

Town of Mansfield
Conservation Minutes
January 30, 2023

MEETING HELD IN PERSON IN MEETING ROOM 3 A/B
AND VIRTUALLY USING GOTOWEBINAR PLATFORM

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TOWN CLERKS OFFICE

2023 APR 25 A 8:49

Present: Michael Healey, Chair; Dr. Aaron Roth, Vice Chair; Dr. Jeffrey Paten; Jonathan Hedlund; Katelyn Gonyer, Conservation and Environmental Planner.

MANSEFIELD
MASSACHUSETTS

1. Call to Order:

Mr. Healey call the Conservation Commission meeting to order at 6:13 pm

2. Request for Certificate of Compliance: Craig Cygawnoski, RIM Engineering Co., Inc., 230 Plain Street, Map 004, Parcel 75. DEP SE 211-0992.
Order issued in March 2022 for the installation of an in-ground pool within 100 feet of Inland Bank of Greenwood Lake.

Craig Cygawnoski, RIM Engineering Co., Inc. was present.

Ms. Gonyer said she received a letter from RIM Engineering that the project was in compliance but when this project was approved the Commission did their best to get everything out of the 25-foot area and now there is a fire pit on crushed stone that is not shown on the plan. Mr. Cygawnoski said it appears there was no excavation for the fire pit, which is on concrete blocks. He said the pool is being drained into the crushed stone area on the lake side of the pool and into a stone infiltration area. He said the homeowner did add plantings in this area and terracing was done and all the existing impervious areas have been replaced with pervious pavers. He said the walk way along the west side of the house is gone and this area is now lawn and the blocks on the west side of the house are also gone and the area is now crushed stone. He said the homeowner did terrace down the stairs and put retaining walls along the stairs with crushed stone in this area to help with infiltration; he noted the stairs are granite with pavers in between to prevent erosion.

Board Comments:

Mr. Healey said he was disappointed to see something in the 25-foot area. Mr. Cygawnoski said the crushed stone can be raked out and the lawn put back in with the entire seating area moved five feet to remove it from the 25-foot area. Dr. Roth said the shed should remain but this area should be mitigated with plantings, with a 75% survival rate for two growing seasons. Dr. Paten agreed the fire pit and everything should be out of the 25-foot No Touch Area and he would like to see some proof of the plantings.

Ms. Gonyer said the Commission can issue a partial Certificate for the things that are in compliance and issue a full Certificate at a later time or continue the hearing to the next meeting. Ms. Gonyer said she would like to at least see the fire pit turned and pushed onto the lawn area, not in the 25-foot area. She said she would work with the homeowners. Dr. Roth would like to know what the plantings are and how many were planted. Mr. Cygawnoski asked for a continuance to the February 27, 2023 meeting.

There were no comments virtually or from the audience.

Dr. Roth made the motion to continue the hearing to February 27, 2023

Motion was seconded by Dr. Paten.

Motion passed 4-0-0 at 6:25 pm.

3. Request for Certificate of Compliance: 11 Eugenia Drive, Lot 7, DEP SE 211-582.

The Order of Conditions was issued in 1998 for the construction of a house, driveway and grading, with a partial Certificate of Compliance issued in 1999; full stabilization of the lawn was not complete at that time.

Ms. Gonyer said all disturbed areas are stabilized and the Order has expired. She recommended a full Certificate of Compliance be issued.

Dr. Paten made the motion to issue a full Certificate of Compliance to B. Ben Cavallo at 11 Eugenia Drive, Lot 7, for the construction of a single-family home within 100 feet of Bordering Vegetated Wetland, under DEP SE 211-582.

Dr. Roth seconded the motion.

Motion passed 4-0-0 at 6:26 pm.

4. Notice of Intent: Nancy Giovino, 3 Bicentennial Court, Map 030, Parcel 116. DEP SE 211-1000.

Construction of a single-family home within 100 feet of a Bordering Vegetated Wetland.

Hearing was continued at the December 12, 2022 meeting.

Craig Cygawnoski, RIM Engineering Co., Inc. and Michael Feck were present.

Mr. Cygawnoski said this hearing was continued because prior to the December meeting a local builder, Feck Properties, got involved with this project and Brad Holmes, Environmental Consulting and Restoration, LLC, was brought in to flag the wetlands. Mr. Cygawnoski said he had already filed with MESA because the entire lot is within the Rare Species Habitat but received approval from them with the stipulation that, because there is a salamander on this property and the adjacent property, this project will have to be monitored as construction proceeds; approval was granted to build to the limit of work as shown on the RIM Engineering plan. He said the only changes from the December 12, 2022 meeting are the size of the house and the location, with the lawn area the limit of work. He said the plan does not show roof water infiltration but the builder has agreed to do this, and should be added to the Order of Conditions that roof gutters will be connected to an infiltration trench.

Ms. Gonyer said she met in the field with Mr. Holmes and agreed with the wetland line. She read into the record a letter dated November 19, 2022 from an abutter. Ms. Gonyer noted, as part of the regulations, you have to keep all displaced sheet flow/stormwater on your own property; she said this should also be part of the conditions. She said as far as wildlife is concerned, the footprint should be minimized and there should be a wildlife corridor allowing all wildlife to pass. Ms. Gonyer said she had concerns about the southern part of the property and a condition would be that no lawn clippings, etc. be placed in the 25-foot area and to make sure that the limit of lawn area does not exceed the limit of work.

Mr. Cygawnoski said an infiltration trench would probably be best for runoff. This will be written into the Order and Ms. Gonyer asked that the schematics of the system be shown on a revised plan.

There were no Board comments.

There were no comments from the audience or virtually.

Dr. Roth made the motion to issue an Order of Conditions to Nancy Giovino, 3 Bicentennial Court, Map 030, Parcel 116 under DEP SE 211-1000, for the construction of a single-family home within 100 feet of a Bordering Vegetated Wetland with the following findings and special conditions:

SPECIAL CONDITIONS UNDER THE BY-LAW:

1. No work can be started until the Order of Conditions has been recorded with the Bristol County Registry of Deeds and the receipt of the Order is returned to the Commission filled in by the Registry.
2. All work must conform to the plan dated February 24, 2023, referenced as "the plan of record" in this Order.
3. All limits of work and erosion controls shall be installed prior to any construction, clearing, or excavation. The erosion controls shall consist of an 8" diameter biodegradable mulch-filled silt sock with wooden stakes every 10 feet on each sides of sock or equivalent (do not pierce silt sock with stakes). In addition to the silt sock, trenched-in silt fence may be required depending on the specific site conditions. See the Conservation Agent (Agent) for specific erosion control design standards. The Applicant shall notify the Agent when any such devices or measures are installed so that a site visit can be conducted prior to the commencement of work.
4. The Commission reserves the right to require additional mitigation or erosion control devices or measures if mitigation or erosion control devices are not adequately installed or maintained on site.
5. The Applicant shall ensure that all demarcation (i.e. limits of work) and erosion control devices will remain in place and be maintained throughout the construction process and until all disturbed areas are stabilized. Stabilization shall be achieved once a complete vegetative cover is reached. Seeded areas shall be covered with a suitable protective cover to allow the seed to germinated and become established. All side slopes greater than 3:1 (but less than 2:1) are to be covered with jute mesh and seeded. At no point shall erosion occur resulting in sediment entering the wetland areas. If erosion occurs, the Agent is to be contacted to review the extent of the erosion and determine follow-up actions.
6. All roof runoff is to be directed from gutters to downspouts into a stone-lined infiltration trench using minimum 4" PVC pipes at a minimum slope of 0.020. Trench is to be 2' wide x 2' deep x 74' long.
7. A construction sequence is to be submitted to the Commission prior to the start of work.
8. The Conservation Commission or its agent is to be notified of the starting date of the work prior to its commencement.
9. Prior to the commencement of work, a pre-construction meet shall be held with the Agent, the Engineer and/or Representative, and the General Contractor to review the Order of Conditions, scope of work and construction sequencing.
10. The Applicant shall be responsible to ensure that all contractors on site during the construction have received and reviewed the Order of Conditions and all plans of record.
11. Wetland flagging must remain in place until the project has been completed and the Certificate of Compliance issued.
12. The Certificate of Compliance shall be requested in writing upon completion of the project. At the same time, the applicant or any successor shall, upon completion of the project; submit an as-built plan and letter signed by a professional engineer, certifying that the work has been done in accordance with the approved plan.
13. Any modifications or revisions to the plan(s) referenced in this Order must be submitted to the Commission for review. For single family lots, this Order is for the structures shown on the plan of record only. Any additional structures including, but not limited to, decks, patios, sheds, pools, walkways and/or any hardscape features must be reviewed by the Commission. If, after their review, the Commission finds that the changes are not significant enough (minor modifications) to warrant an Amended Order or new Notice of Intent, then the revised plans shall be considered the new plan of record. If the changes are significant enough to warrant an Amended Order or new Notice of Intent, then the applicant is required to file accordingly.

14. Signage for single family lots:

Prior to receiving a Certificate of Compliance, the Applicant must install permanent "Environmentally Sensitive Area" signs on the subject lot. The quantity and location of the sign are to be designated by Commission or the Agent on a case by case basis. The 4" discs (reading "Environmentally Sensitive Area, Do Not Disturb"), hardware and method of installation are available at Conservation Department.

15. No synthetic fertilizer, herbicides, pesticides or fungicides can be used; only organic products may be used.

16. Minimize the limit of work on the south side of the property.

17. Stockpiling of any material is to be located in the front yard, north side of the driveway.

18. Excavated material is to be removed from the site the same day as excavation occurs. Soil to be reused on site is to be stockpiled in area along the driveway with sediment control measures place around the bottom of the stockpiled soil.

19. Dumping of lawn clippings and/or yard debris into wetland and/or 25-foot No Disturb Zone is prohibited. Storage is prohibited in these areas as well.

20. All displaced sheet flow/stormwater must stay on the property at 3 Bicentennial Court.

21. All conditions referenced in the Massachusetts Endangered Species Act (MESA) determination letter dated December 7, 2022, must be met to avoid a prohibited Take of state-listed species under 321 CMR 10.18(2)(a). A copy of the determination letter shall be recorded with this Order.

Mr. Hedlund seconded the motion.

Motion passed 4-0-0 at 6:47 pm.

5. Old Business:

- 88 Highland Avenue:

Attorney Daniel Deutsch, Brooks & DeRensis, town counsel for the Town of Mansfield, was present.

Mr. Healey explained there was a report of a wetland violation on an abutting property. Ms. Gonyer went out to the property and noticed there was work going on in the buffer zone to the Rumford River. Mr. Healey said the abutting property owner subsequently had his property surveyed; Mr. Healey noted the property owner at 88 Highland Avenue removed the stakes and continued to do work, now within 25 feet of the Rumford River. The Commission wanted the homeowner to come to a meeting to (a) explain what they are doing and (b) to file a Notice of Intent with a surveyed plan by a licensed land surveyor, showing what the conditions are now and how they propose to remediate or remedy those conditions but they have not responded.

Ms. Gonyer said she delivered three enforcement orders, one with Mr. Healey, and a letter was sent to the homeowner requesting she attend the next Conservation meet. Mr. Healey noted the owner has not responded to the letter and is not present at this meeting. Ms. Gonyer said a letter dated December 8, 2022 was received from the homeowner stating she could not attend the meeting. Ms. Gonyer said she has been working with town counsel on the next steps to be taken.

Attorney Deutsch said the Commission might want to consider going into Executive Session to discuss options for moving forward. He said the next option would be to proceed to court to secure enforcement of the enforcement orders, which the property owner chooses to ignore, despite multiple communications and correspondences, including a letter from him to the property owner, mailed by regular and certified mail on January 18th, requiring the property owner to be represented or attend this meeting to address the concerns of the Conservation Commission. A letter outlining the violations and past orders and a full copy of the most recent package, including the third

enforcement order, correspondence, photographs, aerials and survey, was sent to the homeowner notifying her that she would be subject to proceedings in court and potential fines and injunctions or other judicial relief to enforce the Wetland Protection Act and the By-law, given the violations. He said he would be happy to discuss in detail what that would entail and share what his recommendation would be and suggested this occur in executive session. He said a motion should be made to go into executive session announcing the purpose of the executive session, why it is not public and whether you intend to come back into the public session after the executive session or, if this is the last order of business and there is no other matter to take up, you have the option to not come back into public session. Ms. Gonyer said a motion should be made to go into executive session and, when done, return back to the public hearing.

Dr. Roth made the motion to go into executive session to discuss 88 Highland Avenue's enforcement orders and for the purpose of discussing the next steps, including potential action in court on 88 Highland Avenue and return back to the open meeting at the end of that session.

Dr. Paten seconded the motion. Motion passed 4-0-0 at 6:50 pm.

At 7:46 pm. The Commission reconvened to the public meeting after the conclusion of the Executive Session to discuss legal business.

New Business:

- Fee Schedule:

Dr. Roth made the motion to accept the proposed new fee schedule for 2023.

Dr. Paten seconded the motion.

Motion passed 4-0-0 at 7:50 pm.

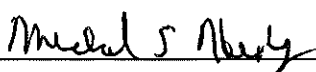
Old Business:

- Conservation Updates – continued to February 27, 2023
- Minutes:
 - Motion to approve the minutes of September 26, 2022 (Paten/Hedlund) Motion passed 3-0-1 (Mr. Hedlund abstained) at 7:53 pm.
 - Motion to approved the minutes of December 12, 2022 (Roth/Paten) Motion passed 3-0-1 (Mr. Hedlund abstained) at 7:54 pm.
- Ratify Emergency Certification for 250 Balcom Street – Balcom Street PFAS Water Treatment Facility, City of Attleboro, MA – paperwork was signed.


6. Meeting Adjournment:

Motion to adjourn at 7:55 pm (Hedlund/Paten) Motion passed 4-0-0 at 7:55 pm.

Next meeting will be February 27, 2023 at 6:00 pm.



Michael Healey, Chair



Date