



TOWN OF PELHAM CONSERVATION COMMISSION

Pelham, Massachusetts

Minutes for May 28, 2020

Present: David Gross, Tilman Lukas, Janice Gifford, Dana MacDonald, Richard Seelig, Meredith Borenstein

Also present: Kate Lamdin, Peter Lamdin, Julia Les, Gavin Myers, Chris Bain

The meeting was held online via Zoom due to the ongoing COVID-19 pandemic and state-mandated restrictions on meeting in person. The link to the Zoom meeting was published as part of the regular Commission agenda. The meeting was held under guidelines from the Attorney General and the Governor.

The meeting was brought to order at 7:03 pm.

Update on pending ANRAD and NOI applications

Agent Borenstein said that the expected Abbreviated Notice of Resource Area Delineation (ANRAD) for a solar project discussed at previous meetings and the Notice of Intent (NOI) for the 22 Amherst Road project have not been received.

Discussion of future meetings

Chair MacDonald addressed the difficulties of meeting online. He suggested that the Commission can soon meet at the Rhodes Building if all attendees sit separated by 6 feet and wearing masks or outside the Rhodes Building. It was suggested that when the Commonwealth moves to phase 2 of the distancing regulations such arrangements could be made. Commissioner Lukas noted that Town Meeting has been postponed to late June and likely will be held outdoors.

Update on Fennessey parcel purchase

Chair MacDonald said that the purchase of the Fennessey project parcel is almost fully executed. The Commission will need to review and approve the conservation restriction (CR) on the parcel relatively soon. The Kestrel Trust purchase has just closed, and to finalize the project Kestrel will need the Commission's approval of the CR by end of June. This should be on the agenda for a June meeting.

Comments and questions from visitors

Chair MacDonald invited visitors to describe their reasons for contacting the Commission.

Peter and Kate Lamdin, Cook Road

Kate Lamdin described the conservation easement on their property that allows access to the waterfall near their house on Cook Road. She noted that usage has gone up substantially since social distancing has been in place. The conservation easement allows passive recreation for Town of Pelham residents. The easement also says that the Conservation Commission is to

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enforce restrictions to ensure safety. She noted that she has seen people allowing children in the water, using water pistols. She has also found individuals allowing dogs into the water. The Lamdin's primary concern is about liability. The Lamdin's land abuts the Amherst Town watershed land; the division is the stream bed in which is located the waterfall. Chair MacDonald noted that establishment of a CR generally absolves a landowner of liability though he suggested that the Lamdins should consult an attorney to be sure about their CR. Commissioner Lukas noted that he was on the Commission when the Lamdin's CR was established. His understanding is that natural resources (i.e. the stream and waterfall) are not the responsibility of the landowner as regards liability. He is concerned that the site is being used differently than what was described in the initial CR proposal.

Ms. Lamdin noted that it seems as if there is substantial access to the site by individuals from Amherst watershed land. Chair MacDonald said that Amherst has its land posted as no trespassing, but that the signage is not enforced. He asked the Lamdins if they had suggestions about ways to improve behavior at the waterfall and stream site. He suggested that signage saying that dogs must be on a leash or that hours are restricted are possibilities. After some discussion it was agreed that signage from the Amherst side might be useful, and that the Commission will contact Amherst Public Works Superintendent Guilford Mooring and Amherst Land Manager Brad Bordewieck about placement. Chair MacDonald asked the Lamdins to email him a list of current issues so that the Commission can discuss them and strategies to solve them at its next meeting.

Julia Les and Gavin Myers, Harkness Road

Julia noted that their property at 100 Harkness Road abuts the northwest corner of the Harkness Conservation Area. She said that they want to have chickens and build a fence, and they have concerns about the location of their property line. Chair MacDonald said that he thinks that there is a survey template of the conservation area in the town records. He recommended that they have a survey to be certain of the property line. He said that he will send to them what information the town has and that they can forward that material to their surveyor. Commissioner Lukas said that on the south side of their property is an old logging road that is on conservation land. He said that there should be a pin between it and their garage to mark the property boundary. He inquired about the use of the logging road and the owners said that hikers do enter the conservation area via that road rather than the marked entrance a short distance down Harkness Road. There was discussion about blocking the old logging road with a tree or brush and cuttings, and Chair MacDonald noted that any yard waste or materials may not be dumped on conservation land as per the conservation restriction. He suggested that a sign at the entrance of the logging road could direct hikers to the trail entrance farther south.

The Commission suggested that any new fence should be permeable to amphibians, allowing about 6-10 inches of clearance at the bottom of the fence. Adding a chicken coop is not problematic.

Chris Bain, Buffam Road

Mr. Bain said that he has a garden plot at the Community Gardens and that dogs being walked near the gardens are a problem. He noted that many walkers do not have their dogs on a leash or under control. He would like dogs to be kept on a leash. Additionally, he noted that people often pick up after the dog, but then leave the bag on the ground next to the sign that says Buffam Brook Conservation Area. Chair MacDonald said that he has had discussions about this issue with the garden committee. Mr. Bain requested that a sign that says dogs must be on

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a leash in the vicinity of the gardens be placed at the conservation area sign. There was discussion about the installation of a collection barrel for dog waste bags, but identifying individuals to maintain that barrel must be done prior to installation. Chair MacDonald said that this should be discussed with the DPW at a future meeting with the idea that DPW personnel could pick up trash from conservation areas.

Potential Enforcement at 59 Meetinghouse Road

Chair MacDonald noted that the house is owned by a bank and that the bank has cooperated with the Board of Health on the removal of vehicles and trash from the property. He said that tenants at the house have begun using a drive just north of the house that abuts Gates Brook. That driveway had no installation permit. It is causing a substantial amount of silt infiltration into the brook, which is a feeder to a cold water fishery. Chair MacDonald said that the use of the drive must be discontinued. He suggested that a leaf litter cover over the disturbed area will fix the problem over a couple of seasons. Commissioner Lukas noted that there is a tenant who lives in the back of the house. The Commission agreed that a site visit to assess what is going on is necessary.

It was moved that Agent Borenstein contact the owner of 59 Meetinghouse Road via email or regular mail to set up a site visit. Seconded. Approved unanimously, 5-0. (Gifford – yes, Gross – yes, Lukas – yes, MacDonald – yes, Seelig – yes).

Proposed installation of a garden shed at 25 Jones Road

Agent Borenstein reported that she met with the owner, David Rabinovitz, for a site visit. Mr. Rabinovitz had proposed to construct a shed within the 100-foot Buffer Zone to the bordering vegetated wetland (BVW). During the visit he decided to move the construction outside the buffer zone, so as to avoid the need for a permitting process. The Commission noted that if he changes his mind, he should ask us for a Request for Determination of Applicability (RDA) for the project.

Minutes from April 30, 2020

Commissioner Gross pointed out that the link in the draft minutes was to a recording of the April 30 meeting, and that link would expire after 120 days. The Commission agreed to alter the minutes after approval should it turn out that the recording need be preserved permanently, and gave Commissioner Gross the authority to revise the minutes as needed prior to submission to the Town Clerk for posting. It was moved that the minutes be approved, with subsequent changes to wording concerning the recording. Seconded. Approved unanimously 5-0. (Gifford – yes, Gross – yes, Lukas – yes, MacDonald – yes, Seelig – yes).

It was moved to adjourn at 9:12 pm. Seconded. Approved unanimously 5-0.

Respectfully submitted by David Gross

