

**Town of Leicester Conservation Commission
Meeting Minutes
October 24, 2018**

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

MEMBERS ABSENT: None

IN ATTENDANCE: Michelle Buck, Town Planner and Wanda Merced, Department Assistant

MEETING TIME: 6:00 PM

AGENDA:

1. **Extension Requests**
Curtis Self-Storage, 1749 Main St (197-0600)
2. **Request for Determination of Applicability (RDA)**
 - a) 2 Patricks Drive (water line installation)/Tyler Lussier
 - b) 4 Patricks Drive (water line installation)/Melvin Medina
3. **Notice of Intent(NOI)**
 - a) 101 Huntoon Highway, Continued (building addition), DEP#197-0632
 - b) Mulberry Street Solar III, Continued (Solar Farm), DEP#197-0636
 - c) 6 Lake Shore Drive (house renovation, well, septic), DEP#197-0638
 - d) Stiles Reservoir Amendment, DEP#197-0592
 - e) Boutilier Solar #3 (solar farm)
4. **Approval of Minutes**
 - August 23, 2018
5. **Board Discussion/Miscellaneous**
 - a) Oakridge Estates
 - b) 315 River Street
 - c) 211 Baldwin
 - d) Auburn Solar (erosion complaint)
 - e) Sign performance agreement for 445 Pine
 - f) Commission Vacancy
 - g) Abutter notification
 - h) Central Mass Mosquito Control Project
 - i) Miscellaneous Project Updates/Site Inspection Updates

Notice of Intent: Mulberry Street Solar III, Continued (Solar Farm), DEP#197-0636

Mr. Parretti announced that Mr. Marc-Aurele had to step off the Board at this time because he is an abutter to this property.

Peter Engle of Bertin Engineering discussed the confusion about there being an open Order of Conditions on the property. He was able to find out there was no order but there was an RDA filed. He stated that he sent Mass DEP responses to their comments and have not received any further comments back from them. Ms. Buck said that the Planning Board approved this about a month ago.

Mr. Parretti asked Mr. Engle to confirm that the setbacks have been met and Mr. Engle confirmed that the work that has been done is not touching anything. Mr. Parretti asked if anyone from the public had any comments and there were no comments from the public.

MOTION: Mr. Cooper motioned to approve the NOI for the Mulberry Street Solar III with normal conditions.

SECOND: Ms. Schold

VOTE: All in favor.

NOTED: Mr. Marc-Aurele stepped back onto the board.

NOTED: Mr. Cooper left the meeting at 6:05pm.

Extension Requests, Curtis Self-Storage, 1749 Main St (197-0600)

Ms. Buck stated that they submitted a request for an extension but it turns out there was just a typographical error in their NOI so they still have another year. Ms. Buck will send them a letter with this information.

Notice of Intent: 101 Huntoon Highway, Continued (building addition), DEP#197-0632

Robert Johnson, owner of the property, was present at the meeting with the final drawings because his engineer, Stephen Balcewicz, was not available. He said that he sent the final drawings to Ms. Buck via PDF. Ms. Schold asked to look at the drawing he had. Mr. Johnson said the final drawings address the issues that the Planning Board had with stormwater management. Kevin Quinn of Quinn Engineering sent an email saying he reviewed the resubmittal from Stephen Balcewicz and he was satisfied with the stormwater management requirements. Mr. Quinn requested that Mr. Balcewicz submit a full size copy of the plan. Mr. Parretti asked Mr. Johnson if there was any replication and Mr. Johnson said there was not. Mr. Parretti asked if anyone from the public had any comments and there were no comments from the public.

MOTION: Mr. Marc-Aurele motioned to approve the building addition at 101 Huntoon Highway.

SECOND: Ms. Schold

VOTE: All in favor.

Notice of Intent: 6 Lake Shore Drive (house renovation, well, septic), DEP#197-0638

Mr. Parretti read the notice into the record. Jay Finlay, Finlay Engineering, and the property owners, Terence and Mary O'Coin, were present. Mr. Finlay handed in the Certificates of Mailing. The plan was reviewed to see where the home and wells will be located. Existing cesspool will be replaced with a new leach field across the street and proposing a well in the back. New house will be a two bedroom home in the existing footprint with a garage.

Mr. Finlay stated that the current timber wall will be replaced with a masonry stone wall. Mr. Parretti asked about the changing of that wall and about the specifics of how it's supposed to be done. Mr. Parretti stated he wanted to see what the specific procedure is for replacing the wall. Ms. Schold asked what the DEP comments were and Mr. Finlay responded that they received the file number and there were no comments. Mr. Parretti suggested making a conditional approval and asked Ms. Buck to look at an old file to find a copy of DEP letter regarding wall placement. Mr. Marc-Aurele recommended wording it as "the work on the wall to be done in accordance with the DEP". A copy of the DEP letter will be included with the Order of Conditions. Mr. Parretti told Mr. and Mrs. O'Coin they can give conditional approval or continue it to the next

meeting and they (the owners) wanted the conditional approval. Mr. Parretti asked if anyone from the public had any comments and there were no comments from the public.

MOTION: Mr. Marc-Aurele motioned to approve the NOI for house renovation, well work and wall reconstruction at 6 Lake Shore Drive subject to our typical Order of Conditions and it is conditional upon review of the DEP memo addressing guidelines for replacing the wall within the waterfront area and any applicable regulations be applied hereto.

SECOND: Ms. Schold

VOTE: All in favor.

Notice of Intent: Boutilier Solar #3 (solar farm)

Mr. Parretti read the notice into the record. Ms. Buck announced that there isn't a DEP number yet assigned to this file. Chris Anderson of Zero Point Energy Solutions III, LLC was present and handed in the abutters notifications. Mr. Parretti stated that there would not be a vote, only a discussion. Mr. Anderson discussed the project saying they hope to construct a 4.5-Megawatt facility. They will be installing detention basins and stormwater management. Much of the land will be cleared and they will stay outside the 25 foot buffer zone. They plan to cut larger trees but keep the smaller trees and shrubs.

Joe and Christina Roberts live on Hayden Street and own 9.8 acres next to this property. Mr. Roberts said he knows that there is a thruway through the property they own. Mr. Roberts asked how they will be able to access their property if a solar farm is there. Mr. Anderson stated he will look into that and make sure they didn't miss anything in their property line research. Mr. Roberts stated that they don't want to give up access to that easement. Mr. Parretti said this is not a Conservation Commission issue and suggested they show up to the next Planning Board meeting on November 13th.

Mrs. Roberts expressed concerned about the water flow. Mr. Anderson stated that they are not redirecting water flow and explained the mitigation for the stormwater management to Mrs. Roberts so she could understand the process.

Ms. Buck asked Mr. Anderson if he received any comments from DEP yet and he said there are no comments yet.

Mr. Parretti pointed out a typographical error on the Notice of Intent that was submitted. He stated that on the Narrative 1.0, under the Project Description, the last paragraph says "As is required by the Leicester Wetlands Protection Bylaw, there will be work within 25-feet of the BVW". Mr. Anderson confirmed that was indeed a typographical error and apologized. The Board requested that Mr. Anderson correct that to say "will **not** work within 25-feet".

Mr. Parretti asked Mr. Anderson to notify Ms. Buck when they receive the DEP number.

The Board continued the hearing until the DEP number is assigned.

Notice of Intent: Stiles Reservoir Amendment, DEP#197-0592

Mr. Parretti read the notice into the record. J. Matthew Bellisle from Pare Corporation was present on behalf of Stiles and handed in the Certificates of Mailing receipts. Mr. Bellisle

discussed the amendment and said they found a leak that was evidenced by a whirlpool. With this amendment, they want to work within the limits and add an additional cutoff wall to control the leak. They are looking for normal drawdown in order to complete this repair. They are hoping to begin phase 1 this fall using a chemical grout to seal the void at the entry point. Then the second phase would be to install a cutoff wall and that phase may be extended into the next construction season. They will utilize the same contractor who has a proven track record on this site.

Mr. Marc-Aurele asked if the Office of Dam Safety had been notified and Mr. Bellisle said that they are involved and have checked the site several times. Mr. Bellisle stated that the Office of Dam Safety is willing to extend the Dam Safety Permit.

Ms. Schold asked how long Mr. Bellisle believed this would take. Mr. Bellisle stated phase 1 will take two to three weeks but phase 2 will take longer. He said phase 2 would take two to three months to complete depending on the weather temperatures. Ms. Schold asked if the silt fence is still there. Mr. Bellisle stated that most of the silt fence at this point has been restored.

Mr. Parretti asked Mr. Bellisle if their current Order of Conditions will expire prior to phase 2 and Mr. Bellisle confirmed that it might expire. The Order of Conditions expires June 1, 2019 and Mr. Bellisle is concerned that phase 2 may take longer to complete depending on weather temperatures.

Robert Fournier stated his consultant sent an email. Ms. Buck passed out a copy of the email to the Board for them to read. Mr. Fournier stated he loses water when there is a drawdown and his water quality and quantity suffers.

Mr. Marc-Aurele asked Mr. Bellisle to again verify that the drawdown will be a normal drawdown. Mr. Bellisle stated 6 ½ feet for the depth drawdown was issued by the DEP. Mr. Parretti asked Mr. Bellisle if the DEP has commented on their amendment and Mr. Bellisle said they have not commented.

Mr. Fournier feels that the depth of the drawdown is abnormal and extreme. He stated that after a drawdown of 4 feet, he's impacted. Mr. Parretti stated that Mr. Fournier has always had a drawdown problem. Ms. Schold stated that dam safety is important.

Mr. Parretti asked Mr. Fournier if he loses his water every drawdown and Mr. Fournier confirmed that as correct. Mr. Fournier said the depth of the drawdown is abnormal and extreme. He stated that he's filed for appeals twice.

Ms. Schold stated that dam safety has been important and assured Mr. Fournier that the drawdown will not be as low as it's been the last three years. Again, Mr. Bellisle confirmed 6 ½ feet for the depth of the drawdown as issued by DEP. Ms. Schold asked for the letter that was sent to the abutters for the Board to review. Mr. Bellisle handed out a copy of the letter to the Board for their review.

Mr. Bellisle stated that Mr. Fournier is correct that the letter is unclear. Mr. Bellisle pointed out that the letter says "Stiles Reservoir is proposed to 6 ½ feet below the current ordered

drawdown” and it should have said “6 ½ feet which is the superseding Order of Conditions”. Ms. Schold stated she could understand Mr. Fournier’s concerns. Mr. Parretti stated that as far as the letter is concerned, they needed to make some clarifications and they made those clarifications at the meeting.

Mr. Parretti asked Mr. Bellisle to clarify if they are coming to the Board for an amendment on the superseding Order of Conditions. Mr. Bellisle stated that they are coming to the Board for an amendment on the NOI for the dam repair [DEP#197-0592]. Mr. Parretti asked what the amendment on the superseding Order of Conditions was on and Mr. Bellisle said it was for the drawdown which is an operational activity which was reviewed by DEP at that time. Mr. Parretti stated that he sees the drawdown as being a superseding Order of Conditions DEP issue and the only thing the Board would be doing is voting today on repairing the dam not the drawdown.

Mr. Fournier requested that the Board include his letter from his consultant to be entered into the meeting minutes. Mr. Marc-Aurele stated that the letter will be noted in the meeting minutes as received but it will not be entered verbatim in the minutes. Mr. Parretti confirmed that the document will be in the file and said that any documents anyone submits at meetings are always placed in the appropriate file.

Mr. Parretti stated that the only thing in front of the Board is to vote on agreeing if they can move forward to repair the dam not the drawdown. Mr. Parretti told Mr. Fournier that he doesn’t believe the Conservation Commission is the forum for his complaint regarding the drawdown. Mr. Parretti suggested that Mr. Fournier speak directly with DEP because this issue is out of their jurisdiction. Mr. Parretti stated that once DEP steps in, they take the lead and Conservation Commission has no say in anything.

Mr. Parretti reiterated that the Board would be voting just on the dam repair only. Mr. Fournier stated that the Board wasn’t voting on repairing the dam, he thought they would be voting on the district’s request for an extension. Mr. Parretti clarified that they are asking for an extension on the repair of the dam in the event that they are not able to complete it this season then they would do the remainder of the repair next season. Mr. Fournier stated he did not have a problem with the repair.

Ms. Schold asked Mr. Bellisle when the superceding order for drawdown expires and he told her it expires January 2019. The NOI for the dam repair currently expires on June 1, 2019, and they are asking for a 1 year extension. Ms. Schold explained to Mr. Fournier that there will be another meeting for when they want to extend the drawdown and that is the meeting he should attend. Mr. Marc-Aurele explained that it doesn’t matter if the Board extends the order for the dam repair, their request for the extension of that relies on their having a separate order for the drawdown. He further explained if that if the other order expires and it doesn’t get renewed, they can’t come back in 2020 and do this work because they won’t be able to draw the water down. Mr. Fournier stated he understood the explanation. Mr. Marc-Aurele confirmed that the Board answered all of Mr. Fournier’s questions to his satisfaction.

Mr. Parretti confirmed that the only thing the Board was talking about was the dam repair, the grouting to fix the problem and the building of a cutoff wall (whether this year or next year

because of timing). Mr. Parretti asked if anyone from the public had any comments and there were no further comments from the public.

MOTION: Mr. Marc-Aurele motioned to approve the extension of the permit for repair of the dam [to June 1, 2020] to accomplish phase 1 and phase 2 items as identified.

SECOND: Ms. Schold

VOTE: All in favor.

Request for Determination of Applicability: 2 Patricks Drive (water line installation)

Mr. Parretti read the notice into the record. Applicant (Tyler Lussier) was not present. Mr. Parretti asked if anyone from the public had any comments and there were no comments from the public.

MOTION: Mr. Marc-Aurele motioned to make a Negative 3 determination on the RDA for 2 Patricks Drive 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 the following conditions that the area be suitably stabilized upon completion of the work.

SECOND: Ms. Schold

VOTE: All in favor.

Request for Determination of Applicability: 4 Patricks Drive (water line installation)

Mr. Parretti read the notice into the record. Applicant (Melvin Medina) was not present. Mr. Parretti asked if anyone from the public had any comments and there were no comments from the public.

MOTION: Mr. Marc-Aurele motioned to make a negative 3 determination on the RDA for 4 Patricks Drive 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 the following conditions subject to stabilization of ground surface upon completion of the work.

SECOND: Ms. Schold

VOTE: All in favor.

BOARD DISCUSSION/MISCELLANEOUS

Oakridge Estates

Ms. Buck included an update from Arthur Allen of EcoTec, Inc. in the meeting packet.

211 Baldwin

Ms. Schold suggested sending a letter to the property owner to let us know what they are doing. Ms. Buck will follow up.

315 River Street

Not sure if they fixed the water line. Ms. Schold will visit the sight to see if the water line has been fixed.

Auburn Solar (erosion complaint)

Ms. Buck has been unable to contact the solar people directly. Ms. Buck sent an email to the last person that she had contact information for but she did not get a response. Ms. Buck then contacted Jason Brown who is the person in charge of site work for the project. Mr. Brown said “they” had contacted him recently to repair the wash out and he said there is a new owner but he did not provide the new owner’s name or contact information. The Board stated that whoever owns the land should get a cease and desist. Mr. Parretti said a letter needs to be sent telling the landowner about the serious erosion control issue that is negatively affecting the wetlands and the stormwater system. Further telling them that we request they immediately respond to this Board on how they will remedy the situation prior to the next meeting and that failure to do so could result in fines.

Sign performance agreement for 445 Pine

Performance agreement signed.

Commission Vacancy

Ms. Buck invited Dan George but he did not show up to the last meeting and is not responding to emails. Mr. Parretti stated that Dan George is out and that they will not chase people.

Abutter notification

Ms. Buck stated that DEP allows Certificates of Mailing rather than Certified Mail and our local regulations say Certified Mail. Trying to move away from Certified Mailing because it’s expensive and the cost is of over \$6.00. The Board asked what the difference was and Ms. Buck explained that Certificates of Mailing do not generate a green card certifying delivery but the post office does provide a receipt that it’s been mailed. Mr. Buck stated that the Planning Board just recently voted on waiving Certified Mail and allowing Certificates of Mailing instead. Ms. Buck plans on going to ZBA next for them to waive Certified Mail. Ms. Schold said that they would want to only use Certified Mail on cease and desist orders to have proof of delivery.

MOTION: Mr. Parretti motioned to vote to waive the regulation that we require Certified Mail and change it to Certificates of Mailing.

SECOND: Ms. Schold. Discussion: Ms. Buck stated that we currently require abutter notification for RDAs, though DEP doesn’t require this. The Board want to continue notification which will now be easier with Certificates of Mailing instead.

VOTE: All in Favor

Central Mass Mosquito Control Project

Ms. Buck said that the Board of Health is looking into the possibility of joining this project. They want to know if this Board had any concerns about it because it involves spraying. Ms. Buck said that this will need to go to a town vote because it’s expensive. There have been a few residents who have asked about it because of the increase in mosquito and tick borne diseases. The Board needs more specific information in order to comment.

Miscellaneous Project Updates/Site Inspection Updates

Ms. Buck stated that the Planning Board received two new applications for marijuana cultivation facilities at 484 Stafford Street and 424 Main Street. Both are reusing existing buildings.

Approval of Minutes: August 23, 2018

MOTION: Mr. Parretti moved to approve the minutes of August 23, 2018.

SECOND: Ms. Schold – Discussion: Make two changes at the bottom of big page 59. Mr. XXX is Mr. Marc-Aurele and the Second is Ms. Schold.

VOTE: All in favor.

Next meeting November 14th

MOTION: Mr. Parretti moved to adjourn.

SECOND: Ms. Schold

VOTE: All in favor.

The meeting adjourned at: 7:50 PM

Respectfully submitted:

Wanda Merced, Department Assistant

Documents included in meeting packet:

- Agenda
- Letter to Commission from C&J Realty Trust Dated 10/1/2018 requesting an extension of time to complete Order of Conditions File #197-0600 at 1749 Main Street
- Request for Determination of Applicability for 2 Patricks Drive
- Request for Determination of Applicability for 4 Patricks Drive
- Revised plan set and response to DEP comments for Mulberry Solar and supporting documents
- Notice of Intent for 6 Lake Shore Drive and supporting documents
- Public Hearing regarding Stiles Dam and supporting documents
- Public Hearing regarding Boutilier Solar 3 and supporting documents
- Meeting Minutes dated 8/23/18
- Letter to Conservation Commission from EcoTec, Inc. regarding Oak Ridge Estates project status update

Documents submitted at meeting:

- Letter from Matthew S. Marro Environmental Consulting regarding Stiles Reservoir
- Copy of letter to abutters regarding Stiles Reservoir