

Lincoln Conservation Commission (LCC) - Public Meeting Minutes

September 29, 2021

Approved: October 21, 2021

Members Present: Ari Kurtz (Chair), Susan Hall Mygatt, Amber Carr, Kathleen Shepard, Laura Regrut and Richard Selden

Members Absent: None

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

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

7:00 p.m. – Discussion Items

- Review Meeting Minutes from September 8, 2021. Motion by Ms. Mygatt to approve; seconded by Ms. Carr; roll call vote: 6:0:0
- Staff reviewed the FY23 Conservation Commission Capital Budget submitted to the Capital Planning Committee.

7:15 p.m. Notice of Intent (NOI): 22 Lincoln Road; Y. Liu (owner); Rich Kirby, LEC Environmental Consultants, Pedro Shimizu Costa (project engineer)

Mr. Kirby presented the project. The property consists of the existing house, a tennis court, driveway and detached garage, with some open lawn. Bordering vegetated wetlands (BVW) occur on the northern, eastern and southern property boundaries. Proposed activities within the 100-ft buffer zone include:

- An addition (624 sqft within buffer zone) on the northern side of the house (approx. 70' from wetland edge)
- A deck (319 sqft within buffer zone) on the northern side of the house (approx. 70' from wetland edge)
- Rehabilitation of the detached garage with no increase in footprint (approx. 40 feet from wetland edge)
- Resurfacing of the existing tennis court and replacement of the surrounding fence (within 0-50ft buffer; closest work is 5 feet from wetland edge)
- Installation of new septic tank and pump northeast of house (within 50-100ft buffer), with pipe leading to leaching field west of house (outside of buffer)
- Removal of 25 trees (24 within the 50-100ft buffer, 1 within the 0-50ft)
- Repaving the existing pavement driveway (mostly outside buffer, some within 50-100ft) and expanding portion of driveway with porous pavement east of the house (50-100ft buffer)
- (Some additional work is proposed outside the 100-foot buffer zone – i.e. a second addition, 4 other tree removals, etc.)

The Applicant proposes the following mitigation measures to offset the increase in impervious surface within the 100-ft buffer zone: (1) erosion and sediment control: proposed erosion control consisting of 12-inch diameter compost filter tubes with biodegradable netting; (2) native plantings and wetland/buffer zone restoration: The Applicant proposes to install 21 native sapling trees to replace those proposed for removal. In addition, approximately 3,000 s.f. of buffer zone and wetland, which is currently lawn, would be restored. Mr. Kirby reviewed a proposed restoration planting plan which was submitted the day of the meeting. The plan proposes the planting of 34 sapling trees and some shrubs in the wetland restoration area adjacent to the tennis court. Mr. Kirby is amenable to monitoring the restoration areas for 2-3 years; (3) porous pavement: 1,845 sq. ft. of porous pavement is proposed east of the house. The Applicant reviewed the stormwater drainage plan, and it is the Applicant's opinion that they would be reducing the stormwater runoff by replacing a portion of the existing asphalt driveway with porous pavement. The Applicant submitted an operation and maintenance plan which includes detail on how the porous pavement would be vacuumed regularly to remove fine materials that would clog the system.

Members of the Commission and Staff conducted a site visit earlier in the day and identified two locations where the erosion controls could be adjusted to minimize the limit of work area – one near the stand-alone garage and one near the tennis court. The Applicant's team is in agreement with the erosion control adjustment. The plans will be revised to reflect this. Due to some concerns raised by Commission members, the Applicant is willing to reduce the footprint of the existing spur driveway. The Applicant is willing to remove the brush piles observed onsite and dumped close to the wetland (from the previous owners).

Commission members had questions regarding the maintenance of the tennis court. Due to the amount of deterioration observed at the site visit, the Commission requested more information on the amount of work and equipment needed to restore the tennis court. Much of the tennis court is within 50-feet of the wetland edge.

Dr. Selden asked whether there were any alternatives that would result in less disturbance in the buffer zone. He asked whether the additions could be moved outside the buffer zone.

Section 7.8 of the Bylaw Regulations states: "In certain cases, e.g. where there is already an existing structure within a Wetland . . . or Upland Buffer Zone Resource Area, or in the case of a legal building lot created prior to March 29, 2003, the Commission, in order to avoid hardship to the property owner, may permit structures or additions to structures within the Upland Buffer Zone Resource Area. In such cases, the Commission may require mitigation. . .". It is the Applicant's opinion that the amount of proposed restoration area is a significant improvement over existing condition.

Dr. Selden referenced Section 2 of the Bylaw which reads "It shall be presumed that significant adverse effects on the values of a resource area protected by this bylaw will result from any filling, dredging, building upon or other alteration within . . . 50 feet of the edge of any freshwater wetland, marsh, wet meadow, bog, or swamp, top of the bank of any lake, pond, intermittent stream . . . unless the applicant demonstrates by clear and convincing evidence that such significant adverse effect will not occur." It was Mr. Kirby's opinion that since the additions proposed would be approximately 75 feet from the wetland edge, and that the only work within 50 feet of the wetland would involve repairing the existing tennis court, that there would be no adverse effects on the resource areas.

The Conservation Director requested a site visit with Mr. Kirby to go over the location and she requested greater detail be added to the restoration plan. There appears to be opportunity to restore a portion of lawn in the 50-foot no disturb zone with native plants. It was Ms. Grzenda's opinion that markers or monuments should be installed to permanently delineate the 50-foot No Disturb zone. The Commission requested that erosion controls be installed along the entire length of the driveway since heavy machinery would be accessing the area and the wetlands are within 5-feet of the driveway in some locations. The City of Cambridge submitted questions to the Applicant and is awaiting a response.

Gary Taylor, abutter, expressed concern about an existing culvert that runs under the driveway and allows water to flow from his property to the north. Mr. Taylor asked if the culvert could be inspected and repaired if any problems exist. Mr. Kirby will inspect the culvert.

The Applicant verbally agreed to a continuance. Motion by Ms. Shepard to continue the hearing until October 20th at 7:15pm.; seconded by Dr. Selden; roll call vote: each member responded Aye.

8:30p.m. Update from the Climate Action Planning Subcommittee; S. Klem and L. Smith; S. Montori, and R. Harvey

Ms. Klem from the Climate Action Planning Committee (a subcommittee of the Green Energy Committee) gave a presentation about the goals of the Climate Action Planning Committee and summarized some of the actions the town has taken to adopt and implement appropriate measures to reduce the carbon footprint in Lincoln. As part of the Committee's work, they are gathering information from Lincoln committees, groups, and residents that would inform developing a Climate Action Plan specific to Lincoln. Discussion ensued. Commission members expressed interest in supporting solar panel projects, reviewing the Wetlands Bylaw and incorporating climate resiliency as an Interest worth protecting.

9:00p.m. Informal Discussion – 104 Concord Road Pond Treatment; N. Feinberg

Mr. Feinberg, landowner, discussed his interest in applying a chemical treatment to his small pond (roughly 100' x 40' and 7' deep at its deepest point). The pond is hydrologically connected via a ditch to a perennial stream and nearby wetland. Two years ago, Mr. Feinberg noticed invasive milfoil blooms growing in the pond. He contacted Solitude Lake Management Inc. and they recommended treating the pond with Procellacor (an aquatic herbicide). Mr. Feinberg got in touch with Tom Gumbart, former Conservation Director, who issued a one-time administrative approval to treat the pond. The treatment eliminated the milfoil for two years, but it is back. It is the Conservation staff's opinion that a Notice of

Intent filing is necessary to conduct any further treatments of the pond. Mr. Feinberg would like to enter into a pond maintenance contract with Solitude for next year so that they can remove the invasive aquatic plants in the pond.

Dr. Selden explained that the Commission adopted a Pond Management Policy in 2017. Before any herbicide is applied, the Commission needs a formal NOI application which includes a detailed description of the pond, its water quality, the species to be targeted, what type of control has been done in the past, and an assessment of what the treatment options may be. Once a formal report is compiled, and if the Commission approves the use of a certain chemical, the Commission will expect annual updates on the efficacy of control. Dr. Selden will review the medical research and assess the potential toxicity implications of the chemical Procellicor.

9:30 p.m. Request to install fence in buffer zone at 11 Silver Birch Lane; A. Wang (owner)

The property owner, Mr. Wang, requested permission to install a 4-foot dog fence in his backyard. Staff conducted a site visit with Mr. Wang on 9/24 and it appears that the wetland may be within 50-feet of the location where Mr. Wang wishes to install the fence by hand. Mr. Wang asked that, provided he kept the fence outside the 50-foot Buffer, could the staff administratively approve the work. Under the WPA (310 CMR 10.02), accessories to single family homes (decks, sheds, gazebos, pools, and fences) do not need a permit so long as the work is occurring at least 50 feet away from the wetland and on existing lawn. However, Lincoln's Bylaw does not grant such exemptions. Staff wondered if there are certain small activities in the outer buffer zone (50-100ft) that the Commission would allow staff to approve. Staff recommend as a first step in these scenarios that the owner hire a wetland scientist so that the exact wetland boundary is known and, using a tape measure, the distance between the wetland edge and proposed work location can be determined. The Commission is comfortable having staff administratively approve such temporary disturbances on lawn, such as fences, so long as there is confirmation of the wetland line and work is at least 50-feet away. The Commission suggests educating residents about the importance of picking up after their dogs.

9:45 p.m. Signing of Documents

- Request for Certificate of Compliance – 99 Winter St. (DEP #203-938) - Motion by Ms. Mygatt to issue a Certificate of Compliance; seconded by Ms. Shepard; roll call vote: Each member responded Aye.
- Request for Certificate of Compliance – 14 Stratford Way (203-671 and 203-167) The current owner of 14 Stratford Way is selling his house and his title attorney found two outstanding OOCs on the title. Staff researched the paper file and determined that the first OOC has lapsed and work never commenced. The second OOC was issued a Certificate of Compliance in 1998 and the attorneys have requested a copy be re-signed by the Commission for recording purposes. Motion by Ms. Mygatt to issue a certificate of compliance for 203-167 and re-issue a Certificate of Compliance for 203-671; seconded by Dr. Selden; roll call vote: each member responded Aye.
- Save the Date – Trail Use Public Forum November 17, 2021 (7-8:30) on Zoom.
- Reports, Correspondence & Announcements -
 - Motion by Ms. Mygatt to recommend sending a letter of support for a \$300 million investment of American Rescue Plan Act (ARPA) funds in environmental infrastructure (1599-2031), specifically the Municipal Vulnerability Preparedness (MVP) program, seconded by Dr. Selden; roll call vote: each member responded Aye.

10:00 p.m. Request to install temporary structures at Umbrello

Mohammed Hannan, the licensed farmer at Umbrello Field, is requesting that the Commission review several different infrastructure layouts for Umbrello Field. Mr. Hannan would like to put in a greenhouse and high tunnel, and each of these needs electricity and water. The Agricultural Subcommittee reviewed several proposed infrastructure layouts for Umbrello and had chosen layout C-1A as the best layout before the Commission meeting. Staff showed layout C-1A to the Commission. The Conservation Commission were amenable to staff working with Mr. Hannan on the best layout, as well as allowing Mr. Hannan to go ahead with soil test pits and getting trenching quotes. Motion by Ms. Shepard to allow staff and Mr. Hannan to move forward with the proposed Umbrello field infrastructure layout and trenching efforts; seconded by Ms. Mygatt; roll call vote: each member responded Aye.

Meeting adjourned at 10:10 p.m.