

Town of Leicester Conservation Commission
Meeting Minutes
May 15, 2019

MEMBERS PRESENT: Stephan Parretti, Chair; James Cooper, JoAnn Schold, John Marc-Aurele and Dawn Marttila

IN ATTENDANCE: Michelle Buck, Town Planner

MEETING TIME: 6:30 PM

AGENDA:

1. **Certificate of Compliance**
Mark Goretti, Champid Reality Trust, 147 Main Street (building demolition) *continued* (#197-0555)
2. **Request for Determination of Applicability (RDA)**
254 Rawson Street *continued* (construct 3 bay garage (924 sq. ft.) having concrete foundation and floor)/Timothy Sanko (#2019-01)
3. **Request for Determination of Applicability (RDA)**
3 LaFlash Lane (replace existing deck with new 12x24 deck and install 5' tall black chain link fence)/Michael Philip (#2019-02)
4. **Notice of Intent(NOI)**
0 & 22 Burncoat Street (construction of 132,000± sq. ft. marijuana cultivation facility)/Cultivate Holdings, LLC (DEP # pending)
5. **Approval of Minutes**
 - 4/10/2018
6. **Board Discussion/Miscellaneous**
 - a) Chapter 61 Request: Chapel & Mulberry Streets
 - b) Cedar Meadow Lake drawdown update (#197-0584)
 - c) Correspondence/Other New Business
 - d) Miscellaneous Project Updates/Site Inspection Updates

Certificate of Compliance

Mark Goretti, Champid Realty Trust, 147 Main Street (#197-0555) *continued*

Mr. Parretti explained that the Applicant requested a Certificate of Compliance but that the Order of Conditions had already expired. He stated that they conducted a site visit with Mr. Jeffrey Howland of JH Engineering Group. Mr. Parretti asked Ms. Buck if she had prepared an Enforcement Order and she said yes.

Mr. Howland addressed the Board and stated that they are not yet ready for the Certificate of Compliance based on that site visit. He said that the contractor had started removing the material but because of the rain on Monday and Tuesday, they had to stop because it was creating a bigger mess. Mr. Howland commented that he was aware that they would be receiving an Enforcement Order and stated that he understood why it was being issued.

Mr. Parretti stated that the Enforcement Order will be issued to clean up the property. He said that once they clean up the property then they can then issue the Certificate of Compliance. Mr. Parretti asked Mr. Howland when they expected to be done and Mr. Howland stated that they

had already removed four of the five piles and that they had hoped to be done this week. The Board signed the Enforcement Order.

NOTE: Mr. John Marc-Aurele arrived at 6:32PM.

Mr. Parretti updated Mr. Marc-Aurele and explained that he and Ms. Marttila had done a site visit and the Board had decided to issue an Enforcement Order. He further explained that once the site was cleaned up, that they would then issue a Certificate of Compliance.

Mr. Parretti told Mr. Howland to notify the Board when they were ready for another site visit and Mr. Howland stated that he hoped to have the site ready next week.

Request for Determination of Applicability (RDA)

254 Rawson Street (construct 3 bay garage (924 sq. ft.) having concrete foundation and floor)/Timothy Sanko (#2019-01) *continued*

Mr. Parretti announced that this was a continuation from the last meeting because the Applicant had not been in attendance. Nancy Sanko, wife of the Applicant, was present and addressed the Board and reviewed the large plan with the Board and Mr. Marc-Aurele asked if they had the lot surveyed and Mrs. Sanko answered yes. Mr. Marc-Aurele asked if the surveyor had looked around the wooded area and if he had confirmed that there was in fact no evidence of wetlands and Mrs. Sanko answered yes.

NOTE: Ms. Marttila arrived at 6:35PM.

Ms. Schold asked if they flagged the wetlands and Mr. Marc-Aurele stated that there were none. Mrs. Sanko stated that she understood that the only issue was the pond being 76' from the proposed garage when it needed to be 100'.

Mr. Parretti asked if there were any questions or comments from the public and there were none.

MOTION: Mr. Marc-Aurele moved to make a Negative 3 determination on the RDA for 254 Rawson Street that 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.

SECOND: Ms. Schold

VOTE: All in favor

Request for Determination of Applicability (RDA)

3 LaFlash Lane (replace existing deck with new 12x24 deck and install 5' tall black chain link fence)/Michael Philip (#2019-02)

Mr. Parretti read the public hearing notice into record.

The Applicant, Michael Philip was present.

Mr. Parretti explained that the Building Inspector had been called out to the property because the deck was ready to fall down. He further explained that the Board gave the Applicant an Emergency Certification in order to start working. Mr. Parretti stated that he had done a site visit and had confirmed that the deck was ready to fall down. He said that at the same time of the site

visit, the Applicant discussed putting up a chain link fence. Mr. Parretti also told the Board that the land is fairly flat and that they spoke about where the wetlands were are and where the fence would need to stay.

Mr. Parretti asked if there were any questions or comments from the public and a woman from the audience, who did not identify herself, stated that she had never received a notification letter before and asked how this would impact her. Mr. Parretti explained that since she was an abutter, she received a letter. He asked where she lived and she said she lived on Sanfred. Mr. Parretti explained that the Applicant had to notify abutters within 300 feet of the property. He further explained that if anyone has wetlands next to their homes, that they have to notify the Conservation Commission to make sure construction doesn't negatively impact wetlands. The woman wanted to clarify that this would not be going into the wetlands at all and Mr. Parretti confirmed that nothing would be going into the wetlands.

Ms. Schold stated that they were only replacing an existing deck. Mr. Parretti said that the fence would be much closer but that it would not be going into the wetlands. He also commented that someone had put a stone wall to delineate the wetlands many years ago. The woman stated that she understood and thanked the Board.

MOTION: Mr. Marc-Aurele moved to make a Negative 3 determination on the RDA for 3 LaFlash Lane that 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 not disposing pole hole materials into the wetlands.

SECOND: Ms. Marttila

VOTE: All in favor

Notice of Intent (NOI)

0 & 22 Burncoat Street (construction of 132,000± sq. ft. marijuana cultivation facility)/Cultivate Holdings, LLC (DEP # pending)

Mr. Parretti read the public hearing notice into record.

Travis Brown of Andrews Survey & Engineering, Inc. was present for the Applicant and addressed the Board. He stated that Russell Dion and Molly Kelly from Campanelli were present along with Sam Barber from Cultivate and John Rockwood from EcoTech, Inc.

Mr. Brown discussed the proposed project with the Board. He explained that this site was 700 feet from Route 9 and contained about 37 acres of land area with an existing house on the property. Mr. Brown stated that they are proposing to cut about 8 acres, of which 1.4 of those acres needed to come before the Conservation Commission for approval. He stated that they had met stormwater standards as part of their design and that they had also done extensive soil testing on site.

Mr. Brown reviewed the plan with the Board and discussed the location of the proposed facility. He pointed out the proposed access site and parking area and stated that they were all located outside of the 100' buffer zone. He pointed out the greenhouses and processing area on the plan and said that the building, as proposed, would be located at a minimum of 50' from a wetland resource area. Mr. Brown also pointed out the second resource area on the west side of the site

and stated that they had complied with the 25' no-disburb buffer zone based on the town's bylaw.

Mr. Brown discussed the stormwater management practices and showed the locations of the catch basins and piping to the infiltration basin on the plan to the Board. He stated that all the roof runoff would also be captured and routed into the infiltration basin. He said that infiltration will be done onsite and whatever is not infiltrated would be discharged into wetlands. Mr. Brown stated that the wetlands flow down towards a southwest direction into a stream that eventually gets into Burncoat Pond. He commented that there would not be any impact to any abutting properties.

Mr. Brown stated that there would be minimal work done within the buffer zone. He said that the work would be mostly tree clearing in order to provide sunlight to the greenhouses along with some minor grading around the building. Mr. Brown pointed out the retaining wall in the back of the building that would be installed and said that it would be located about 30' at the closest point and about 40' to 45' from the wetlands.

Mr. Parretti asked Ms. Buck if this project would be going to the Planning Board and Ms. Buck answered yes. Mr. Buck stated that that hearing had been scheduled for June 4th. Mr. Parretti asked if that Board would be dealing with the stormwater management part of the project and Ms. Buck answered yes.

Mr. Marc-Aurele asked Mr. Brown to discuss erosion control. Mr. Brown explained that the erosion control barrier they propose would be a 12 inch filter net with along with a silt fence. He pointed out on the plan the entire area where the erosion control would be installed.

Mr. Parretti asked Ms. Buck if in fact that there still was not a DEP number assigned or comments issued and Ms. Buck confirmed that as correct. Mr. Marc-Aurele commented that he thought everything looked good and Ms. Schold commented that she would like to do a site visit.

Mr. Parretti asked if there were any questions or comments from the public and if so, he asked that they identify themselves by name and address before speaking. He said that they would only entertain conservation questions. He said that if anyone had questions about zoning, he stated that this was not the Board to ask those types of questions.

Nancy Rotolo of 2 Burncoat Street addressed the Board. She stated that she had gone through a similar conservation issue before with Jim Laney that caused an increase in water runoff onto her property. Ms. Rotolo pointed out the area she was referring to the Board on the plan. She stated that water was already running down the street and she said that she's concerned about the erosion control they plan to use.

Mr. Parretti asked Ms. Rotolo if Jim Laney had anything to do with this project and Ms. Rotolo answered no. Ms. Rotolo stated that she was using that as an example that things hadn't gone well. Mr. Marc-Aurele commented that Ms. Rotolo's property was physically located above this property and stated that water cannot run uphill. Mr. Brown pointed out that the property Ms. Rotolo was referring to was 6 to 8 inches higher in elevation than their property and he explained that the sloping would be away from that property and towards the building.

Mr. Rotolo asked when they expect the DEP number to come in and Mr. Parretti stated that it's anybody's guess. Mr. Parretti commented that he had hoped that they had had one already. Ms. Schold stated that they could not make a formal vote because they still did not have a DEP number. Mr. Parretti confirmed that because they didn't have a DEP number that they would not be voting and that they would be doing a site visit to take a look at things. He told Ms. Rotolo that the Board would take her concerns into consideration when they walk the site.

Ms. Rotolo took a picture of the colored plan that was on display. Mr. Parretti told Ms. Rotolo that she could review the file contents during town hall hours or via the town's website. Ms. Buck asked Mr. Brown to submit a colored copy of the plan for the public to be able to view it on the town's website.

Francis Rotolo of 2 Burncoat Street addressed the Board. He asked if they would be filling in wetlands and Mr. Brown stated that they would not be disturbing anything within the 25' foot buffer zone. Mr. Rotolo commented that they did not currently own this land and Mr. Sam Barber stated that they currently have a binding agreement to purchase it. Mr. Rotolo commented that the current owner, Frank, does not know that this property is being sold. Mr. Parretti interrupted Mr. Rotolo and stated that whatever arrangements were being made for buying or selling the property are irrelevant to the Conservation Commission.

Chrissy Sullivan of 32 Burncoat Street addressed the Board. She commented that she wasn't sure if the Conservation Commission dealt with the smells and toxins coming from the facility and Mr. Parretti stated that they would not be the Board to deal the those issues. Ms. Sullivan asked which Board would be dealing with that and Mr. Parretti said it would be the Planning Board. Mr. Parretti commented that all this Board would be doing would be voting on wetland issues only and stated that anything above that would be the Planning Board or Zoning Board of Appeals.

Ms. Sullivan commented that she thought that the Conservation Commission was about protecting the environment. Mr. Marc-Aurele stated that the Conservation Commission was about enforcing the laws related to environmental protection. Mr. Parretti stated that all they could do was to enforce the town's wetland bylaws and he said that DEP had their own set of rules [MA Wetland Protection Act].

Ms. Schold asked how many trees would be cut down and Mr. Brown stated that they had not counted the number of individual trees and said he could not answer that. He said that it would be about 8 acres, of which 1.4 of those acres is in the wetland buffer.

Rachel Debatis of 30 Burncoat Street addressed the Board. She commented that they had already cut a substantial amount of trees on the property. Ms. Schold stated that they had a cutting plan for that that previously came through the Conservation Commission and said that that was state mandated. Mr. Marc-Aurele commented that the removal of trees was not against the law as long as they did not remove trees within the buffer area.

Ms. Debatis stated that there were already problems with water in people's basements. Mr. Parretti stated that that would fall under stormwater management and would be a Planning Board issue. Mr. Parretti explained that the town had an engineering firm, Quinn Engineering, that

reviews all stormwater management plans. He said that Quinn Engineering would review and comment on the stormwater management to the Planning Board.

Ms. Sullivan stated that the fact that trees were being removed meant that it would affect the wetlands. Mr. Marc-Aurele commented that even putting fertilizer on your lawn could affect wetlands. Mr. Marc-Aurele explained that unless they clear cut the entire property and left it as dirt and then it rained and all that dirt ended up in the wetlands, he said that then they would get involved and go after them to restore the area. Mr. Marc-Aurele stressed that the cutting of trees was not regulated. Mr. Parretti pointed out that if it's permissible by DEP and the town's bylaws, that there is nothing that they could do.

Mr. Parretti asked if there were any further questions or comments from the public and there were none.

Mr. Parretti reminded the public that they were still waiting for DEP to issue a number and their comments and said that they would not be voting tonight. Mr. Parretti stated that he anticipated that they would be on the next agenda on June 12th. He suggested that the public call the office first to make sure that they don't get continued to the July meeting.

The Board scheduled a site visit for June 8th at 9:00 AM and continued the hearing to June 12th.

Approval of Minutes: April 10, 2019

MOTION: John Marc-Aurele moved to approve the minutes of April 10, 2019.

SECOND: Mr. Cooper

VOTE: 4 in favor/1 abstention (Ms. Marttila)

BOARD DISCUSSION/MISCELLANEOUS

Chapter 61 Request: Chapel & Mulberry Streets

Ms. Buck stated that both the Conservation Commission and the Planning Board had reviewed and declined this previously but she said that it had to be put on the agenda again because of a new project. Mr. Buck said that it would be another solar farm and said that it's called Mulberry 3. Ms. Buck asked if the Board had any comment and the Board did not comment.

Cedar Meadow Lake Drawdown

Ms. Buck stated that at the last meeting they spoke about them submitting a request for an extension that had long expired. She said that she notified them on April 18, 2019 via a letter to the last known address on record because they did not supply any contact information on their request. She informed them that they needed to do a new NOI filing.

Correspondence/Other New Business

98 Manville Street

Ms. Buck stated that the owner will be requesting a Certificate of Compliance. She said that they are having trouble getting an engineer to sign off on something from so long ago. Mr. Parretti asked how old this was and Ms. Buck said 2001. Ms. Buck stressed that they had not submitted their application yet and said she wanted to make the Board aware of this. Mr. Parretti stated that when they file their application, the Board will then get together for a site visit.

1 Lakeview Drive

Ms. Buck asked the Board how they wanted her to handle this complaint. Ms. Schold asked for a file and Ms. Buck stated that there wasn't a file. Ms. Schold said that she did not go on the property herself to inspect it. Mr. Cooper stated that when he took a look at it that it looked like it was flowing away from the lake and back towards Charles Street and commented that it was flowing away from the wetlands. The Board reviewed the septic plan that the town had on file and Ms. Buck stated that the septic system was never installed. Ms. Buck stated that Julie VanArsdalen, Board of Health, had been out there several times already and said that Ms. VanArsdalen said the current septic system was fine.

Mr. Parretti commented that they could reach out to the property owner and ask for access to the property to take a look. He stated that the next time it rains; the property owner should call the office so that they could go take a look at the time that it was happening. Mr. Parretti told Ms. Buck to tell the property owner to call the next time it was raining to report the issue so they could go and take a look.

House Demolition

Ms. Buck stated that there was someone wanting to demolish a house on Moose Hill Road and she asked the Board what type of application they should be submitting. Mr. Marc-Aurele stated that they could submit an RDA if they are within the buffer with minimal disturbance. He said that if it would be a major disturbance, then they should submit an NOI.

New Board Member

Mr. Parretti officially welcomed Dawn Marttila to the Conservation Commission.

Blanket Standing Orders

Mr. Parretti asked Ms. Buck to check with the Highway Department about blanket standing orders with the town. He commented that those needed to be updated.

Burncoat Park

Mr. Parretti said that a cleanup of Burncoat Park was scheduled for June 9th at 8:00 AM. Ms. Marttila commented that they would be looking for guidance from the Conservation Commission. Mr. Parretti mentioned the possibility of mosquito control and Mr. Marc-Aurele commented that he believed that would fall under a state regulation. Ms. Schold commented that the Fire Department sprayed for mosquitos at one point and said that there must be funding somewhere. Ms. Buck stated that the town looked into joining the Central Mass Regional Mosquito Control Project last fall but that the cost was too expensive for the town. Mr. Parretti stated that they would be meeting on site tomorrow at 6:00 PM and invited the public to attend.

Commission Expirations

Ms. Schold mentioned that she received a letter letting her know that her term would be expiring on June 30th and that if she wanted to continue, she had to return the that letter signed by May 31st. Ms. Buck stated that Mr. Cooper would also be expiring June 30th.

MOTION: Ms. Schold moved to adjourn.

SECOND: Mr. Cooper

VOTE: All in favor.

The meeting adjourned at 7:36PM.

Respectfully submitted:

Wanda Merced, Department Assistant

Documents included in meeting packet:

- Agenda
- Request for RDA for 3 LaFlash Lane and supporting documents
- Request for NOI for 0 & 22 Burncoat Street and supporting documents
- Meeting minutes for April 10, 2019

Documents submitted at meeting:

- N/A