



TOWN OF MERRIMAC
CONSERVATION COMMISSION
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Conservation Commission Meeting Minutes

Tuesday, June 28, 2022

Merrimac Public Library – Library Meeting Room

Members Present: Jon Pearson, Chair; Jerome Mathieu, Vice Chair; William Andrulitis; Greg MacLean; Charlie Covahey, Alternate Member; and Michelle Greene Conservation Agent

The meeting was called to order at approximately 7:00 PM.

Other Business: Review and approve updates signatories for approval of bills and payroll

Ms. Greene advised that Robert Prokop and Jon Pearson had been the authorized signatories of the Commission. With Mr. Prokop's resignation, Mr. Pearson's election to Chair, and Mr. Mathieu's election as Vice Chair, it would be a good idea to update the signatories.

Mr. MacLean moved to appoint Mr. Pearson and Mr. Mathieu as the authorized signatories of the Commission. Mr. Andrulitis seconded the motion and the motion passed unanimously.

Public Hearing: Request for Determination of Applicability: Merrimac Town Forest, off Cobblers Brook Trail, Applicant: Mark Taylor, Re: Installation of a bench and concrete footings

Ms. Greene explained that the applicant, Mark Taylor who was also present, had asked her if she would present the project on his behalf and asked if the Commission would be comfortable with her doing so to which they agreed.

Ms. Greene explained the applicant proposes to install a bench secured on concrete footings with a memorial plaque affixed in honor of a classmate of the applicant who had passed away. The proposed location of the bench is at an intersection of various trails in the Town Forest including the Cobblers Brook Trail and is likely located within the 100' Buffer Zone of a Bordering Vegetated Wetland (BVW) and possibly within the 200' Riverfront Area of Cobbler's Brook. Ms. Greene advised that no vegetation would need to be cleared to install the bench and that any spoils from the excavation for the footings would either be hauled off site or disposed of in upland area of the Town Forest. Ms. Greene advised the applicant would likely use an off-road vehicle such as an ATV to haul the bench and materials to the site and that the use of these vehicles is not prohibited in the Town Forest. Ms. Greene also shared that the project has received the support of the Open Space Committee and approval of the Board of Selectmen to install the bench on town owned property.

Mr. MacLean asked if the town would take responsibility for any future maintenance of the bench since it was being installed on town owned property. Mr. Pearson responded that he assumes they would be.

Mr. Andrulitis motioned to close the public hearing. Mr. Mathieu seconded the motion and the motion passed unanimously.

Mr. Andrulitis moved to issue a Negative 3 Determination with the Conditions regarding no vegetation clearing and the removal of spoils as discussed. Mr. MacLean seconded the motion and the motion passed unanimously.

Public Hearing: Request for Determination of Applicability: 15 Little Pond Road, Applicant: Arthur Certosimo and Beth Ann Yuskaitis, Re: After the fact filing for clearing within the 100' buffer of a wetland and potential vernal pool without a permit

Arthur Certosimo and Beth Ann Yuskaitis appeared before the Commission. Mr. Certosimo explained that the work done was to clear invasive plants from the property and that when they moved in to the property over 20 years ago the area was regularly mowed. Ms. Greene advised that during the site visit, native poke weed was observed to be revegetating the area. Mr. Pearson asked if all of the planned work has been completed. Mr. Certosimo responded that the machinery used for clearing left some small mounds which the company who did the clearing plans to come back and level on July 14th. Mr. Pearson advised that any future cutting in this area will require filing with the Commission before work begins. Chris Austin, an abutter at 27 Little Pond Road, was also present and advised that a majority of the clearing actually took place on his property without his consent. The vegetation that was there provided a privacy barrier and now he can see his neighbor's house which he could not before. Mr. Austin also indicated the area cleared provided a lot of wildlife habitat.

The Commission discussed that they were comfortable allowing the property owners to leave the area be and see what grows in naturally as any plantings would likely be small and be outcompeted by the vegetation which is already growing in.

Mr. MacLean motioned to close the public hearing. Mr. Andrulitis seconded and the motion passed unanimously.

Mr. Mathieu motioned to issue a Negative 3 Determination for the work that had already been done and to remove the mounds left by the clearing equipment with no ground disturbance. Mr. Andrulitis seconded the motion and the motion passed unanimously.

Public Hearing: Notice of Intent (under Wetlands Protection Act only): 0 West Main Street, Map 49-1 Lot 7 (across from Kenoza Vending), The Flats @ Merrimac Square, Applicant: Ray Cormier – AA @ Merrimac Square LLC, Re: Construction of a main access road, secondary access roads, grading and infrastructure including underground utilities, parking areas, and installation of stormwater management features, DEP# 045-0314

William Manuell of Wetlands Land Management, Inc. appeared along with the applicant, Ray Cormier. Mr. Manuell requested that due to only 4 Commissioners being present that the public hearing not be opened and be continued to the July meeting without having any discussion. Ms. Greene advised Mr. Cormier that she will readvertise notice of the public hearing with the Newburyport Daily News.

Mr. Mathieu motioned to not open the public hearing and continue it to the next meeting at the applicant's request. Mr. MacLean seconded the motion and the motion passed unanimously.

Discussion (continued): 0 West Main Street (across from Kenoza Vending), The Flats @ Merrimac Square, Re: Update from 4th and 5th ZBA Hearings on 5/17/2022 & 6/14/2022 respectively

Ms. Greene provided an update from the past 2 ZBA meetings and indicated that the biggest update is that a peer review is being done by Horsley-Witten to review stormwater and wetlands to assist the ZBA in their decision to waive the local wetlands bylaw. The peer review report has not yet been completed.

Public Hearing: Notice of Intent: 7 Mill Street Map R 16-2, Lot 8 and adjacent to 16 East Main Street, Applicant: Town of Merrimac, Re: replacement of the Mill Street culvert, improvements to Cobblers Brook stream channel, and removal of a jersey barrier dam in Cobblers Brook, DEP# 045-03XX

Matthew Lundsted of Comprehensive Environmental, Inc. (CEI) spoke on behalf of the applicant and provided an in-depth overview of the history of the proposed project explaining that Mill Street is currently closed due to a failing, undersized, 6' x 6' culvert. He added that the Town through Robert Sinibaldi, the town's DPW Director, has tried to fix the culvert but this has failed and that he has approached MA DOT for assistance in replacing the culvert but was unsuccessful. The amount of undercutting at the failing culvert now threatens undermining a large high-pressure gas transmission line. Mr. Lundsted also explained that MA DCR recommended filing the project as an ecological restoration notice of intent filing as the project proposed to remove an unnatural bend in Cobblers Brook, replace an undersized culvert with an appropriately sized one, and remove a jersey barrier dam upstream of the stream's crossing under Route 110 - all work which will improve fish passage and stream connectivity and makes the project more competitive for FEMA funding. Mr. Lundsted also advised that the project had previously applied and did not receive FEMA funding but that the town was advised to reapply this year with both FEMA and MEMA and that this year the project was submitted as a hazard mitigation project under MEMA.

Mr. Lundsted explained that the dam removal portion of the project will likely result in the impounded area of Cobblers Brook dropping resulting in a large amount of land underwater being lost which would be expensive to mitigate, because of this the project is filed as a limited project. Mr. Lundsted also advised that plans have been updated to remove Bordering Land Subject to Flooding (BLSF) as MA DEP does not require it as it is only BLSF in a 500-year storm. Mr. Lundsted advised the project proposes to use an open-bottom culvert at 1:2 bank full span and will result in 188' feet of impacts to existing bank but will create 244' in new bank. Mr. Lundsted indicated that there is a drainage culvert that flows to the portion of Cobblers Brook which is proposed to be filled, he advised that overtime this drainage may create a channel to the

newly created portion of brook or created a transitional wetland. At the section of brook where the jersey barrier dam will be removed a silt curtain will be installed downstream of the dam removal. Mr. Lundsted explained that there is not a large build up of silt behind the dam. Erosion controls proposed in the culvert area of the brook are silt sock/straw wattles and that no dewatering is planned, the new crossing will be constructed offline and then connected to the brook when construction is complete. Mr. Pearson advised that due to the slopes, haybale backed silt fence would be a more appropriate erosion control method. Mr. Andrulitis inquired about the slope at the new crossing site which Mr. Lundsted explained is similar to the slope at the existing crossing but that steps and pools will be created to aid in fish passage. Mr. Mathieu inquired if the flow of the brook will erode the newly creating bank. Mr. Lundsted responded that it will not due to the vegetated bank stabilization that is proposed on sheet D1 of the plans. Ms. Greene inquired if there will be trees removed upstream of the new crossing. Mr. Lundsted indicated that 1 dead tree of unknown species with a 10" DBH and 10 maple trees of varying DBH between 4"-10" will need to be removed. Mr. Lundsted advised river birch could be planted to mitigate tree loss and invasive plant management which could include burying the existing Japanese knotweed deep under the footings of the culvert could be proposed.

Mr. Pearson requested that Mr. Lundsted ask for a continuance pending updated plans that show drainage, stabilization along the new stream banks, revised siltation controls, and an invasive species management plan. Mr. Lundsted agreed and the Commission advised Mr. Lundsted did not need to be present at the continued hearing.

Mr. Mathieu motioned to continue the public hearing at the applicant's request. Mr. MacLean seconded the motion and the motion passed unanimously.

Public Hearing: Request for Determination of Applicability: 77 Hadley Road, Applicant: Joel Ouellet, Re: Installation of a 35'x15' in-ground swimming pool

The applicant, Joel Ouellet, appeared before the Commission and explained his proposed pool project; he advised that all work and grading will occur in an area that is currently manicured lawn and is outside of the 50' buffer zone. Mr. Pearson asked if there was a plan to address prevent chlorinated backwash water from entering the wetlands. Mr. Ouellet advised he could ensure there are no impacts and Ms. Greene added she can add a Condition for this and include best management practices for dechlorinating pool water. Ms. Greene asked if erosion control in the form of a straw wattle/silt sock could be added downslope of the grading for the pool and Mr. Ouellet agrees to install this. Mr. Covahey asked if a fence would be constructed and Mr. Ouellet advised one would be immediately around the pool and added that there is a small deck proposed to connect the pool to the house.

Mr. Andrulitis motioned to close the public hearing. Mr. Mathieu seconded and the motion passed unanimously.

Mr. Mathieu motioned to issue a Negative 3 Determination with the Conditions as discussed. Mr. MacLean seconded the motion and the motion passed unanimously.

Certificate of Compliance Request: 7 West Hadley Road, DEP# 045-0303

The Commission discussed the site visit and recommended issuance of the Certificate of Compliance.

Mr. Andrulitis motioned to issue the Certificate of Compliance. Mr. MacLean seconded the motion with the inclusion of the ongoing Conditions as indicated in the Order of Conditions. The motion passed unanimously.

Insignificant Change Request: 177 River Road, Applicant: Charles Covahey & Dan Schultz, Re: Conversation of gravel and wood stepped walkway to stone pavers, DEP# 045-0308

Mr. Covahey recused himself from the commission, and then explained that he would like to change the gravel walkway at his home to a walkway made of stone pavers. The pavers would likely be granite with stone dust in between.

Mr. Mathieu motions to accept the insignificant change request. Mr. MacLean seconded and the motion passed unanimously.

Other Business: Review application and make recommendation to Board of Selectmen Re: Request for appointment as Alternate Member of Commission- María Chandler

The Commission reviewed the materials that Maria Chandler had submitted and agreed to recommend to the Board of Selectmen that she be appointed to the open alternate seat of the Commission.

Other Business: Approve and sign warrant for 2 invoices from PRS for Conservation Agent laptop services; possible approve and sign warrant for new projector

The Commission reviewed the warrant for invoices from PRS and purchasing a new projector and signed off on them. A warrant for the FY2023 MACC dues was also reviewed, signed, and dated July 1st to be paid with FY23 funds.

Other Business:

Ms. Greene shared that a new dock on the Merrimack River in the area of Bancroft Lane was brought to her attention. The Commission advised that this dock is one that has been put in annually as long as they can recall.

Ms. Greene shared that it was brought to her attention that clearing was occurring at 121 West Main Street. She had met with the property owner for a site visit and based on the vegetation she observed and aerial mapping of the area she believes clearing has occurred within a wetland. She explained that she advised the property owner they could cease clearing, not commence mowing as they had planned, and allow the area to revegetate or they could have the area delineated and file with the Commission to continue clearing and mowing. The Commission advised Ms. Greene to issue an enforcement order requesting the property owner cease and desist activities in wetlands without a permit.

Old Business: None

Informal Discussion: None

Community Input: None

Approval of Minutes: February 22, 2022

These were approved as revised however, they were previously approved as revised during the April 26, 2022 meeting.

Approval of Minutes: March 22, 2022

These were approved as revised however, they were previously approved as revised during the April 26, 2022 meeting.

Approval of Minutes: April 26, 2022

This was deferred pending draft minutes for review.

Correspondence: None

Next Meeting: July 26, 2022

Adjourn:

Mr. MacLean motioned to adjourn the meeting. Mr. Andrulitis seconded the motion and the motion passed unanimously and the meeting was adjourned at 8:58 PM.