



CITY OF MELROSE

CONSERVATION COMMISSION

City Hall, 562 Main Street
Melrose, Massachusetts 02176
Telephone - (781) 979-4312
Fax - (781) 979-4290

Melrose Conservation Commission Minutes for July 20, 2023

Present: Charles McCabe, Craig Molway, Paul Moore, Jason Jancaitis, Forrest Tiedeman and Michael Paiewonsky*arrived at point indicated. Associate member Sydney Hy. Potential associate member Dorian Rose was also present, pending final City Council approval.

Absent: Emily Anderson

Staff present: Eric Devlin

Mr. Moore was acting chair and opened the remote public meeting at 7:31pm. All members participated remotely.

Minutes

June 15, 2023 meeting minutes reviewed for approval.

Motion by Mr. Moore to approve the June 15, 2023 minutes, as written. Second by Mr. Tiedeman.

Roll Call vote: Emily Anderson - absent, Jason Jancaitis – yes, Charles McCabe – yes, Craig Molway – yes, Paul Moore – yes, Michael Paiewonsky - absent, Forrest Tiedeman – yes.

5-0 in favor

*Mr. Paiewonsky arrived at this point and resumed role as chair for the remainder of the meeting.

Invoices:

Staff provided copies of two invoices from the two contracted pond treatment vendors for review. A combined roll call vote was taken for simplicity with the intention for two separate motions to approve both invoices. Two separate motions are shown below to clarify this intention.

Water & Wetland, LLC – 2023 Swains Pond base tasks (Nuisance pondweed treatment – diquat herbicide) - \$1385.00

Solitude Lake Management – Ell Pond pretreat survey and water sample- \$300.00

Motion by Mr. Moore to approve payment of the Water & Wetland, LLC – 2023 Swains Pond base tasks (Nuisance pondweed treatment – diquat herbicide) invoice

for \$1385.00. Second by Tiedeman.

Roll Call vote: Emily Anderson - absent, Jason Jancaitis – yes, Charles McCabe – yes, Craig Molway – yes, Paul Moore – yes, Michael Paiewonsky - yes, Forrest Tiedeman – yes.

6-0 in favor

Motion by Mr. Moore to approve payment of the Solitude Lake Management (Ell Pond pretreat survey and water sample) invoice for \$300.00. Second by Mr. Molway.

Roll Call vote: Emily Anderson - absent, Jason Jancaitis – yes, Charles McCabe – yes, Craig Molway – yes, Paul Moore – yes, Michael Paiewonsky - yes, Forrest Tiedeman – yes.

6-0 in favor

MACC FY24 Invoice - \$844 with two associate members.

Two new associate members would be \$120 additional to the quoted \$724 for the current membership. Handbook subscription for all members should be a standing add on each year. Additional \$60 for staff membership add + handbook access as well.

Motion by Mr. Moore to approve payment of the MACC FY24 invoice and additional staff membership and handbook access and handbook subscriptions for all members that require handbook subscription renewal. Second by Mr. Molway.

Roll Call vote: Emily Anderson - absent, Jason Jancaitis – yes, Charles McCabe – yes, Craig Molway – yes, Paul Moore – yes, Michael Paiewonsky - yes, Forrest Tiedeman – yes.

6-0 in favor

Public Hearing:

Notice of Intent- (DEP# not issued yet) 43 Rivers Lane Street – submitted by Jeffrey Brooks

Jeffrey Brooks, applicant was present. Mr. Brooks shared a copy of the site plan and described the proposed project. The proposed project consists of a new 24'x26' addition in the rear left of the property. Intermittent stream in the rear of the property that is less than 100 feet from the project site. Straw wattle erosion controls proposed along the limit of work. Flood plain and 100 foot buffer to intermittent stream and associated bordering vegetated wetland resource areas on the site.

Flood elevation line shown on plan was derived from two Letters of Map Amendments (LOMA). Mr. Paiewonsky requested that the applicant submit a copy of the LOMA to the Commission for the file record on this property. Staff noted that the LOMA for 43 Rivers lane specified a flood elevation of 67.4 feet.

Only jurisdictional resource area would be buffer zone if project area is outside of the flood plain.

Access pathway from Rivers lane. No loose fill storage on site.

Staff- Has DEP file number been issued yet? Mr. Brooks- No file number issued yet, eDEP won't allow him to submit the map to the application at this point, mailed a copy of the plan to the Woburn office.

Motion by Mr. Moore to close the public hearing and issue an Order of Conditions for 43 Rivers lane with standard special conditions pending a DEP file # has been generated and the applicant has submitted a copy of the LOMA. Second by Mr. Paiewonsky. Additional special conditions - Construction access shall be from Rivers Lane only, all work and all materials will stay out of the 15' and 20' no disturb and no construction zones.

Roll Call vote: Emily Anderson - absent, Jason Jancaitis – yes, Charles McCabe – yes, Craig Molway – yes, Paul Moore – yes, Michael Paiewonsky - yes, Forrest Tiedeman – yes.

6-0 in favor

Notice of Intent- (DEP# 217-0227) 31 Cranmore Lane-

Quang-De Nyguyen, applicant and Kate O'Donnell, Ecotec wetland scientist were present.

Ms. O'Donnell- Delineated the wetland areas on the site, Bordering vegetated wetland and an associated stream. The proposed project consists of a new in-ground pool and patio, small retaining wall, sundeck and a small infiltration system. Some of the work is located within the 100 foot buffer zone. Approximately 30 feet from the wetland resource area at its closest point. Infiltration system proposed to handle the anticipated runoff from the new impervious area and compost sock erosion controls.

Mr. Moore were the 15' and 20' no disturb and no construction zone lines shown on this plan?

Ms. O'Donnell- No, those lines weren't shown on this plan. The 100 foot buffer zone and a line for 38' from the pool are shown on the plan. Approximately 50' from the wetland line to the patio area. Impervious area increase of more than 500 square feet, infiltration area is for the additional stormwater from the patio area consists of 3 Stormtec infiltration units. Capacity information not available at this meeting, calculation table on plan shows that the units would reduce the peak runoff.

1 Test pit was done with a table of results shown on the plan. Seasonal high ground water at 60". Stockpile location for materials is in the paved driveway outside of the buffer zone.

Motion by Mr. Paiewonsky to close the public hearing and issue an Order of Conditions for 31 Cranmore Lane with standard special conditions. Second by Mr. Jancaitis.

Roll Call vote: Emily Anderson - absent, Jason Jancaitis – yes, Charles McCabe – yes, Craig Molway – yes, Paul Moore – yes, Michael Paiewonsky - yes, Forrest Tiedeman – yes.

6-0 in favor

Discussion:

33 Goss Ave-

Seed Mix planted on June 26th. David Lucas, attorney and John Doucette, property owner were present.

Staff explained the past history on this parcel consists of an encroachment onto the abutting conservation land from this property by the driveway and retaining wall from this property. Zoning Board of Appeals case item from last year for the property to be subdivided and comment letter by conservation agent describing the encroachment and this should be resolved. Zoning Board of Appeals issued a decision requiring that the

applicant remove the retaining wall from the conservation land and seed/restore the disturbed area to the original condition before the property had been altered by the encroachment.

Mr. Lucas, Attorney for Mr. Doucette stated the past history. When this property was purchased by Mr. Doucette, the abutting property had garbage and tires on it and built a retaining wall, mistakenly on the abutting conservation land.

Client is not responsible to maintain abutting property, and believes it is the responsibility of the building inspector at this point now. Would caution the Commission members to not make additional requirements beyond the jurisdiction of the Commission.

Mr. Paiewonsky – The Commission has had this type of situation come up before, the applicant has been using public property for private use for years and the applicant has done an admirable job to attempt to restore the area to this point.

Mr. Doucette- I've been watering the area since it was seeded on June 26th, 3 weeks. Plan to pass papers on July 28th.

Staff- 4 weeks of watering is not necessarily enough for the establishment of the seed mix for the growing season at this point. This is typically the hottest and driest time of the year and this is generally not the ideal time to seed anyway. It might work since the weather pattern has been atypical with more rain periods than usual.

Mr. Moore referenced two sections of the Wetlands ordinance, that confirm that the Commission does have jurisdiction over this since it is conservation land that we own.

[§ 231-13 Land owned by Commission.](#)

[Amended 8-21-2017 by Ord. No. 2018-4]

Any land held by the Commission, no matter how such land originally came to be under the Commission's control, shall be held by the Commission for the purpose of protecting open space and promoting the resource values protected by this chapter for the benefit of the residents of the City. Pursuant to the Conservation Commission Act (HB § 18.9)[\[1\]](#) and MGL c. 40, § 15A, such land may not be transferred without a unanimous vote of the Commission, a vote of the City Council and a two-thirds vote of the Legislature of the commonwealth.

[§ 231-14 Enforcement.](#)

[A.](#)

Enforcement shall be taken upon any person who commences an activity under the jurisdiction of the Commission without a permit or otherwise fails to restore illegally altered land to its original condition, or fails to comply with a permit, order of conditions or an enforcement order (including a stop-work order) issued pursuant to this chapter.

Mr. Paiewonsky- Don't want the area to become lawn either, ideally it would become part of the forested land on the rest of the conservation area. Reasonable request would be for the new owners to put out a sprinkler twice a week to water the area. Staff could speak with the new owner to describe the situation and see if they are willing to help resolve the issue.

Staff mentioned that failure of the seeding mix could lead to potential establishment of invasive species like knotweed in this area since those species tend to become established first in these disturbed areas. Sign off sheet still has a signature box for me to sign off on the restoration component.

Mr. Lucas- If staff doesn't sign off on the sign off sheet, occupancy permit can't be issued.

Staff- Willing to sign off on the sheet with the request that Mr. Doucette submit the contact information for the new owner so that staff can contact them about this.

Public Comment period rules for the Conservation Commission –

Staff – Public Comment period policy was reviewed by the City Solicitor, okay except Commission needs to avoid setting or enforcing a time limit for comments during a public hearing.

Mr. Moore- No reference to public hearings specifically in the policy, we would just need to avoid setting time limits for comments during a public hearing.

PUBLIC COMMENT POLICY

The Commission welcomes the opportunity during the Public Comment portion of its Agenda to hear from members of the Public. To ensure the ability of the Commission to discuss its business and hold its meetings in an orderly and peaceable manner, while also providing the opportunity for public input on the business before it, the following rules and procedures are hereby adopted:

1. During each regularly scheduled meeting, the Commission shall open the floor for Public Comment according to the Agenda.
2. Speakers during Public Comment will begin their remarks by stating their first and last name, and town of residency for the record. All remarks will be addressed through the Chair of the meeting.
3. Speakers during Public Comment must only address topics within the scope of jurisdiction of the Commission, and shall be out of order if said speaker addresses other issues.
4. Individual speakers during Public Comment are limited to speak for a total of three (3) minutes per person. Large groups addressing the same topic are encouraged to consolidate their remarks and/ or select a spokesperson to speak during Public Comment.
5. All speakers are encouraged to present their remarks in a respectful manner.
6. Public comment is not a discussion, debate, or dialogue between individuals and the Commission. It is an individual's opportunity to express an opinion on topics within the jurisdiction of the Commission. Comments made during Public Comment do not reflect the views or opinions of the Commission.
7. Members of the audience shall not interrupt or speak over recognized speakers or the discussion of the body. Individual speakers must also refrain from shouting while delivering remarks during Public Comment. Those who are warned and persist will be required to leave the meeting by the Chair.
8. Physically disruptive or physically threatening conduct is forbidden.
9. The Chair of the meeting will not interrupt speakers during Public Comment who have been recognized to speak, except that the Chair reserves the right to terminate speech which is not Constitutionally protected because it constitutes true threats and incitement to imminent lawless conduct.
10. Verbal comments will also be curtailed by the Chair once they exceed the time limits outlined in paragraph 4 of this policy and to the extent, they address topics outside the jurisdiction of the Commission as required under paragraph 3.

Motion by Mr. Paiewonsky to adopt the public comment period rules. Second by Mr. McCabe.

Roll Call vote: Emily Anderson - absent, Jason Jancaitis – yes, Charles McCabe – yes, Craig Molway – yes, Paul Moore – yes, Michael Paiewonsky - yes, Forrest Tiedeman – yes.
6-0 in favor

28 Greenwood St comment letter

Staff- 40B project on abutting property proposed. Recent traffic report plan showed at least 5 trees on our property that were marked for removal in their sightline requirements for the driveways. Staff drafted a comment letter that would be submitted to the Zoning Board of Appeals. Question was raised whether the proposed tree removals are within the City roadway right of way. Easement would be required for the abutting property to do that work.

Staff also called out that the bulk of the total tree cover on that parcel is in the area closest to the roadway, removal of 5 trees would have a significant impact on the total remaining count of individual trees on the parcel.

Staff to check on the roadway right of way limits to see if the comment letter should be submitted on behalf of the Commission. Send the letter if the trees are not within the City right of way.

The next regularly scheduled meeting will be August 17, 2023 at 7:30 PM.

Motion by Mr. Paiewonsky to adjourn. Mr. Moore seconded the motion and it was voted 6-0 in favor.

Adjourn

8:57 PM adjourn

Approved

Date.

Pursuant to the ‘Open Meeting Law, ‘ G.L. 39, 23B, the approval of these minutes by the Commission constitutes a certification of the date, time and place of the meeting, the members present and absent, and the actions taken at the meeting. Any other description of statements made by any person, or the summary of the discussion of any matter, is included for the purpose of context only, and no certification, express or implied, is made by the Commission as to the completeness or accuracy of such statements.
--