

MINUTES OF THE ASHBURNHAM CONSERVATION COMMISSION
Monday, November 10, 2014
6:30 P.M.

Town Hall – Lower Level Meeting Room

Attended by MD Marshall Dennis, CP Chris Picone, AH Andrew Henderson and AA Alana Archangelo

Guests listed below, also Gary Howland and Jeff Evancic

6:30 PM Agenda Review/General Discussion

Public Meetings/Hearings:

6:45 PM Continuation of Notice of Intent – 32 Lakeshore Drive. The NOI, filed by Eric & Trisha Traffie (Trisha attended), pertained to the construction of a single family home within the Buffer Zone of Lake Watatic. The Applicant was represented at the hearing by Chris Guida of Fieldstone Land Consultants.

Abutters attending: Ken and Marie Mullens.

MD and CP visited the site on October 31st and tried to locate the source of the perforated PVC pipe that had been removed near the beach. The rest of the pipe continues towards the site where the house will go. It is anticipated that this remaining pipe will be found and removed during construction of the house foundation.

There is also a small pipe under the existing driveway that drains a small swale by Lakeshore Dr. The discharge location the subject lot was not identified. (Abutters claim the previous builder put in a dry well on the other side of the driveway.)

Any other pipes likely will be found and removed during construction. This will eliminate a concentrated point source of water that discharges from the lot to the lake. Removing the pipe will allow sheet flow under a broader area and is expected to filter the water more so than under existing conditions.

At the location of the proposed leach field, the water table was approximately 12 inches below the soil surface. According to Mr. Guida, the leach field will be raised above the water table to meet Title 5 requirements.

MD Moved to close the public hearing AH Seconded Approved 4-0 (Unanimously)
MD Moved to approve the NOI per plan and discussion AH Seconded
Approved 4-0 (Unanimously)

6:55 PM Continuation of Notice of Intent – 12 Sunset Drive. The NOI, filed by Stacy & Robert Mateusky (Robert attended), pertained to the repair of a stone wall, landscaping and tree removal within the Buffer Zone of Sunset Lake.

MD and CP visited the site October 31st with the applicant. The impact will be more benign than originally anticipated from the plans. Besides the stone wall to be rebuilt, approximately 5 cubic yards of washed sand will be placed on a relatively steep slope leading to the water. Clods of dirt from past construction activities will be pulled back off the current stone wall and stabilized. Straw bales or wattles will line the bottom of the steep slope to secure the soil and sand.

There were differences of opinion regarding removing large trees near the water. The applicant argued that the removal of some trees would benefit the growth of the trees to remain. In response, MD indicated that the Order of Conditions would state that trees to be cut will be required to be marked and inspected by a representative of the Commission before cutting.

MD Moved to close the public hearing AH seconded Approved 4-0 (Unanimously)
MD Moved to approve the NOI per plan and discussion AH Seconded
Approved 4-0 (Unanimously)

Enforcement Order: 154 Ashby Road

This matter pertained to an Order of Conditions previously issued for residential construction along Ashby Road. Due to excessive erosion and the associated discharge of sediment into Lake Winnekeag, the Commission initially issued an enforcement order to Geoffrey Evancic (the primary site contractor) on or about 23 October 2014 via his home address. This erosion/sedimentation occurred during a period of heavy rainfall, with the sediment-laden runoff discharging from the site into a roadside catch basin and culvert that discharged to Lake Winnekeag, thus indicating the inadequacy of the existing soil erosion/sediment controls onsite.

The site was visited by CP soon after a complaint on October 10th, and then again by MD and Rich Turcotte (Conservation Agent) during a storm on October 23rd. The photographs from this latter date documented eroded sediment entering the lake and other violations.

At the Commission meeting of November 10th, Mr. Evancic unexpectedly appeared and claimed that he, personally, was neither the site owner nor site contractor. When pressed, however, he admitted that his company (Whipple Construction) was responsible for the site work, including erosion control measures. He stated that it was for this reason that he refused to accept the enforcement order mailed to his residence on or about October 23rd. He added that he also will not pay any imposed fines since he was not given proper notice. Instead, he claimed that any official communication should have been mailed to Whipple Construction located in Worcester (MA), the company for which he serves as President, and whose name doesn't appear on any of the application materials/plans! In response, MD stated that the Enforcement Order would be re-mailed to Mr. Evancic's attention at Whipple Construction.

In addition, Mr. Evancic argued that he created more detention basins than the approved plan required and that a pipe allowing the passage of stormwater runoff was also added beneath one of the two driveways. Mr. Evancic further claimed that “most of the detention basins are working,” adding that only one basin was a problem.

Further, when questioned by MD, Mr. Evancic claimed that a completed ‘Attachment A’ form had been filed with the Commission and that if it was not in the Commission’s files then whoever accepted the form in the Land Use office must have either lost or misplaced the paperwork.¹ In response to another question posed by MD, he also claimed that a Notice of Intent had been filed with the US Environmental Protection Agency (EPA), as required for specific construction operations pursuant to the EPA’s NPDES permit program. In response, MD indicated that no such NOI was listed on the EPA web site.²

Regardless, Mr. Evancic agreed that some sediment from the residential construction site entered a down-gradient bordering vegetated wetland (BVW), but claimed this sediment was partly from the neighboring properties. Nonetheless, he stated that his subcontractor (McCarty Engineering, Inc.) would remove the sediment from the BVW.

Mr. Evancic subsequently asked the Commission to identify soil erosion/sediment control measures to be used onsite. MD stated that it was the responsibility of the applicant/site contractor to submit a plan for site stabilization and that the Commission would evaluate the plan upon receipt. Mr. Evancic indicated that McCarty Engineering would provide such a plan.

At this point, Mr. Evancic departed the meeting.

MD Moved to impose fines relative to at least 5 of the conditions associated with the previously issued Order (DEP 092-0871) and an additional \$250 fine per the enforcement order.

AH Seconded

Approved 4-0 (Unanimously)

Enforcement Order: 287 Russell Hill Road

This is the fourth violation of the MA WPA/Wetland Protection Bylaw by the owner of this property, who has been instructed in previous violation notices about the need to file applications for permits when working within 100 feet of wetland resources.

Twice the property owner has cut a large area of wetland vegetation. The owner also has enlarged a stream channel within the same area of denuded vegetation, and recently has extended an existing culvert beneath Russell Hill Road and placed fill material over both the extended culvert and underlying BVW. MD estimates that the area of wetland fill is on the order of approximately 250-500 ft².

¹ In retrospect, instead of the Attachment A form used by the Commission to identify contractors, it is assumed that Mr. Evancic was referring to a ‘Form A – Application for Subdivision Approval Not Required’, as is required to be submitted under applicable conditions to the Planning Board pursuant to the Subdivision Rules and Regulations.

² This finding was confirmed by EPA staff.

MD stated that he had drafted a letter to the owner that cited these violations which he, in turn, read to the Commission.

MD Moved to send this letter AH Seconded Approved 4-0 (Unanimously)

Other Business/Administration

- Gary Howland (GH) stated that the marking of trees to be cut at the **Bush Hill Town Forest** is almost completed. A forest cutting plan soon will be provided to the Commission for signature, after which it will be submitted to the DCR for approval. Once DCR approval is received, the cutting plan can go out to bid. GH also indicated that ACT had received ownership of a property off Ferrin Rd, abutting Fitchburg Sportsmen's Club.
- AH reported on the **dam at Lake Winnekeag**. The company that owns the dam wants to pass ownership to another party. The Town is not interested. The Lake Association is considering reforming to collect fees in order to maintain the dam, but it is not clear how this approach would be implemented. The dam is classified as high risk because it is a headwater dam. A 2014 report found that the dam is in "fair" condition, but the 1997 report found otherwise and no work has been done since.
- Notice of Forest Cutting Plan for Ferin Road
- Notice of Forest Cutting Plan for Old County Road

7:49 PM

MD Motion to Adjourn
CP Seconded
Approved 4-0 (Unanimously)