

Acton Conservation Commission
Meeting Minutes
March 4, 2020
7:15 PM
Acton Town Hall, 472 Main Street
Room 204

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

Absent: Tim McKinnon, Suzanne Flint

Natural Resources Director and recording secretary: Tom Tidman

Regular Business

7:15 Request for Determination: 97 Windsor Ave.

Joseph Maletti for a project at 97 Windsor Ave. (town atlas plate F2-B, parcel109). The project is the construction of a fence around the perimeter of the back yard. Work will occur within 2 feet of wetlands.

The applicant, Mr. Maletti, presented a project which included the installation of a fence and a 20x20 foot pergola. He explained that the pergola would be constructed on the site of the old paved driveway. The Commission asked that the pergola be moved to meet the 75 foot setback to wetlands requirement. There is a hedgerow along the edge of wetlands where the proposed fence would be located.

Decision: Ms. Green moved to issue a Negative 3 determination, meaning the work will occur within the Wetland Buffer Zone, but will not alter an Area subject to protection under the Act. Therefore, said project does not require the filing of a Notice of Intent. Ms. Green included one special condition: The pergola will be located outside of the 75 foot wetlands buffer.

Special Business:

Discussion: Septic System Policy

Mr. Colman presented the following draft of guidelines for septic system filings:

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February 17, 2020

Jim Colman

Guidance on Section F4.4 (septic systems meeting State Title V) of the Acton wetlands Bylaw

Section F4.4:

No Notice of Intent need be filed for the replacement, repair, or installation of a residential septic system that meets the requirements of Title V of the State Environmental Code (310 CMR 15.00), that has received a permit from the Acton Board of Health, and that meets the setback requirements of this Bylaw. Any such septic system replacement, repair, or installation that may have a significant impact on any of the interests protected by this Bylaw must be submitted to the Conservation Commission for a Determination of Applicability.

here has been some confusion and as to whether septic systems within 100' of a Resource Area need a Determination of Applicability and/or an Order of Conditions and the Commission has been inconsistent in applying Section F4.4.

The first sentence of F4.4 is clear: No NOI is needed for a septic system that has been approved by the Board of Health AND meets the setbacks in the Bylaw. However, the second sentence seems to be an exception to the first: If a septic system, even if it has been approved by the Board of Health AND meets the setback requirements of the Bylaw, MAY have a significant impact on the interests of the Bylaw, a Determination of Applicability is required, which may result in the need to file an NOI.

[NOTE: While the term SIGNIFICANT is defined in the Bylaw Rules and Regulations, the definition applies to Resource Areas, not to "impacts".]

GUIDANCE

Since only the Commission has the authority to determine if a project "may have a significant impact on any of the interests protected by this Bylaw", if any portion of a proposed septic system repair or installation is within 75' (i.e., within the 75' no build zone) of a Resource Area, the proponent must submit a Determination of Applicability to the Commission, even if it is in compliance with Title V and has been approved by the Board of Health.

A proponent may file a Notice of Intent in lieu of filing a Determination of Applicability.

The Commission discussed the draft proposal and agreed that Mr. Colman would continue to work on the document, incorporating some of the comments of the Commissioners, and would bring it to the next meeting.

Discussion: DEP Guidelines for the Effective Use of Enforcement Orders

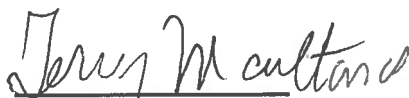
There was a short discussion of the topic and it was decided to table this until a future meeting.

Consent Items

Certificate of Compliance: 6 Partridge Pond Road, DEP # 85-1120

Ms. Green moved to issue a Certificate of Compliance for the Order of Conditions. Ms. Kiely seconded the motion and it passed unanimously.

At 8:00 PM, it was moved to adjourn the meeting. The motion was approved unanimously.



Terry Maitland
Chairman

Documents and Exhibits Used During this Meeting

Request for Determination: 97 Windsor Avenue

Draft of guidelines for septic system filings

Request for Certificate of Compliance: 6 Partridge Pond Road, DEP # 85-1120