

Chelmsford Conservation Commission
Town of Chelmsford
50 Billerica Rd. Chelmsford, Ma 01824
Meeting Minutes
January 24, 2023

Members Present: Chris Garrahan, Marc Gibbs, Karl Bischoff, David McLachlan, John Swenson, William Vines, Peter Spawn

Members Absent:

Others Present: David Koonce-Conservation Agent

Meeting was called to order at 7:00PM by Mr. Garrahan.

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 hand recorded via the Recording Secretary, and televised by Chelmsford Telemedia.

Open Session / Citizen Concerns

No one came forward at this time.

Regulatory Hearings

• Request for Amended Order of Conditions 129-0929 (cont'd from 01.10.23); Town of Chelmsford; Freeman Lake * The Applicant has withdrawn this Notice of Intent. *****

Mr. Koonce announced that the remainder of the contract funds will be used to update the assessment from 1995. There will be a Comprehensive Lake Management plan, and possibly a new filing after that. The DPW will take the lead on coordinating the work.

Mr. Spawn requested to see the scope of work when it is drafted.

Motion: by Mr. Vines to Close the Hearing for Freeman Lake. Seconded by Mr. McLachlan.

Motion carries, unanimous, 7-0.

• Notice of Intent; DIV Riverneck, LLC (cont'd from 01.10.23); 191, 195, 199, 201 Riverneck Road Zachariah Chornyak/Tighe & Bond, Inc., representing Applicant * The Applicant has requested a continuance to February 14th. *****

The applicant has requested continuance pending tomorrow's Planning Board meeting. Mr. Koonce is sending out for requests for proposals on additional peer reviews.

Mr. Garrahan was asked to attend the Planning Board meeting. Town counsel is reviewing the issue of potential filling of wetlands.

Motion: by Mr. McLachlan to continue the Hearing for 191, 195, 199, and 201 Riverneck Rd. to February 14, 2023. Seconded by Mr. Bischoff. **Motion carries, unanimous, 7-0.**

Discussion

• Map 92/Block 337/Lot 3 (Littleton Road) violations (Donald St. John and Conservation Agent)

Mr. Koonce reported that the property owner has hired MacArthur Consulting to assist with his filing. The Commission was asked what kind of filing the applicant needs to do. The Commission can order a potential after-the-fact RDA filing, or issue an Enforcement Order to remove what was done and restore the area. Some restoration may still need to be done to remove soil that was stockpiled in the 25-foot buffer.

Susan MacArthur advised that she will be delineating the wetlands. The snow has made it difficult, and she has not been able to do any work. She will go out as soon as practicable; probably in April.

The property owner put down crushed stone, and soil was pushed toward the wetlands. The Commission will do a site visit at some point.

Mr. St. John explained that he wanted to get easier access to the property. He has no plans to do anything with the property. Traffic is very busy on Littleton Rd.

Discussion can be continued to April, 2023. Ms. MacArthur will contact Mr. Koonce after she's able to do the delineation.

• Mary Avenue storm water runoff complaint (Joseph Heider, William Harvey, and Conservation Agent)

Mr. Harvey was present. Mr. Heider was not.

There is nearby development to St. John's Church, which is property owned by Mr. Harvey.

Mr. Koonce met with the representatives for the church. Mr. Heider is a contractor that does the snow plowing for the church. There is a problem with water getting several feet deep in the church's parking lot. Water could be coming from Middlesex St., not necessarily the nearby development. There is definitely an increase of water in this area.

The church may need to hire an engineer to develop a storm water management plan, and they may be asked to come to a meeting at some point in the future.

No one is sure where the water is coming from. An area near the road was going to be a retention area in the Order of Conditions for the development.

• 129-0823 (11 Cushing Place) post-construction review (Donna Ready/Grist Mill Condominium Association)

Mr. Koonce explained this issue has been discussed in previous meetings. He met with Ms. Ready and another resident in November, 2022. An Invasive Management Plan has not been found to date. Mr. Koonce will keep looking.

Ms. Ready agreed that an invasive management plan needs to be developed. She is requesting more information from the Commission so her Board can work with the other residents. The residents of the Condominium Association cannot afford a lot.

Mr. Koonce advised that he would work with their landscaper on removing trash and debris. Some items would need to be removed with a crane. There is a lot of man-made debris such as large concrete blocks and part of a culvert in the waterway in the Riverfront area, and some of it has been there a very long time. It will be expensive to remove the material from the site. No one knows why the developer didn't do this, however, there was nothing noted in the Order of Conditions about removing the material. The material is not affecting the water flow. Ms. Ready explained they can clean up small things. They cannot remove the concrete.

Mr. Bischoff requested that the Norway Maple saplings be removed where possible.

Mr. Gibbs noted that a Certificate of Compliance has not been issued for the Grist Mill development project. The materials in question should still be the developer's problem. Ms. Ready explained that the residents assumed all the proper inspections were done when they purchased their units. Mr. Gibbs also noted that a promised pedestrian walkway was never built, nor was a road. A headwall was supposed to be constructed, and was not. Ms. Ready stated there is no Order of Conditions attached to the deed. Mr. Koonce will look into this, as units are being sold. The Condominium Association cannot afford to finish what the builder was asked to do.

Ms. Ready thanked everyone that helped them with the tree removal project. Photos of that work were shown. The residents care about their property, and will take care of it within reason. She would like a list of what is required to be done. Mr. Koonce will look into whether the money was returned to the developer on the construction bond that the Planning Board would have put in place.

Mr. Koonce would like the invasive plants to be managed, and the small trash to be removed at a minimum.

Mr. McLachlan recalled there were two lists of items to be completed. One of them was not in the Order of Conditions. This is the list of things the developer said he would do. Nothing formal about these items are listed in the Order.

Mr. Koonce can review the plans closer to see what else has not been done.

Uncertainty surrounding the Certificate of Compliance needs to be addressed, as well as the deed filings. Continuing annual maintenance needs to be done. Ms. Ready explained that they've always relied on

landscapers because of liability concerns. They don't have any volunteers ready to do this ongoing and continuous work. Mr. McLachlan conceded that if the blocks aren't damaging the environment, maybe they are not a priority. He is upset that the Order is not clear, and that the Certificate of Compliance was never requested. Research will continue.

Mr. Spawn agreed that the brook will continue to be important, especially with all the development around it.

Ms. Ready requested electronic copies of the Order and any other related material, so they can try to develop a plan, with the Commission's assistance.

There are probably 15 pieces of concrete that can be removed. Three are very, very large. They are man-made rocks. Removing them may make the embankment unstable.

Ms. Ready acknowledged there are no agreements with the developer on 9 Acton Rd. There is not a lot to remove in that area, except some invasive plants.

Mr. Koonce will work with Ms. Ready to put together a written maintenance plan. Mr. Koonce will obtain the paperwork related to the Order of Conditions. To date, three units have been sold without a Certificate of Compliance. This issue will need to be resolved.

Ms. Ready believed a plan will not be done until the Spring, due to the weather and other missing paperwork. Mr. Koonce advised that he would like to meet with the landscaper before the Spring.

The Order does not mention the issues being presented tonight.

• Request for Certificate of Compliance 129-0903 (314 Dunstable Road; Katie Enright/Howard Stein Hudson)

Mr. Koonce stated there are significant deviations in the as-built plans from what was approved. Ms. Enright can be present at Commission's meeting on February 14, 2023.

The road that was built has been accepted, without a Certificate of Compliance. There will be more discussion at the next meeting.

Mr. Gibbs felt the Commission should be prepared to expect to see similar problems with the Oddfellows project. There was a hearing on the parking lot which did not discuss any development of the Oddfellows Building. The Planning Board has had all the hearings, and permits were issued based on those Hearings only. A Certificate of Compliance was issued on a larger parcel, and a different project. Mr. Koonce will look at the Order that was issued. A grease trap has been installed that never came before the Commission, which should have been required.

• Placement of shed on Shore Drive parcel 18-94-1 (Karl and Conservation Agent)

Mr. Bischoff reported there is a shed and walkway installed on private property that is within 100 feet of wetlands. No Request for Determination of Applicability or Notice of Intent applications were ever filed.

Motion: by Mr. McLachlan to require the property owner of parcel 1894-1 to file an After-the-Fact Request for Determination of Applicability for the construction of a shed and pathway. Seconded by Mr. Bischoff. **Motion carries, unanimous, 7-0.**

• **Acquisition of Wilson Lane parcel 29-104-18; vote possible (Karl)**

Mr. Bischoff explained that the owner of this lot now lives in Connecticut, and they want to offer the 1.34 acre parcel to the Town. The property does abut Conservation Land. Other abutting parcels were shown. The parcel is landlocked, but could be accessed from the Conservation Land.

The assessed value of the property is now at \$33,000.00. It was \$28,000.00 at the time of the purchase request. A 4-acre parcel nearby was valued at \$4,000.00 due to a restriction that was filed on it. Mr. Bischoff suggested pursuing purchase of the 4.71 acres also.

Mr. Spawn noted that biomaps were recently issued by the State, and having Conservation Commissions and municipalities purchase small parcels like this was being encouraged to preserve Open Space.

There are many invasive plants on these parcels.

The Town now owns the nearby dam, and Mr. Koonce agreed that purchasing this parcel could ease access to the dam as well.

Motion: by Mr. McLachlan to support the acquisition of parcel # 29-104-18 off Wilson Lane for no more than \$35,000.00, to include legal costs. Seconded by Mr. Gibbs. **Motion carries, unanimous, 7-0.**

Mr. Bischoff agreed to speak with the Community Preservation Committee about funding the purchase, and he noted there could be trouble finding someone to hold the required Conservation Restriction document. The Commission agreed the parcel could be Chapter 97 land under the control of the Conservation Commission.

• **CPA application for transfer to Land Maintenance Fund (Karl and Conservation Agent)**

Mr. Bischoff explained that establishing this account through the Community Preservation Committee would allow the Conservation Commission to access up to \$10,000.00 for Community Preservation Act allowed expenditures without having to go back to the CPC for additional funding. This has been an issue with funding at the Warren-Pohl Reservation. These funds cannot be used for maintenance, but can be used for invasive plant management plans, surveys, new trails and kiosks. A similar fund is used in Boxboro.

Motion: by Mr. McLachlan to support a CPA Application for the transfer of funding in the amount of \$10,000.00. Seconded by Mr. Spawn. **Motion carries, unanimous, 7-0.**

• **Tree Master Plan proposal for NMCOC grant application (Peter)**

Mr. Spawn explained that he joined the Tree Committee in June, 2022. He looked at the Tree Committee's charter, which says the Committee should develop a Tree Master Plan. The Conservation Commission is also involved with supporting tree preservation.

Mr. Spawn has gotten support from the Tree Committee to request funding for assistance to create a Tree Management Plan. Community Development Director Evan Belansky has put together an application to request this funding from the Northern Middlesex Council of Governments (NMCOG). The plan would include input from stakeholders, best practices review from nearby communities, and to put together a formal plan. The Tree Committee was putting together a manual on tree procedures, which has not been completed. The Tree Master Plan could include private and public trees and shrubs, and could include an annual report to the Select Board.

Mr. Spawn asked the Commission for their participation, and to provide any ideas for the plan. The Town is losing tree coverage every year, in part to development and invasive plants. It was noted that the Tree Committee may need to change its charter to include trees on private property.

Mr. McLachlan voiced concern about having another layer of bureaucracy, and he hoped any plan would actually be implemented after it was created. Mr. Spawn agreed there needs to be education on how to plant a tree, and maintain it. The Commission agreed they can encourage trees be planted, however, there is no enforcement capability. Having a Tree Master Plan could open up more venues for future funding through grant opportunities which could help on a variety of issues.

Mr. Spawn asked the Commission to participate in the planning. He anticipates commitments of about 350 hours from NMCOG, 350 hours from the Tree Committee, and an estimated cost of about \$30,000.00.

Motion: by Mr. Gibbs to authorize a Conservation Commission representative to participate in the development of a Tree Master Plan. Seconded by Mr. Vines. Mr. McLachlan abstained, all others in favor. **Motion carries, 6-0.**

Continual Business

Land Management

• Update on Warren-Pohl Reservation

Mr. Bischoff reported that the granite sign from Garside in Westford was supposed to be done in October, and has not been delivered yet.

The Conservation Restriction document is at Atty. Mullins' office being reviewed.

The Baseline report was sent to the Commissioners. It is 180 pages long.

Mr. McLachlan announced that the Sudbury Valley Trustees are promoting pollinator plants. Plant kits are being sold for \$100.00/kit. Volunteers will help with planting them.

Agent's Report

• Update on 201 Boston Road violation

Mr. Koonce is assisting the applicant with the RDA application. It could be ready by February.

For Approval/Signature

• Grant of Brook walk easement 44 Central Square

An easement plan was shown. The proposed walkway was shown; it will be pervious. The walkway is for conservation purposes. The walkway starts in the parking lot behind the restaurant, goes 200-300 feet, and ends at another part of the parking lot.

Mr. Spawn saw it as an opportunity for educational plaques and plantings.

Discussion to be continued, as more information is needed. The Conservation Commission is being asked to hold the easement.

• Minutes of January 10, 2023

The Minutes were not ready for approval at this time.

Adjourn:

Next Meetings: February 14, 2023

February 28, 2023

Motion: by Mr. Bischoff to adjourn the meeting at 9:06PM. Seconded by Mr. Spawn. **Motion carries, unanimous, 6-0.**

Respectfully submitted,
Vivian W. Merrill

Supporting documents: