

Holland Conservation Commission
27 Sturbridge Road, Holland, MA 01521

HCC Minutes for December 27, 2022

Note: This meeting was held in the Community Room. The meeting was recorded.

Members attending: Dawn Kamay, Agent George Russell, Rick Lundin, Marcia Beal, and Samuel Spratlin

Member attending remotely: Jessica Wales

Members of the public who attended: Tim Martin, Dennis Campney, A. J. Comerford

Dawn Kamay called the meeting to order at 6:30 PM.

The Agenda was reviewed

Sam Spratlin made a motion to change the minutes of July 19 to note that it was a special meeting. The motion was seconded by Jessica Wales and all approved. Corrections will also be made for the December 13, 2022 meeting minutes and also the October 25, 2022 meeting minutes.

A complaint received about logs in the stream on Union Road was investigated, but the logs had been removed.

Site Visits:

Site visits were made at 178 and 53 Mashapaug Road, and the town's reconstruction of Union Road at Lake Street.

The property owner of 92 Maybrook Road has requested a "no dumping" sign be placed on her property. The Commission is now waiting for a quote for the cost of the sign.

The property owner of 7 Hamilton Drive noted her dock was not on the submitted plan and she asked Agent George Russell if this was a problem. The Agent reviewed the site and the site plan and reported to the Commission that the dock would not be permanently mounted and the owner wanted the Commission to be aware of the issue and the structure.

Public Hearings:

To comply with the Open Meeting Law, all hearings are scheduled for 7:00 PM. Unless there are compelling reasons to do otherwise, they will be taken in the order in which they appear on the agenda.

7:00 PM – 53 Mashapaug Road – A. J. Comerford represented the owner. The work under NOI # 184-0385 which was issued on December 21, 2022 was not completed. The Commission and the DEP need new plans to clarify what has been completed and what still needs to be done. A new DEP number needs to be issued and the OOC for #184-0385 needs to be recorded, and both the DEP and the Commission need larger plans that can be read. Sam Spratlin made a motion to continue the hearing to the January 10, 2023 meeting. Jessica Wales seconded the motion and all approved.

The Commission discussed the EO for 29 Pine Tree with the owner, Mr. Tim Martin;. Mr. Martin agreed to expedite the on-site meeting with the project engineer, Agent George Russell and the Commission.

Amendments to the current Holland by-law 15.3.2 were discussed at length concerning what exemptions need to be considered. This discussion will continue at the next meeting.

9:17 PM – Sam Spratlin made a motion to close the meeting which was seconded by Jessica Wales , and all approved.

The Agent's report is attached to and made part of the minutes.

Marcia Beal
Secretary

RE: Agent's Report

DATE: 12/27/22

1.0 Items from past meetings that need action/discussion:

1.1. Minutes: There are some issues with the July minutes that need the Commission's attention. Namely there are minutes dated 7/12, 7/19 & 7/26. The minutes of the 19th need to reflect that this was a special meeting. I would recommend that the members check the on-line minutes before the meeting but bear in mind the 7/19 minutes are not there.

Secondly, the 11/22/22 minutes, first page, last item: 29 Lakeridge, should be 35 Lakeridge.

Thirdly, Mr. Blanchette has requested numerous changes to the 10/25/22 minutes. I have attached a copy of the requested changes.

1.2. On Mashapaug Road, # 178, I requested the Commission look at the erosion issue at the driveway at this address. The soil is moving into a holding pond and then being piped into the stream. It is my opinion that the placement of the pipe and the erosion issues are in riverfront and are violations that should be addressed. Also, where the mobile camper has been parked next to the brook that flows under the road, there is a small boat in the stream. Does the Commission want to act on this, e.g., writing a letter to the property owner requiring mitigation of the erosion and removal of the pipe? I would recommend this be done.

1.3. Tree permit follow-up enforcement: The Commission amended its tree removal permit application to place time lines on the removal and replacement of trees. I can start a spreadsheet on this, but would request input from the Commission on how they wish to enforce these timelines

1.4. By-Law amendment: The current Holland By-law in Ch. 15 §15.3.2., states:

Other than as stated in the section, the exemptions provided in MGL Ch.131, section 40 and regulations 310 CMR 10.00 shall not apply.

It is my opinion, that this wording is legally too broad and the local by-law cannot overrule the state statute, but it can "overrule" 310 CMR 10.00 since it must be more restrictive than the state regs. Also, what "section" is this referring to; is it the exceptions listed in Ch. 15.3.1? I believe the way this is worded; it applies to **all** exemptions, including those in 310 CMR 10.02 (b) & 310 CMR 10.58 (6). In light of this, the Commission may want to amend this section of the by-law. Suggested wording could be:

15.3.2. The exempt activities enumerated in 310 CMR 10.02 (b) 2 a-e, 310 CMR 10.02 (3) and 310 CMR 10.58 (6) are subject to permitting under this by-law except for stacking cordwood and maintaining landscaped areas. Maintenance of landscaped areas does not include the cutting and/or removal of trees.

I would recommend the members read the above sections of 310 CMR 10.02 & 58 to make sure they are comfortable with the exceptions that will need to be permitted.

2.0 New items that are not public hearing items

2.1. 7 Hamilton: The owner of the property has informed me that she plans to replace the dock and it was inadvertently left off the NOI permit application. The dock will go in the same place and be roughly the same size and with the same mounting as the existing dock. I have inspected the dock which is in the back yard. It is on wheels which I assume go between the decking and the bank and thus there is no land disturbance. Does the Commission feel that an amendment to the OOC is necessary? It is my recommendation that no amendment is necessary since there is no land disturbance. If it is later determined that there is land disturbance, an amendment could be required.

2.2. 29 Pine Tree: I assume as a result of the EO, the owner wishes to discuss with the commission an on-site meeting with the members, him, and his engineer.

3.0 Items on this agenda for public hearing:

3.1. 53 Mashapaug NOI 184-04XXX: This permit application was filed as a result of the letter on the fence and the application includes the fence. This permit is for all of the work that was not completed under 184-0385, which in fact included PART OF the fence. The portion of the fence that extends from the house to almost the pavement was NOT on either the original plans nor the instant plans. The COC for 184-0385 was issued in December 2021 and evidently came as a surprise to the contractor. DEP has raised a number of issues that need to be addressed; among them (1) the COC was not recorded (2) this NOI must stand on its own given that the same plans are being used that were used for 184-0385 (3) given that the plans were prepared and stamped by an RLS, does the applicant understand that this professional will need to submit a completeness certification when the project is complete, and we need a detailed narrative explaining what was done and what was not done under this last OOC and this OOC. These issues MUST be addressed before an OOC can be granted and the NOI # will not be issued until they are. Therefore, the hearing will need to be continued to the 1/10/23 meeting. The applicant has been made aware of the issues. When approved, I would recommend the following stipulations when the OOC is issued: 24, 25, 27-30, 33-35, 37, 38, 41, 44, 47, 49, 50, 52, 54 & 55.

4.0 E-mails and phone calls

12/13/22

- E-mail from DEP with NOI # for 4 Collette
- E-mails to and from applicant for 4 Collette on meeting
- Copied on e-mail to town administrator concerning water levels at 1 Leno
- E-mails to and from new owners of 83 Sandy Beach on procedures to build
- E-mails to and from Sam E. on minutes
- E-mail to Landscape Evolution on 11 Hamilton
- Call from "Brian" on Union Road project and rock walls -referred to Highway

12/14/22

- E-mails to and from Codey Broder on filing for Union Rd.
- E-mail from the Select Board on the Hazard Mitigation Plan – forwarded to members
- E-mails to and from L. Racine on sign at 92 May Brook
- E-mail to BJ on 1 Roberts Park

12/15/22

- E-filed OOCs
- E-mails to and from new owners of 83 Sandy Beach on procedures to build
- E-mails to and from Highway on signs
- E-mails to and from DK on signs

12/20/22

- E-mail from Green Hill on recording info for 14 Collette
- E-mail from Paul Tortalani on permitting process
- E-mails to and from DK on sign for May Brook
- **E-mails to and from Jacob Seidel on logging on Union Road**
- E-mails to and from C. Broder on permitting
- E-mails to and from Linda Racine on May Brook Road sign
- E-mails & phone calls to and from K. Horyn on permit for 11 Hamilton
- Phone message from Jarrett Sumwalt needing perc test info for a lot on Vinton Road – forwarded to BOH
- E-mails to and from DEP & applicant concerning the permit for 53 Mashapaug

12/21/22

- E-mails to and from Dawn on fund expenditures, 1 Roberts Park and annual reports
- E-mails to and from K. Horyn on dock
- E-mails to and from JoAnne at highway on sign maker contact
- E-mails to and from Harry Batz on signs for May Brook Rd.
- E-mails to and from Danielle Forcier on 53 Mashapaug NOI

12/22/22

- E-mails to and from Harry Batz on signs for May Brook Rd.
- E-mails to French, Pineau and Learning on recording OOCs
- E-mails to and from DK on flow charts