



**CITY OF GARDNER
CONSERVATION COMMISSION**

Gardner City Hall – Manca Annex
115 Pleasant St., Room 202

978-630-4014

Gardner, MA 01440

fax 978-632-1905

MEETING

Monday, November 9th, 2020 at 6:30 p.m.

Due to the ongoing conditions related to the COVID 19 outbreak, the meeting will be held via Zoom Meeting. Detailed instructions for participating in the meeting via Zoom Meeting are posted at the bottom of this agenda, or can be obtained by emailing Lyndsy Butler, Conservation Agent, at lbutler@gardner-ma.gov. All documents and permit applications can be provided electronically. Please send request to lbutler@gardner-ma.gov. All persons interested in this matter, or who desire to offer testimony, are invited to participate.

Members via Zoom:

Chairman Greg Dumas, Duncan Burns, David Orwig, Michael Hermanson, Norman Beauregard, David Beauregard, and Donna Lehtinen. Also on Zoom was Conservation Agent Lyndsy Butler and Administrative Clerk Kris Singer

Guests & Visitors:

Bill Hannigan – Hannigan Engineering; Amy Fantoni – Timpany Crossroads; Dane Arnold – Director of DPW; and Mark Popham – representing APK Real Estate, LLC

MEETING – brought to Order by Chairman G. Dumas at 6:30 pm

Minutes

Vote to approve the Minutes of the Meeting of October 26, 2020

- Motion to approve Minutes “as printed” made by N.Beauregard, seconded by D. Lehtinen, and voted all in favor.

Appointments

Bill Hannigan to discuss Timpany Crossroads DEP#160-0621

- Mr. Bill Hannigan acknowledged that 20/20 hindsight would say that it would have been good to tie in the roof drain on the 99 Restaurant while the restaurant was closed due to the pandemic. But now that the outdoor dining tent has been taken down, the construction crew has been pulled off of the site. He also acknowledges that the downspouts on the 99 are clogged.
- If there is not a freeze, it's possible that the roof drain could be fixed and the gutters unclogged, but it is more likely that the work won't be completed until approximately June 1, 2121.
- G. Dumas expressed displeasure at the roof drain tie-in not having been done and having the construction crew leave the site before all of the work is completed. He noted that there was plenty of time to do the work this week, especially given the nice weather. He would like the roof drain tie-in completed now.
- Amy Fantoni, owner of the property, joined the zoom meeting and feels like they have been fully cooperative and this drain tie-in work was "new to her." She said that there is no documentation of this work needing to be done.
- B. Hannigan noted that it is part of the Order of Conditions, but there is no specific timeline directive to get it done. He did note that L. Butler did ask about it two weeks ago.
- G. Dumas noted that the Maintenance plan for the 99 restaurant hasn't been maintained if the gutters are clogged. B. Hannigan said that the gutters could be completed in a week's time.
- A. Fantoni again reiterated that she feels blindsided by this work and she can't make any promises in terms of getting the roof drain tie-in completed soon, but she will try.
- B. Hannigan said that he will report back to L. Butler by week's end with an update. He assured the Commission that the intent is not to ignore the Commission's wishes and that timing is out of their control.

Request for Determination of Applicability

2020-14

The Gardner Conservation Commission will hold 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 City of Gardner Department of Public Works. Proposed work is for the replacement of approximately 1,300 feet of drain pipe located along Acadia Road. The portion of Acadia road lies between West Street and Glen Road and is within the Riverfront Area.

- Dane Arnold, Director of the DPW, explained that during the water main project on Clark St. they discovered a rotted pipe that is within 200 feet of the riverfront protection area. They need to replace the rotted pipe, and plan to have hay bales and waddles as required. They will try and get the work completed in two weeks. If winter sets in quick, it will have to wait until spring.

- A Motion to approve the work with a Negative 5 Determination was made by M. Hermanson, seconded by D. Beauregard, and voted all in favor.

Added Emergency Beaver Permit

- D. Arnold asked to add a request to issue an emergency beaver permit for 119 S. Main St. The DPW just received the request from the Board of Health today.
- A Motion to approve the beaver permit was made by D. Beauregard, seconded by D. Lehtinen, and voted all in favor.

Notice of Intent

DEP#160-0641

The Gardner Conservation Commission will hold a joint Public Hearing under MGL, Ch. 131, § 40, Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance on the Notice of Intent filed by Mark Popham R.S., on behalf of APK Real Estate, LLC, of New Ipswich, for the construction of a single family home and septic system located at Green Street (M47-22-17). Projected is located within the buffer zone of an intermittent stream.

Continued from September 14, 2020, Continued from September 28, 2020,

- Mr. Mark Popham explained that he submitted new drawings showing topography and flagged locations. Notes relating to the construction which were a part of the original drawings, were removed. M. Popham said that the full site plan is in the original NOI plan and was derived from the City Map. M. Popham also noted that the lot is very narrow and runs along the intermittent stream. It is 2.68 acres, with 12,000 square feet available for use/development.
- G. Dumas asked if the proposed house is in the 30/60 zone, and M. Popham confirmed that it is and there is unfortunately no way to get it out of that zone due to costs and topography. In order to do so, the proposed house would need to go back into the lot 600 feet and that creates a long driveway.
- D. Orwig asked if the house and location of the septic system could be moved, which would get the house out of the 30/60 zone. M. Popham said to do so would require a lot of fill due to the high water mark.
- G. Dumas said that the Commission's focus is on the protection of the 30/60 zone, not on cost.
- M. Popham explained that the current driveway orientation is needed for the Title 5 and the curb cut. G. Dumas cited that many applicants who come before the Commission need to move driveways and the like in order to comply.
- M. Hermanson stated that he has a problem with the proposed location of the house being in the 30/60 zone.
- N. Beauregard stated that he has a problem with the house being so close to the culvert and with the septic system being on the hill.

- M. Popham noted that the owner didn't create the lot's restrictions, but rather purchased it as such.
- G. Dumas questioned if the lot was even a buildable lot.
- M. Popham suggests to close the hearing as he can't offer any other plan.
- G. Dumas stated that the Commission is willing to work with him and his client if moving the house is an option.
- A Motion to end the hearing was made by D. Burns, seconded by N. Beauregard, and voted all in favor.
- L. Butler noted that if the Commission closes the hearing, no further information can be taken.
- D. Burns suggests closing the hearing and letting the client appeal.
- D. Orwig questioned that if the Commission continues the case, could a solution be found?
- M. Popham expressed that they should just proceed with a denial.
- A Motion to deny construction of the single-family house was made by N. Beauregard, seconded by D. Burns, and voted all in favor.

New Business

Approve Request for Certificate of Compliance for DEP#160-0593 68 Kendall Pond W.

- L. Butler said that this is for a permit pulled in 2016 for a shed. The owner needs the Certificate of Compliance as she is clearing Title.
- A Motion to approve the Certificate of Compliance (pending L. Butler inspecting the location) was made by D. Burns, seconded by D. Beauregard, and voted all in favor.

ANRAD appeal for Sludge Landfill

- L. Butler noted that DePetri Engineering was hired for the environmental work.

Upcoming Meetings

November 23

December 14

December 28

- As of yet, there are no agenda items for the November 23rd meeting.

Timpany Crossroads

- M. Hermanson is concerned about the ground water table at the construction site of the new Starbucks. There has been standing water present, even during this dry time.
- G. Dumas suggests for L. Butler to drive out there and take a look. He also notes two issues: 1) Still no roof drain tie-in on the 99 building; 2) No maintenance has been done to the 99 building if the gutter and drains are clogged.

- L. Butler to check to ensure that the plans for all of the new buildings include the drainage tie-ins.
- G. Dumas reiterated the need for the Commission to ensure that everything will be tied in.

Reappointment Status

- L. Butler advised that the Mayor is trying to stagger appointments so that members aren't expiring at the same time.

Stipends

- G. Dumas noticed that the stipends for the Commission have been lowered. L. Butler can ask about that issue, too.

Motion to Adjourn

7:26 pm A motion to adjourn was made by D. Burns. The motion was seconded by N. Beauregard, and voted unanimously, all in favor.

NOTICE: These Agenda items consist of items that are reasonably anticipated by the Chair to be discussed at the meeting and are specifically allowed to be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

Agent of the Conservation Commission

Lyndsy Butler is inviting you to a scheduled Zoom meeting.

Topic: Conservation Commission

Time: Nov 9, 2020 06:30 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://zoom.us/j/97826023462?pwd=RWlld3hwTVlIWm81aWVZc1A0MnQ5QT09>

Meeting ID: 978 2602 3462

Passcode: 164737

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