



## Acton Conservation Commission

### Meeting Minutes

May 18, 2022

7:15 PM

Virtual Meeting

**Present:** Terry Maitland, Jim Colman, Amy Green, Tim McKinnon, Zywia Chadzynska, Jillian Peters, Peter Hocknell

Natural Resources Director and recording secretary: Tom Tidman

Zoom Host: Kim Clark

### **Regular Business**

7:15 Chairman Terry Maitland opened the meeting and read the Virtual Meeting guidelines.

7:20 **Amended Order of Conditions:** 26 Carlisle Road DEP 85-1315

Representing the applicant – Habitat for Humanity, was engineer Paul Kirchner with Stamski & McNary, Inc. Paul noted that removal of debris from the site is underway. He was approached by the applicant asking if an 8' X 10' shed could be located in the area where debris removal will occur. Paul stated the proposed shed will be located 35.2 ft. from wetlands at its nearest point, with the existing house being 34.2 ft. from wetlands. Paul felt the shed could be considered a "like" structure to the existing house. Amy observed that if you were to add a shed in the area where debris was to be removed, you would be reducing the area that had previously been approved to become a naturalized area within the 50' natural buffer.

Jim asked Paul why he would consider the proposed shed a "like" structure to the house. Other Commissioners agreed, asking how the two structures could be considered similar. Commissioners discussed whether the shed might be considered for approval under an amended Order of Conditions, if it were to be moved to a location closer to the new house and within the area defined as lawn in the approved Order of Conditions. Paul said he would discuss the possibility of placing the shed on the proposed lawn and outside the 50' buffer with the applicant.

Chairman asked if the applicant would agree to continuing the OOC amendment to the June 1<sup>st</sup> meeting at 7:25 PM. Paul agreed to the continuation.

7:45 **Notice of Intent:** 115 River Street DEP 85-1323 (continuance)

Presenting for the applicant David Bamforth was George Mihov, Civil Engineer with Howard Stein Hudson.

George revisited the Notice of Intent filing as presented on May 4<sup>th</sup>, noting the new storage facility would be located in the same footprint as the existing 60' X 180' storage building. The new building will be connected to the town sewer system and will have a town water connection. Solar panels will be situated on the roof of the new facility.

George noted that 17,500 sq. ft. of riparian zone that is presently gravel parking lot with uncontrolled storm runoff, will be permanently re-vegetated, with the remainder of the



existing parking area (23 car spaces) to be repaved with berms with stormwater steered to two inlet catch basins then to a water quality unit exiting to the buffer zone. All roof runoff will be infiltrated in a subsurface 48 chamber infiltration bed under the parking lot. George discussed improvements proposed for the entrance drive from River Street, to include stapled erosion blankets on the east side of the driveway to be loamed and seeded to help eliminate future erosion. Berms will be added to both sides of the driveway with storm runoff directed to the west side of the driveway and through a riprap apron before entering the brook.

Commissioners asked if the Operations and Management Plan for the stormwater system included periodic inspection of the stormceptor installation. George stated yes, the O&M plan included visual inspection of the basins.

Abutter Jay Rashbaum of 110 River Street, asked about the dam to be removed at 53 River Street and what the impacts might be experienced downstream where he lives? Andy Magee – directing the permit applications for 53 River Street stated, there will be no impact observed downstream once the dam has been removed, that this is considered a run of the river dam and the natural flow of the river will be restored once the dam is removed.

### **Hearing closed at 8:10 PM**

### **Decision**

Amy moved to issue a standard Order of Conditions, waiving Bylaw Standard Conditions #18 and #19, with one special condition:

Special Condition: (1) All riprap aprons in the Notice of Intent filing shall be included in the routine inspection schedule for the site drainage plan and shall be written in to the Operations and Management plan for the property.

Jim seconded and the roll call was unanimous.

### **8:15 Notice of Intent: 53 River Street 85-1321 (continuance)**

Representing the Town of Acton (applicant) was project permit manager Andy Magee. Commissioner Colman updated the Commission on the status of the “Findings of Fact” noting the findings focus on the project being filed as an Ecological Restoration – Limited Project, with restoration efforts to re-establish natural stream flow. The most recent special condition draft for review by the Commission this evening, have been revised and edited by both Amy and he. These are based on the draft conditions arranged by the agent, as prepared by the Commission at the special meeting on May 11<sup>th</sup>. Commissioners received the most recent edited draft prior to this evenings meeting. Commissioners discussed whether to keep the hearing open until such time as the 401 Water Quality Certificate has been issued by the State. Mr. Magee noted that having the Notice of Intent closed and an Order of Conditions issued would be advantageous to the Town when applying for grants to fund construction of the project. Several of the competitive grants applied for specifically ask, if all permits have been received prior to applying for the grant.



Commissioners discussed each of the draft special conditions with emphasis on the use of biodiesel fuels in resource areas, specifically, where re-fueling should or should not occur. Commissioners discussed the potential for fuel spills in the stream and riparian zones especially during the use of pumps for de-watering.

Commissioners asked that the Army Corp of Engineering permit be sent by the applicant to the Conservation office and be part of the project permitting file during construction activities.

Hearing no further comments or questions from the Commission, the chairman asked for questions from the public (no questions).

### **Hearing closed at 8:50PM**

### **Decision**

Amy moved to issue a standard order of conditions, waiving Bylaw conditions 18 & 19 with the following special conditions:

(see attached pages)

Jim seconded and the roll call was unanimous.

### **Consent items:**

**Minutes of April 20, 2022** reviewed by TM, AG

Amy moves to approve the minutes of April 20, Jim seconded and the roll call was unanimous.

### **Documents and exhibits used at this meeting:**

Amended Order of Conditions filing for 26 Carlisle Road DEP 85-1315

Notice of Intent filing for 115 River Street DEP 85-1323

Notice of Intent filing for 53 River Street DEP 85-1319

**All documents can be found at <http://doc.acton-ma.gov/dsweb/View/Collection-14515>**

**The meeting was adjourned at 9:00 PM.**

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*Terrence Maitland, Chair*

## 53 River Street

**Findings of Fact:** The Acton Conservation Commission has determined that the River Street Dam Removal – Notice of Intent for Ecological Restoration Limited Project is consistent with and meets the definition set forth in 310 CMR 10.04 and the standards set forth in 310 CMR 10.53 (4)(e)(1). In 2019, a Certificate of Non-Compliance and Dam Safety Order was issued by the Commonwealth of Massachusetts – Office of Dam safety (ODS). The Town of Acton was left with two options, (1) repair and restore the dam, or (2) demolish and eliminate the threat of dam failure to the downstream community. The Town has chosen Option 2, and has proposed to not only remove the dam but also to restore Fort Pond Brook as close as possible to its natural, pre-dam conditions, enhance the Brook's value as fisheries habitat, and create new Bordering Vegetative Wetlands.

The Conservation Commission has carefully reviewed the application and is mindful that the existing bank (resource area) will be reduced by 664 linear feet, from the existing 1,957 linear feet to 1,293 linear feet. The loss of bank is the consequence of the filling of the tail race, a man-made structure associated with a circa-1854 historic mill structure. 310 MGL 10.53 (4)(b) allows the permanent loss of a resource area if necessary for the achievement of the project's ecological restoration goals. The filling of the tail race will improve the fisheries habitat of the restored Fort Pond Brook by increasing the flow. The project will also improve the conditions of the Bordering Lands Subject to Flooding and Riverfront Area by restoring naturalized conditions.

### Special Conditions:

- (1) This Order of Conditions, DEP file number 85-1321, shall be incorporated into all construction contracts and documents associated with work at 53 River Street. All contractors and sub-contractors working on this project shall be made aware of the standard and special conditions contained within this Order of Conditions. Contact information for the on-site project manager and environmental monitor shall be made available to the Conservation Agent at the pre-construction meeting.
- (2) The principal contractor, project manager, on-site engineer and environmental monitor shall have access to the Order of Conditions and shall have an understanding of the special conditions contained within. All documents that are part of the Notice of Intent and the Order of Conditions shall be on-site and available for review on-site throughout the life of the project. Failure to provide immediate on-site access to the NOI documents and the Order of Conditions to the Conservation Agent would be grounds for the Agent to immediately shutdown of the project activities.
- (3) All servicing of construction equipment (including, but not limited to, re-fueling, oil changes, hydraulic oil re-fill and lubrication) shall occur outside of the inner riparian zone for Fort Pond Brook or within a containment area. The most advantageous location for vehicle servicing is in the proposed parking lot. The on-site vehicle servicing area and/or containment area are subject to the review and approval by the Conservation Commission or Conservation Agent prior to the commencement of construction activities.

- (4) It shall be the responsibility of the Company awarded the project contract (the Contractor) to arrange a pre-construction meeting(s) with the Conservation Commission, Conservation Agent, project manager and Environmental Monitor. This pre-construction meeting shall include a project schedule to be supplied to the Commission and Conservation Agent, and a walk-through of the site. Subsequent construction progress meetings will include the Conservation Commission, Conservation Agent and Environmental Monitor and be scheduled at the completion of each project milestone, to include, but not be limited to: (i) MBTA bridge re-enforcement, (ii) all on-site de-watering activities, (iii) construction of haul routes, (iv) dam removal, (v) building demolition, (vii) tail race filling, (viii) all work within BVW and Bank resource areas, including wetlands replication and wetlands alteration, (ix) stream diversion for race way filling, (x) pavement removal and earthwork for park grading. The project manager shall meet regularly with the Environmental Monitor and the Conservation Agent to review compliance with all relevant environmental permits.
- (5) It shall be the responsibility of the Contractor to submit to the Town of Acton: the (i) Flood Contingency and Emergency Operations Plan, (ii) Water Control Plan, (iii) Spill Prevention Control and Countermeasure Plan, and the (iv) NPDES Construction General Permit a minimum of two (2) weeks before the commencement of construction operations. The required submittals are subject to review and approval by the Conservation Agent and on-site construction activities shall not commence until such approval has been granted.
- (6) The Contractor shall retain an Environmental Monitor; candidates to be vetted by the Town's Construction Engineering Company, with final candidates subject to review and approval by the Conservation Commission prior to the commencement of any construction activities. The Environmental Monitor shall have the authority to stop work. The Environmental Monitor shall be on-site at least weekly during each of the major milestone activities on the site. Milestone activities shall include, but not be limited to: (i) MBTA bridge re-enforcement, (ii) all on-site de-watering activities, (iii) construction of haul routes, (xxx) stream diversion to the tail race, (iv) dam removal, (v) building demolition, (vii) tail race filling, (viii) all work within resource areas, including wetlands replication and wetlands alteration, (ix) stream flow return to main channel (x) pavement removal and earthwork for park grading.
- (7) It shall be the responsibility of the Contractor to appoint an on-site employee responsible for monitoring all on-site erosion control measures. Contact information for the employee responsible for erosion control monitoring shall be made available to the Conservation Agent and Environmental Monitor. Erosion control monitoring shall be done on a daily basis.
- (8) An adequate stock pile of erosion control materials shall be stored on-site at all times during construction activities, i.e. silt fence, hay wattles, filter dikes, hay bales, stone riprap. Stock piled erosion control materials shall be kept under cover and out of the weather.
- (9) If additional shade trees are to be planted before the Certificate of Compliance is received along the restored stream bank, plans shall be included showing protective measures to be employed to ensure newly planted trees are not removed by beavers found in the Fort Pond Brook watershed. These protective measures shall be monitored and left in place for a minimum of two years.

- (10) The Contractor shall present the Conservation Commission with documentation that the source of loam to be used to grade the park that is free of invasive species. The source of the loam is subject to review and approval by the Conservation Commission and/or the Agent prior to its purchase and delivery to the site.
- (11) Seasonal monitoring of the wetlands replication area, new stream bed, and planting/landscaping within the 200 Riverfront Area, shall be monitored for a period of two growing seasons, with dead shrubs and trees replaced by the contractor. The wetlands replication area shall be monitored for successful establishment of native wetlands plants and the stabilization. Monitoring reports shall be submitted to the Conservation Commission by June 30<sup>th</sup> and October 30<sup>th</sup> each year. A Certificate of Compliance may not be requested until the two year monitoring program has concluded and the entire the park is free of erosion.
- (12) Invasive species monitoring shall occur in the project area for a period of three growing seasons following the completion of the project. The program will include both spring and fall monitoring and inspection and shall include photographs and documentation of the success of invasives control. The report shall also include recommendations and plans to improve erosion control and invasive species removal.
- (13) Copies of correspondence to U.S. Army Corps of Engineers and MA Department of Environmental Protection shall be copied electronically to the Conservation Agent.