

**HADLEY CONSERVATION COMMISSION
MEETING MINUTES**

December 10, 2013

Approved at the 2/18/14 meeting

PRESENT: Paul Alexanderson, Chair; Paulette Kuzdeba, Vice-Chair; Gary Pelissier; Edwin Matuzsko; Jim Habana Hafner; Steve Szymkowicz; Associate Member Matthew Burak and Janice Stone, Conservation Staff.

1. 7:00 PM Request for Amendment to Order of Conditions #170-214. Artie McCollum and Andrew French from USFWS Conte Refuge present to answer questions about the Request. Mr. French explained that this is an ADA accessible nature trail in the Riverfront Area of the Fort River at the *Conte National Wildlife Refuge, 69 Moody Bridge Road*. The USFWS has acquired an additional property next to the one where the trail is, which has allowed them to redesign the trail to make it easier to construct, afford a nice view of the Mount Holyoke Range, and create less impact on the wetlands. They showed the Commission various maps of the approved and proposed revisions to the trail, and provided a table showing the reduction in wetland impact with the revised trail. According to their estimate, there will be 50 sf less wetland impact from the trail, fewer sections of boardwalk, and all of the trail will now meet ADA requirements. They are also installing seven overlooks, as shown on the plans. The trail will now be one mile instead of 1.2 miles. All work is being done by hand, by an Americorps crew and volunteers. Mr. McCollum stated that altogether about 150 people have come to help build the trail. They expect to officially open it this spring, although it is open to the public now. Mr. McCollum was asked how the trail is holding up after the recent heavy rains. He went out and checked and did not find any problems. Steve asked Mr. French whether they have fixed the serious washout in the field to the west of the main refuge parcel. Mr. French replied not yet. They are aware of it, but they have to get money to fix it. In the meantime it is in a planted field and not near any trails so there should be little chance for the public to be near it. Motorized vehicles are prohibited on the refuge property except by personnel or by special permit. The fields being planted with grass should reduce further erosion in that area for now. Mr. McCollum stated the area was also flagged as a caution, if anyone comes near it. Gary made the motion, seconded by Jim to approve the amendment to the Order of Conditions for the revised trail. All voted in favor except for Steve, who opposed it. Motion passed 5-1.

2. 7:25 PM Notice of Intent #170-226. Filed by J. Rodrigue for construction of a single-family house with associated grading and utilities including driveway and septic system in the buffer zone and Riverfront Area, at *16 Rocky Hill Road*. Mr. Rodrigue, Robert Stover (Amherst Environmental Services), and Susan Norris (seller of property) present to answer questions. Mr. Stover stated that the property had been purchased in 1994, three years before the Riverfront Protection Act, and therefore has certain exemptions from the Act. Almost the entire parcel is in the Riverfront Area of the perennial stream at the back of the property. The plans show a 50' setback from the property line to the house in front of it, but otherwise it is moved as far forward as possible. The plan shows a limit of work around the house for construction and future landscaping. Mr. Stover handed out a paper that provided an Alternatives Analysis for the project. The Commission discussed what the limit of work should be for the construction phase and for the long-term landscaped yard. Beyond the limit of work the property (closest to the

stream) will remain undeveloped and natural. Ms. Norris stated that the land has always been in farming, and using it as a grassed lawn would be no different. Mr. Stover stated that he allowed a 35' buffer around the house for the construction and lawn. The Commission discussed revising the limit of work line slightly on the eastern side, to extend the line parallel to the stream to the eastern boundary rather than making a right angle to the south. This will allow the land to the east of the house to be used for lawn/maintained yard to the eastern property line. The northern edge of the limit of work line will still be just outside the 100' Riverfront Area, and a little further from the 35' buffer from the wetland edge. The Commission discussed how to provide "permanent" monumentation of that limit of work line. It was agreed that the owners should put a native shrub or birdhouse at the corner pins to mark the line. Paulette made the motion, seconded by Edwin, to approve the plan with the modification in the limit of work line and monumentation by shrubs or birdhouses of the limit. All voted in favor.

3. 7:56 PM Other Business. A member of the audience complained that the Conservation Commission was being tough on the applicants for 16 Rocky Hill Road, but not doing anything about a more grievous situation and violation of the Wetlands Protection Act along the Connecticut River at 22 *River Drive*. He described the clear cutting of the vegetation along the bank of the river behind 22 River Drive, all the way down to the water, then installing an abutment, pier along the river and staircase down the bank to the pier. He has complained to DEP several times and sent photos, yet nothing has been done. This has been done this year, but nothing has happened. Janice explained that DEP had notified her of the complaint, and DEP had sent the owner a letter but no response. A DEP staff person then came to the house (with Janice), but no one was home. Because of vacation schedules etc over the summer, there was no further follow-up from DEP yet. Janice explained that DEP (and the Conservation Commission) needed to see the violation themselves, before proceeding with enforcement. This person offered to take the DEP person and/or Janice out to the edge of his property in Hatfield, where one can easily see the violation along the Hadley side of the Connecticut River. Janice will relay information to DEP.

4. 8:00 PM Request for Determination of Applicability, continued. Filed by J. Waskiewicz (Rao's Coffee Roasting Co), for approval of wetland boundaries at 303 *Russell Street* (Kicza Lumber). Mickey Marcus from New England Environmental present as new consultant to the applicant. Mr. Marcus explained that his firm will be handling the project for the next phase. He reviewed the status of the wetlands as he saw them to be. The question for the Commission is determination of the large isolated vegetated wetland (IVW) in the center of the property. All agree on the perennial stream and BVWs (Bordering Vegetated Wetlands). There is insufficient information to pursue the small possible wetland behind the front building. Commission discussed with Mr. Marcus the results of previous consultant Heather Comee's discovery of an old buried culvert between the BVW and IVW, and whether a blocked pipe meant there was no connection or not. Mr. Marcus stated that he visited the site last week after the heavy rains, and the IVW was full of water (no doubt that it is a wetland), but the BVW had no water in it. Mr. Marcus stated that this is a determination of existing conditions, and presently there is no connection between the IVW and BVW. Janice had checked with DEP, and they stated the same thing. Mr. Marcus explained that even if the applicant wanted to fill it, they would have to go through the Army Corps of Engineers (ACOE), since it qualifies for protection as a federal wetland. The ACOE would require them to replicate the wetland if they were to fill it. The

applicant has no plans yet. Attorney Peter MacConnell was present for the applicant as well, and submitted a written opinion on whether the Hadley Wetlands Bylaw and Regulations protected isolated wetlands that were not vernal pools. His opinion was they did not. Janice told the Commission that after reading everything over, that appears to be correct. Mr. Marcus stated that the property has “degraded Riverfront Area”, which he would like the Commission to note, even though there is no place on the Determination form for that. Gary made a motion to issue a Determination that approved the wetland boundaries as shown on the most recent plan, and noting that the IVW is not subject to the local wetlands bylaw. Jim seconded, and all voted in favor.

5. 8:20 PM Other Business, continued. *Possible Enforcement Actions.* Patrick Leighton from *Honey Pot Road* present to discuss their concerns about his activities on his property along the Connecticut River. Mr. Leighton explained that he had taken out all the half-buried shopping carts as the Commission requested, and that he was now just continuing to clean up the area of “all the underbrush”. He stated that he has done this about 3 times before, and is fighting the Japanese knotweed. He also cut down a willow tree he had planted, and harvests red maple trees on his property for firewood. He said he would be glad to show the Commission the area. He told the Commission if he did not cut it, the trees would block the water Paulette explained to him that he did not have a pre-existing nonconforming allowance like zoning for wetlands work. He cannot keep altering the Riverfront Area, beach and shoreline to keep it from changing. Mr. Leighton told the Commission that if they went on a boat ride with him, they would see what other people are doing to their front yards along the River. He also stated that he had to create the road to the beach to get down there with his tractor to pull out the shopping carts. He wants to take care of his yard the way other people do. Next year it will be 40 years ago that he purchased the property, and he has built it up over the years himself. Paul told Mr. Leighton that the Commission is trying to deal with people’s uses along the River, and that the standard procedure is to come to the Commission first, before doing any work in the Riverfront Area/floodplain. Mr. Leighton stated that he fights the deposition along his breach every year, because he wants to maintain (with equipment) his access to the River. There is a lot of silt deposited there every year. Paulette commented that that is the natural process of the River, and there is nothing in the law or his deed that gives him the right to move it. Mr. Leighton stated that he understands the process, but he is trying to maintain his property. He suggested similar examples can be seen around the Honey Pot and Aqua Vitae Road. Paulette restated that the Commission requires people come to them for permits first. No one is allowed to alter the bank of the River to turn it into lawn now. Mr. Leighton said he would like the Commission to visit his property to see for themselves. Commission and Mr. Leighton agreed upon a time of 9:30 AM this coming Saturday (12/14).

A person from the audience wanted to comment on the “extreme work” the USFWS is doing as part of the ADA trail on the Conte Refuge property off *Moody Bridge Road*. He felt they were destroying the area, which he described as “one of our great natural resources”, where wildlife flourishes. He is also concerned about the washout occurring on the USFWS property that was formally Drozdal’s. It is a large area, and the dirt is being washed down into the Fort River. He stated that the Commission has to tell DEP about what is happening there. This (Fort River area) was the best possible habitat for much wildlife, and now USFWS is destroying it. The same person also asked the Commission what he needed to do to get their permission to use some of the land behind his business on *River Drive* as farm fields again. There was a DEP enforcement

order on it a few years ago, but Chuck Dauchy was hired to complete a restoration of that area, and it is now done. The Boisverts used to farm it, and he would like to be able to again. It is in the 200' Riverfront Area of the Connecticut River, and DEP has told him he needs to get permission from the Conservation Commission now. Paulette asked him if he had something from DEP stating that he has complied with their enforcement order, and is there anything in his agreement with them that states he cannot farm it? The man was not sure, he will check with his consultant Chuck Dauchy. Commission told him to ask Mr. Dauchy to bring the Conservation Commission a request.

Commission discussed complaints from a neighbor about illegal dumping on *Shattuck Road* off a farm road. Jim went out to the area and looked around but only saw a tire or two. He suggested Janice ask the person who submitted the complaint to send some photos showing the dumping.

If there are no wetlands in the area, then it is more a Board of Health issue.

Commission discussed Five Star Bus Company parking lot off *Rocky Hill Road*, which two Commissioners and Janice checked today. Did the applicant tell the Commission that they would not be fueling there? There is a 1000-gallon fuel tank behind the building, with no containment area. Is there still supposed to be an environmental monitor? Has the wetland restoration been done? Janice should send a letter to the owners asking about this.

Minutes. Ed made a motion, seconded by Gary, to approve the minutes as written for October and November 2013. All voted in favor. Gary mentioned some work he wanted to do down at the marina. He would like the Commissioners to take a look. They agreed to meet at the *Sportsman's Marina* off Russell Street at 9:15 AM Saturday, before the site visit to Honey Pot Road. Janice and Edwin mentioned their site visit with DEP and *UMass Farm* people about the solar project proposed for the farm fields. The fields may be considered wetland if they are primarily hydric soils. They are going to file in time for the January Conservation Commission meeting.

6. 9:10 PM ADJOURNMENT. Paulette made the motion to adjourn. Jim seconded, all voted in favor.

Respectfully submitted by

Janice Stone

Materials used in review and deliberation of agenda items will be found in corresponding project folder in Conservation Commission office.