



Acton Conservation Commission

Meeting Minutes

June 16, 2021

7:10 PM

Acton Town Hall, 472 Main Street

Acton, MA 01720

Room 204

Present: Terry Maitland, Amy Green, Jim Colman, Suzanne Flint, Carolyn Kiely, Zywia Chadzynska

Absent: Tim McKinnon,

Natural Resources Director Tom Tidman

Recording secretary: Fran Portante

Technical Assist: Bettina Abe

Meeting called to order at 7:12 PM. This was an in-person meeting, with no remote participants.

Terry announced that the 22 Elm Street ANRAD hearing was continued to July 7 at 7:45PM; the Notice of Intent hearing for 12 Spring Hill Road was continued to July 21, 2021 at 7:45PM, and the Notice of Intent hearing for 47 Conant Street was continued to June 30, at 7:30PM, and would not be heard at this meeting.

Consent Items:

Certificate of Compliance:

8 Longmeadow Way, DEP No. 85-0589

Decision: Amy moved to issue a Certificate of Compliance; Jim seconded the motion and the vote was unanimous.

3 Jaime's Way, By-law ID: 75-284

Decision: Amy moved to issue a Certificate of Compliance; Zywia seconded the motion and the vote was unanimous.

Regular Business

Notice of Intent: 26 Central Street continued from June 2: continued once again due to DEP Number and review not being issued. This will be continued until DEP finally reviews the filing and assigns an id number.

7:15 Request for Determination: 26 Washington Street

Owner Peter McGah presented the plan to extend the existing deck an additional 5 feet off the existing deck at the rear of the house. The new footings for the deck extension will be placed on an existing lawn area. The closest point of the existing house to wetlands is 64 feet. The addition to the deck as proposed will be 67 feet from wetlands, and so is not in greater non-



compliance with Bylaw setbacks. The applicant shared photos of the area to the Commission from his phone. The meeting closed at 7:28 PM.

Decision: Carolyn moved to issue a Negative 3 determination, meaning the work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore said work does not require the filing of a Notice of Intent. Amy seconded the motion and the vote was unanimous.

7:30 PM Request for Determination 433 Main Street

Owner John White presented. He noted that there has been an increase in the number of unleashed dogs running onto his property from the Arboretum. He plans to install a wire fence along the three sides of his property that abut the arboretum. The fence will be kept a minimum of 4" above the ground to allow for wildlife passage. In addition to the fence, trees and shrubs will be planted to further screen the White property from activity at the arboretum. He presented a plan illustrating the location of the fence and a planting plan that would include tall arborvitae. The meeting closed at 7:45 PM.

Decision: Jim moved to issue a Negative 2 Determination, meaning the work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent. Amy seconded the motion and the vote was unanimous.

7:20 Notice of Intent: Genevieve Lane Lot 3 (DEP No. 85-1299) continued from June 2.

Seth Donohoe, from Dillis and Roy, presented for the applicant, Christopher Coughlin. Seth stated that on June 6th and 7th the location of the mean annual high water line for Grassy Pond Brook was located. DEP had raised questions about the location of the 200 foot Riparian Zone. Tom Tidman met Seth onsite on June 7th to observe the stream location and the distance to the proposed activities on lot 3. Seth noted that all construction activity associated with grading for lot 3 will be moved slightly, so that no work will occur within the 200 foot Riparian Zone (see 'Finding' below). The infiltration basin between lots 3 & 4 will be adjusted slightly and native shrubs will be planted within the 100 foot buffer in and around the proposed infiltration basin, also providing a natural delineation between lots 3 and 4. The hearing closed at 7:45 PM

Decision: Amy moved to issue a standard Order of Conditions, with the following Findings of Fact and Special Conditions:

Findings: In granting this Order of Conditions, the Conservation Commission makes no determination as to the perennial or intermittent nature of Grassy Pond Brook at this location, as the proposed activities associated with this Notice of Intent filing fall outside the 200' riparian zone.

Special Condition: (1) "No Dumping" signs will be designed and installed along the property boundary between lot 3 and the abutting Common Land. The sign design will be approved by the Conservation Agent prior to installation.

Jim seconded the motion and the vote was unanimous.



Request for Determination (continuation from June 2 meeting), Lot 4 Genevieve Lane. Seth

Donohoe with Dillis & Roy presented for the applicant. Seth noted that all work on lot 4 will occur outside of the 200 foot Riparian Zone. The infiltration basin that overlaps lots 3 & 4 will be planted with native shrubs within the 100' wetlands buffer and will help to create a natural delineation between the two lots. This was the completion of the discussion in the meeting of June 2. This meeting closed at 7:55 PM.

Decision: Amy moved to issue a Negative 3 Determination, meaning the work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore said work does not require the filing of a Notice of Intent. In addition, "No Dumping" signs will be installed along property that abuts common land, with the design to be worked out with Tom. Zywia seconded the motion and the vote was unanimous.

8:05 PM Request for Determination: 9 Beechnut Street: continued from May 19.

Owner Vedavinayagam Ganesan requests permission to remove 8 mature trees from the rear of his property for a proposed solar installation. The eight deciduous trees are within 100 feet of wetlands. Tom explained that the majority of the trees were black birch, red oak and swamp maple. They would be replaced by lawn. Commissioners asked if the solar installation could happen elsewhere on the roof, perhaps the garage. They raised concerns that trees appearing on the plan along the yellow line were 50 feet from wetlands. The Commissioners agreed that a site visit accompanied by the solar installer would be in order.

With the owner's consent, the Chairman continued the meeting to June 30th at 7:25 PM, to give the Commission time to visit the site with the owner and solar installer.

8:15 PM Notice of Intent, 116 Newtown Road.

Scott Hayes, from Foresite Engineering presented for the applicant. Scott described the layout of the subdivided lot (Lot 3-BA) to the Commission noting that the proposed lot will be approximately 40,000 square feet in size with the house location and septic system meeting the 75 foot structure setback. The proposed lot had previously been reviewed under an ANRAD filing and had been flagged by Oxbow Associates. Scott noted that the Commission had received a revised "Notice of Intent Plan" dated 6/11/21. The original NOI plan was dated 3/5/21. The revised plan shows the driveway just outside of the 50 foot setback. The driveway width is reduced from 12 feet to 10 feet on the revised plan. The proposed 10 foot wide driveway will be constructed of a porous pavement.

Carolyn asked if this was an approved lot. Scott stated it was not, and the proposed lot layout is before the Planning Board at this time. Carolyn asked if Scott was aware of DEP Policy 88-2, the Hardship policy. Scott stated that because of the lot layout, it isn't possible to meet the 75 foot structure setback for the driveway. Therefore, they are asking for a waiver from Bylaw section 3.2. The waiver request is described in a letter sent to the Commission on June 11, 2021, citing, "there is no other reasonable alternative access to the proposed lot."

Commissioners asked if access to a sixth lot could be added to the existing common drive? Scott said alternatives were tried, including asking neighbors if they would approve adding a sixth lot to the common driveway. They were unable to get all neighbors to agree. The applicant, Glenn Kaufman, stated that, in order to apply for a Special Permit with the ZBA, all five existing property owners on the common drive would need to agree to the Special Permit



request. Glenn noted that one of the property owners is currently residing out of the country and another was unsure about allowing a sixth lot on the drive. The Commissioners asked if attempts had been made to reach the property owner outside the country.

Commissioners discussed the waiver request, noting that the granting of a waiver would require some public benefit. Commissioners stated the applicant needs to come back to them with a solution. The applicant's representative declined to provide more information and requested a vote.

Hearing no further questions or comments, the Chairman closed the hearing at 8:35 PM.

Decision: Carolyn moved to issue an Order of Conditions **denying** the project as presented, stating the following:

Findings of Fact:

- (i) This is the subdivision of a lot previously approved and developed. The original approved lot is part of a five lot development, all accessed from an approved common drive. This new lot (Lot 3-BA) has yet to be approved by the Planning Board. The proposed lot is being created with the knowledge that it does not meet the Town of Acton Wetlands Bylaw 75 foot setback requirements for the driveway. Thus there is a self-created hardship. The applicant was made aware of the DEP Policy 88-2, the "hardship policy" at a site visit on April 20, 2021.
- (ii) The requested waiver does not have any public benefit or value.
- (iii) The Acton Wetlands Bylaw clearly states, no structures with the 75 foot setback. The proposed driveway is defined as a structure in the bylaw.

Jim seconded the motion and the vote was unanimous.

Meeting adjourned @ 9:15 PM.

Consent Items

Minutes of May 19, 2021 reviewed by TM,CK;

Decision: Jim moved to approve the minutes of May 19, Amy seconded the motion and the vote was unanimous.

Minutes of June 2, 2021 reviewed by CK, TM

Decision: Amy moved to approve the minutes of June 2, 2021; Jim seconded the motion and the vote was unanimous.

Additional materials can be found here: <http://doc.acton-ma.gov/dsweb/View/Collection-13003>

The meeting was adjourned at 9:15 PM

Documents and Exhibits Used During this Meeting

Request for Determination application for 26 Washington Street

Request for Determination application for 433 Main Street



Notice of Intent filing for Genevieve Lane Lot 3 (DEP no. 85-1299)
Request for Determination filing for Genevieve Lane Lot 4
Request for Determination filing for 9 Beechnut Street
Notice of Intent filing for 116 Newtown Road

Terrence Maitland, Chair