

Shutesbury Conservation Commission

Minutes

October 14, 2021 (approved 10/28/21)

Remote Zoom Meeting, 7:00 pm

Commissioners Present: Present: Miriam DeFant (Chair); Mary David; Robin Harrington; Beth Willson; Scott Kahan;

Others Present: Don Wakoluk; Penny Jaques; Janice Stone; Maria Firstenberg; Jeff Lacy; Karen Czerwonka; Leslie Cerier; Lisa Stratford (clerk), Joe Salvador; Jim Plaza, Carlos Fontes; Sharon Weizenbaum; Eric Bachrach, Renee Moss; Ken Lindsay; Chris Queen; Kathy; Allen

Approval of Minutes: Miriam suggested that the minutes from the 9/23/21 meeting not be approved at this time because there was a piece of information missing. Acceptance will be put on the next agenda.

Site Visit for 31 Lakeview Road: The board reviewed the site visit report from 31 Lake View Rd. (Salvador property). The SCC initiated a site visit after a report from a Commissioner who had viewed from the road that the house on the property had been partially demolished without any permits. They began a discussion about what to recommend to the owner and what actions to take. The site visit revealed exposed slopes with disturbed soils, inadequate erosion controls, and some erosion impacts. The entire site is in the Riverfront Resource Area. Miriam has consulted with Mark Stinson of MassDEP on the situation. He advised that the Commission should review the situation as it is found since no NOI has been filed at this time. The demolition of the foundation would have been an exempt activity if appropriate erosion controls were in place and the site was converted to lawn, but this is not the case. Any new requirements should focus only on mitigation and remediation of current conditions, not future proposed changes to the property. The homeowner has expressed a desire to complete the demolition work and build a new foundation/house. Previously, this site has been the subject of a Determination of Applicability for a new septic system and an Enforcement Order for unauthorized tree removal in a resource area. If there is a NOI is submitted later, conditions can be modified. The Commission advised the landowner that any future development will require a NOI before a Special Permit can be issued by the ZBA. Because it is a nonconforming lot, all building permits are approved by the ZBA through a Special Permit. Miriam spoke with the Chair of the ZBA who confirmed this process. The Commission advised the landowner that the NOI and Special Permit processes take some time and may not be able to be completed before winter ends the building season. The Commission agreed on urgency in the matter because winter is coming and the site is unstable. The board reviewed a draft Enforcement Order based on the site visit that will require placement of proper erosion controls. The Commission will inspect the site again on 10/20/21. The landowner stated he is willing to do whatever is needed to meet the Commission's requirements. Miriam will submit the EO electronically and by certified mail on 10/15/21.

Motion by Miriam to approve the Draft Enforcement Order with Conditions as amended in the meeting, seconded by Mary. Commission approves unanimously.

Possible land acquisition: Jeff Lacy informed the Commission that 34 acres of land with 2000' of frontage has come up for sale that includes the headwaters of Amethyst Brook. There is the potential for 6-7 house lots and the asking price is \$275,000. The land is currently in Chapter 61 which led to discussion about who gets the right-of-first refusal. The Town is supposed to have the right-of-first refusal, but it is unclear how the town is notified of these situations and how the Commission can be made aware. If there is interest in purchasing the land several funding options are available: Kestrel Land Trust; Community Preservation Act funds; and some Conservation Commission funds. The Amherst

Water Dept. may also be interested. Jeff is meeting with the CPC next week. The Commission is interested in a site visit. Jeff has left a message with the property owner but has not heard from her yet. Jeff will call the realtor to get permission for a site visit and email the Commission with possible times.

Public Hearing for the Pratt Corner South (ZU-2) ANRAD: Hearing opened at 7:38 pm. All recommended changes made by Emily Stockman, the 3rd Party Reviewer have been met with the exception of a suggestion that the flags be refreshed with numbering in consecutive order. Maria Firstenberg of TRC stated that they are in consecutive order but that some needed to be added so a few flag numbers were fractionalized. There are a couple instances where one consecutive number is missing, but the delineations are easy to perceive on the map and in the field. Don Wakoluk suggested that the flagging should be refreshed for the sake of consistency since this was required for other ANRADs. Members of the public also asked for clarification about the flagging and delineation process. Maria stated that the request by Emily was not normal for this type of project. She suggested that it was a lot of work for not many changes since there are hundreds of flags. Refreshing the flags would not add to the overall understanding of the site. Emphasis was made that the flags match the plans. Several members of the Commission concurred that, while in other ANRADs the flagging numeration was very confusing and needed refreshing, this ANRAD was relatively clear. **Motion by Mary: To close the hearing. Seconded by Robin. Commission unanimously in favor.**

Penny Jaques screen-shared the draft ORAD.

Motion by Miriam, seconded by Mary, to approve the ORAD with findings and conditions as amended. Commission unanimously in favor.

Penny will send the completed documents to TRC and DEP.

Public Hearing for the Montague/Carver (ZD-37): Public Hearing was opened. Miriam explained that the original ANRAD had to be withdrawn due to the length of time the hearing took and the turnover of the commission during that time. These factors led to a lack of qualified members to make a quorum to approve ANRAD. Town Counsel advised that the ANRAD needed to be resubmitted with a new DEP file number. The applicant withdrew the original ANRAD, and this hearing is for the resubmitted one. Maria reviewed the history of the original ANRAD, including the timetable for the delineations and site reviews. Emily Stockman of Stockman & Associates was hired by the SCC to conduct Third Party Review of the site. Site visits occurred in April and June of 2020, resulting in significant changes to the wetlands boundaries. The applicant wished to add additional property to the project area south of Carver Road, all on the same parcel. The ANRAD was amended to include this area which was delineated in July and August of 2021. TRC worked with Natural Heritage over the documentation of a vernal pool. The current new ANRAD includes 157 acres both north and south of Carver Road, off Montague Road. TRC is looking to confirm delineations with Emily Stockman. A site visit with her is scheduled for 10/19/21. TRC asks the Commission to approve an updated proposal for Stockman & Associates. Maria screen-shared maps and answered questions. The new DEP number is 286-0285. **Motion by Beth: to approve the revised proposal from Emily Stockman; seconded by Mary. Commission unanimously approves.**

Motion by Mary, seconded by Miriam, to continue the hearing to the Dec. 9 meeting @ 7:30 pm. Commission unanimously approves.

LWAC Meeting to Discuss Stormwater Issues: (also present: Mark Rivers, Katherine Hilton)

Mark, Chair of LWAC, reported that storm water run-off continues to be problematic at Lake Wyola. LWAC would like to form a subcommittee comprised of Conservation Commission members and LWAC members to develop a plan to reduce stormwater run-off and look for funding sources to assist.

Conservation Commission members were reluctant to volunteer for another committee but offered to attend LWAC's meetings and invited LWAC to their October 28 meeting for continued conversations.

DFW Proposal: The state Department of Fish and Wildlife has proposed assuming control over the town-owned boat launch and associated parking lot. The proposal would include the state paying for capital improvements to the area and listing it on their state website of public boat launches. They would require that 8 parking spots would become dedicated to boaters only. This project would be subject to the Commission's approval. Miriam invited everyone with state officials to a site visit at the boat ramp on October 26, at 10:00 am.

Update on 35 South Laurel Drive DOA DEP Appeal:

The Grybko property site visit resulted in DEP denying the appeal but telling the landowners that the current pipe in the lake needs to be removed and flexible hose needs to be installed instead. A site visit will be scheduled in the spring. As a side note, the DEP official cautioned that the Commission may wish to reconsider issuing Negative Determinations of Applicability with Conditions rather than requiring NOI. He suggested that the above referenced process creates a quasi-permit when a true permit is required. This use makes enforcement and follow-up difficult. The NOI is a "cleaner" process with conditions attached to deeds and required Certificates of Compliance.

Site Visits:

Ames Haven Road: Beth reported that work at the Ames Haven Rd. property was already finished. Concrete steps and a pad had been installed and there were no issues concerning wetlands. Approve.

56 Pratt Corner Rd: No wetlands issues. BPA for a screen porch. Approve.

48 Lake Drive: At the Dallmus driveway, all erosion controls were in place. Approve.

45 Schoolhouse Rd: BPA for a 2-garage. Closest wetlands were 110' from the garage construction. Approve.

Scheduling:

71 Leonard Rd. BPA site visit will be Wednesday, October 20 at 5:00 pm if landowner can be contacted.

31 Lake View Dr. (Salvador) is scheduled for Wednesday, October 20, at 5:30 pm

News items and updates:

South Brook Conservation Area: Miriam informed the Commission that during a walk earlier in the day at the South Brook Conservation area, she was met by a truck using the path as a road. The driver stated that he uses the path often to commercially harvest mountain laurel on an abutter's private property, that he had a permit to do so, and that the path was not posted. He reportedly sells the laurel to florists. Miriam asked the individual to leave the property, but he refused. He told her has been driving into the area on a regular basis in the past to harvest mountain laurel. The Commission discussed not wanting motor vehicles on the trails due to their fragility. In the past, however, the Commission has not objected to the use of snowmobiles on the site. The Commission agreed to ask the Highway Department to put boulders at the Locks' Pond Road entrance so unauthorized vehicles will not be able to access it. Miriam offered to make temporary posting signs until the boulders are in place. The officer in charge will also be notified. The Commission agreed to the placement of the boulders and signage. The CPA Mapping Project underway will include more substantial permanent signage. **Motion made by Miriam; seconded**

by Mary that the Commission has determined that unauthorized motor vehicle use on Conservation Commission managed land is prohibited, except for snowmobiles. Commission unanimously in favor.

Sumner Mountain CR Monitoring Report: The Commission has received the 2021 Sumner Mt. Rd. monitoring report. Don advises that the Commission should review the 2020 report to determine if there have been any changes. This report was not available for this meeting. Miriam will locate it and distribute it to the Commission. The Commission will review the new report at the next meeting.

Land Use Clerk Resignation: Lisa Stratford, Land Use Clerk has resigned. Becky is advertising again. Penny will be assisting in the interim for a small number of hours a week, mostly in the office. The Commission will need to take its own minutes for the time being. Beth agreed to take the minutes for the 10/28 meeting.

Local Contractors and wetlands issues: It has come to the attention of the Commission that some excavation/construction work around town has occurred before the Commission had an opportunity to approve the work. The Commission would like contractors advise their clients to seek Commission review before they are working in or near wetlands areas. Contractors should understand the process. The Commission agreed that when the Commission becomes aware of such a situation, a letter of caution should also be sent to the involved contractor. The Commission will review a draft form letter for the next meeting.

Motion to adjourn made by Mary and seconded by everyone, made at 9:59 pm. Commission votes unanimously in favor.

Next Meeting: Thursday, October 28 @ 7 pm

Documents Used:

- Agenda
- 9/23/21 Minutes
- Draft ORAD Findings and Conditions for ZU-2 Pratt Corner South ANRAD
- Revised ZD-37 Montague/Carver ANRAD Submission
- DFW Proposal for Town Boat Launch
- MassDEP Superceding Determination of Applicability for the 35 South Laurel Drive DOA Appeal.
- Draft Enforcement Order for 31 Lakeview Road
- Sumner Mountain CR Monitoring Report
- Revised Third Party Review Proposal for Stockman Associates to review ZD-37 Montague/Carver ANRAD
- Site Visit forms for Ames Haven Road, 56 Pratt Corner Road, 48 Lake Drive, and 45 Schoolhouse Road.

Respectfully submitted by Miriam DeFant, 10/29/21