

Chelmsford Conservation Commission
Town of Chelmsford
50 Billerica Rd. Chelmsford, Ma 01824
Meeting Minutes
July 17, 2018
Approved October 2, 2018

RECEIVED
2018-10-10
9:05 AM
TOWN OF CHELMSFORD
PATRICIA E. DZURIS
TOWN CLERK

Meeting Location: 50 Billerica Rd., Room 205, Chelmsford, Ma 01824

Members Present: David McLachlan-Chairman, Jack Souza, Chris Garrahan, Marc Gibbs, William Vines, Chris Tymula

Members Absent: April Mendez

Others Present: Katharine Messer-Conservation Agent

Meeting was called to order at 7:00PM by Chairman McLachlan.

All documents referenced in these minutes are available for review at the Community Development Office, 50 Billerica Rd., Chelmsford Town Offices Building. This meeting was audio recorded and hand recorded via the Recording Secretary.

Open Session / Citizen Concerns

No one came forward at this time.

Regulatory

Minor plan change

Heart Pond Treatment, DEP 129-0740

Gary Kroft, 46 Second Lane, Hart Pond Association, explained that invasive fanwort has to be removed from the pond every few years. A section by ice house needs treatment at this time. A new herbicide is available and is approved by the state for spot treatment. This is in addition to the regular treatments which are done annually. Treatment would be done after proper notifications are done. Work will be done this year.

Mr. Kroft agreed to notify the Town of Carlisle Conservation Agent about this change.

No comments were received from the audience.

Motion: by Mr. Garrahan to approve a Minor Plan Change for Heart Pond Treatment, DEP#129-0740, as presented. Seconded by Mr. Souza. **Motion carries, unanimous**

Minor Plan Change

11 Cushing Place, DEP 129-0823

Katie Enright, of Howard, Stein, Hudson, was present with Jay Finnegan. Mr. Finnegan and Eric Kates have partnered with Winstanley Corp. for a modification to a previously approved application. The previous Order of Conditions was approved for 70 rental units. The new development will consist of 32 condominium units instead. The building size was reduced by 8000SF, and 10,000SF in impervious parking and sidewalks were removed. There will be 40 less parking spaces; the underground spaces will remain the same. The previously proposed drainage system will remain the same. Special Conditions from the previous application will remain the same. The Brook Walk still exists; location and materials are the same, all public amenities are the same. The Planning Board approved their request as a Minor Modification last week. Overall the project will be similar with less impact and will be farther away from the wetland.

The ANR plan for the donated land to the Town is still pending

The Town Engineer noted no major concerns; the applicant must revise the plans to comply with their requirements.

Snow storage will be more than 75 feet from the wetland.

Brook maintenance will still be done by the applicant as previously agreed.

There were no comments from the audience.

Motion: by Mr. Garrahan to approve the Minor Plan Changes for 11 Cushing Place, DEP 129-0823 as presented. Seconded by Mr. Souza. **Motion carries, unanimous**

Notice of Intent-continued

16 Longview Dr., sewer and water main connection

Katie Enright, of Howard, Stein, Hudson, submitted revised plans and explained that the Town Engineer is comfortable with new changes. Volume and rates of water runoff are reduced. There will be a paved area along the driveways and a reduction of compacted gravel surfaces. A shoulder of gravel will be installed along the paved road. The driveway at 16 Longview Rd will be reconfigured to get it out of the 30-foot buffer. The driveway at 19 Longview Rd. will now be paved.

Sewer and water mains will still be installed. The changes lessen the volume of storm water runoff to both #16 & #19 Longview Rd. A more reliable surface is created as the road will still be paved from the cul-de-sac to the last driveway entry. The existing swale can be cleaned if desired, and a grassed area will be installed across the street, not a new swale.

A letter from the Town Engineer was read into the record. Work will be reviewed during and after construction.

A hydrant will be installed at the end of the water line. Pipes will be sized to accommodate future development, as there are three undeveloped lots at the end of the road.

The two homeowners will be required to maintain the swale.

Audience comments:

Miles Hogan 62 Davis Rd., noted that water pitches to both left and right, and the new plans will continue this habit. The detention pond at Daisy Lane has trees growing out of it because it has not been maintained. Water has always been a problem in this neighborhood. Mr. McLachlan advised that Daisy Lane will be discussed later in the meeting.

Charles Zaher, 46 Davis Rd., advised that this is not a paper street-the property owners do not own to the middle of the road. Placement of the driveway will now impact his rights to develop his remaining lots. The Planning Board has denied previous requests by these homeowners to make similar improvements. He felt this application is a way to skirt the Planning Board. Mr. Zaher feels the owners at 16 & 19 Longview do not own the proposed driveway area.

A letter from Town Counsel read into the record. The letter agreed that the property owners own to the middle of the road and can install utilities on this road. No other issues were discussed. Mr. Zaher requested no paving be done.

Atty. Kenneth Lightner advised he was representing the owners at 19 Longview Dr. There is a private way which was established in 1982. They have the right to install utilities. They are now required to install sewer and water. They do own to the middle of the road.

Mr. Zaher explained there was a plan submitted in 1984 which shows this as a public road. He felt that when the road is finished, the driveway will need to be removed and that will be difficult for everyone.

Ms. Messer advised that the subdivision permit has lapsed, and any development would need new permits. The request is to do work in the buffer zone, and those guidelines have been met. Ownership issues are not the jurisdiction of the Commission, but are a civil matter. The Commission can only rule on the plan presented to them.

Motion: by Mr. Vines to waive the 25 & 30 foot buffer requirements for 16 Longview Dr. Seconded by Mr. Tymula. Mr. Souza opposed, all others in favor. **Motion carries.**

Motion: by Mr. Vines to issue a Standard Order of Conditions for 16 Longview Dr. with a Special Condition that the swale will be maintained by the homeowner. Seconded by Mr. Tymula. Mr. Vines, Mr. Tymula and Mr. McLachlan in favor. Mr. Garrahan, Mr. Gibbs and Mr. Souza opposed. **Motion fails.**

Ms. Messer suggested a condition that the Operation & Maintenance Agreement is added as part of the deeds to the homes. This could be enforced through the Conservation Agent, via the submission of required Annual Reports.

Ms. Messer noted that the problem with Daisy Lane is that Mr. Hogan has been reporting issues since 2009, and previous agents did not enforce the O&M plans. The Order for Daisy Lane has the conditions in perpetuity. The Commission was asked what the basis for denial would be for the plan as presented.

Motion: by Mr. Tymula to issue a Standard Order of Conditions for 16 Longview Dr. subject to the submission of an Operation and Maintenance Plan for the swale and culvert on the south side of Longview Dr. to be added to the property deeds in perpetuity. Seconded by Mr. Vines. Mr. Souza opposed, all others in favor. **Motion carries.**

Notice of Intent-continued

100 Wotton St, proposed solar farm

Richard Debenedictus, Plymouth, MA spoke for the applicant. They are still working with DEP on resolving the issues with Compensatory Flood Storage (CFS). The proposed pilings holding up the panel structures will accommodate 425 cubic yards of CFS. The applicant is proposing to create 725 cubic yards in CFS. There is a nearby building that is not being used that is being considered. They will be surveying a different area they could consider, as well. Meetings with building owner will happen. Panels in the easement area have been removed. The Planning Board has given conditional approval pending resolution of DEP's issues. The applicant is requesting conditional approval from this Commission also.

John Tarney, Program Director of the Lighthouse School was in the audience, and he requested the Commission support waiting for resolution of the DEP issues before approving the application.

The previous meeting gave a conditional proposal pending DEP approval, however, now applicant is pressuring for complete approval because of an August deadline. The Plan is not finalized, which is creating the problem.

Motion: by Mr. Garrahan to continue the Hearing for 100 Wotton St. to August 7, 2018. Seconded by Mr. Vines. **Motion carries, unanimous.**

Request for Determination of Applicability-new

20 Old Farm Way, pool installation

Legal notice read. Applicants and pool company representatives were present for questions. Plans were given to the Commission. Operating practices will be provided to applicants. The applicants were advised to use straw, not hay for erosion control.

No comments were received from the audience.

Motion: by Mr. Garrahan to approve the Request for Determination of Applicability for 20 Old Farm Way with a Negative Three Determination, and the Special Conditions that straw wattles will be used for erosion control. Seconded by Mr. Vines. **Motion carries, unanimous.**

Request for Determination of Applicability-new

55 High St., single family home utilities

Legal notice read. Ramonez Development, Inc., is the applicant. The proposal is for a pool, shed and garage on one lot, and splitting part of the lot for a new single family home. Currently, the entire lot is lawn and one home. A grass ditch will have a headwall and 12" pipe installed.

Audience comments:

Brian Stripp, 90 High St., noted the plan has no dimensions of the proposed building. He was advised the building would be 60'x40' two-story structure outside the buffer zone. Mr. Stripp asked why the access wasn't put in from Combs Way. He was advised this was not a conservation issue.

Kathy Turbidy, 45 High St. explained there is a stream and a pipe installed before 1992. The entire lot floods. She asked how the water path was not going to impact her and her neighbor. She was advised that single family homes are not subject to certain requirements, and the flow of the water will not change.

Mrs. Turbidy advised that a sewer line runs across the property of the new house. The applicant's engineer did not know about this.

Denise Ferbus, 50 High St., asked how abutters are notified about hearings like this. She was told abutters are not notified for Requests for Determination of applicability. She confirmed that water does pool on this property, and she gets water in her basement now. Ms. Messer advised that the Town Engineer will be asked to review the plan.

Simon Curry, 61 High St. advised that the water level has been rising for several years and the integrity of the culvert needs to be established and maintained. Ms. Messer explained that the wetland is a detention basin created when Lilac Lane was built. None of the swales on Combs or Lilac are being maintained due to ownership conflicts and neighbor disputes on who is responsible for the maintenance. No Operation & Maintenance Plan was filed for the original construction.

Mr. McLachlan requested that roof drains be added to the plan. Also, High St. is a scenic way, and the Planning Board would need to issue a special permit to cut through a historic stone wall.

Gerdina Van Der Heide, 52 High St., explained there was a stream before Combs Way was built in 1975. There is still some water, but most goes to the pipes now. She questions the legality of the pipes. There are a lot of wetlands behind 61 High St. and by the bike path. She started getting water when Ann's Way was built. Water moves fast through the neighborhood.

Mr. Tymula agreed the front yard will always be wet.

Madalyn Conception, 2 Combs Way, has seen water flooding, and she wants to make sure her street doesn't flood as very little maintenance is done. Combs Way residents are supposed to maintain the street. They pay for their own plowing.

Simon Curry admitted he wasn't aware he had a detention pond on his property; he thought it was a ditch. Ms. Messer confirmed that the detention pond was a condition of building Lilac Way.

John Dalton, 50 High St., asked which way will water drain from the driveway, and was told the water will flow toward the existing swale.

Ginny Maher, 49 High St., advised there are water problems and a blocked culvert on her property. There is a brook under her driveway. She doesn't want water in her basement.

Kathy Turbidy advised there are missing pipes and culverts on the shown plan. Ms. Messer agreed; the private culverts are shown in deeds, but not on GIS maps.

Motion: by Mr. Souza to approve a Request for Determination of Applicability for 55 High St., subject to receipt of revised plans, and with Special Conditions to add roof drains on 4 corners of the house, add gravel infiltration on the east side of the driveway, and a maintenance agreement requiring the owner to maintain rip rap strips along driveway. Seconded by Mr. Tymula. **Motion carries, unanimous.**

Motion: by Mr. Garrahan to approve a Request for Determination of Applicability for 55 High St., with a Negative Three Determination subject to the above referenced conditions. Seconded by Mr. Gibbs. **Motion carries, unanimous.**

Notice of Intent-new

176 Mill Rd., two additions

Legal notice read. Pat Flaherty spoke for the applicant Susan Haywood. The proposal is to construct an in-law apartment on one side, and an addition on the back of house for possible kitchen expansion. The lot was created in 1965, and so is exempt from the 50-foot no build bylaw. There is a swale that goes through property that takes water; it is not a wetland, and is not vegetated. An existing gravel driveway goes to a garage. The proposed apartment is 26 feet from the wetland. Cultec chambers will be used for drainage. Material storage will be outside the 50-foot buffer.

No comments were received from the audience.

A DEP file number has not been issued to date.

Motion: by Mr. Vines to issue a Standard Order of Conditions for 176 Mill Rd. subject to receiving a DEP File Number. Seconded by Mr. Souza. **Motion carries, unanimous.**

Request for Certificate of Compliance

DEP#129-0796

29 Linwood Rd.

This is for an addition that was completed two years ago. The area is stabilized, and all work has been completed.

Motion: by Mr. Garrahan to issue a Certificate of Compliance for 29 Linwood Rd., DEP #129-0796. Seconded by Mr. Gibbs. **Motion carries, unanimous.**

Request for Certificate of Compliance

DEP#-129-0163

3 Minuteman Dr.

This will be a partial Certificate on a vacant lot with no jurisdiction. This is part of a subdivision.

Motion: by Mr. Garrahan to issue a Partial Certificate of Compliance for 3 Minuteman Dr., DEP#129-0163. Seconded by Mr. Gibbs. **Motion carries, unanimous.**

Discussion

Daisy Lane, DEP# 129-0636

A chronology of events was provided to the Commission. The original Order was issued in 2005, and subsequently extended through 2015, and recently extended to 2016. The access roads and pond were built. Neighbor complaints started in 2009, resulting in multiple meetings and site visits. A Partial Certificate of Compliance for one house was granted in 2015, and another for one house in 2016. There is an ongoing condition to maintain the pond and culverts, which has not been done. A partial Annual Report for one year was received.

Enforcement for ongoing conditions falls on the Conservation Agent and the Commission. The Town Engineer will be asked to review all the calculations and review what is happening now. As-built plans are on file. The Town Engineer could include an opinion on whether the pond functions properly. Ms. Messer will accompany the town engineer for a site visit. Each homeowner will be sent a letter by certified mail about the maintenance requirement on their deed. Mr. Garrahan agreed to review the letter before it is mailed.

Discussion will be continued to August 7, 2018.

Addition to Standard Conditions

A document was provided to the Commission with new language.

Motion: by Mr. Garrahan to approve the addition of the presented language to the Standard Order of conditions Form. Seconded by Mr. Gibbs. **Motion carries, unanimous.**

Lime Quarry Grant money

The Garden Club has asked for a delay to next Spring to complete the work at the island at this reservation. They would like to remove the Norwood Maple Trees because the tree roots are too close to surface. A new plan will be proposed. They have raised \$1500.00 for this project through a grant.

DPW can be asked to do some of the work removing trees and roots. Site work will be done in Fall, planting can be done in Spring of 2019.

Oak Hill Request

A resident has asked for permission to bow hunt on Oak Hill Reservation. The Commission denied the request.

Russell Mill Reservation

Mr. McLachlan was notified that NEMBA is reporting that a vender is hosting a bike sale on the reservation. Ms. Messer will contact the appropriate parties to advise that this activity is not allowed.

36 Turnpike Rd.

Most of the trees have died. There is one left. A letter will be mailed to the property owner requesting information on what he intends to do to rectify the situation..

Continual Business

Carlisle Bog Status

Mr. McLachlan reported that the Carlisle Alternative Study Committee is now dissolved. Mr. McLachlan felt that the next step is to notify the Carlisle Conservation Commission that if they want the water rights, they pay to maintain the dam.

Parking Lot Mowing

Dave Irvine is going to mow the lots at several reservations.

Commission Elections

Mr. Souza indicated he does not want to be Vice Chairman or Clerk.

Motion: by Mr. Souza to nominate Mr. Garrahan for Vice Chairman and Clerk. Seconded by Mr. Tymula. Mr. Garrahan accepted the nomination. **Motion carries, unanimous.**

Motion: by Mr. Garrahan to nominate Mr. McLachlan for Chairman. Seconded by Mr. Souza. Mr. McLachlan accepted the nomination. **Motion carries, unanimous.**

Agent's Report

Paperwork was signed as required.

Approve Minutes

June 5, 2018

Motion: by Mr. Tymula to approve the Minutes of June 5, 2018, as presented. Seconded by Mr. Vines. **Motion carries, unanimous.**

Adjourn

Motion: by Mr. Souza to adjourn the meeting at 9:40PM. **Motion carries, unanimous.**

Date of Next Meetings: August 7th

Respectfully Submitted,

Vivian W. Merrill
Recording Secretary

Supporting Documents:

- Applications and supporting documents for Notices of Intent, Requests for Determination of Applicability, and Certificates of Compliance as listed above.
- Supporting document for Change of Language for Orders of Conditions.