

Thomas Failla, Ph.D.,
Conservation Planner



Sarah Schlechter, Chairwoman
Mary Francois, Vice Chairwoman
Kirby Brendsel, Member
Michael Lubell, Member
Abigail Squance, Member
Vacancy
Vacancy

Conservation Commission

Regular Meeting Minutes

October 26, 2023

Members Present: Sarah Schlechter, Chairwoman; Mary Francois, Vice Chairwoman; Michael Lubell; Kirby Brendsel; and Abigail Squance

Staff Present: Tom Failla, Ph.D., Conservation Planner; and Richelle Hodža, Land Use Director and Recording Secretary, *pro tempore*

Call to Order: Chairwoman Schlechter called the meeting to order at 7:32 p.m. She requested a moment of silence for those killed in the Lewiston shooting.

Receipt of Applications:

- 20 Kettle creek, filling and site improvements, Kemeny [CC 23-19]
- 71 Newtown Turnpike, pool, patio, steps, walkway, Zachs [CC 23-20]
- Lot 9, Old Farm, new house, site improvements, Gelogaev [CC 23-21]
- 10 Graylock, addition, deck, patio, Morse [CC 23-22]

Ms. Squance made a **MOTION to ACCEPT** the applications, Mr. Lubell **SECONDED**, and the **MOTION CARRIED** unanimously.

The Chairwoman noted that site walks would be conducted on Saturday, November 4, 2023 between 8:00 and 10:00 a.m.

Discussion/Decisions:

- **119 Old Hyde**, Mahirwan and Kavita Bhagia, remove felled and dead trees, reestablish wetland vegetative buffer, reconstruct stone wall, establish lawn, Bhagia [CC 23-18]

Justin Giorlando, P.E. of Force Engineering was present to on behalf of the applicant. He shared his screen showing the plan in response to a notice of violation for the clear-cutting of trees and vegetation without a permit. The plan seeks to reestablish the vegetative buffer along the wetlands. The plan indicated three “work areas,” each of which Engineer Giorlando explained in detail.

The plan calls for the reconstruction of an existing stone wall; however, it remained undecided whether or not the owners would move ahead with that portion of the project. Chairwoman Schlechter stated that, should the plan presently under consideration change, the Conservation Planner is to be notified. Any modification must be reviewed and approved.

A discussion about the removal of fallen trees directly in the wetlands concluded with a directive that the stumps were not to be removed. Mr. Giorlando stated that the homeowner wanted to remove some trees that were threatening the house. Mr. Bredsel noted that some trees had been marked by the Commission for removal. Invasive species were a concern to commissioners. Mr. Giorlando stated that invasive plan removal would occur only where the new plantings were planned. Invasives on steep slopes would not be removed owing to the threat of erosion. Conservation Planner Failla stated that biannual brush cutting was sufficient to control the invasives.

Returning to the issue of the tree-work, Mr. Bredsel stated that he would be satisfied if Dr. Failla (who is also the town's tree warden) and Engineer Giorlando visited the site once more to determine which trees could be removed without causing erosion.

Ms. Squance asked what would replace the construction entrance once the project was completed. Mr. Giorlando stated that it was currently grass and it would be replanted with same. Ms. Squance stated that she would have liked to have seen the conservation seed mix wrap around in front of some of the ornamental plantings, rather than, as the plan called for, maintaining a hard line from lawn to the ornamentals. Such an addition would further protect the wetlands. Mr. Giorlando was in accord; however, the plan as drawn offered sufficient protection.

Chairwoman Schlecter was satisfied that the plan was thorough, notwithstanding questions remaining about which trees were to be removed. Dr. Failla agreed to assist in determining which trees could reasonably be removed.

Several commissioners had concerns about the carrying out of the plan and was interested in having oversight during implementation. Dr. Failla stated that the property owners are required to give their contractor a prepared affidavit stating their understanding of the plan, and the requirements for its proper implementation.

Dr. Failla requested a schedule for phasing, and/or a timeline for starting and finishing the project, since this permit was for remediation and the standard five-year permit was too long a period.

The Chairwoman recognized Amy Sanborn of 125 Old Hyde Road, an abutting neighbor to the north and invited her to speak. Ms. Sanborn was concerned about drainage. Conservation Planner Failla stated that no new impervious surfaces were proposed, and that the implementation of the vegetation would take care of water. Ms. Sanborn remained concerned about the lack of a drainage plan and wanted to know what she would do if an increase of water came down onto her own property from above.

Land Use Director Hodža was asked to weigh in and stated that Ms. Sanborn's recourse would be to notify the Land Use Department if runoff causing erosion was observed. The matter would be addressed by the Conservation Planner and, if warranted, a violation would be issued. Engineer Giorlando stated from his professional position, the hydrological analysis shows that the plan is an improvement of the capture and infiltration from that which existed before the unpermitted work began.

Ms. Sanborn was supportive of removing any of the fallen trees because there were so many.

She added that she was concerned about any construction vehicles parking on the road since Old Hyde is very narrow there. Mr. Giorlando stated that there was plenty of room to park on the property itself.

Finally, Ms. Sanborn questioned the planting requirements with regard to the specific “growing and mowing” measurements indicated in the notes on the plan. Justin explained that the grass has to be established before it could be safely cut, and the metrics were a way to ensure proper establishment, particularly during the first year after planting.

Hearing no further comments or questions, Chairwoman Schlechter stated that an approval would require the three following conditions, in addition to those that are standard:

- 1) Conservation Planner Tom Failla and Engineer Giorlando would review together on site the trees to be removed;
- 2) A schedule of the work to be done per season would be provided to the commission, demonstrating a timeline for completion within two years (by or before October 26, 2025);
- 3) Sign-off after completion from a qualified professional, such as a landscape architect, that the plan dated September 11, 2023 by Force Engineering, LLC was carried out as designed.

Commissioner Bredsel made a **MOTION TO APPROVE WITH SAID CONDITIONS** the application related to 119 Old Hyde Road per the plan for work in the regulated area prepared by Force Engineering, LLC, dated September 11, 2023. Commissioner Squance **SECONDED**. All were in favor. The **MOTION CARRIED** unanimously.

- **28 Codfish Lane**, Amanda Babb, fence in and near wetlands, Babb [CC 23-15]

Chairwoman Schlechter stated that no additional information would be forthcoming. The soil scientist could not attend the meeting. Neither the homeowner nor her representative was present. The written statement by the Soil Scientist Steven Danzer, Ph.D., that removing the fence would cause additional harm, was a professional opinion which needed to be considered as such. The Chairwoman suggested that it was in the interest of the commission to move forward with a decision on the application.

Chairwoman Schlechter made a **MOTION TO APPROVE** the application for the maintenance of the existing wood fence per a hand-drawn plan on a survey by Stalker Land Surveying, dated August 6, 2004. Commissioner Lubell **SECONDED** the motion.

The Chairwoman followed the approval with several comments, including the fact that Dr. Danzer’s report stated that there was a gap under the fence for water to run underneath unimpeded; however, during the site walk, the fence was observed to be resting on the ground. Also observed during the site visit, and not in the report, was additional material placed on the ground directly in the wetlands. Chairwoman Schlechter reiterated that there is to be no activity directly in the wetlands without first seeking a permit. Hearing no comments from other commissioners, the Chairwoman called for a vote.

Unanimously, the application was **APPROVED**.

Discussion/ Election: This item was disposed of at the last meeting. Vice Chairwoman Mary Francois was voted into office.

[Vice Chairwoman Francois left the meeting at 8:46 p.m.]

Approval of Minutes: The minutes of the September 21, 2023 Special Meeting and the site walk notes of October 14 were **APPROVED** by a vote of 3-0-1, after a **MOTION TO APPROVE** by Mr. Bredsel and a **SECOND** by Ms. Squance. Mr. Lubell abstained.

Adjournment:

The Chairwoman made a MOTION TO ADJOURN; Mr. Bredsel SECONDED THE MOTION, and it CARRIED unanimously at 8:47 p.m.

[The next regular meeting is Thursday, November 16th at 7:30 p.m. via Zoom]

Respectfully Submitted,



Richelle Hodza
Land Use Director
Recording Secretary, *pro tem*