

CONSERVATION COMMISSION

Minutes

December 19, 2018

7:15 PM

ACTON TOWN HALL

472 MAIN STREET

Room 204

COMMISSIONERS PRESENT: Terry Maitland, Amy Green, Jim Colman, Tim McKinnon, Suzanne Flint, Zywia Chadzynska

NATURAL RESOURCES DIRECTOR & RECORDING SECRETARY: Tom Tidman

VISITORS: Nick Pauling, Alissa Nicol, James Martin, Daniel Gannon, Michaela Moran, Janet Adachi, Shinish Khaidekur, Jeff Charman, Yin Peet, Melissa VonOhlen, Greg Gould, Angela Boheim, Dia Chigas, Robert Sekuler, Renae Winter, John Winter, James Engell, Henry Devlin, Jane Moosbrucker, Kim Kastens, Terra Friedrichs, Lillian Stokes

7:15 Notice of Intent: 21 Main Street

Karen Martin for a project at 21 Main Street, atlas plate I-2, parcel 36. The project is the construction of two additions to the existing single-family dwelling. Work will occur within the 100 ft. Buffer Zone and the 200 ft Riverfront Area.

Daniel Gannon from Stamski & McNary Inc., represented the applicant. The project is the addition to an existing house. The current dwelling is 40.9 feet from wetlands and the proposed addition will maintain the same distance. Any excavated material generated during construction will be stockpiled on the paved driveway.

Decision: Ms. Green moved to issue a standard Order of Conditions, under the WPA and the Town of Acton Bylaw, waiving Conditions 19 and 19 of the Bylaw. Mr. McKinnon seconded the motion and it passed unanimously.

7:30 ANRAD: 90 School Street, 85-1248, continuance

Nicholas Pauling from Goldsmith, Prest & Ringwall, Inc. (GPR) represented the client. The hearing was continued from the November 28 meeting. Abutters had noticed a discrepancy in the Abutters List, and the omission of notification to several of the abutters as a result of the error. The hearing had been continued in order to allow GPR to re-notify abutters with the correct list.

Mr. Pauling noted changes to wetland flags reflecting the observations of the Commissioners on the site walk conducted November 20, 2018.

An abutter, Jeff Connon, commented that he thought flags A8 and A10 could have been moved further up the slope. He also felt that flags AR11 to A7R could

have been placed in a straight line. Ms. Green responded that the Commissioners had checked the soils in that area and were satisfied with placement. The Commission also noted that no vernal pools were observed during the site visit on November 20, 2018.

Terra Friedrichs urged the Commission to bring in an outside consultant. Mr. Maitland responded that the Commission was satisfied with the flagging line as it was reviewed. Ms. Friedrichs asked if this decision could be appealed. Mr. Colman responded that an appeal, in writing and mailed to DEP, could be made within 10 days of the issuance of the Order.

The hearing closed at 7:50 PM.

Decision: Ms. Green moved to issue an Order of Resource Area Delineation and to include in the Order the date of the revised ANRAD plan (11/20/2018). Mr. McKinnon seconded the motion and it passed unanimously.

7:55 Notice of Intent: 6 Colonial Path, continued from October 3.
A revised plan and a restoration plan were submitted for this meeting.

David Cowell, from Hancock Associates, presented the modifications that had been requested from the original start of the hearing in October. A retaining wall is to be installed to control the on-going erosion. The proposed wall is to extend to the northern boundary of the property. The restoration plan was designed and has been submitted for Commission review. Invasive species will also be removed from the slope, and a shrub planting plan is included in the design.

The wall is less than 4 feet high. It is a pre-fabricated block on a footing with gravel behind. There are no mature trees on the slope and the house footing is only 7 feet from the point of erosion. A wildflower seed mix will be used in the naturalized area.

Mr. McKinnon commented that this is an extensive waiver request, far more than simply saving the deck from erosion.

An abutter asked if the commissioners had been on the site.

Mr. Colman asked the applicant to return to the commission with an absolute minimum wall necessary to save the house. Mr. Cowell said the wall would stop erosion from entering the resource area. The Commissioners asked to visit the site.

The Hearing was continued to Jan. 16th at 7:15PM.

8:30 Notice of Intent: 70 Quarry Road

Yin Peet, Contemporary Arts International Inc., for a project at 70 Quarry Road. The project is the installation of 3 storage structures, a metal working area and a rest area for resident artists. All work is located within 100 feet of wetlands.

The Commission opened the Nol hearing for 70 Quarry Road, and with the applicants consent and approval, tabled the discussion until after the Concord Water presentation.

8:30 Request to extend Order of Conditions: Concord Water/Nagog Pond Treatment Plant; #85-1188, Skyline Drive

Commissioner Amy Green recused herself from the discussion as she is an employee of the Town of Littleton which is engaged in litigation with the Town of Concord over water issues at Nagog Pond. She left the room.

Kim Kastens, gave a slide show presentation that focused on her discussions with Peter Shanahan and David Hardt. (see attachment 1)

Bob Sekuler continued the discussion, focusing on the Bylaw. Bob asked if the Commission would consider developing a reasonable threshold below which the pond could not be lowered. He also referred to the "Water Management Act".

Lilian Stokes initiated a discussion about the nesting Bald Eagles. The eagles are a protected (threatened) species. The presence of the eagles is "new information." Two questions arose: 1. Is this priority habitat? And 2. Concord should contact Jesse Leedick at F&W regarding the nest location and possible disturbance during construction. The question was raised: "does Concord have a "take" permit from F&W for working near a nesting pair of eagles.

Peter Dering, a Concord attorney, and Alan Cathcart, Concord Water Superintendent, responded to the abutters comments.

Terra Friedrecks asked if extension request could be denied. Mr. Colman read her a portion of the regulations regarding denials of extension requests that could pertain to this project as follows: (b) The issuing authority may deny the request for an extension and require the filing of a new Notice of Intent for the remaining work ...in the following circumstances: 1. Where no work has begun on the project, except where such failure is due to an unavoidable delay, such as appeals, in the obtaining of other necessary permits; 2. where new information, not available at the time the Order was issued, has become available and indicates that the Order is not adequate to protect the interest identified in M.G.L.c.131, §40 (from Wetlands Protection Act Regulations, 10.05.8, Extensions of Orders of Conditions and Orders of Resource Area Delineations)

Mr. McKinnon asked if the project would be completed within three years. Mr. Cathcart responded that the goal was to be finished within that time period, and he thought they could complete it in two and a half years. He's looking to the de-watering work in the fall of 2019.

Decision: Mr. Colman moved to extend the Order of Conditions for three years, to January 6, 2022. Mr. McKinnon seconded the motion, and the Commission approved the motion 4 to 0. Ms. Chadzynska abstained.

Miscellaneous:

Hybid Farm's license renewal was signed by the Commission.

Donation to Natural Resources from George Morey Foundation: no action, decision rescheduled for Jan. 2. Meeting

Minutes:

November 28, 2018: reviewed by JC, AG: no action

December 5, 2018 pending



Terry Maitland
Chairperson

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AGENDA
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7:20 Notice of Delineation: 90 School Street, 85-1248, continuance

7:45 Notice of Intent: 6 Colonial Path, continuance

8:00 Notice of Intent: 70 Quarry Road

Yin Peet, Contemporary Arts International Inc., for a project at 70 Quarry Road. The project is the installation of 3 storage structures, a metal working area and a rest area for resident artists. All work is located within 100 feet of wetlands.

8:05 Order of Conditions Extension: Concord Water/Nagog Pond Treatment Plant; 85-1188, Skyline Drive

Certificate of Compliance: 149 Central Street, 85-0973

Minutes:

November 28, 2018: reviewed by JC, AG

December 5, 2018: pending

