



RECEIVED-CITY CLERK
CITY OF PITTSFIELD, MA
2020 OCT 13 PM 1:14

CITY OF PITTSFIELD

PITTSFIELD CONSERVATION COMMISSION, CITY HALL, 70 ALLEN STREET, PITTSFIELD, MASSACHUSETTS 01201
413-499-9359

Special instructions for participating in the September 16, 2020 meeting of the Pittsfield Conservation Commission:

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A, Section 18, and state and federal orders and guidance imposing strict limits on the number of people that may gather in one place, this hearing of the Pittsfield Conservation Commission will be conducted exclusively via remote participation. For this hearing, members of the public who wish to watch the meeting may do so on PCTV. Public comment may be made prior to the meeting by calling 413-499-9359 or by emailing rvanderkar@cityofpittsfield.org. Live public access via telephone will also be provided through the dial-in information listed below. In the event that we are unable to do so, we will post an audio or video recording, transcript, or other comprehensive record on the City's website as soon as possible after the meeting.

Dial: 312 626 6799

Enter the Meeting ID: 923 7421 3131 and press #

Press # again

MINUTES CONSERVATION COMMISSION Wetlands Protection Act Public Hearing Remote Meeting Via Zoom Wednesday, September 16, 2020 at 6pm

Chair Conant called the meeting to order at 6:00 p.m. Those in attendance are noted below.

Chair Conant informed all in attendance that in accordance with MGL Chapter 30A, Section 20, voices are being recorded and pictures are being taken of all in attendance.

1. Roll Call

Members Present:

James Conant, Chair
Thomas Sakshaug, Vice Chair
Franz Forster
Jonathan Lothrop
Elizabeth Bocchino
Nick Caccamo

Members Not Present:

Stephanie Dick

A quorum was present.

Also Present:

Robert Van Der Kar, Conservation Agent

Ted Kozlowski, Clerk

2. New Business:

A. Continued: Mass DEP File #263-1144: Notice of Intent application for the replacement of a 48-inch diameter concrete culvert with a three-sided concrete box culvert at May Brook on property located on West Street. Such actions are proposed to occur within Inland Bank, Bordering Vegetated Wetlands, Land Under Waterways, Bordering Land Subject to Flooding, and Riverfront Area associated with May Brook. The applicant is The City of Pittsfield.

Mr. Van Der Kar gave his review of the project. The applicant has requested a continuance to the next meeting.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to continue the item to the October 8, 2020 meeting; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

B. Continued: Mass DEP File #263-1145: Notice of Intent application for the construction of a single-family home on property located on Williams Street (Map M7, Block 1, Lot 101). Such actions are proposed to occur within buffer zone associated with Bordering Vegetated Wetlands. The applicant is Joseph Dalo.

James Scalise, SK Design Group came forward to speak on the project. They have added a cross section with grading, showing the foundation and the existing grade. They are going to elevate the building about 3ft to keep the basement dry. There is an old retaining wall along the BVW boundary. They propose erosion controls, foundation drains and a single family house under 1,000sft, utility connections and a driveway.

Gary Davis, 990 Williams St came forward to speak on the project. He has previously submitted letters of opposition. He has new concerns with the changes in the plan. Three weeks ago you placed condition on the wetlands maintenance so the area will not be mowed more than twice a year at a height no less than 6". Just today, he witnessed Mr. Dalo mowing the area in clear violation of the order. Mrs. Fuchs has also submitted letters of opposition. This land was formerly part of the Burgner Farm. This entire property floods. The changes in the plan lowers the foundation from the previous plan. The foundation will be under water and there will be a lot of water coming out of the drains. There is no indication in the plan as to how they will manage the erosion from that. The danger to the wetlands is significant. The removal of trees will increase erosion and the grading will create additional flow. This land is at the bottom of the hill; a lot of water flows over this area. All that water will be funneled into the wetlands.

Mr. Van Der Kar gave his review of the project. This is entirely under 10.53(1), assessing the impact to BVW. The abutting property to the west is Conservation-owned property. Tree removal should not include any on the conservation property.

Mr. Sakshaug was reluctant to issue an order, given the past mowing of the meadow area. This area is not to be mowed; it is to be maintained as an open meadow. He understands the frustration of the neighbors, given the applicants history of mowing the area in clear violation of the previous orders. Hopefully, the mowing issue can be enforced.

Mr. Lothrop asked Mr. Van Der Kar about the enforcement mechanism. It is enforceable through WPA Form 9, lack of compliance. It gets sent to DEP; sometimes they participate in the enforcement, sometimes they don't.

If this is to be approved, it needs to be made incredibly clear that this will be enforced and it will be monitored.

Mr. Caccamo asked if Mr. Scalise can confirm or deny the report of the mowing. He has not been out there, but he will be out there to relay the information to the applicant.

Ms. Sakshaug asked Mr. Scalise about the foundation drain, which goes to a spreader of some kind. It is a buried pipe and it will go to a buried area of stone, which will bleed over the ground behind the existing retaining wall, so it will fan out along the wall. They also have the buried rip rap and the masonry wall which is above grade.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue an Order of Conditions 1-31, emphasizing Condition 31, regarding the mowing of the area; it was seconded by Ms. Bocchino and was approved by a Roll Call vote. Chair Conant and Ms. Bocchino voted No.

C. Notice of Intent application for the construction of a single-family home on property located at 301 Francis Street (Map H10, Block 27, Lot 3). Such actions are proposed to occur within Bordering Land Subject to Flooding. The applicant is Dominick Sacco.

Brent White, White Engineering came forward to speak on the project. This is a replacement of a house that was destroyed by fire and subsequently condemned. He reviewed the application submitted.

Mr. Sakshaug was concerned about the flood vents. Are they at ground level or above ground level? If the vents are 6" above the ground, that's 6" x the area that is not being flooded. The construction standards are 6" above grade. They can look at lowering them, but that becomes a structural question regarding the rebar in the concrete wall. Lowering it to 3" is acceptable.

Ms. Bocchino confirmed that, if the vents were lowered to 3", that would still be within the manufacturers operating specs. Lowering the vents just assures the vents will be activated earlier in a flood event.

Mr. Caccamo asked about the existing shed. It's on grade. It's likely floodable. They look at this early on. The shed displacement is really minimal.

Mr. Lothrop asked about the footprint of the old building versus the new. The new doubles the footprint versus the old. There is about 2.5ft of floodwater to reach the house.

Mr. Van Der Kar gave his review of the project. He asked Mr. White where the vents would be in relation to the finished elevation of the home. The bottom of the vent would be set around 997 or 997.25. The crawl space will have a concrete slab, the finished floor of the house will be wood-framed modular construction set on top of the frost wall.

There was a discussion of displacement and compensatory storage of the garage and the house. The commissioners would like to see that data.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to continue the item to the October 8, 2020; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

D. MA DEP #263-1147: Notice of Intent application for the removal and replacement of vegetation and rip rap from the shoreline, relocation of a dock, construction of a sand area and boathouse, and drainage improvements on property located at 53 Tor Court (Map E9, Block 1, Lot 16). Such actions are proposed to occur within Inland Bank and Bordering Land Subject to Flooding associated with Onota Lake. The applicant is the Susan Kirchner Nominee Trust.

Brent White, White Engineering came forward to speak on the project. He reviewed the overall plan. Some commissioners have visited the site; they have incorporated both those comments and the DEP comments into their plan. They will provide a plan of existing invasive plants, well in advance of the next meeting.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to continue the item to the October 8, 2020 meeting; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

E. Notice of Intent application for the removal and replacement of a retaining wall and installation of a seasonal dock along Onota Lake on property located at 16 Bakers Island Road (Map F13, Block 1, Lot 5). Such actions are proposed to occur within Inland Bank, Bordering Land Subject to Flooding, and Land Under Waterbodies associated with Onota Lake. The applicant is Joseph Dow.

James Scalise, SK Design Group came forward to speak on the project. He reviewed the project to date. The work is limited to 150ft of shoreline on the northern side of the property. There are two docks. They propose to remove the northerly dock and a willow tree. There is an existing retaining wall that will be replaced.

Mr. Caccamo asked if there was any way to avoid cutting down the large tree in the area. There is a fair amount of wake action in this area, requiring excavation. Unfortunately, there is no other option. They propose a planted area with trees and shrubs. With the wake in this area, bioengineering is difficult.

Mr. Sakshaug asked if they considered moving that dock out of the wetland. It was mentioned in the DEP comments. That would be a prerequisite for him to ever vote Yes on this. He is not

inclined to vote for a hard wall. He is hard and firm against concrete walls; this proposal is a little better. They have looked at moving the dock south.

Ms. Bocchino asked about the dewatering area. Excavation will be below the drawdown level. They propose a 'dirt bag' which captures sediment while the water bleeds through. They will excavate a small portion, get out of the water and then proceed in sections along the wall.

She also asked Mr. Scalise to provide some information about the amount of disturbance that will occur with the moving of the dock.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to continue the item to the October 8, 2020 meeting; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

F. Continued: File #20-20 - Request for Determination of Applicability for the exterior remodeling of a single-family home on property located at 120 Shore Drive (Map E13, Block 3, Lot 5). Such activities are proposed to occur within the buffer zone associated with Inland Bank (Ontoia Lake). The applicants are Jim and Julie Nelson.

Brent White, White Engineering came forward to speak on the project. They have since delineated the resources.

Mr. Van Der Kar gave his review of the project. The entire site is jurisdictional. If there's any doubt about impact, the Commission should issue a Positive 2. Otherwise, a Negative 3 can also be issued.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue a Negative 3 Determination; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

G. File #20-22 - Request for Determination of Applicability for the roadway resurfacing, and related work, of Route 8 (Cheshire Road) in the City of Pittsfield. Such activities are proposed to occur within buffer zone associated with Bordering Vegetated Wetlands and Inland Bank. The applicant is the Massachusetts Department of Transportation, Highway Division.

John Morgan, James Hall and Molly Dempsey, CHA Companies and Melissa Lenker, MA DOT came forward to speak on the application. Mr. Morgan gave an overview of the submission.

Mr. Hall reviewed the updated resource areas and alternatives. There are very few resources impacted with this project. There are no endangered species habitats. All they have for impacts are buffer zone, 46,688sft of impact. Most will be within the ROW itself. They looked at alternatives to reduce impacts; all the alternatives explored would either not fulfill the project or cause more impacts than the current proposal.

Mr. Lothrop asked about bicycle safety and the rumble strips along the stretch of road. Mr. Morgan noted they are not proposing to have any rumble strips; Ms. Dempsey confirmed there will be no rumble strips in the Pittsfield portion of the project.

Mr. Lothrop asked about stormwater drainage and where the additional drains are located. There can be a huge amount of water coming down Deerfield St. Mr. Morgan noted that the new drains are located along the 1300ft where the sidewalk is extended. They can look at the drainage in the area. Mr. Lothrop suggested doubling the capacity of all the drains near the roads to the east that have huge downhill drainage.

Mr. Sakshaug noted the Petricca property is another area that floods.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue a Negative 3 determination; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

H. File #20-24 - Request for Determination of Applicability for demolition of a single-family home on property located at 79 Taylor Street (Map H6, Block 7, Lot 2). Such activities are proposed to occur within Bordering Land Subject to Flooding. The applicant is Tammy Fitzsimmons.

Mr. Van Der Kar gave his review of the project. The home was lost in a fire. The commission can issue a Negative 2 & 3 determination.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue a Negative 2 & 3 Determination; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

I. File #20-23 - Request for Determination of Applicability for construction of a gravel access road and work pad within the 1611 utility right-of-way between Ann Drive and the Doreen Street substation. Such activities are proposed to occur within buffer zone associated with Bordering Vegetated Wetlands and Inland Bank. The applicant is Eversource Energy.

Melissa Kaplan, BSC Group came forward to speak on the project. She reviewed the project to date. The matting is exempt and is covered under Eversource's Administrative Consent Order with the state.

Mr. Van Der Kar gave his review of the project. He struggles with these projects. The work being reviewed is just the gravel parts of the work pads. He's not sure any part of the work pads are exempt, part is covered under 401 ACO. They are not looking at impacts to the wetlands. This is impacting wetlands. To his review and interpretation, this should be a Positive determination. These are really complicated projects.

Dave Askew, Eversource came forward to speak on the application. He asked if there were any erosion controls they can put in. They can use geo textiles, for example. It's a little irregular, but special conditions would be acceptable.

Ms. Kaplan noted this is typical maintenance work they do all the time. It is in the buffer zone but will not impact the resource area. Mr. Van Der Kar noted that they are filling in wetlands, they're just not reviewing it. He confirmed that they are filling in wetlands; it is temporary. There was some dispute about whether there were wetland impacts.

Mr. Lothrop asked Mr. Van Der Kar about previous Eversource projects. The previous projects were all NOIs.

Mr. Lothrop was very pleased with the work they did the last time; Mr. Askew confirmed they are using the same, highly experienced contractor. They will have inspectors on site during the project. Their work pads are made with non-erodible material.

Mr. Lothrop worries about gravel, which can leech into the wetland; wood beams tend to work better. Mr. Askew noted all the gravel is just in the buffer area. The matting butts up against the gravel at the same grade; only the timber matting is in the wetland. Gravel is more stable and the workers definitely prefer that to the matting.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue a Negative 3 Determination; it was seconded by Ms. Bocchino and failed unanimously by a Roll Call vote.

Mr. Sakshaug made a motion to issue a Positive 3 & 4 Determination; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

J. File #20-25 - Request for Determination of Applicability for the installation of a pre-fabricated shed on property located at 66 Ontario Street (Map J8, Block 15, Lot 19). Such activities are proposed to occur within Bordering Land Subject to Flooding. The applicant is Daniel Miraglia.

Mr. Van Der Kar gave his review of the project. Both of the structures are outside of the floodplain. The Commission can issue a Negative determination.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue a Negative 2 Determination; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

K. Mass DEP File #263-1127: Request for Certificate of Compliance for property located at 110 Shore Drive (Map E13, Block 3, Lot 3). The request is being made by Jeffrey DiNicola.

Mr. Van Der Kar gave his review of the project. The project turned out well. The Commission can issue a complete certificate.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue a complete Certificate of Compliance; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

L. Mass DEP File # 263-986 – Request for Extension of the Order of Conditions associated with the annual drawdown of Pontoosuc Lake. The request is being made by The City of Pittsfield.

James McGrath, City of Pittsfield came forward to speak on the project. The city, acting on behalf of four applicants who are party to the Order (Town of Lanesborough, Friends of Pontoosuc Lake, City of Pittsfield and the Dept of Recreation for the Commonwealth), is requesting a 3-year extension.

Mr. Van Der Kar gave his review of the project. This Order expires September 30 of this year. He received a letter of opposition from the Berkshire League of Sportsmen. The Commission can issue the extension. The Lanesborough Orders expire November 4, 2021 and the Commission may want to synch the two orders up.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue an extension through November 4, 2021; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

M. File #EP 20-03 – Ratification of Emergency Permit issued to the City of Pittsfield DPS for a water main break in close proximity of MAHWL of East Branch of the Housatonic River, near the intersection of Dalton Avenue (Route 8) and Hubbard Avenue.

Mr. Van Der Kar gave his review of the project and the work done at the time of the break. He will work with the city regarding restoration.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to ratify the Emergency Permit; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

N. Mass DEP File # 263-203 and #263-490: Request for Certificate of Compliance for property located at 10 Kathy Way (Map K9, Block 1, Lot 13). The request is being made by Marc D and Barbara Boulais.

Mr. Van Der Kar gave his review of the project. Both files involve the construction of the Kathy Way subdivision. The Commission can issue a partial certificate for the 10 Kathy Way property.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue a Partial Certificate; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

3. Other Business:

A. Minutes from the August 27, 2020 meeting.

Mr. Sakshaug made a motion to accept the minutes as presented; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

B. Selection of Community Preservation Committee representative.

Mr. Sakshaug nominated Mr. Lothrop as representative; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

4. Adjournment:

Mr. Sakshaug made a motion to adjourn at 8:00pm; it was seconded by Ms. Bocchino and was approved unanimously by a Roll Call vote.

Submitted by Ted Kozlowski, Clerk