



Town of Holland

Conservation Commission

Minutes of Meeting on July 13, 2021

Attendees: Jessica Chaffee Wales (Chair), Kaitlin Laabs (Vice Chair), Sam Spratlin, Dawn Kamay (acting Secretary)

Absent: Marcia Beal (Vacation)

Guests: George Russell, Holland Conservation Agent, Rebecca Oslewitz, Michael Breor, Cari Robinson, Stacy Stout, Ralph Donadio

NOTE: All attendees listed above attended remotely.

The meeting was opened by Jessica Chaffee Wales, Chair, at 6:34. Dawn Kamay announced that the meeting was being recorded.

George R. requested that going forward the Agent's Report be made part of the minutes. Verbiage going forward will be ***"the agents report is attached and made part of the minutes"***. A motion was made by Dawn Kamay to accept that going forward the minutes should be recorded with the Agent's Report to be attached. Seconded by Sam Spratlin. All in favor, motion passed.

Dawn reviewed the key correspondence with the Commissioners. Included was a notice to all Commissioners that the Sichol property purchase needs to be signed by all of the Commissioners and notarized for each. Jess asked if Kathy McKenna needs to be a signatory. Stacy to check with the Town Attorney's office.

Review of site visits since last meeting. George discussed problem of erosion on Maybrook, Leno, Causeway. Also 2 forest cutting sites. 97 Leno complaint of tents on property within jurisdiction. George has contacted property owner. George issued a violation for 178 Stafford Rd, a trust listed as owner.- George went to 33 Lee Av regarding the Form 8a request for COC. A partial COC will be issued indicating what was not completed and the homeowner will submit a new NOI to cover that off on items not completed earlier. COC for 33 Lee Av will be on the agenda for July 27. Plantings for this OOC and tree removal application have been put in place according to George. A monthly violation report will be

given the Commission going forward.. George will be going to 53 Mashapaug whose NOI will be placed on the July 27 agenda.

Dawn and Jessica had made site visits to the new paving on Maybrook where there was horrible maintenance of the silt fence and waddles resulting in massive erosion into May Brook, and to Pine Tree where the trap rock put in by Town was insufficient and erosion control basically non-existent with clear evidence of sand and silt washing into the closest inlet of the lake. Jessica suggested George always copy BOS and Stacy Stout, Town Administrator with all correspondence with Highway to keep them aware of the issues.

Schedule of 53 Mashapaug and 83 Sandy Beach site visits should be made. George asked to follow up with Building Inspector on 83 Sandy Beach. Stacy asked that BOS and Town Admin be copied on all correspondence to the Building Inspector. Dawn suggested George contact Health as the plan we've received so far is a plan for a septic. Fees have been received from the applicant. George will check for completeness of the file.

Kait came in late and Jessica brought her up to speed on what had already transpired.

Public Hearing for 197 Mashapaug Road, Rebecca Osleger:

7:00 the public meeting was open for 197 Mashapaug Rd retaining walls. Becky was asked to discuss the project. 2 retaining walls to go on the lake side hill with stairs inserted between. Native plantings to be done. Dawn asked about height of the walls, Becky said 3 feet. It is overall 8 feet but it's so into the hillside that there will be no backfilled material. It will be stone, 1-1/4 crushed gravel base will be the only fill added. Straw waddles will be used for erosion control, no silt fencing. Kaitlin was pleased with the project as described during the site visit. George commented that they should use double straw waddles. Dawn asked about Mark Stinson's comment about adding vegetation at the bank area. Kait said difficult to plant there and bank looks ok as it is. Kait made a motion that the meeting be closed. Seconded by Dawn. All in favor. Hearing closed at 7:15. George will do the OOC using our normal conditions, adding stipulations as discussed such as no silt fence and double staked 12" straw waddles and Jess requested that all Commissioners be copied. Dawn made a motion to accept the orders as planned, Sam seconded. All in favor, motion passed. Becky was told that by Thursday the OOC will be delivered to her once signed off by the Commission. She was advised to wait 10 business days from today before site work can begin, and that she must register the OOCs with the Hampden Registry of Deeds. Erosion control and signage may be done earlier than that and George to be advised once erosion control is in place.

South Basin Boat Launch OOC extension will be on the July 27 agenda. OOC expires at the end of October and the FHRA has requested an extension.

George suggested that the legal ads all state that the applicants are scheduled for 7:00pm. Jessica disagreed explaining that the Holland Commission manages to fill in any empty time and the Commission wishes to continue stating specific times and she explained why. Kaitlin asked how many make a quorum, answer was with the current number of Commissioners a quorum is 3. Kait recused herself from 19 Lakeridge discussion about to begin as he is a neighbor.

Public Hearing for Ralph Donadio , 19 Lakeridge:

The public hearing for Ralph D., 19 Lakeridge was opened by the chair at 7:21. Ralph reminded the Commission that the RDA is only for the stairs, not the retaining wall in addition. Old wall to stay as is. The 4x4 timbers with patio block to be removed and replaced with natural stone 4' wide blocks. This will require very minimal disturbance of the site. Small boulders may be added to the outskirts of the walkway to help retain the soil, and grasses will be planted on any disturbed areas. Landscape Evolutions will be the contractor on this project. Dawn asked about use of heavy equipment. Ralph said small equipment will be used as stones are extremely heavy. Site will be fully stabilized following installations. George suggested Negative 3 on this project. Dawn made a motion to close, Sam seconded. Vote was unanimous and public hearing was closed at 7:40. Dawn motioned that we make a Neg. 3 RDA with the stipulations from the agents report 2.1.4.. Sam seconded, all in favor, motion passed. Ralph asked about size of waddles and Jessica confirmed that we insist on 12" double staked straw waddles. Ralph asked how to double stake and Jess explained the method. Dawn asked about start of work time. Ralph said mid-August at the earliest. George to complete the Form 2 and deliver by mail once fully executed by the Commission.

Stacy Stout asked the Commission to sign two copies of documents regarding Sichol purchase, signatures require notarization.

Cari Robertson joined the call and Jess suggested she join the Commission. She stated she has municipal experience and wanted to listen in on the meeting as she is considering joining. She has started by reading the Wetlands Protection Act.

Roy St. Andre joined about a dead tree removal. George asked him to send the application to him, and that he's usually in the office Tuesday, Wed. and Thursday mornings. Dawn suggested he could scan to George. Jessica said another option is drop it in the mailbox in front of Town Hall. Roy was asked to clearly mark the tree.

Discussion ensued about George taking over the tree removals. End of discussion was that the Conservation Agent and 1 Commissioner need to sign off. The form will be altered and uploaded to the Town web site. Sam asked about Amanda Rutherford's tree request. George signed solely and Jess asked that Sam see it and sign too. Sam agreed.

Michael Breor, 326 Mashapaug Rd:

Michal Breor came on at 7:26 to discuss the issues with his site. He stated that he needed to give us a new mailing address as he didn't get the meeting notice until the last minute. M. Breor proceeded with a site update. Some time in August the site contractor will start the mitigation requested (removal of fill on the lake side). M. Breor will be building a wall on the South side to hold the soil from eroding into the neighboring property. Site will be planted with grass and may opt for sod vs. seed. Jess asked how much sand may be removed and what will be the site topography when the dirt dumped from excavation action is removed. Sam asked if original elevation will be attained. Michael replied that the backfill on the south side will remain. However, the excavated material on the lake side (west) will be mostly removed. Dawn asked who did excavation – R.J. Poirier. Jess said that the excavated dirt needs removal and insisted that elevations need to be reviewed by a specialist. M. Breor insisted that foundation backfill was necessary, and Kaitlin said despite that we need to replicate compensatory flood. Kait notified him that he is currently in violation of the Orders of Conditions. Dawn asked who is the "site guy" Answer was RJ Poirier. Jess asked if Poirier would remove the fill as he illegally stockpiled the excavated material in the buffer zone to begin with. Kaitlin expressed frustration in delay of getting feedback and action from Breor in taking action to remedy the violations. Jess said no COC will be given until elevation cert work is submitted and discussed. Jess asked if the elevation cert may be ready for review by July 27 meeting. M. Breor to ask for assistance with this and will notify the Commission. Jess asked him to get a start date for the elevation cert within the next week, as this is dragging. Jess asked Mr. Breor to submit a current state/finished state. Mrs. Breor will be submitting ideas for future plantings. George to put M. Breor on the July 27th agenda. M. Breor reiterated that he is struggling to keep in communication with the Commission, and looks forward to working together. M. Breor asked if the sod option is a good idea, or wait to grow grass later. Jess said sod is okay, but should not be installed until after the elevation cert is completed. Jess asked for elevation of the entire 100' buffer zone.

Michael Breor will send updated address to the Commission. George to prepare an Enforcement Order in case the agreed upon information from M. Breor is not forthcoming by July 27.

Discussion ensued about Commission interfacing with the Building Commissioner and Health Dept. like they used to (pink sheet). Stacy will be doing some investigation on this issue to get the departments working in sync.

Stacy was asked to get back to the Commission regarding management of the 319 grant monies and the priorities (which roads) will be addressed/upgraded. Next BOS is July 20 at 5:00pm at Town Hall in the Community Room.

Kaitlin made a motion to adjourn, Dawn seconded. All voted ay. Meeting was adjourned at 8:52

Respectfully submitted,

HCC

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Dawn Kamay

Acting Secretary on behalf of Marcia Beal

THE AGENT'S REPORT IS ATTACHED AND HEREBY MADE PART OF THE MINUTES

TOWN OF HOLLAND

CONSERVATION COMMISSION

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*When you are going through hell, keep going
W. Churchill*

TO: Holland Conservation Commission

FM: George Russell, AICP
Conservation Agent

RE: Agent's Report

DATE: 7/13/21

I apologize in advance for the length of this report and I hope to make then shorter as time goes on.

1.0 Items from last meeting and/or new items:

- 1.1. Spoke to owner at 61 Mashapaug and determined that garage is not within jurisdiction. It should be noted, that a review of the plans in person resolved this issue very quickly. I believe this is an indication of the value of meeting in-person; bearing in mind, it is legal under the Open Meeting Law, (OML) to have an in-person meeting, while some commissioners patriciate remotely. At the present time, this is used by Sturbridge. The law can be found at:

<https://www.mass.gov/files/documents/2017/10/12/OML%20Text.pdf>

Further, the OML regulations state:

Note that the Attorney General's regulations enable members of public bodies to participate remotely if the practice has been properly adopted, but do not require that a public body permit members of the public to participate remotely. If a public body chooses to allow individuals who are not members of the public body to participate remotely in a meeting, it may do so without following the Open Meeting Law's remote participation procedures.

- 1.2. Spoke with the applicant/owner of 197 Mashapaug and outlined the process for filing an NOI and followed up with an e-mail. Visited the site with Kaitlin. Prepared RDA for Commission's signature. The NOI has been filed. (See item 2.1 below)
- 1.3. E-mailed the state forester twice concerning the recently filed forest cutting plans to ascertain if the Commission has had the required view option. Conducted a site visit of both plans and returned the phone calls of the residents who have called concerning these plans. No response from Chris Capone the forester and I will generate another e-mail. If there is still no response, I will go to his supervisor. Received an e-mail from Chris Capone the forester that welcomes comments. Will investigate statutory issues further.
- 1.4. I met with the Conservation Agent in Sturbridge and we reviewed the proposal that is pending with her Commission and is on the Sturbridge/Holland town line. At this time, there is a proposal to build a road across a lot in Sturbridge up to a few feet from the town line. (I have attached a copy of the location for your edification.) The final end user/use of this road has not been definitively determined but at this time appears to be some type of agricultural related use. There are potentially significant permitting issues in Holland if the use or the road extends into town. At this time, we have decided to keep in touch with each other and stay on top of this proposal as it moves forward. I will keep the members informed of any new information.
- 1.5. I have spoken to the owner of 33 Lee and discussed the issue of the timber retaining wall. They emphatically want the COC to be issued and will come in with another NOI for the wall and some bank work. Therefore, I would recommend the tabled COC be issued with the note that the retaining wall was not completed.
- 1.6. I have developed a revised abutter notification form and it is attached for your review and comment. Note there is also a "perjury" form. I have a number of legal opinions that this form carries some legal weight if there is any issue with the notifications. I want to once again indicate that the statute requires the applicant to send out these notices.
- 1.7. I also have worked on a form to "educate" on the process of appearing before the Commission and it is also attached for the Commission's review and comment. NOTE this is

not an NOI "checklist"; that will be forthcoming.

- 1.8. I have attached the member's updated contact information. Please review and let me know if there are any needed corrections.
- 1.9. I noticed that sometimes a motion on an application is made before the hearing is closed. Given the timing requirements in the regulations, I would recommend that all public hearings be closed and then a motion is made on the permit.
- 1.10. I have also attached for the Commission's review and comment an enforcement policy that I have used successfully in the past. This is important since when out doing a field inspection, I came across two potential significant violations. I also have to look into a violation "waiting for me" on the table. (NOTE: this is the last item for your review and comment for this meeting!!!)
- 1.11. I have received an e-mail via Kaitlin that Mr. Breor would send over information on the plans on 6/2/21. I have reached out to him again and received a reply that once again promises a plan by the meeting week..
- 1.12. According to the regulations and statute, once a complete application is filed with the Commission, a hearing must be held within 21 calendar days whether a DEP NOI # has been received or not. The hearing should not be closed however until the DEP # is received. 310 CMR 10.05 (5) states:

(5) Public Hearings by Conservation Commissions:

(a) A public hearing shall be held by the conservation commission within 21 days of receipt of the minimum submittal requirements set forth in the General Instructions for Completing Notice of Intent (Form 3), Abbreviated Notice of Intent (Form 4) and Abbreviated Notice of Resource Area Delineation, and shall be advertised in accordance with M.G.L. c. 131, § 40 and the requirements of the open meeting law, M.G.L. c. 39, § 23B.

(b) Public hearings may be continued as follows:

1. without the consent of the applicant to a date, announced at the hearing, within 21 days, of receipt of the Notice of Intent;
2. with the consent of the applicant, to an agreed-upon date, which shall be announced at the hearing; or
3. with the consent of the applicant for a period not to exceed 21 days after the submission of a specified piece of information or the occurrence of a specified action. The date, time and place of said continued hearing shall be publicized in accordance with M.G.L. c. 131, § 40, and notice shall be sent to any person at the hearing who so requests in writing.

I know this is very technical, but the risk is that if the hearing is not opened as required, the applicant can go to DEP and then the town loses all control over the

project.

- 1.13. I would suggest that the Agent's Report be made part of the meeting minutes since many of the items outlined, recommendations, policies proposed etc. may be acted upon with going into all of the details. A line at the end of the minutes stating "The Agent's Report is attached and made part of the minutes." Could be used.
- 1.14. My final recommendation in this section, is that when the legal adds are placed and abutter notices sent out, all hearings be listed for the same time, e.g. 7 PM. This would allow the Commission more flexibility in conducting the meetings since the chair could open each hearing as listed and if for some reason the applicant is not present, or a hearing finishes early, go onto the next application and not have to "sit around" waiting for a particular time.

2. Items for this meeting:

- 2.1.1 Public hearing for 178 Mashapaug NOI: I have reviewed the application, conducted a site visit and have been in contact with Mark at DEP When approved, I would strongly recommend that silt fencing NOT be used as erosion control. I believe that given the topo, if there is erosion, the fencing will not hold up. We have received the DEP # 184-0384. DEP also had the following comments:

[1] The Commission may review the Mass Erosion and Sedimentation Control document <https://www.mass.gov/files/documents/2016/08/qz/esfull.pdf>

[2] If the dock and deck were not permitted by the commission, they should be added to this NOI so as to make them clearly permitted.

[3] Per 310 CMR 10.53(1), The Issuing Authority may require erosion and sedimentation controls during construction, a clear limit of work, and the preservation of natural vegetation adjacent to the Resource Area and/or other measures commensurate with the scope and location of the work within the Buffer Zone to protect the interests of M.G.L. c. 131, § 40. Where a Buffer Zone has already been developed, the Issuing Authority may consider the extent of existing development in its review of subsequent proposed work and, where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of M.G.L. c. 131, § 40.

I would recommend that the NOI be approved with all of the standard stipulations that the Commission currently uses with the one exception that no silt fencing be used.

It also needs to be noted, that the abutter notification for this permit came very close to

not meeting the required 7 business days for mailing. If this time frame was not met, the town/commission would have been responsible for the technical/procedural error. I believe this is another reason why the Commission should have the applicant send the abutter notices.

2.1.2 Discussion Broer: I have received an e-mail via Kaitlin that Mr. Breor would send over information on the plans on 6/2/21. I have reached out to him again. I will forward this correspondence, if received, in time for the meeting.

2.1.3 19 Lakeridge, RDA: I have reviewed the application, been in contact with the applicant and conducted a site visit. The work will be 20' from the bank at the closest point. Given the slope and this distance, I would recommend a negative #3 with the following conditions:

- Erosion control between the bank and the work area, must be installed and inspected by the Commission/Agent before any work commences;
- No silt fencing shall be used for erosion control; and
- The Commission/Agent must be notified when work is started and when all work is completed.