

Holland Conservation Commission  
27 Sturbridge Road, Holland, MA 01521

HCC Minutes for September 13, 2022

Note: This meeting was held in the HCC Room. The remote participant used Go-To-Meeting. The meeting was recorded.

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

Member Attending Remotely: Kaitlin Laabs

Members Absent: Jessica Wales, Rick Lundin

Members of the public who attended: Jason MacGillivray, William Terbush and Rochelle Bard

Dawn Kamay called the meeting to order at 6:34 PM.

Agent George Russell presented e-mails and phone calls in his agent report.

Sam Spratlin noted there were no site visits and as of the meeting there were no tree removal applications. Agent George Russell distributed a tree removal application for 12 Roberts Park.

Dawn Kamay and Sam Spratlin are planning site visits for 25 Lee Avenue and 12 Roberts Park for tree removals.

The MACC conference will be held at Devens in Massachusetts. Dawn Kamay remarked the programs looked interesting.

Old Business:

The Commission reviewed a letter prepared by Agent George Russell concerning the May Brook landscape refuse dumping. Sam Spratlin made a motion the letter be sent to May Brook residences. The motion was seconded by Marcia Beal and all approved.

DEP # 184-0369 – Michael Breor of 362 Mashapaug Road – Mr. Breor has received notifications numerous times concerning modifications to the original plan and about not submitting an elevation survey with engineer certification. The OOC will expire on February 23, 2023. Sam Spratlin made a motion to send a certified letter requesting the COC with the engineer's certification be submitted and before a COC is to be issued. Marcia Beal seconded the motion and all approved.

Discussion: At 6 White Road and 2 Massaconnic Trail a complaint was received from the Holland Building Inspector concerning large trench that was built to drain runoff from those properties which is emptying onto land subject to flooding. Sam Spratlin made a motion to require an NOI to improve upon the trench and its extensive digging. Kaitlin Laabs seconded the motion and all approved.

A letter was sent to the owners at 4 Brook Road to repair a failing erosion control. Agent George Russell checked on the property a week ago and will recheck it. If erosion is failing a stop work order will be sent to the owners.

7:07 PM – DEP # 184-0407 – Hearing for Jason MacGillivray who is clearing a house lot on Sturbridge Road identified as lot 2C 5.2. He brought his plans to the hearing. There has been concern about protecting the wetlands that are to the north of the current construction activity. He will use 12” straw wattles and silt fencing. A lot number and street address will not be assigned to the property until the house is completed. Recommended mitigation is 6 – 8 plantings and to include the stipulations outlined in the Agent’s report. Sam Spratlin moved to close the hearing at 7:27 PM, seconded by Marcia Beal, and all approved. Sam Spratlin then made a motion to accept the plans as presented including the 6-8 native trees and plantings. Marcia Beal seconded the motion and all approved.

7:36 PM – NOI# 184-0409 – 15 Forest Drive – Owner Rochelle Bard is building a garage with living space on top of the new garage to form a studio space. She presented the plans and outlined the project. Sam Spratlin made a motion to close the public hearing at 7:53 PM which was seconded by Marcia Beal and all approved. A motion was made by Sam Spratlin to issue the OOC with the stipulations as suggested in the Agent’s report. Marcia Beal seconded the motion and all approved.

Discussion:

OOO#184-0388 – William Terbush at 189 Mashapaug Road – discussion about the amendment to the OOC – Sam Spratlin made a motion to require an amendment to the OOC as per Commission policy for a new ramp, replace the fence and patio and repair the wall which was seconded by Marcia Beal and all approved. Mr. Terbush will submit the necessary check and abutter notification forms and the hearing will be set when these are received.

DEP# 184-0367 – Request for a COC to replace the small causeway culvert pipe. Sam Spratlin made a motion to accept the COC which was seconded by Marcia Beal and all approved.

Agent George Russell noted that in the future, based on a recent SJC case “Boston vs. City of Quincy Conservation Commission”, when we make a motion, we should say we base the decision on the town bylaw or state law, or both.

This was Kaitlin Laabs’ last meeting as she is leaving to prepare for her second child. Kaitlin will be deeply missed and we wish her well.

8:20 PM – Sam Spratlin made a motion to close the meeting which was seconded by Marcia Beal, and all approved.

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

Marcia Beal  
Secretary

---

TO: Holland Conservation Commission

FM: George Russell, AICP  
Conservation Agent

RE: Agent’s Report

DATE: 9/13/22

1.0 Items from last meeting or new non application items that need action/discussion:

1.1. Letter to May Brook Property owners: In your packets will be a revised letter to send to the property owners on May Brook Road. I have also included as a starting point possible sign verbiage. Should the Commission decide to put these signs up, with the owners' permission, we need to investigate costs for the signs, poles, and installation as well as the source of the funds.

1.2. 326 Mashapaug: At the 7/19/22 meeting, the Commission voted to require Mr. Breor to file a COC request and an RDA for his fence. Prior to this, the Commission has repeatedly "directed" him to file an amendment to his OOC, but this never happened. It is my opinion that more stringent follow-up action should be taken, which may include an enforcement order. Note that this permit will expire in February 2023.

1.3. CITY OF BOSTON vs. CONSERVATION COMMISSION OF QUINCY: This decision from the SJC late last month is important for the Commission given that the court ruled that a local decision may replace a DEP superseding order **IF:**

However, a conservation commission's decision regarding wetlands may stand, despite a superseding order by the DEP, if the conservation commission relied on provisions in a local ordinance that are more stringent than the provisions in the act.

Also, remember that earlier this summer, in Mass v Haney, the court ruled that a superseding order trumps a local by-law **IF** the decision was based on 31 CMR 10.00 and the WPA. Thus, it is my opinion that it is very important to make sure that when the Commission makes a decision, that the record (minutes) reflect what the decision is based on, the local by-law or the state regs or both.

These decisions also empathize the need to address the local by-law.

1.4. 4 Brook: I will be distributing a letter I have generated for this address as well as photos so that the Commission is aware that the erosion controls are failing in a couple of areas and to determine if any additional action should be undertaken.

1.5. Work in land subject to flooding: At the request of the building commissioner, I inspected an area of work between 6 White and 2 Massaconnic. There is trenching being undertaken/completed within jurisdiction w/o a permit. I would recommend either a NOV/SWO order or an enforcement order be issued and that the members should visit the site.

1.6 Member's Packets: In an effort to reduce paper and ink use, starting next meeting, I plan to make up only 1 or 2 packets for the meeting that the members can share.

2.0 Items on this agenda:

2.1. NOI filed by Jason MacGillivray of lot 2C 05-2, 184-0407: This permit is for a driveway, retaining wall, garage, lot clearing and a septic system: This permit was filed as a result of a positive determination from the Commission. I have been to the site a couple of times and met with the applicant. The application form calls for a street address and 0 Sturbridge Road was put in. In talking to the Assessor, this is not a valid address even if it shows on the deed the applicant has. This will become an issue when the OOC is filled out since I do not feel it is "right" to use an invalid address even though the lot identification is correct. I would recommend leaving the address blank on the OOC. I have reached out to the applicant requesting changes to the mapping and to the narrative to show the erosion control location and detail as well as the distance from the closest point of work to the resource area. DEP has raised issues that I believe must be addressed by the applicant; e.g., how was the BVW delineated. Until these issues are addressed to the satisfaction of the Commission, I would strongly recommend the OOC not be issued. When the OOC is issued, I would recommend the following special conditions: 21-30, 34-41, 44, 47, 49, & 56.

2.2. Highway COC 184-0367: this OOC was in granted in Joanne Higgins name and was recorded. I have heard from Highway that the work is complete and the plans were not prepared by a licensed professional requiring certification.

2.3. Amendment request for Terbush 184-388: in your packets you will find a request for an amendment to this OOC. The Commission needs to follow the procedures outlined in the OOC amendment policy: decide if a new NOI is required and then hold a public hearing with abutter notices send by the applicant, on either the amendment or the new NOI. I would recommend an amendment be allowed.

2.4. 15 Forest Drive, NOI 184-0xxx: This application was filed to construct an addition to the house. All work is in the buffer zone. I have visited the site and spoken to the owner/applicant. I do not see any issues and would recommend the following conditions be attached to the approval, assuming we receive the NOI number by the meeting: 24-30, 34, 35, 37-39, 41, 44, 54 & 55.

### 3.0 E-mails and phone calls

8/23/22

- E-mail from Laurie B on budget "carry forwards" – sent to members
- E-mail from J. Seidel on FCP on Union Rd.
- E-mails to and from Green Hill on recordings for 9 Birch and 27 Lee
- E-mails to and from Lynn Y on status of permit for 27 Lee
- E-mails to and from Dawn on new agenda distribution process
- E-mail from Highway with form 8a for project closeout
- E-mails to and from Rochelle Bard on NOI permit
- E-mails from DEP on NOI #s
- E-mails to and from S. Soper on conditions for OOC at 5 Sunset

- E-mail from the HPD on a MVP Community Resilience Building Workshop- on September 10, 2022- Special Invitation forwarded to members
- Letter of interest and resume from Kelly Bergeron on clerk position
- Letter to owner of 41 Sandy Beach on tree cutting

8/24/22

- E-mails to and from DK & SS on 20 Old Acres
- Letter to owners of 20 Old Acres on NOI filing
- Call from owner of 65 Allen Hill on need for a permit for irrigation pond

8/25/22

- E-mail to M. Lyman on non-compliance with approval
- E-mail to K. Lachappelle on recording of OOC
- E-mails to and from the owner of 65 Allen Hill on jurisdiction

8/30/22

- E-mails to and from the owner of 65 Allen Hill on necessary approvals
- E-mails to and from J. MacGillvray on erosion control
- E-mails to and from K. Lachappelle on recording of OOC
- Letter to Comier on reports on OOC at 519 Old County Rd.
- Phone calls to and from David Patton on BOS meeting on 487 Mashapaug – transferred to TA
- E-mails to and from S. Soper on erosion control inspection at 5 Sunset
- E-mails to and from Kelly Bergeron on status of job
- E-mails to and from Dawn on safety issue at 48 Over The Top
- E-mails to and from R. Bard on meeting

8/31/22

- Letter to owner of 4 Brook on failure of erosion control
- E-mails to and from W. Terbush on OOC amendment
- E-mails to and from the owners of 20 Old Acres on NOI filing
- E-mails to and from Rochelle Bard on NOI application and site visit
- Phone calls with D. Trembly on tree removals
- E-mails to and from the building commissioner on issues on White at Massaconic
- Letter to T. Martin on status of NOI

9/1/22

- E-mails to and from BJ on compliant on White St.
- E-mails to and from Dawn on tree permit for White St. Ext.
- E-mails to and from Marie Thibeault on NOI applications and meeting
- E-mail RDAs to DEP
- Call from David Trembly on tree removal in ROW White St. Ext.

9/6/22

- E-mails from DK to Highway on tree removal on White
- E-mails to and from Tim Martin; forwarded to the members
- E-mails to and from R. Bard on application fees
- E-mails to and from Cindy P. on BOA contacts
- E-mails to and from Skonieczny requesting inspection of erosion controls at 374 Mashapaug
- E-mails to and from Green Hill Eng. on recording of OOC for 27 Lee

9/7/22

- E-mails to and from Skonieczny on erosion control
- E-mails to and from Dawn on pending items, e.g., agendas
- E-mail members agent report
- E-mail members on site visit, 20 Old Acres