

Lincoln Conservation Commission (LCC) - Public Meeting Minutes

April 20, 2022

Approved: May 11, 2022

Members Present: Susan Hall Mygatt (Chair), Amber Carr, Becca Fasciano, Ari Kurtz, Laura Regrut, Richard Selden (left at 8:35 p.m.) and Kathleen Shepard (left at 9:42 p.m.)

Conservation Staff: Michele Grzenda, Conservation Director; Stacy Carter, Conservation Planner

*This Public meeting was held virtually, pursuant to Senate Bill # 2475,
Suspending Certain Provisions of the Open Meeting Law*

7:00 p.m. Administrative Matters

- Review Meeting Minutes from March 30, 2022 - motion by Ms. Mygatt to approve the minutes as amended; seconded by Mr. Kurtz; roll call vote: each member responded Aye.
- The Commission will hold a Trail Use Public Forum on May 18, 2022 at 7:00 p.m. Ms. Carter will email all folks who submitted comments during the LCC's November 2021 public forum comment period.
- Request for Certificate of Compliance – 253 Concord Road (Bylaw Only) - Motion by Ms. Mygatt to issue a Certificate of Compliance; seconded by Ms. Shepard; roll call vote: each member responded Aye.

7:10 p.m. Request for Determination of Applicability: 59 Winter St; N. and C. Ruopp

This RDA was filed by the homeowners (Applicants) with Conservation staff assistance. The property is bordered on the east by an intermittent stream, and there are also wetlands across the street that project a 100-ft Buffer Zone onto the northern part of the parcel. The proposed work would include (1) removing a portion of an existing wooden fence that runs along the roadside edge of the parcel, while leaving 45-ft of fence on the eastern border of the property; (2) after-the-fact permission for removing ~10 diseased eastern hemlocks along the roadside edge; (3) constructing 65-ft of 20" dry-stacked stone wall on gravel base between the house and the roadside plantings; (4) constructing a half circle dry set bluestone patio on crushed concrete base with stone dust joints; (5) planting 91 shrubs, trees, and ground cover plants; (6) installing fieldstone steps along an existing hillside path on the eastern edge of the house and (7) installing steppingstone paths on loam leading to various entrances to the house.

The only work proposed within the 0-50' Upland Buffer Zone Resource area is the planting of some vegetation and the installation of steppingstones on the existing hillside path. All work would be conducted in currently landscaped/lawn areas. Ms. Carr noted that some of the plants proposed are not native and will defer to staff in terms of their appropriateness. Motion by Mr. Kurtz to close the hearing; seconded by Ms. Fasciano; roll call vote: each member responded Aye. Motion by Ms. Fasciano to issue a negative determination #3; seconded by Dr. Selden; roll call vote: each member responded Aye. Special conditions discussed included: erosion control shall be installed along the downgradient side of the planting area closest to the stream; and no pesticides/herbicides to be used within 100-foot buffer zone.

7:29 p.m. Notice of Intent: 104 Concord Road; N. Feinberg, (owner); Jon Gosselin (New England representative for ProcellaCOR); Shawn McCarthy (SOLitude Lake Management) DEP #203-948

This was a continued hearing for a Notice of Intent filed for the management of invasive Eurasian watermilfoil (aquatic plant) in the pond at 104 Concord Road. As requested at the last hearing, the Applicant provided electronic copies of a number of state studies, an EPA review, chemical factsheets and several links to additional reports. The Applicant also provided a short technical summary of ProcellaCOR and stated that the product does not have any negative impacts to human health. Dr. Selden expressed some concern over the literature provided, however, he stated that he believes that the chemical is a better option than other chemical alternatives. Dr. Selden pointed out some concerns regarding the EPA article – none of this work shows toxicity concerns in

humans; it only speaks about toxicity in animals. The absence of health data on humans does not mean that the product ‘has an excellent human health profile’ as Mr. Feinberg’s summary stated.

Dr. Selden believes that it is the obligation of the company applying the chemical to provide the Commission with any new literature published. Should the literature show a potential risk to human health, the company should cease administration and report the risk and application stoppage immediately to the Commission. He asked that, once a year, SOLitude provide the Commission with an update on whether any new studies have been published and what those studies show with respect to impact to health or human safety. Discussion ensued. The Commission agreed this should not be a requirement in the Order of Conditions, however staff will send a letter to SOLitude to see if they can arrange a monthly literature search to assess whether any publications have been published. If future reports show any harm to humans, then the LCC shall be notified immediately, and the product shall not be used without further conversations with the LCC.

Motion by Ms. Mygatt to close the hearing; seconded by Dr. Selden; roll call vote: each member responded Aye. Motion by Dr. Selden to issue an OOC approving the project as discussed; with the following special conditions: (1) Annual reporting shall include the cost of treatment and effectiveness, the dosage used (confirming that said dosage is equal or less than the EPA/MA guidance, whichever is less), and proposed management for the following year. The OOC will be valid for three years. Ms. Carr has suggested a number of conditions regarding the mixing of product with water which will be added to the permit. The motion was seconded by Mr. Kurtz; roll call vote: each member responded Aye.

8:35 p.m. Notice of Intent: 8 Sandy Pond Road; S. Dyer; Kyle Cormier (Oxbow Associates) DEP #203-949

This Notice of Intent has been filed for the installation of a septic system to replace a failed system at 8 Sandy Pond Road. The work proposed within the 100-foot Upland Buffer Zone includes the replacement of an existing pump chamber and installation of the associated force main from the new pump chamber to the leaching field. The existing pump chamber would be replaced with a new 1,000 gallon pump chamber in the same location. The leach field for this system would be outside of the 100-foot Upland Buffer Zone. The existing septic tank is within the 50-foot Buffer Zone, but it is expected that the tank will be pumped and reused if possible. The representative from Oxbow Associates stated that, if the tank is inspected and is found to need replacement, the new tank will be placed in the same location except that its orientation may shift. The City of Cambridge has requested that, if the existing tank needs to be replaced, the new tank be placed outside of the 100-ft buffer zone. Mr. Cormier of Oxbow stated, however, that due to topographic changes, the tank cannot be relocated. Ms. Grzenda requested that the Applicant notify the Commission if the tank needs to be replaced, subject to approval by Commission staff and the City of Cambridge as to the proposed location.

Motion by Mr. Kurtz to close the hearing; seconded by Ms. Shepard; roll call vote: each member responded Aye. Motion by Ms. Mygatt to issue an Order of Conditions approving the project as discussed; seconded by Ms. Fasciano; roll call vote: each member responded Aye.

8:52 p.m. Notice of Intent: Minute Man National Historical Park DEP #203-947

This Notice of Intent has been filed for replacement of nine sections of boardwalk in Minute Man National Historical Park in Lincoln and Concord. All of the boardwalks were constructed within the 1990s, and repairs are needed to comply with the Architectural Barriers Act Accessibility Standard and the International Building Code. This project has been filed under 310 CMR 10.53(3)(j) – Limited Project: “the construction and maintenance of catwalks, footbridges, wharves, docks...so as to permit the reasonably unobstructed flowage of water and adequate light to maintain vegetation.” Restoration is not proposed due to the Limited Project status of the filing. Five sections of boardwalk are in Lincoln:

- Elm Brook Boardwalk – 450-ft in length, spans Elm Brook (perennial stream), Bordering Vegetated Wetland (BVW) and an intermittent stream. Full replacement needed. 1,963 square feet of temporary impact

- Smith Brook Boardwalk – 25-ft in length, spans intermittent stream and BVW. Superficial repairs are needed – replacement of decking. No other work proposed for this area.
- Vernal Pool Boardwalk – 200-ft in length, spans BVW. Full replacement needed. Applicant proposing to slightly expand the length of boardwalk due to the wetness of the trail immediately before and after the boardwalk section. Several boulders will be moved to the side of the trail for visitor safety.
- Vernal Pool Overlook Boardwalk – 75-ft in length, terminates at a vernal pool and spans BVW. Full replacement needed. 401 additional square feet of decking and boardwalk are proposed to be added to the current footprint. This boardwalk covers 532 sq.ft. of wetland resource area and would increase to 932 s.f.
- Minute Man Visitor Center Boardwalk – 125-ft, spans intermittent stream from old agricultural pond and BVW. Superficial repairs are needed – replacement of decking. No other work is proposed.

The three full boardwalk replacements would occur in the same “or nearly the same” locations as the existing boardwalks to reduce impacts to the wetlands. After the existing boardwalks are removed, lightweight construction matting would be employed for access. This matting would consist of plywood or synthetic work mats. The replacement structures would use a pinned foundation (precast concrete head and four pins) to minimize ground disturbance. A hydraulic air hammer would be used to install the footings. Only hand-held equipment would enter the resource area. Additional plywood would be laid perpendicular to the boardwalk footprint during the installation of the footings. The matting would be removed immediately upon completion of the work within the area. Staging areas for each boardwalk project are proposed outside of the wetland resource areas and buffer zones in upland or parking areas. This information was not provided in the submission. Ms. Grzenda requested this material be submitted in writing and be made part of the approved documents. In addition, the Commission requested the following additional information: (1) proposed location of the generator; (2) proposed location for refueling (i.e. it must be done outside of resource areas and buffer zones); (3) identification on the plan of all trees within the construction area and protection of such trees with fencing (Oxbow stated that no trees will be removed).

The Commission and staff made the following comments: (1) no cutting of the plastic infrastructure shall occur in the wetland resource area; (2) Elm Brook boardwalk replacement shall only be conducted during summer months; (3) work within the vernal pools shall wait until at least August 15th. (4) bid specs shall require that the contractor comply with the OOC, and (5) prior to work, the contractor and the Conservation staff shall meet to discuss erosion control, and Conservation staff may require additional erosion control if necessary.

The Applicant consented to a continuance. Motion by Ms. Mygatt to continue to May 11th at 8 p.m.; seconded by Ms. Carr; roll call vote: each member responded Aye.

9: 42 p.m. Unpermitted pedestrian bridge over a stream – 7 Silver Hill Road; R. Guan

Ms. Shepard recused herself from this hearing.

This item was to discuss non-compliant activities that have taken place within the conservation-restricted portion of 7 Silver Hill Road. On December 28, 2021, Land Trust staff were monitoring the Conservation Restriction on 7 Silver Hill Road, north of Upper Brownings Field, and noted several activities that may not be in compliance with the CR agreement for this property. These activities included the installation of several fences along and across a perennial stream, a wooden footbridge constructed across the stream, and possibly unstabilized ground resulting from what appears to be domesticated birds present along the stream. Staff sent a letter to the owners, on February 24th. Mr. Guan reached out to Conservation staff quickly to schedule a site visit. During this site visit, Mr. Guan was amenable to removing the fences from the perennial stream area, although he requested keeping one along the Brownings property line to help prevent coyotes from reaching his domesticated birds. Staff agreed to this request. Mr. Guan is working on keeping the area planted along the stream. Mr. Guan promptly removed his agricultural fences shortly after the staff site visit.

Mr. Guan attended the April 20th Conservation Commission meeting to discuss the wooden footbridge with commissioners. The language of the CR allows for structures, provided that written permission for a structure is received by the owner from the Commission. Mr. Guan states that Tom Gumbart gave him administrative permission to build the bridge because it has no foundation, is movable and is similar in size and impact to many bridges on Town conservation land.

Motion by Ms. Mygatt to authorize staff to issue letter ratifying Tom's administrative approval and authorizing the bridge in the CR. The area may be mowed annually but not maintained as lawn. The sloped embankment along the stream shall not be maintained, with the exception of invasive species removal (with staff approval); seconded by Mr. Kurtz; roll call vote: each member responded Aye.

9:00 p.m. Unpermitted work in the buffer zone – 26 Old Winter Street; Mr. Andersen-Miller

On March 30, 2022, Conservation Staff noticed stockpiling of tree stumps, branches, and trunks and work associated with the installation of a new driveway near a bordering vegetated wetland at 26 Old Winter Street. Staff issued an Enforcement Order on 4/1/22 requiring the buffer zone area alterations resulting from said activity to be corrected and the resource areas to be returned to their original condition or, if the owner wishes to keep the portion of driveway which was installed within the Upland Buffer Zone Resource Area, a Notice of Intent shall be completed and filed with the Conservation Commission by June 2, 2022. Mr. Andersen-Miller stated he intends to submit a NOI requesting permission to keep the driveway. Motion by Mr. Kurtz to ratify the Enforcement Order; seconded by Ms. Fasciano; roll call vote: each member responded Aye.

10:11 p.m. Request for Plan Change: 80 Birchwood Lane; C. Winchell and K. Brustowicz

This item is to discuss a Request for Plan Change for 80 Birchwood Lane. At the LCC's February 16th, 2022 meeting, the Commission voted to issue an Order of Conditions (#203-945) to the owners of 80 Birchwood Lane for the replacement of an existing failed septic system. On April 7th, the owners contacted staff requesting a plan change. The septic installer indicated that, due to the elevation difference between the lower level of the house and the main holding tank, an auxiliary holding tank with a pump needs to be installed next to the lower level of the house to pump waste upward into the main tank. This tank would require about 70-ft of trenching from the main holding tank down to the new proposed auxiliary holding tank. The auxiliary holding tank would be placed where the current cesspool is located in a flat deck area. The new tank and trench would be installed using a mini excavator. Straw wattles are proposed along the new limit of work between the tank installation area and the river.

Since this change would require new work closer to the river, staff determined that the Commission needs to review this change request. According to the septic installer, the auxiliary holding tank with pump is necessary in order to allow decommissioning of the downstairs septic system (cesspool). As before, the new septic system would be an improvement over the existing cesspools that are immediately adjacent to the river. Provided erosion controls are properly installed, the new work should not have any further impact on the resource areas than what has already been permitted. Staff suggested that the Applicant confirm the changes with the Board of Health.

Motion by Ms. Mygatt to authorize staff to issue the minor plan change as discussed; seconded by Ms. Fasciano; roll call vote: each member responded Aye.

Request for Certificate of Compliance – 75 Todd Pond Road

This Request for Certificate of Compliance has been made for an Order of Conditions (DEP #203-0819) that was issued in 2009 and amended in 2011. All work appears to comply with the original and amended Orders of Conditions as well as subsequent administrative approvals by former Conservation Director Tom Gumbart. Motion by Mr. Kurtz to issue a Certificate of Compliance; seconded by Ms. Mygatt; roll call vote: each member responded Aye.

10:20 p.m. 134 Sandy Pond Road Conservation Land Encroachment

Ms. Grzenda reported that she and Ms. Mygatt met with the owners of 134 Sandy Pond Road on 4/1/22, and they agreed to do the following as it relates to the conservation land abutting their property: (1) remove the deer fence (2) move the compost bins within the year; (3) immediately stop mowing the lawn; (4) have a surveyor install rebar pipes every 30 feet along the property boundary in the area where lawn extended beyond the line; (5) remediate the recently cleared area with plant species identified in the planting plan submitted; (6) water and monitor the area for invasives until the planting gets established. Staff have authorized them to proceed so that they can begin ordering plants. If certain plants are not available yet, they will mulch with shredded oak leaves until these plants are available. The Commission was amenable to this agreement.

10:30 p.m. - Motion by Mr. Kurtz to submit letter of support for the MVP grant to allow Lincoln to prepare a Climate Action Plan, seconded by Ms. Carr; roll call vote: each member responded Aye.

Meeting adjourned at 10:30 p.m.