



**CITY OF GARDNER
CONSERVATION COMMISSION
Minutes of the Meeting of
June 24, 2019
Hubbard Conference Room
Gardner City Hall Annex Room 203**

Members Present:

Chairman Greg Dumas, David Beaugard, Norman Beaugard, Duncan Burns, Michael Hermanson, Donna Lehtinen, and David Orwig. Also present was Conservation Agent Jeffrey Legros.

Members Absent:

None

Guests & Visitors:

Steven Rockwood, Resident; Conrad Donell, Trustee, Sunshine Realty Trust/Sapphire Park; Melissa Kaplan, BSC Group, Representing National Grid; Alfred Cormier and Robert Cormier, Representing Cormier Construction, Re: 391 West Broadway; and Martin Bowers, Resident, Volunteer Associate Member.

Public Hearings

7:01 The Gardner Conservation Commission opened a Public Hearing under the City of Gardner Wetlands Protection Ordinance (City Code 650) on the Notice of Intent filed by Conrad Donell, 106 Lancaster Road, Shirley, MA, represented by David Crossman, Wetland Scientist, B&C Associates, for the construction of a 2,020 s.f. wetland replication area at Sapphire Park off of Topaz Terrace (to be constructed), on Lot 76 and within the Buffer Zone and adjacent to an existing Bordering Vegetated Wetland. The work shall include wetland replication and buffer zone remediation within the 30-foot buffer zone.

David Crossman, Wetland Scientist, B&C Associates, representing Conrad Donell Sapphire Park/Sunshine Realty Trust, Conrad Donell, owner and Trustee, described the proposed wetland replication area and planting plan.

Chairman Dumas asked if a larger caliper could be specified for the red maple trees listed in the planting plan schedule.

Mr. Crossman responded in the affirmative and Mr. Donell agreed.

7:18 A motion was made by M. Hermanson to close the hearing. The motion was seconded by D. Beauregard and voted unanimously, all in favor.

Meeting Chairman Dumas called the meeting of June 24, 2019 to order.

Minutes

7:54 A motion was made by D. Burns to approve the Minutes of the Meeting of June 10, 2019. The motion was seconded by D. Beauregard and voted unanimously, all in favor.

Orders of Conditions

7:20 A motion was made by D. Beauregard to issue an Order of Conditions with Standard Special Conditions to Sunshine Realty Trust (Sapphire Park), Conrad Donell, Trustee, DEP File #160-0629, for a 2,020 sq-foot wetland replication area as required by an Enforcement Order issued by the Commission on December 10, 2018 under the Wetlands Protection Ordinance for violations to the ‘No Build’ zone. The motion was seconded by D. Orwig and voted unanimously all in favor.

Request for Determination of Applicability

6:31 RDA # 2019-6-10: The Gardner Conservation Commission will held a joint Public Meeting under MGL, Ch. 131, § 40, Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance (City Code Ch. 650) on the Request for Determination of Applicability filed by Massachusetts Electric Company (aka National Grid), 40 Sylvan Road, E2.474, Waltham, MA. The work will be located along Clark Street within the road layout and will consist of the replacement and relocation and new installation of multiple utility poles and stub poles. The work will occur within the 100-foot buffer zone of the Bank of Perley Brook Reservoir, 200-foot riverfront Area of Perley Brook, and local 30-foot ‘No-Disturb’ Zone and 60-foot ‘No-Build’ Zone of associated Wetland Resource Areas.

Melissa Kaplan, BSC Group, representing National Grid, described the proposed work to include the removal of old poles and installation of new poles. Ms. Kaplan noted the two (2) exemptions to the Wetlands Protection Act which may be applicable to this work [310 CMR 10.02(2)(a)(1); CMR 310 10.02(2)(b)2h]. It was noted that the work was still reviewable under the local Wetlands Protection Ordinance.

Agent Legros noted that the current configuration of poles is outside of the 30-foot ‘No Disturb’ Zone of the Wetlands Protection Ordinance and that the proposed configuration includes work and poles within the 30-foot No Disturb Zone. He questioned if the poles were being placed as far away from the Resource Area as practicable, a requirement of the exemption, and if they could not be located outside the 30-foot ‘No Disturb’ Zone to meet the standards local

Ordinance requirement. He noted that he asked this question as part of his review process and did not see a response or justification provided.

Ms. Kaplan stated that she did not believe they could be located any further away due to alignment (angle) requirements related to tension mechanics.

Chairman Dumas asked if the question was asked of National Grid Engineers and if a confirmatory response or justification was provided.

Ms. Kaplan stated that she did not ask the question of National Grid and therefore did not have any confirmation justification of the need to work within and place poles within the 30-foot 'No Disturb Zone'.

The Commission also expressed concern that one pole would be placed directly adjacent to the pumphouse entrance and its supporting, concrete headwall.

Chairman Dumas asked if the City Engineer (responsible for Dams within the City) and the DPW Director and Suez (responsible for reservoirs and water distribution systems within the City) were provided an opportunity to review the work and provide comment.

Ms. Kaplan stated that she believed the work may have been reviewed but that she was not certain and did not have any documentation or comments from the City Engineer, DPW, or Suez.

7:00 A motion was made by D. Burns to continue the public meeting (consideration of RDA) pending review of the DPW Director, City Engineer, and Suez, and pending a response from National Grid related to consideration of alternatives to work and infrastructure within the 'No Disturb' Zone. The motion was seconded by D. Beauregard and voted unanimously, all in favor.

Request for Certificate of Compliance

DEP File #160-0548 – 391 West Broadway Single Family Home (Resumed from March 11, 2019): A follow-up site visit was conducted by Agent Legros and Mr. Robert Cormier on June 14, 2019, to confirm the establishment of grasses and stabilization of the site. At a previous meeting on March 11, 2019, it was found that the grass had not become fully established in the Fall of 2018 and that some additional time and over-seeding would be required for establishment and stabilization before the Commission could consider the issuance of a Certificate of Compliance. At that time it was recommended that the matter be continued until the Meeting of June 10, 2019. Given the occurrence of abutting roadway work and the rate of growth of grass in late May and early June, the matter was resumed for consideration one meeting later than anticipated, after the abutting roadway work had ceased and once the full establishment of grass was evident on site.

7:26 A motion was made by N. Beauregard to issue a Certificate of Compliance for DEP File #160-0548, 391 West Broadway as the work was completed within substantial compliance of the Order of Conditions and the site was fully stabilized. The motion was seconded by D. Lehtinen and voted unanimously, all in favor.

Request for Extension of Order of Conditions

None

Request for Minor Changes of Work

None

Enforcement Order

- **Sapphire Park As-Built Plan Structures within the ‘No Build’ Zone:**
In relation to this matter, and as required by the Enforcement Order, a Notice of Intent for wetland replication has been submitted to the Commission and a Hearing will be held on June 24th, 2019.

Currently, the question related to the wetland delineation line (limit of wetland edge) near Lot 54 Opal Lane and the potential that one or more lots may be in violation of the ‘No Build’ and/or ‘No Disturb’ Zones of the Wetlands Protection Ordinance at that vicinity, has been resolved.

At a previous meeting of May 13th Agent Legros recommended that this matter be investigated by the Commission by a site visit prior to moving forward with the existing Enforcement Order as the potential violation(s) are related to the ongoing enforcement matter. A site visit was conducted by the Agent and three Commission Members (D. Beauregard, D. Burns, D. Orwig) on Friday, May 17th to review the existing conditions of the area in question and to walk the alternative wetland line that is being proposed by Mr. Donell and his Wetland Scientist.

Agent Legros and Commission Member D. Orwig reported to the other members on the findings of that visit. The area in question (previously flagged as Wetland as approved by the Original Order of Conditions), located between Lots 54 & 55 off of Opal Lane, included the presence of some wetland indicator plants and some upland plants and appeared to be a transition zone with organic, yet rocky, soils.

Based on this site visit, and the presence of some wetland indicator vegetation, including black gum trees, and given the conflicting delineation and opinion of Mr. David Crossman, Wetland Scientist, the Commission recommended that a 3rd-party review be conducted by one of the City’s on-call engineering consultants, qualified in Wetland Science and Delineation, to help inform the Commission and provide a qualified, unbiased opinion and recommendation.

A third-party review was conducted by Tighe & Bond, Wetland Scientist, Rick Canavan on site on the morning of June 19, 2019 in the presence of Agent Legros and Mr. Conrad Donell, Trustee, Sunshine Realty Trust (Sapphire Park), and his wetland scientist, Mr. David Crossman, B&C Associates. The review by Mr. Canavan found that the new line proposed by Mr. Crossman was consistent with his interpretation of the existing conditions of wetland indicators on the site. Hence, it was determined that the portion of the line between lots 54 & 55 Opal Lane as shown on the previously approved plan was either plotted in error, or otherwise delineated based on some condition that could not be observed today. It was his opinion that the existing conditions at this location were not representative of the original delineation shown on the plan and approved as part of the Order of Conditions and that the new proposed line is an accurate reflection of the existing wetland edge on site.

7:30 A motion was made by D. Beauregard to recognize and accept the newly proposed line for the section of wetland edge located between Lots 54 & 55 Opal Lane pending of a plan showing this newly reflected line to be entered into the record and file as a minor change. The motion was seconded by D. Burns and voted unanimously, all in favor.

- **DEP File #160-0610: West St. Solar Project, Borrego Solar**

Agent Legros informed the Commission that a set of plans had been received from Borrego on June 17, 2019 detailing corrective measures and proposed stormwater structures. However, these plans were not signed and stamped and a digital copy for distribution has not yet been provided. Mr. Albrecht, Borrego Engineer of record has been notified of the need to provided signed stamped plans and digital copies for review.

As a follow-up to the most recent SWCA stormwater monitoring report, Agent Legros also visited the site with SWCA Stormwater monitor, Ryan Joyce on June 11, 2019 to express his concerns for continued, perpetual erosion occurring on site. Agent Legros and Mr. Joyce documented several issues on site (in addition to previous documentation of such occurrences captured and recorded by Mr. Joyce in his inspections and reports).

Mr. Joyce conducted a follow-up site visit on June 12, 2019 with representatives of Borrego to relay these concerns and provide recommendations for corrective action.

7:33 A motion was made by D. Beauregard to continue the matter until the meeting of July 22, 2019 pending submission of signed and stamped plans and 3rd party peer review of such plans and associated drainage analysis report. The motion was seconded by D. Burns and voted unanimously, all in favor.

- **DEP File #160-0611: Otter River Road Solar Project, Ameresco Solar**
7:35 Agent Legros updated the Commission on the status of the site and monitoring activities of SWCA. Reports from SWCA that the site is currently being controlled and that implemented swales, gravel check dams, and erosion control waddles have sufficiently controlled the site erosion and sedimentation issues. Further, it was noted that grass is continuing to become established in many areas of the site that have been seeded.

SWCA monitoring activities have ceased at this time as conditions remain stable. Steve Herzog, AMEC, Wetland Scientist, and Agent Legros will continue to monitor the site with respect to vegetation establishment and soil remediation measures as proposed or needed and to ensure compliance. Mr. Herzog will continue to conduct SWPPP inspections per Order of Conditions.

Plans for corrective measures, long-term stormwater infrastructure implementations, and remediation will be submitted by the applicant, Ameresco, along with the as-built plans for the site. Seeding of the 30-foot 'No-Disturb' Zones, as required by the Enforcement Order to provide a vegetative filter strip was conducted on May 17th, 2019 by the applicant's hydroseed contractor.

Agent Legros will coordinate with Ameresco and Mr. Herzog and continue monitoring the site.

- **7:37** A motion was made by M. Hermanson to continue the matter until July 8, 2019 pending an update on the establishment of seeding and status update on erosion controls and site stability. The motion was seconded by N. Beauregard and voted unanimously, all in favor.

Emergency Certification

None

Presentations

None

New Business

- **MACC/MassDEP Central Region Forum – Report**
On the evening of June 17, 2019 Agent Legros attended a forum hosted by MassDEP and MACC to communicate with local Agents and Commissioners on recent issues and topics and to provide an opportunity for info and input. The meeting was informative and well attended.
- **MACC Annual Dues**
7:45 PM – A motion was made by N. Beauregard to allocate from the Wetlands Protection Fees Account \$287 for the FY20 annual dues and an additional \$75 for the cost of adding an associate member, Martin Bowers and a digital subscription

to the MACC Environmental Handbook. The motion was seconded by D. Burns and voted unanimously, all in favor.

- **MSMCP Annual Dues**

7:46 PM – A motion was made by N. Beauregard to allocate from the Wetlands Protection Fees Account \$25 for the FY20 annual dues. The motion was seconded by D. Burns and voted unanimously, all in favor.

- **MACC Upcoming Trainings**

Agent Legros informed the Commission of upcoming training opportunities offered by MACC

- **Northern Woodlands Subscription**

7:47 PM – A motion was made by D. Beauregard to allocate from the Agents Professional Development account up to \$59 for the renewal subscription for a period of up to three years. The motion was seconded by N. Beauregard and voted unanimously, all in favor.

Old Business

- **Cowee Wood Lot conveyance**

The closing occurred successfully on June 13, 2019 and the “Cowee Wood Lot” (M47-24-9; ~80-acres) was correctly assigned/conveyed to the Gardner Conservation Commission. The 80-acre parcel was originally purchased by the Conservation Commission in 1983 but the appropriate language was not recorded on the deed.

- **Clark Street Parcel Acquisition**

The closing was successfully completed on June 13, 2019 for the acquisition of a parcel of land (H37-23-36; Book 60542, Page 181; ~0.5-acres), located on Clark Street on the east side of Bailey Brook, from the Gardner Fish & Gun Club to the City of Gardner, Conservation Commission, for conservation purposes under Article 97 of the Massachusetts Constitution and the guidelines of the North American Wetlands Conservation Association Grant Program (USFWS).

Motion to Adjourn

8:00 A motion to adjourn was made by D. Orwig. The motion was seconded by N. Beauregard and voted unanimously, all in favor.

Respectfully submitted,

Jeffrey D. Legros, Conservation Agent

All materials used at the meeting are available for viewing at the office of the Conservation Agent, Room 202 of the City Hall Annex.

Minutes are available as follows:

- Minutes are available on the City of Gardner website (www.gardner-ma.gov) under Conservation Commission.
- By appointment or request in Conservation Agent’s office, Room 202 of the City Hall Annex
- Community Development & Planning office, Room 201 of the City Hall Annex