

## **Shutesbury Conservation Commission**

**September 23, 2021 (Approved 10/28/21)**

### **Remote meeting**

**Commissioners Present: Miriam DeFant; David David; Robin Harrington; Scott Kahan;**

**Commissioners Missing: Beth Willson**

**Other Present: Don Wakoluk; Penny Jaques; Janice Stone; Maria Firstenberg; Chris Stoddard, Eric Betten, Gill from Shutesbury; Lisa Stratford, ConCom Clerk**

**Meeting called to order at 7:03 by DeFant DeFant.**

The minutes of September 9 were approved with edits unanimously.

**Motion made by DeFant and seconded by David to approve payment of \$165 for 3 courses DeFant took through MACC. Approved unanimously; with DeFant abstaining.**

Lisa Stratford, new LUC clerk was introduced. Jaques said Lisa will be keeping regular office hours on Monday and Thursday and from 2-5:00 pm.

Jaques confirmed that everyone had received their eDEP books which should be useful since they are searchable. Jaques had set Lisa up for the MACC training and Scott indicated that he would like to be signed up also.

### **Siefert Appeal of 35 South Laurel Drive DOA:**

Jaques stated that this was the first time in 20 years that there had ever been an appeal of a Con Com decision. The process is that after the appeal the case is in the hands of DEP (David Cameron). DEP will request and review all paperwork and conduct a site visit; then make a determination. The site visit is scheduled for 1:00 on September 30. DeFant will email DEP to see if the time can be changed to 12:00 pm. Mark Stinson was involved early so the commission is fairly confident in their findings. Once a site visit has been conducted, DEP usually then go back to the office, review the regulations and the paperwork and then usually issues a Superseding Determination of Applicability.

Janice mentioned that since DEP controls the final decision, they can do whatever they want including contradicting the Town Bylaw.

Kahan inquired as to how long RDA approvals last for. Can the ConCom make a temporary determination for 3 years that would need to be periodically reevaluated in the case of a project that does not involve building a permanent structure? The conditions of the RDA require an annual report by the landowner.

### **Stockman 9/14/21 email:**

Emily Stockman doesn't want to do the site review for Pratt Corner South until it has a new DEP file number. The current ANRAD would need to be withdrawn without prejudice and resubmitted.

Firstenberg inquired whether Mark Stinson from DEP has been consulted. DeFant stated that she had reached out to Stinson for comment. He had no specific guidance to offer.

#### **Certificate of Compliance (COC) request from 1994 for NOI/OOC at 27 January Hills Rd.:**

An informal request has been made for a COC at 27 January Hills Rd. From 1994. The owners are refinancing and want to take the restriction off the deed. Janice notes that the Commission can hold landowners accountable for maintaining the conditions in an Order of Conditions, even if the Order is old. Failing to get a COC in a timely manner can create problems when the property undergoes changes over time. Lisa and Jaques looked at old Town Hall for the original NOI but were not successful. Until the formal request comes in there is no rush. Linda Scott had a suggestion of a new name to look under. Lisa will go back to old Town Hall with Town Clerk to look again. Consider revising Bylaw regulations to include a fee for COC's. Amherst's fee is \$50. Hadley's is \$100. These can be very time consuming, esp. for old ones like this. Revising bylaw regulations can happen within a Con Comm meeting if it is posted in advance.

#### **Locks Pond Culvert Replacement Update:**

A time extension for construction was approved by the ConCom for this project but National Grid has not moved the power line poles yet. The Town Administrator called Jo Comerford to ask for help in moving this project along before bad weather. Matthew Styckiewicz reported to the ConCom that he is aware the Commission wants to do a site visit once the erosion controls are in place. He has submitted to the contractor the ConCom's concerns about the updated plans not showing the requested changes to the perched outlet. This updated plan needs to be submitted to the ConCom as it was a condition of the approved Control of Water Plan. Jaques will ask when the updated plans will be available from MAS Bridge.

Jaques: The ConCom has also received the contractor's Construction Plan which details the method the contractor plans to use to install the culverts. This was requested by the ConCom as part of the Order of Conditions. Penny noted that she didn't find anything that was different or unexpected from how we initially anticipated it would be constructed, or that conflicted with the Order of Conditions. However, if the ConCom does have any comments on the Construction Plan, Jaques can instruct the Contractor.

#### **Site Follow Up/Scheduling**

##### **Follow up:**

70 Lake Dr./Rivers remove dying tree: Lisa will send letter stating okay to remove tree with language in template letter.

104 Lake Dr./Thompson-repair eroded trail: about 20' of trail have eroded down to eroded rock. Part of walking trail is within the 100' buffer. There was evidence of erosion sand sediments pooling and settling in the buffer zone. It has not discharged into the stream. It was determined exempt since it is on private property and is only a path. Resident plans to repair the eroded steep slope with riprap and resurface part of the flat trail in the buffer zone. This activity is minor exempt activity because it is an unpaved walking path as long as no significant soil disturbance occurs. Resident will be reminded not to slope or regrade area, just put some traprock in place. Regrading would not be exempt. The area to be worked on ranges from outside the buffer zone to about 10' into the buffer zone.. The applicant also

wishes to take down some dead trees and minor trees. Agrees not to remove stumps. A letter of agreement will be sent.

LWAC – Stormwater discussion. LWAC wishes to form a Working Group. David reported that the Select Board is looking to LWAC to take a lead on these issues. LWAC wants to find a source of funding and wants to know if the ConCom can assist with that search. LWAC is the Lake Wyola Advisory Committee, a town committee. There has been discussion about creating a subcommittee. DeFant suggests inviting LWAC to a ConCom meeting to discuss issues. Stone suggests contacting the Natural Resource Planner at FRCOG; they administer 319 Planning Grants from DEP; possible grants could be related to stormwater or climate resilience, first place to look is for state funding, there may be Fall deadlines. There are both planning and implementation grants. Shutesbury has already done a Municipal Vulnerability Project (MVP). Wakoluk suggests ConCom assist LWAC in looking for funding sources for an updated and expanded stormwater engineering plan. David will invite LWAC representatives to a ConCom meeting; LWAC is also reaching out to Scott Campbell, the engineer at DCR who did the original stormwater report for the lake area in 2007.

#### **Scheduling:**

27 Ames Haven Rd.--Coffin BPA to replace doors and windows. There are no wetlands near site. DeFant, Robin and David will conduct site visit on Wed., September 29 at 5:30. Lisa will contact homeowner.

#### **RDA Public Meeting: 32 Leverett Rd/Betten- To install Title V compliant septic system and new well**

Applicants Chris Stoddard and Eric Betten present. This is a 1.1-acre parcel. The septic system is non-existent and the applicant is proposing a new Title V compliant system. A test pit has been dug and water analysis. A number of wells were located near the property and one is shared with the Fire Dept. The septic system has been sited outside the 100' zone from of all the wells. It is just outside the 50' buffer for the wetland on the abutting property. It was not possible to site it outside the 100' buffer zone. Existing stone wall acts as a good erosion control. A new well will be sited in front of the house. DeFant asked if the applicant knew whether the well was outside of the plume of soil contamination under the Fire Station. The applicant believes this won't be a factor because of the depth of the well with a solid steel casing. Several years ago, a gasoline plume was identified due to an old underground storage tank and a bioremediation project was undertaken by the Town. It may still be monitored. DeFant notes that the bioremediation plan should be on file in Town Hall if the landowner wants to know about it. A discussion about what kind of erosion control took place. Plan was to use silt fence and hay bales. It was agreed that erosion socks or 10" straw wattles would be used. Straw or seedless hay are options, but no hay to be used due to problems with invasive seeds. Stone wall will protect the wetland also. Site visit was conducted by Kahan, Harrington, and Wakoluk. The project is very flat and unlikely to become an erosion problem. Hope to finish the project this fall, in early October. The septic system is raised due to high ground water. Jaques inquired about the slurry containment pit and asked to have it located as far from the wetland as possible. A sump pit will be located on the west side of the property. A row of straw wattles will be added around it. The applicant had not submitted copies of the abutters notification or proof of newspaper ad. The applicant agreed to send them to Jaques during the meeting. The abutters notices were not sent via certified mail but the applicant signed an affidavit that they were sent. The required documents were sent. **Motion made by DeFant, seconded by Harrington to close the Public Meeting with sufficient information. Vote was unanimous.**

The Commission drafted a Determination of Applicability with a Negative Determination #3 with Special Order of Conditions. The work to be done is just outside of 50' from jurisdictional wetlands. DoA was drafted to include installation of erosion controls that constitute the limit of the work. The applicant will inform the Commission when the erosion controls are in place for a follow-up inspection before work begins. The well slurry pit will be located on the west side of the property with erosion controls. Erosion controls will be removed once the site is vegetated. No hay will be used. DeFant moves to approve the Negative Determination of Applicability #3 with Special Conditions as drafted. David seconded. Approved by unanimous vote. Commission approved digital signing of DoA.

#### **Continued ANRAD Public Hearing ZU-2/ Pratt Corner South**

Emily Stockman states that all comments have been addressed in the draft ORAD with draft findings. The maps for this hearing were just received from Firstenberg today at 1:00 pm. leaving the Commission little time for review. The Commission took a moment to look at Emily's comments on the maps. Firstenberg states that the changes are miniscule and asks to share the maps so she can identify them. Some of the wetland delineations have changed by feet. The Commission agrees that they need to conduct due diligence and have time to review the changes. **Motion to continue the hearing at the next meeting on 10/14/21 at 7:30 pm, made by DeFant, seconded by David. Vote unanimous.**

DeFant screenshots a copy of a letter to applicants and DEP related to the quorum problems with three of the ANRADs. Due to the lengthy duration for some hearings, the composition of the commission has turned over and the Commission lacks a qualified quorum to issue an ORAD for them. Two of them have already been issued ORADS; one ANRAD is still open. Town Counsel has advised TRC to resubmit all three ANRADs, so that the Commission can vote and issue ORADS with a quorum. Firstenberg notes that the applicants do not wish to resubmit the Baker Road ANRAD as there is no plan to develop that site at present. The Pratt Corner Road West and Montague/Carver Road ANRADs need to be resubmitted. The Peer Review for Montague/Carver has not been completed. This ANRAD needs to be withdrawn and resubmitted. Firstenberg states that she is meeting with her client tomorrow and will ask if they feel there's enough time to resubmit to DEP for a new file number before winter. Site review cannot be conducted when there is snow cover. Firstenberg also asks the commission to call Mark Stinson to see if he has guidance regarding the process of withdrawing and resubmitting. DeFant agrees to ask Mark Stinson. The check for the peer reviewer will be held until the ANRAD is resubmitted. DeFant states that Town Counsel has advised that the applicant should resubmit without prejudice. DeFant moves that the Commission approve the letter to TRC, Cowls, and AMP Solar Development as amended. David seconded. Approved by unanimous vote. A digital copy will also be sent to TRC. The other copies will be sent via certified mail with copies in each of the ANRAD binders.

The check received from TRC for Emily's peer review will be held for now.

Meeting adjourned: 9:04 pm

Minutes taken by Lisa Stratford, Submitted by Miriam DeFant