing until after the Zoning Board meeting. Mr. Dubois asked for a continuance to March 15th.

Hearing no further comments from the Board or public, discussion continued to March 15th.

Notice of Intent

63 Fairview Drive (modifying retaining wall location)

Mr. Parretti read the Hearing Notice into record and then opened discussion to the applicant.

Mr. Robert Cote in attendance.

Mr. Cote is requesting to take down the existing stonewall, cutting back into the property by 6-feet. There are no plans to change the grade or ground, just moving the wall out of the way.

There is an existing slope and they will continue along that slope.

After some discussion, it was agreed they will need to slope back to some degree.

Mr. Cote noted having 60-70 feet of waterfront.

He wants to move the wall away from his neighbor's property and make enough room for his boat and to bring his boat trailer down to the water.

Mr. Parretti noted this being a bank alteration, but a permissible alteration.

Mr. Ray Gaulin, 57 Fairview Drive had concern with altering the shoreline and creating erosion problems.

Mr. Parretti had spoken with DEP on what was permissible and non-permissible. He explained that if someone were to alter a bank, sloping it away from the water and not going below the current water level, was permissible, but putting riprap or grass right up to the bank, would not be permissible. All disturb area of the retaining wall and any material coming out needs to be sand from closet point of house, towards the water, the wall being the limit of disturbance. The preference would be putting down more beach sand along the side where the bank was located, from the wall to the property, because then it would be less likely to cause erosion from the organic material that might be there when moving the wall.

DEP guidelines say an alteration of a bank can't be any greater than 50-feet or 10% of whatever the frontage is on the water, whichever was the least.

This application shows amount of disturbance being 30-feet, and while 30-feet is less than 50-feet, 10% of 70-foot waterfront is 7%. If a decision was made in favor, and if the decision were to be appealed to DEP, DEP noted they would look at this as being access to a property and would defer it back to the Board.

Mr. Tommy Lee, 61 Fairview Drive noted not having an issue with the proposal, but wanted to make one clarification that the lake was currently down 36 inches and when full in the summer, the lake comes up 24 inches on that retaining wall. Although he had no issue with the wall modification, the retaining wall does sit in the water and holds the lake back.

Ms. Corey Lee, 61 Fairview Drive noted when the new development at the end of Fairview Drive was built, DEP was very strict limiting the property owners to 10% of their land. She felt regulations were in place for a reason and if those property owners were forced to abide by those regulations, all lakefront property owners should have to abide by those regulations.

Mr. Parretti explained he could not speak to what DEP did or did not do when the new development was built. He can only speak on the conversation he had with DEP. At no time did DEP say they were opposed to this project or had an issue.

Mr. Ray Gaulin, 57 Fairview Drive said the wall was currently in the water when the water level was up. If the wall gets moved, the water will go back up that slope. He asked when the wall is taken out and put back in, will the clay be removed underneath and sand put back in.

Mr. Parretti explained beach sand would go on top to a level keeping it from eroding.

The Commission agreed more detailed engineering plans were needed that show grading, the slope change and how they plan to deal with the siltation. Also, getting better clarification, in writing from DEP, their interpretation on the 50-foot versus 10% guideline and what was permissible work.

Discussion continued to March 15th.

Notice of Intent

1136 Main Street (Leicester Library renovations/addition)

Mr. Parretti read the Hearing Notice into the record and then opened discussion to the applicant.

Mr. Christopher Garcia of Garcia, Galuska, DeSousa, Inc in attendance.

Mr. Garcia represented the Town of Leicester and made the presentation.

This is for the renovation and addition of existing library building with new utilities, walkways, driveways and parking area.

Wetlands are delineated on the plan and the resource area sits right off the property line north of the site. The existing building is approximately 7,600-square feet in footprint and has 7000-square feet impervious coverage and they are proposing an 8,900 square foot addition off the north end. They plan to close off the existing curb cut on the east side and create a new curb cut on the west side with a two-way entrance and parking area in the rear.

The new driveway will pitch down to the rear of the building. They plan to remove existing fill and reuse the fill to level the parking lot making it more accessible. In order to do that grading, they will need to put in a retaining wall around the side rear of the property. The parking lot will be within the 100-foot buffer.

Currently, there is no drainage on site for the parking lot and they are required to meet Stormwater Regulations. This will be going through Site Plan Review process with the Planning Board.

Impervious coverage added is roughly 20,000-square feet, which is an increase of 75% and they will be going through the Zoning Board of Appeals for that approval on impervious coverage.

Mr. Marc Aurele noted wetland impact was a minor part of this project and the bigger issues were with Planning & Zoning. He felt it would make sense for this to go through Planning & Zoning first, because the plans may change. He suggested continuing to the next meeting on March 15th.

Mr. Kevin Mizikar asked if the Commission saw any issues that Planning or Zoning may want Conservation's opinion.

Mr. Marc Aurele said the project can't go any closer to the wetlands because of the property line. He didn't proceed anything either Board would come up with that would have a bigger impact than what was already being reviewed.

Discussion continued to March 15th.

Request for Determination of Applicability

0 Mulberry Street (Solar array project)

Mr. Marc Aurele stepped down as voting member because of being an abutter.

Mr. Parretti read the Hearing Notice into the record and then opened discussion to the applicant.

Ms. Meredith Borenstein, New England Environmental in attendance representing applicant.

They are proposing three new solar arrays located in the forested upland that consists of about 23-acres. Only the new access road will be located within the 100-foot Buffer Zone and will only intercepts the outer 50-feet. No wetland impacts proposed and no wetlands on the site where the solar array was going.

The project had received Planning Board & Stormwater approval.

Mr. Paul Carter, 204 Chapel Street was concerned with the effect water runoff will have to his property after the removal of all the tree. Water comes off that hill all year round going into his yard constantly. Once all the trees were gone, there will be nothing there to hold it back.

Mr. John Marc Aurele, 188 Chapel Street concern was not having a full set of plans to view and understand their request.

Ms. Schold agreed that the applicant needed to supply a full set of plans.

Mr. Cooper noted being unable to find the wetland boundary flags on the plan showing the distance of arrays from the wetlands.

Ms. Borenstein said they provided a plan showing the limit of work and anything within that area will be where the arrays go.

The Commission requested having a site meeting and a better set of plans showing the topographic lines, showing the slopes, the grading, the elevation changes and the distance from the wetlands

Mr. Marc Aurele, 188 Chapel Street asked if the adjacent properties around the perimeter of the site were included in the site walk and asked why the cellar hole was not regulated.

Mr. Borenstein said the adjacent properties were included and this cellar hole would not be regulated as a wetland, because it's so small, it's isolated and man-made.

Mr. Marc Aurele questioned whether the cellar hole be part of the stormwater review.

The Commissioners recommended continuing the meeting to March 15th in order to get DEP's opinion regarding the man-made cellar hole, to get a full set of plans and for the Commission to do a site walk inspection.

Mr. Logan Benoit, 190 Chapel Street found a yellow tag tied to one of the trees touching his shed at the property line and was concerned the buffer was being taken away from his property.

Ms. Laura Carter, 204 Chapel Street asked if abutters could be notified of the site walk.

Mr. Borenstein noted for the record the project was reviewed by the Planning Board and went through Stormwater review regarding runoff. The approval states that there would be no additional runoff to neighboring properties or streets.

Mr. Parretti recommended they keep check to the website because it would be posted.

Discussion to March 15th.

Mr. Marc Aurele returned to his seat on the Board.

Request for Determination of Applicability

61 Fairview Drive (privacy fence)

Mr. Parretti read the Hearing Notice into the record and opened discussion to the applicant.

Mr. Tommy Lee and Ms. Corey Lee in attendance.

They want to install a privacy fence, which requires digging of posts holes within 100 feet of the lake, and to remove and relocate a young cherry tree. In addition, to repair or replace existing stonewall & retaining wall blocks behind existing shed.

They would like to install the fence as close to the high water mark they can.

Mr. Marc Aurele noted to keep the last fence post out of the high water mark.

Mr. Lee explained the repair to the retaining wall blocks behind the existing shed.

The shed is 40-feet off the water and the wall holds the earth back from the shed. It's restoration of an existing wall. The dirt will be pulled back behind the shed and there won't be any disturbance in front of the wall. There will be no slope change.

Mr. Ray Gaulin, 57 Fairview Drive and Mr. Mike Corby of 65 Fairview noted being in favor of the project.

Hearing no further discussion from the Board or public, Mr. Parretti asked for a motion.

MOTION: Mr. Soojian moved to recommend a Negative Determination #3 "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area

subject to protection under the Act. Therefore, said work does; not require the filing of a Notice of Intent, subject to the following conditions: Notify Conservation Commission prior to the start of work; no work beyond the High Water Mark and no sediment runoff to pond.”

SECONDED: Ms. Schold – Discussion: None – VOTE: All in Favor

Board Discussion

Auburn Street (Kimball Moore)

Mr. Kimball Moore, Forester in attendance.

Forest cutting plan reviewed for an area on Auburn Street of 12.8 acres. Plans were submitted and approved by DCR. Starting date March 2017. The Commission advised a Forestry Sign be posted at road front.

Mass Fish & Wildlife Management Area Violation @ Moose Hill WMA

Mr. Bill Davis, Division of Fisheries and Wildlife & Mr. John True, Leicester Snowmobile Club in attendance.

Mr. Davis of the Division of Fisheries and Wildlife contacted the office after being notified by a hunter that a new section of trail was constructed/cut and a new bridge across an intermittent stream at the Moose Hill WMA adjacent to Moose Hill Road in Leicester. The slash was left in the brook downstream of the bridge.

He explained a license agreement was in place with the Spencer Snowbirds Snowmobile Club to allow them passage over the property via a single trail that crosses Moose Hill Road, to the private property on the other side that has been developed. A new section of trail was constructed in response to the loss of the former road crossing.

In response, the LCC office contacted Mr. Marc Curtis, adjacent property owner, for any information.

Mr. John True, Leicester Snowmobile Club, responded to the LCC office explaining he was the one responsible. He had permission from Marc Curtis to do work on his property, got confused with property lines, and thought he was still on Marc Curtis's property.

Mr. Parretti asked how Mass Wildlife wanted to move forward.

Mr. Davis explained Mass Wildlife suspended their agreement with the Spencer Snowbirds until the matter was resolved and will predicate their actions moving forward based on what LCC does in terms of the Wetland Protection Act violation.

Mr. Marc Aurele noted the Mass State Regs for wetlands did not say this could not be done, it just said in order for it to be done, it needed to be permitted properly.

The LCC can go one of two ways. 1) Have Mr. True clean and fully restore the area to the way it was; or 2) to impose a fine. The LCC could modify whatever decision made and try to hit the middle mark. Have Mr. True work something out with Mass Wildlife on whether or not it would be allowed to stay and if so, come back to LCC to discuss the conditions under which it needs to be retained.

Mass Wildlife had already requested Mr. True block that trail off. Mr. True explained putting up orange fencing at the Curtis property with a sign stating "Trail Closed." Also putting two additional Trail Closed signs on the Moose Hill property. He contacted the Spencer Snowbird club to place "Trail Closed" signs on the other end of the trail.

The Commission recommended within the next couple of weeks, Mr. True cleaning up the site by removing the brush and bridge from the stream. Mass Wildlife will allow the brush and logs placed to block the trail and further protect the stream and when timing is right, removing the old bridge from the site.

Ms. Schold asked what Mass Wildlife would like see done in addition to what was already agreed.

Mr. Davis would like to see the trail extension that was cut, mitigated with plantings at Mass Wildlife stipulations. To buy stock, at a vender of Mass Wildlife's designation and replant and reforest the area.

Mr. Parretti recommended LCC issue an Enforcement Order directing Mr. True to remove the bridge and brush as soon as practical. That the trail extension be restored with plantings to Mass Wildlife stipulations and under the direction of Mass Wildlife. In addition, an inspection and approval on the finished restoration by Mass Wildlife.

The Commissioners also agreed not imposing monetary penalties because Mr. True had shown willingness to work and showed an immediate cease and desist of the issue.

Mr. Davis noted there would be costs associated with purchasing the stock to revegetate this area and costs involved acquiring that stock. There also could be monetary penalties involved from the Environmental Police for violation of the Wildlife Management Laws.

He was supportive of LCC not imposing a fine.

Release of Performance Agreement for Boutilier Estates

MOTION: Mr. Marc Aurele moved to release the Performance Agreement for Boutilier Estate Subdivision for the sum of \$86,500.00, "Drawn Under Spencer Savings Bank Letter of Credit No. 1024304907 Dated, December 1, 2010."

SECONDED: Mr. Soojian – Discussion: None – VOTE: All in Favor

Minutes

1/11/2107

MOTION: Ms. Schold moved to approve the minutes of January 11, 2017

SECONDED: Mr. Marc Aurele – Discussion: None – VOTE: All in Favor

MOTION: Mr. Marc Aurele moved to adjourn meeting

SECONDED: Ms. Schold – Discussion: None – VOTE: All in Favor

Meeting adjourned at 9:00PM

Respectfully submitted:

Barbara Knox

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