

CONSERVATION COMMISSION
MONDAY, APRIL 1, 2024
RERSOURCE ROOM

Attendance: Chair Joe Fitzpatrick, Mark Mungeam, Jim Foran, Katiegrace Dudley, Mike Greco, Josiah Burch, Brandon Faneuf Conservation Agent, Matthew Benoit, Town Staff

Joe Fitzpatrick called the meeting to order at 7 pm.

(1:05 TS) Motion to take the Mail/Order to be signed, meeting minutes, and the Stormwater bylaw and move them to the end of the meeting, made by Jim Foran, 2nd by Mike Greco. Roll call vote – Jim Foran, Mike Greco, Josiah Burch, Joe Fitzpatrick all in favor.

(1:20 TS) Mark Mungeam joined the meeting.

1. (1:45 TS) Request for Certification of Compliance, (DEP #143-0689), James Silva, 38 Hemlock Street, Map 287 Lot 4 – Possible votes
James Silva stated that this deals with an order of conditions granted back in 2005, and he came before the Commission in September of 2022 to get an order of conditions an unaware that the old one needed to be closed out with a certificate of compliance and stated that no work has been done on the lot to date. Sam with Ecosystems Solutions stated that she went out to the site and confirmed no work had been done and recommended issuing an invalid order on conditions.

(4:05 TS) Motion for a certificate of compliance for DEP #143-0689, 38 Hemlock Street Map 287 Lot 4 for an invalid order of conditions, made by Jim Foran, 2nd by Mark Mungeam. Roll call vote – Mark Mungeam, Jim Foran, Mike Greco, Josiah Burch, Joe Fitzpatrick all in favor.

2. (7:40 TS) Donation of land acceptance per MGL 40 Section 8C – Map 135 Lot 12, known as Parcel A on Definitive Subdivision Plans recorded with the Registry of Deeds Plan Book 966 as Plan 43 – Possible votes

(7:45 TS) Katiegrace Dudley joined the meeting.

Matt Benoit Community Development Director explained this is a transfer of land as part of a subdivision approval, and they need to transfer this parcel to open space prior to being able to start work on the subdivision. The Commission and Matt Benoit discussed the property.

(18:40 TS) Motion to accept the donation of land for MGL 40 Section 8C Map 135 Lot 12, made by Mark Mungeam, 2nd by Jim Foran. Roll call vote – Mark Mungeam, Jim Foran, Mike Greco, Joe Fitzpatrick all in favor, Josiah Burch abstained.

3. (19:30 TS) Orange St Complaints – Possible votes

Brandon Faneuf read the complaint from Kristin Inman and showed pictures of the site. Matt Benoit stated that the Planning Board at their last meeting voted to recommend an enforcement order be issued by the Conservation Commission. The Commission agrees with the recommendation and agrees that they would like to see fines issued as well. Chris Bettencourt the owner of the property, responded to the complaint and explained the situation to the Commission, and that it was not an intentional act and there was some miscommunication with the men in field. They discussed at length what the issue is and what the Commission would like Mr. Bettencourt to do to fix it. The Commission requested that Mr. Bettencourt come up with a restoration plan and present it to the Commission. Kevin Demers with DiPrete Engineering stated that he would produce the plan for restoration for the Commission.

(44:15 TS) Motion to enforce fines and that they be in effect until the work is implemented for \$200 a day, made by Mark Mungeam, 2nd by Katiegrace Dudley. Roll

call vote – Mark Mungeam, Jim Foran, Mike Greco, KG Dudley, Joe Fitzpatrick all in favor, Josiah Burch abstained.

4. (45:20 TS) Open Session for Topics not reasonably anticipated 48 Hours in Advance of the Meeting.

Brandon Faneuf brought up an issue of flooding on Riedell Road regarding Riddle Brook that is flooding a property. The highway department is looking for an emergency certification on this project to get it fixed. Brandon Faneuf suggested a notice of intent is required and it is not an emergency certification and the Commission agrees and Mr. Faneuf will let Adam Furno with the highway department know the decision.

New Business:

5. (53:35 TS) 7:00 PM (RDA) Public Meeting: Request for Determination of Applicability, 31 North Street, (Replacing recycled asphalt with stone) Tania Marcano – Possible votes (54:25 TS) Motion to open the public hearing made by Mark Mungeam, 2nd by Mike Greco. Roll call vote – Mark Mungeam, Jim Foran, KG Dudley, Mike Greco, Josiah Burch, Joe Fitzpatrick all in favor.

Tania Marcano is going to remove the loose asphalt and replace it with stone.

(59:35 TS) Motion to close the public hearing made by Mark Mungeam, 2nd by KG Dudley. Roll call vote – Mark Mungeam, Jim Foran, KG Dudley, Mike Greco, Josiah Burch, Joe Fitzpatrick all in favor.

(59:55 TS) Motion to approve a negative RDA with the condition that the recycled asphalt be removed and replaced with stone, made by Mark Mungeam, 2nd by KG Dudley. Roll call vote – Mark Mungeam, Jim Foran, KG Dudley, Mike Greco, Josiah Burch, Joe Fitzpatrick all in favor.

6. (1:00:45 TS) 7:00 PM (RDA) Public Meeting: Request for Determination of Applicability, 36 Davis St, (Adding Lean-to off existing garage) James Fitzpatrick – Possible votes Joe Fitzpatrick recused himself.

(1:02:20 TS) Motion to waive the reading of the public notice and open the public hearing for the RDA for 36 Davis St, made by KG Dudley, 2nd by Jim Foran. Roll call vote – Mark Mungeam, Jim Foran, KG Dudley, Mike Greco, Josiah Burch all in favor. Jim Fitzpatrick joined the table to answer any questions and Brandon Faneuf showed the site pictures.

(1:08:05 TS) Motion to close the public meeting made by KG Dudley, 2nd by Mike Greco. Roll call vote – Mark Mungeam, Jim Foran, KG Dudley, Mike Greco, Josiah Burch all in favor.

(1:09:05 TS) Motion to issue a negative 2 determination of applicability for 36 Davis Street for James Fitzpatrick, made by KG Dudley, 2nd by Jim Foran. Roll call vote – Mark Mungeam, Jim Foran, KG Dudley, Mike Greco, Josiah Burch all in favor.

(1:10:10 TS) KG Dudley excused herself from the remainder of the meeting.

7. (1:10:35 TS) 7:00 PM (NOI – DEP #143-1096) Public Hearing: Notice of Intent: John Mshooshian, 45 Martin Rd Lot 1 (Single Family Home) Map 169 Lot 23 – Possible votes (1:10:40 TS) Motion to open the public hearing made by Mike Greco, 2nd by Jim Foran. Roll call vote – Mark Mungeam, Jim Foran, Mike Greco, Josiah Burch, Joe Fitzpatrick all in favor.

Nicole Hayes with Goddard Consulting showed the plans and went over the proposed scope of work. Brandon Faneuf is pleased with the majority of the plans, stated his only concern is the erosion controls, and would like to see the slope tightened up and asked about the stormwater infiltration for the driveway and roof runoff. Karen Keegan with Allen Engineering stated that they did not do stormwater because she stated the town did not require it. Brandon Faneuf stated that he would review the bylaws before the next meeting and get an answer for the stormwater requirements for new homes. Mark

Allen with Allen Engineering stated that stormwater is required for subdivisions of 5 lots or more per the Massachusetts stormwater standards.

(1:29:25 TS) Motion to continue the public hearing for John Mshooshian Lot 1, made by Mark Mungeam, 2nd by Jim Foran. Roll call vote – Mark Mungeam, Jim Foran, Mike Greco, Josiah Burch, Joe Fitzpatrick all in favor.

8. (1:32:20 TS) 7:00 PM (NOI – DEP #143-1097) Public Hearing: Notice of Intent: John Mshooshian, 45 Martin Rd Lot 2 (Single Family Home) Map 169 Lot 23 – Possible votes (1:32:35 TS) Motion to open the public hearing for John Mshooshian Lot 2 and to waive the reading of the public notice made by Mark Mungeam, 2nd by Jim Foran. Roll call vote – Mark Mungeam, Jim Foran, Mike Greco, Josiah Burch, Joe Fitzpatrick all in favor. Nicole Hayes with Goddard Consulting went over the plans. Brandon Faneuf's suggested the following conditions of split rail fence along the limit of disturbance with it shown of a new plan within 14 days and a deed restriction explaining that the total amount of riverfront area on site is 224,443 sf and used up 15,185 between lots 1 and 2, and that the deed restriction be presented to the Conservation Commission before the occupancy permit is issued.

(1:43:15 TS) Motion to close the public hearing made by Jim Foran, 2nd by Mike Greco. Roll call vote – Mark Mungeam, Jim Foran, Mike Greco, Josiah Burch, Joe Fitzpatrick all in favor.

(1:44:05 TS) Motion to approve the notice of intent for John Mshooshian lot 2 with the conditions that they provide a plan showing a split rail fence along the limit of disturbance line within 50 feet of the wetlands edge and file a deed restriction that shows 15,185 sf of riverfront have been utilized in the development and the deed restriction be put in place prior to occupancy permit being issued, made by Mark Mungeam, 2nd by Jim Foran. Roll call vote – Mark Mungeam, Jim Foran, Mike Greco, Josiah Burch, Joe Fitzpatrick all in favor.

9. (1:45:30 TS) 7:00 PM (NOI-DEP #143-10xx) Public Hearing: Notice of Intent: Edward O'Leary, 140 Davis St (7,825 sf Metal Building) Map 192 Lot 1 – Possible votes

(1:46:00 TS) Motion to open the public hearing made by Mark Mungeam, 2nd by Jim Foran. Roll call vote – Mark Mungeam, Jim Foran, Mike Greco, Josiah Burch, Joe Fitzpatrick all in favor.

Karen Keegan with Allen Engineering showed plans and went over the proposed scope of work. Brandon Faneuf showed site pictures and voiced his concerns about the existence of a vernal pool and erosion controls and the possibility of existence of ledge. Mark Allen with Allen Engineering stated that the test pits done did not encounter any ledge, but if they do encounter ledge they will be consulting with a geotechnical engineer.

(2:05:40 TS) Motion to continue the public hearing for April 22nd made by Mark Mungeam, 2nd by Jim Foran. Roll call vote – Mark Mungeam, Jim Foran, Mike Greco, Josiah Burch, Joe Fitzpatrick all in favor.

10. (2:07:30 TS) 7:00 PM (RDA) Public Meeting: Request for Determination of Applicability, Orange St Lot 10, (Single Family Home) Christopher Bettencourt – Possible votes Brandon Faneuf stated that the two Bettencourt items have been rescinded.

(2:08:35 TS) Motion to have the public meeting for Orange Street Lot 10 be withdrawn without prejudice, made by Mark Mungeam, 2nd by Jim Foran. Roll call vote – Mark Mungeam, Jim Foran, Mike Greco, Josiah Burch, Joe Fitzpatrick all in favor.

11. 7:00 PM (RDA) Public Meeting: Request for Determination of Applicability, Orange St Lot 11, (Single Family Home) Christopher Bettencourt – Possible votes

(2:09:10 TS) Motion to have the public meeting for Orange Street Lot 11 be withdrawn without prejudice, made by Mark Mungeam, 2nd by Jim Foran. Roll call vote – Mark Mungeam, Jim Foran, Mike Greco, Josiah Burch, Joe Fitzpatrick all in favor.

Old Business:

12. (2:09:40 TS) 7:00 PM (NOI-DEP #143-1094) Public Hearing Continued: Notice of Intent:
Paul Macharia, 75 Old Farm Rd, Map 237 Lot 25 – Possible votes
An Engineer with Alpha Omega Engineering representing the applicant and presented the plans and changes and scope of proposed work. There was discussion about the concern of the ground water and the public and private water supply for all the surrounding neighbors and whether it is a negative impact. Rebekka Omelia 81 Old Farm Road stated her concerns about the septic and well and does not agree that the Conservation Commission cannot approve things to do with title v regulations and read some of the Douglas bylaws. They discussed the distance between the wells and septic at length. Johnathan Daignault 64 Woodland Road voiced his concerns about his well and the possibility of not having enough water. Scott Shea 71 Old Farm Road spoke about how many times he and his neighbors have run out of water and how much he alone has spent on this well. The Commission is going to schedule a site walk and the engineer will let the Commission know when the lot is staked.
(3:03:00 TS) Motion to continue the public hearing for Paul Macharia, 75 Old Farm Road to April 22nd made by Mark Mungeam, 2nd by Jim Foran. Roll call vote – Mark Mungeam, Jim Foran, Mike Greco, Josiah Burch, Joe Fitzpatrick all in favor.

13. (3:04:15 TS) 7:00 PM (ANRAD – DEP #143-1090) Public Hearing Continued:
Abbreviated Notice of Resource Delineation: Otwood Investment Group, LLC, 33 & 38 Caswell Court, Map 137 Lots 6 & 8 – Possible votes
(3:04:15 TS) Motion to continue the public hearing for Otwood Investment Group, LLC, made by Mark Mungeam, 2nd by Jim Foran. Roll call vote – Mark Mungeam, Jim Foran, Mike Greco, Josiah Burch, Joe Fitzpatrick all in favor.

14. (3:04:50 TS) 7:00 PM (NOI-DEP #143-1095) Public Hearing Continued: Notice of Intent:
Tim & Beth Lonergan, 278 Northwest Main St (Single Family Home) Map 159 Lot 8 – Possible votes
(3:05:05 TS) Motion to open the public hearing for Tim & Beth Lonergan made by Mark Mungeam, 2nd by Jim Foran. Roll call vote – Mark Mungeam, Jim Foran, Mike Greco, Josiah Burch, Joe Fitzpatrick all in favor.
Karen Keegan with Allen Engineering presented the revised plans and went over the changes. Brandon Faneuf stated his concern about construction sequencing and erosion and sedimentation of the pond. The Commission went over changes they would like to see added to the plans. Kurt Johnson 422 NW Main St voiced his support for the Lonergans and being able to build their home. Brian Devlin 29 Laurel Glades voiced his support for the Lonergans as well. Tim Lonergan voiced his frustration about this being the third time in front of the Commission and making all the changes the Commission has requested.
(3:30:55 TS) Motion to close the public hearing for Tim & Beth Lonergan, 278 Northwest Main Street, made by Mark Mungeam, 2nd by Jim Foran. Roll call vote – Mark Mungeam, Jim Foran, Mike Greco, Josiah Burch, Joe Fitzpatrick all in favor.
(3:32:05 TS) Motion to approve the notice of intent for Tim & Beth Lonergan, 278 Northwest Main Street with the condition that a new construction sequence plan be prepared and added to the plan prior to the next meeting plus standard conditions made by Mark Mungeam, 2nd by Jim Foran. Roll call vote – Mark Mungeam, Jim Foran, Mike Greco, Joe Fitzpatrick all in favor.

Updates:

15. (3:34:10 TS) CRG, 105 & 123 Gilboa St (DEP #143-1042)
Todd Morey with Beals and Associates with updates to the site for the stormwater, infiltration, etc. Brandon Faneuf went through some of Haley Wards comments and Mr. Morey stated the responses and proposed fixes for the comments. Mr. Faneuf stated

his lack of satisfaction with the stabilization of the site over the winter. The first enforcement order was for a restoration plan with fines, which was not done, and Mr. Faneuf stated that at the chairs request he draft a second enforcement order. Mr. Faneuf discussed the issues that the inaction to the site has caused with both the Town of Douglas and the Town of Uxbridge. There was a lengthy discussion about the order of conditions, plans, and issuance of tickets for fines, and the work program put together, etc.

(4:23:40 TS) Motion to implement fines on all the counts for 12 violations at \$200 a day and establish a 53G account and all violations be completed before the release of any fines, made by Mark Mungeam, 2nd by Jim Foran. Roll call vote – Mark Mungeam, Jim Foran, Mike Greco, Joe Fitzpatrick all in favor, Josiah Burch abstained.

(4:26:30 TS) Josiah Burch abstained and excused himself from the remainder of the meeting due to it being old business and he cannot vote.

16. (4:26:55 TS) Oak Street Solar Project (DEP #143-0989), Complaint

Jason Smith with BlueWave, Pat Mahan with J. Bates, Greg Morehouse with Mill Creek Renewables, & Mark Sylvia chief of staff with BlueWave, and online is Jeff Murphy with Beals and Thomas and Devin Herrick with Weston Sampson and the Commission has Corey Brodeur with Haley Ward. The BlueWave team gave a construction update and stated they submitted responses to Haley Ward's comments on the 27th as well as an amended mark up on the 28th of what the construction entrance would look like. They discussed the enforcement order findings and comments, what has been resolved, and what is still outstanding. Residents Lori Hout 41 Oak St and Lisa Mosczynski 60 Oak St voiced their concerns about the water still leaving the site. There was a lengthy discussion back and forth about the basins and wick drains and water leaving the site issues and whether to lift the enforcement order. The BlueWave team argued that they have an approved sequencing plan, which requires the code enforcement officer to approve them, moving to the next phase. Mr. Faneuf is not concerned about lifting the enforcement at this point and recommends lifting the enforcement with the conditions that phase 4 cannot begin until phases 1, 2 & 3 are completed to the Commissions satisfaction, and the Commission agrees with that suggestion.

(5:33:55 TS) Motion to lift the enforcement order with a new condition that phases 1, 2, & 3 revolving around the review and peer review of basins 1 and 5 are resolved and stabilized to the Commissions satisfaction before phase four can begin, made by Mark Mungeam, 2nd by Jim Foran. The BlueWave team stated that the motion is unreasonable and that the requirements will delay the project months to stabilize all the mentioned basins, and they are questioning whether this is an amendment to an order of conditions rather than just an additional condition. Roll call vote – Mark Mungeam, Jim Foran, Mike Greco, all in favor and Joe Fitzpatrick opposed.

(5:38:55 TS) Motion to vote Jim Foran in as a vote member rather than an alternate, made by

Mark Mungeam, 2nd by Mike Greco. Roll call vote – Mark Mungeam, Mike Greco, Joe Fitzpatrick.

(5:39:20 TS) Mark Mungeam excused himself for the remainder of the meeting.

17. (5:39:35 TS) Lakeshore Drive Enforcement Order

Mr. Cahill stated that the engineer was sick and running behind and he could not get a stamped plan for tonight. Brandon Faneuf stated that BlueWave has requested that if the town is holding them accountable for the silt in the water leaving the site that they are doing the same for this project because there was sediment going into the lake. The concerns are if the sediment was removed from the pond, and Bob Moran stated that

they did get the remaining material removed from the lake consistent with the order. Mr. Moran showed plans and Mr. Faneuf suggested the Commission have OHI look at the plans to help the infiltration at the bottom of the stairs. They read an email letter from State Representative McKenna and Senator Fattman to the town of Douglas regarding the stormwater issues on Lakeshore Drive on March 22, 2024. Bob Moran wanted the email on record and hopes that stormwater management will be implemented up gradient of his property. Mr. Faneuf agrees with Mr. Cahill that he and Mr. Goodison have made crucial improvements from keeping sediment from going down the hill. Mr. Cahill will have the plan in the next couple of days.

18. (6:00:35 TS) Meeting Minutes: September 18, 2023 & October 2, 2023 – Possible votes (6:00:45 TS) Motion to approve the minutes of September 18, 2023, and October 2, 2023 as written, made by Jim Foran, 2nd by Mike Greco. Roll call vote – Jim Foran, Mike Greco, Joe Fitzpatrick all in favor.

Upcoming Meetings: April 22, 2024 & May 13, 2024

(6:01:15 TS) Motion to adjourn the meeting made by Jim Foran, 2nd by Mike Greco. Roll call vote – Jim Foran, Mike Greco, Joe Fitzpatrick all in favor.

Respectfully submitted,

Stephenie Gosselin