

Lincoln Conservation Commission (LCC) - Public Meeting Minutes

May 26, 2021

Approved: June 16, 2021

Members Present: Ari Kurtz (Chair), Jim Henderson, Larry Buell, Susan Hall Mygatt, Laura Regrut (7:15), Richard Selden, and Kathleen Shepard

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

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order concerning imposition on strict limitations on the number of people that may gather in one place, this Conservation Commission meeting was conducted via remote participation using Zoom.com. The Town provided access to such meeting via a link to call in. No in-person attendance of members of the public was permitted, but every effort was made to ensure that the public could adequately access the proceedings.

7:00 p.m. Meeting Minutes from May 5, 2021 - Motion by Mr. Henderson to approve as amended; seconded by Ms. Mygatt; roll call vote: each member responded Aye.

7:02 p.m. Annual Town Meeting Warrant Article Discussion – both articles were approved by residents at Town Meeting.

- Article 9C (Community Preservation Committee): To fund, for open space purposes, the acquisition of land on Twin Pond Lane.
- Article 7A (Capital Planning Committee): To fund the purchase of a suite of electric powered equipment, one large gas chain saw, and two canoes for the Conservation Department.

7:05 p.m. Update on Trailhead Signage

Conservation Staff will be removing the Covid-19 Trailhead signage. In addition, staff plan to install more information on dog leashing in agricultural fields, picking up after your dog, and tick prevention.

7:15 p.m. Request for Determination of Applicability (RDA): 53 South Great Road; J. Degler, Tighe & Bond, on behalf of Boston Gas Company (applicant)

The Applicant filed this Request for Determination of Applicability (RDA) for the installation of a residential gas service line, under an existing driveway, at 53 South Great Road. Work will occur within the 200-foot Riverfront Area to a perennial stream, Bordering Land Subject to Flooding (BLSF), and the 100-foot buffer zone to Bordering Vegetated Wetlands (BVW) and Inland Bank. In addition, the work will occur in the 100-foot Upland Buffer Zone Resource Area under the Bylaw. Specifically, a one-inch PVC service connection would stem off of the main extension for approximately 415 feet south within the driveway at 53 South Great Road and then connect into the northwest corner of the residence. The gas service line installation would require the excavation of a two-foot wide trench for safe installation. The trench bottom would be excavated and graded so that the pipe would be supported for its entire length on undisturbed bottom at a depth of approximately three feet below surface grade. The trench would be excavated within the paved driveway, with the precise location of the line to be determined in the field so that existing utilities are avoided. Adequate cover exists between the driveway and the top of the culvert crossing for installation of the service line above the culvert in the same way as the rest of the pipe within the driveway. Upon completion of work, the trench would be backfilled, and the site would be restored to pre-existing conditions.

Members of the Commission conducted a site visit on May 26, 2021. Commission members noted the asphalt driveway has fallen into disrepair and wondered if the owner proposes to re-pave the entire driveway. Mr. Degler indicated that Boston Gas will only be patching the trench. Conservation Staff will alert the owner that should they wish to repave the driveway, that work will need to be reviewed and approved by the commission in a different wetland filing. It was Ms. Mygatt's opinion that the work complies with Section 7.4 of the bylaw which states: "The Commission may permit temporary disturbance in a naturally vegetated buffer strip in cases where the applicant has proven to the Commission's satisfaction that no harm is likely to result to the Upland Buffer Zone Resource Areas because of the temporary disturbance". Once the activity is completed, the Applicant agreed to return the site to its prior condition, and to

remove the erosion control barriers after backfilling, patching and restoration is complete. Motion by Ms. Mygatt to issue a Negative 2 Determination; seconded by Mr. Buell; roll call vote: each member responded Aye.

7:30 p.m. Abbreviated Notice of Resource Area Delineation (ANRAD): 263 Old Concord Road; M. Curley (owner's representative); D. Burke, Wetland Scientist; W. Doyle: Doyle Engineering

Ms. Mygatt recused herself.

This ANRAD was filed to determine the extent of the wetland resource areas on the property. The property is surrounded on three sides by significant slopes that lead down to the Sudbury River in the area referred to as Fairhaven Bay. The boundary of Bordering Vegetated Wetlands and Mean Annual High Water was identified and flagged by Mr. Burke in January 2021 and shown on the plan which he submitted. Mr. Burke has also identified the location along the Sudbury River where he believes that riverine characteristics end (Flag #10) and where Fairhaven Bay begins. It is Mr. Burke's opinion that riverine characteristics do not exist within Fairhaven Bay and therefore there is no 200-foot Riverfront Area associated with the portion of the property where the waterway does not have riverine characteristics.

The Commission reviewed the provisions of the state regulations which would appear to be applicable (310 CMR 10.58 (2)(a)(1)(e) and (h)). The issue is whether a portion of the property which abuts the waterway is or is not Riverfront Area subject to a 200-foot buffer zone. Mr. Burke and Commission staff do not agree on this point.

Staff noted that the Lincoln Wetlands Protection Bylaw includes jurisdiction over lands with 200 feet of any river...(the "Riverfront Area") and does not mention riverine characteristics as a requirement for having riverfront.

Discussion ensued. Mr. Selden and other members of the Commission want to learn more about whether riverine characteristics exist in a portion of the area commonly called Fairhaven Bay. The Commission expressed interest in hiring an outside consultant to study this question and make its own determination as to whether or not the entire waterfront area is Riverfront Area within the meaning of the state regulations. Ms. Grzenda suggested that the Commission hire a consultant pursuant to chapter 44 Section 53 G. Ms. Grzenda had received a proposal from Patrick Garner. The Commission and the Applicant would prefer to receive a few more proposals from other consultants. Mr. Selden requested that proposals include an in-depth study of riverine characteristics, including an assessment of horizontal and vertical zonation and laminar flow.

S. Lawkins, of 253 Old Concord Road, supported the Commission's hiring of an outside consultant.

Motion by Mr. Selden to continue the hearing until 7:30 on June 16, 2021, at which time the Commission anticipates reviewing the additional submitted RFPs. The Commission may wish to invite a subset of the outside consultants to a future Conservation Commission meeting to learn more about them. The motion was seconded by Mr. Henderson; roll call vote: each member responded Aye (with Ms Mygatt in recusal).

8:15 p.m. Request for Determination of Applicability (RDA): 56 Conant Road; M. Ebbs, Merz Construction
Merz Construction has filed this Request for Determination of Applicability for the installation of a temporary construction staging and parking area at 56 Conant Road. Merz Construction will be building a replacement barn with a frost wall foundation, outside of the 100-foot Buffer Zone Resource Area. Due to access constraints near the barn, the applicant is requesting permission to utilize a portion of the existing lawn within the Upland Buffer Zone Resource Area for temporary construction staging and parking. Excavation and construction equipment would have access to the building site from the proposed temporary staging area. This would keep heavy equipment off the owner's new asphalt driveway installed in the fall of 2020. The proposed area would have a silt barrier installed as erosion control at the 50-foot Upland Buffer Resource line as shown on Snelling & Hamel Associates' site plan, as revised May 26, 2021. Existing grass and loam would be stripped and stockpiled in a designated protection area. Temporary gravel would be placed and spread to create a staging area for construction, and a temporary access passage would be made over the existing grass strip between the lawn and the neighbor's private gravel driveway. Upon completion of work, gravel would be removed, and the loam replaced. The grass strip and lawn area would be seeded to return to original condition.

Section 7.4 “Temporary Disturbance” of the Lincoln Wetlands Protection Bylaw states that “The Commission may permit temporary disturbance in a naturally vegetated buffer strip in cases where the applicant has proven to the Commission’s satisfaction that no harm is likely to result to the Upland Buffer Zone Resource Areas because of the temporary disturbance. Once the activity is completed, the area will be allowed to return to natural vegetation and function.” Motion by Mr. Henderson to issue a negative 3 determination with standard conditions. Seconded by Ms. Mygatt; roll call vote: each member responded Aye.

8:43 p.m. Request for temporary access license agreement on Conservation Land; D. Choroser, R. House, J. Khalili, National Grid

National Grid has requested authorization from the Conservation Commission to temporarily access Lincoln Conservation Land to conduct minor grading work associated with a gas line replacement occurring along Rt. 126 (Parcel ID 137 5 0, near Mile Post 32.8). The area in question is an approximate 10’x100’ strip of land (1,000 s.f.) of conservation property. Legal counsel at National Grid has prepared a temporary license agreement which was reviewed by KP Law, the Town of Lincoln’s legal counsel. Modifications have been made by both parties and the agreement is currently under final review. Once the work is complete, National Grid is willing to replace any saplings removed, either onsite or at another suitable location chosen by the Commission. The legal agreement should indicate that National Grid shall plant mitigation trees in a suitable location chosen by the Commission. Motion by Ms. Mygatt to approve the issuance of temporary access agreement, contingent upon town counsel final review; seconded by Mr. Selden; roll call vote: each member responded Aye.

9:01 p.m. Boston University Suburban Deer Project - Conducting Research in Lincoln: S. Cavallo, J. Goethlich, C. Connors, and A. Short (Boston University Researchers and Students)

S. Cavallo, post-doc at Boston University, discussed a research study BU will be conducting in a selection of towns in MA and NY about the social and ecological impacts of changing deer populations in the urban and suburban Northeast. In each town they will monitor deer populations and their impacts on local vegetation using wildlife cameras and conduct vegetation sampling on public and private land. To understand the social dimensions, the research team will conduct interviews with town officials, non-profits, landowners, and residents about deer and their impacts. This information will be shared with the towns involved. Questions they hope to answer include (1) why are deer populations increasing in the suburbs and how are communities responding and (2) what concerns do communities have about increasing presence of deer and potential management activities?

Deer population monitoring will involve using motion-activated wildlife cameras to estimate deer presence in town and interactions with other wildlife. Cameras will be placed with the permission of the landowner, away from trails and buildings, and any photos of people will be kept confidential. The research team plans to install the cameras this summer, with 2-4 trips/year for camera maintenance over the project timeline. To better understand deer and their impacts, researchers will also conduct vegetation surveys at the camera sites. No plants will be cut. Data from these research activities will be used to model deer management scenarios at the local level and statewide. BU will provide Town officials, residents and land managers with the data and findings from these efforts to assist in decision making. However, this research will not predict deer population changes or propose specific solutions for the town. Mr. Selden requested informal annual updates during the 3-year program. Motion by Mr. Selden to approve the use of Lincoln Conservation Land in the BU suburban deer project; seconded by Mr. Henderson; roll call vote: each member responded Aye.

9:37 p.m. Red Rail Farm Tree Clearing Request; K. Johnson

Ms. Mygatt recused herself.

K. Johnson is interested in clearing about 50-60 pine trees that he set aside many years ago for eventual harvesting on his property (140-35-0). He would like to clear the trees to restore open farmland. The parcel in question has a CR held by the Town. Section A7 of the CR states that “no trees...shall be destroyed or removed from the Premises and no visible use shall be made of the Premises except in connection with activities permitted in Section B”. Section B3 reserves the Grantor the right to conduct “planting, cultivation and harvesting of forest products in accordance with good forestry practices, and the clearing of formerly open fields in an early stage of forest succession. PROVIDED, however, that any extensive alteration in the forest cover of the Premises shall require the written approval of the Grantee.”

Discussions ensued; Mr. Selden requested a revegetation with grasses or some other vegetation. Motion by Ms. Shepard to approve the tree cutting as proposed and as allowed in the CR, contingent upon the owners discussing a revegetation plan with staff; seconded by Mr. Henderson; roll call vote: each member responded Aye (with Ms. Mygatt in recusal).

9:53 p.m. Beaver issues – Winter Street Pond concerns

A resident expressed concerns regarding the rising level of the pond near the east end of Winter street. This pond is on Conservation Land. Staff investigations revealed that the culvert was partially blocked by twigs and dirt and was most likely the result of beavers. Staff requested a consultation from Beaver Solutions who confirmed the blockage appears to be from beavers. The options moving forward are (1) Do nothing; let the beavers block the culvert (free option) – impacts: if there are any low lying neighbors, neighbors land, house, septic systems could be impacted; road is about 3’ higher than culvert so the water level would have to get very high before roadway is impacted; (2) Hire beaver solutions to install a diversion fence (\$500) – less expensive option; creates an area 10’ back from the culvert that the beaver can dam; this will protect the culvert but will not lower the water so if neighbors are impacted from high water, this will not solve the problem; (3) Install a culvert fence and pipe (\$1,800) – expensive but will lower the water level and keep it at pre-beaver level; this will ensure roadway and neighbors are not impacted by high water, but is costly.

Staff will contact the concerned neighbor to assess if the high water is causing structural damage or is just an aesthetic concern.

9:59 p.m. Reports, Correspondence & Announcements

- Sub-Committee and Liaison Reports
 - Ms. Carter updated the commission on Mr. Hannan’s proposal to install green houses at Ricci Field and Minute Man National Historical Park’s concerns about their viewshed. The Commission has agreed to plant evergreen trees to provide screening.
 - Ms. Shepard, on behalf of SLPIC, reminded Conservation Commission members to fill out the Lincoln Station survey.
- Next Conservation Coffee will be on June 3, 2021
- Next Conservation Commission meeting will be June 16, 2021

Meeting adjourned at 10:10 p.m.