



# Town of Ashland

## MASSACHUSETTS

### MEETING MINUTES ASHLAND CONSERVATION COMMISSION February 28, 2022

Present: Cathy Van Lancker (Chair)  
Greg Wands (Vice Chair)  
Owen Ackerman  
Gene Crouch  
Preston Crow  
Carl Hakansson  
William Moulton

Agent: Becca Solomon

Meeting held by Zoom  
Call to order: 7:02 P.M.

**Chair Cathy Van Lancker read the Ashland Conservation Commission virtual meeting protocols, and meeting recording announcement.**

#### **Review minutes from 2/14/22**

##### **2/14/22 Meeting Minutes:**

Commission Members reviewed and edited the February 14, 2021 meeting minutes.

**Motion:** Mr. Wands motioned to approve the February 14, 2021 meeting minutes as amended. The motion was seconded by Mr. Crow.

**Vote:** The motion passed with a 5-0-0 vote. (Rollcall vote: OA, PC, CH, GW, CVL)

#### **Emergency Certification, Charles Lindsay, 146 East Union Street hazard tree removal**

Ms. Solomon stated that trees threatening both street lines and house wires will be removed. Conditions were added to protect the resource area. The Emergency Certification was issued administratively and the Commission would be voting to ratify it. Mr. Crow asked if East Union Street was a Scenic Road. It was determined that the road was not. Tree removal on Scenic Roads would require Planning Board approval. Conditions require stumps and snags to be left for habitat.

**Motion:** Mr. Hakansson motioned to ratify the Emergency certification as written. The motion was seconded by Mr. Crow.

**Vote:** The motion passed with a 5-0-0 vote. (Rollcall vote: OA, PC, CH, GW, CVL)

**The Commission discussed timing of the discussion items and determined they did not have enough time to put those before the scheduled public hearing. The Commission waited until 7:15pm to start the public hearing.**

#### **Request for Determination of Applicability, Tracey Rhodes, Half Crown Circle curb installation and catch basin repair**

Ms. Solomon stated the previous GIS, which showed Riverfront Area expanding into the entirety of Half Crown Circle, had been updated to be more accurate. The Riverfront Area still included part of Half Crown Circle, and the work completed was within this area. The work had already been completed, and this filing

was after-the-fact as required by the Commission. Ms. Solomon inspected the work on a drive-by visit, finding that the work was completed satisfactorily. Ms. Van Lancker asked if the determination would be a Negative 3 determination. Ms. Solomon checked the form to confirm the definition of the Negative 3 determination. Negative 3 determines that the area is jurisdictional, but that the work will not significantly alter the resource area and does not require additional filing.

**Motion:** Mr. Wands motions to issue the Determination of Applicability with a Negative 3 determination. This motion was seconded by Mr. Crow.

**Vote:** The motion passed with a 5-0-0 vote. (Rollcall vote: OA, PC, CH, GW, CVL)

### **Gene Crouch joined the meeting at 7:19pm**

#### **Discussion of Marathon Park plan changes**

Ms. Solomon summarized that the plans had originally come before the Conservation Commission for a Request for Determination of Applicability (RDA), and later went to the Community Preservation Committee (CPC). Ms. Solomon summarized the changes she had found in the two plans. Crouch stated that RDAs cannot be amended. Ms. Van Lancker stated that the plans they approved in the RDA process should have been the final plans.

Ms. Ball summarized the timeline. The CPC had made recommendations that resulted in changes to the plans and these changes were communicated to Conservation Agent Maeghan Dos Anjos at the time. The plan to incorporate the final phase of the River Walk will result in removing some of those changes from the plan and incorporating them later as part of a Notice of Intent. Mr. Hakansson asked Ms. Ball when the conversation with Ms. Dos Anjos had occurred in relation to Town Meeting. It was determined the conversation was prior to Town Meeting. Mr. Hakansson asked how far apart the Conservation Commission and CPC meetings were. Ms. Ball said she would look it up.

Mr. Cosmos summarized additional changes and pointed them out on the plans. Mr. Greenberg stated that he had found the emails between himself, Ms. Dos Anjos, and Mr. Ladd. The last communication with Ms. Dos Anjos was dated September 20, 2021. The communication with Mr. Ladd relative to CPC was October 1, 2021. Ms. Ball stated the RDA was dated September 7<sup>th</sup>. Mr. Crouch added that the plantings were all within Riverfront Area and should therefore be native species. Mr. Cosmos responded that the arborvitaes were a cross between a Leyland Cypress and a Western Red Cedar. Ms. Van Lancker asked what type of trees would be suitable to replace them. Mr. Crouch specified that they be some kind of native species. Mr. Cosmos suggested Red Cedar.

Mr. Crouch asked if the porous pavers were part of the original filing. Mr. Cosmos stated that it was not, the existing pavers were to be power washed, and the path to the wooden deck was to be replaced with gravel or stone dust. The newly proposed pavers would have a 3-inch gravel base. Mr. Crouch stated that this did not meet the expectations for a porous paver, and that typically the base consists of 9 inches of crushed stone to allow the water to flow after going through the pavers. Mr. Cosmos stated the pavers themselves are porous pavers and the existing pavers are not. Mr. Crouch asked if the end of the existing brick path was being proposed to be paved. Mr. Greenberg confirmed and stated that work was approved in the RDA. Ms. Solomon pulled up the RDA, which showed the plans and confirmed that paving of porous pavement was approved. Ms. Van Lancker asked if the area was still going to be paved with porous pavement. Mr. Cosmos said he was using the same pavers he had described as porous for the other area. Mr. Crouch asked what material would be used in the joints between the pavers. Mr. Cosmos responded it would be polymeric sand so it doesn't grow weeds. Mr. Crouch stated that polymeric sand would act as an impervious surface. Typically, three-inch stone is put between the joints in porous paver to allow water flow, with the joints being three quarter inch. Polymeric sand becomes like concrete between the joints.

Ms. Van Lancker asked if the Summersweet was being removed from the plan and replaced with loam and seed. Mr. Cosmos confirmed. Mr. Crouch asked if the loamed and seeded area would be mowed on a regular basis. Mr. Cosmos responded that DPW had provided a commitment to mow and maintain that area. Mr. Hakansson asked if this was being treated as a new RDA. Ms. Van Lancker stated it was intended to be a discussion. Mr. Crouch said he was in favor of a new RDA filing due to the number of changes. Ms. Van Lancker agreed. Mr. Greenberg said he would be happy to refile. Ms. Solomon stated that the next meeting that it could be on would be March 28<sup>th</sup> due to the time needed to file the legal ads, with a submission deadline of March 14<sup>th</sup>.

#### **Discussion of Proposed Dog Park off Memorial Drive**

Ms. Ball summarized the history of the Dog Park efforts that brought them to decide on the current location. An initial concept design was created and an application was made to the Stanton Grant. In the interim, the Trolley Brook Trail was installed. It was anticipated to come before the Conservation Commission due to the resource areas. No plan is ready yet to go before the Commission. They would like to survey the property, delineate and flag the wetlands, and produce a new concept plan. Ms. Ball invited the Commission to visit the property on an informal walk with the landscape designer to point out the areas of concern.

#### **Bill Moulton joined the meeting at 7:51pm**

Ms. Tirrell stated that the design architect has recognized the issues, but still feels they can utilize the lot. They are able to move the exact location of the dog park to avoid the wetland areas on the property. Mr. Crouch asked if the Dog Park and parking were going to occupy the entire two acres. Ms. Ball responded that the intention was not to use the entire two acres. Ms. Tirrell stated that the original concept plan isn't the exact location on the parcel and they are evaluating a few options to minimize encroachment on the wetland. Mr. Crouch added that there is a stream and wetland on the parcel. Mr. Crouch suggested they obtain the wetland boundaries of the bike path project as it may provide a good starting point.

Mr. Crouch summarized some of the topography. Ms. Tirrell mentioned that they were looking at sight lines, creative solutions for parking, and alternatives to grading. Ms. Ball stated the intent was only to remove dead and dying trees, as well as areas for the parking. Mr. Crouch asked what the surface would be for the park. Ms. Tirrell mentioned a few options to ensure the safety of the groundwater, the area surrounding, and preserving the historic and natural areas. Mr. Crouch stated that wood mulch would have a tendency to move with the rain. Ms. Tirrell stated that they were looking at using the trees they did have to remove as the original mulch and replace regularly after.

Mr. Hakansson asked if the park had moved from one side of the trail to the other. Ms. Ball stated the trail had moved closer to the Solar Farm. Ms. Ball asked if they should file an ANRAD. Mr. Crouch said it was not a complicated parcel in terms of wetlands. Ms. Van Lancker asked if they would go directly to a NOI. Mr. Crouch agreed, and said it may be worth having Ms. Solomon come out to review the delineations.

#### **Discussion of Wetland and Stormwater Permitting Processes**

Ms. Van Lancker started the discussion with a brief statement about the purpose of the discussion. It does not relate to any specific projects. The discussion would be education on the Wetlands Protection Act's purpose, what some of the jurisdictional areas are, how the Conservation Commission protects these resources, and stormwater protections.

Ms. Solomon provided a brief explanation of the topics, including Riverfront Area, 100-foot buffer zone, 25-foot no disturb zone, and flood zone, requirements to file for stormwater permits, and exemptions to each that may apply. Ms. Solomon elaborated on some of the types of permits, and what is required for those permits. Properties are not always fully jurisdictional to the Conservation Commission, and only work done within the jurisdictional zones would require Conservation approval. Ms. Van Lancker further clarified that

depending on the scale of a project, stormwater regulations may still apply outside of wetland resource areas. Mr. Crouch added that an ANRAD was filed in 2020 for the mill site in downtown, and a corresponding ORAD was issued. An ANRAD defines the jurisdictional resource areas on the site. When a plan has been filed, a Notice of Intent will be needed. Mr. Hakansson clarified there is currently no plan before the Conservation Commission.

Ms. Jurczyk, 11 Rodman Road, asked if the synopsis provided by Ms. Solomon could be posted on the town website. Mr. Crouch responded that the Commission cannot predispose a position on any project because it would create bias. It was clarified by Ms. Jurczyk and Ms. Van Lancker that the released information would be the synopsis provided at the beginning of this discussion item. Mr. Hakansson agreed that he felt the synopsis was broad enough to not apply to a specific project. Mr. Crouch suggested that Bank and Land Under Water be added to the synopsis. Ms. Jurczyk asked how the ANRAD could be obtained and what it was. Mr. Crouch clarified that an ANRAD was an acronym for Abbreviated Notice or Resource Area Delineation, and the Order issued is an ORAD, Order of Resource Area Delineation. An ORAD only refers to the delineation of resource boundaries and is valid for three years. Mr. Hakansson added that an applicant delineates where they think the boundaries are and the Commission goes out and determines if they agree with them. Ms. Van Lancker asked Ms. Solomon to include the ANRAD as part of the synopsis. Ms. Jurczyk asked for clarification of what defines a mill site, referring to the Historic Mill Building Exemption to Riverfront Area. Mr. Hakansson and Mr. Crouch responded that the mill has to have been in existence prior to 1946. Mr. Crow asked if that applies to new projects even if the mill is no longer there. Ms. Solomon responded that she had experienced a situation where a mill building was torn down, and at the time, DEP advised that the exemption pertains to the foundation footprint. If the foundation footprint still exists, and the new work is done on top of that footprint, then the exemption still applies. Mr. Hakansson further clarified that the exemption falls under “alterations for minor activities without review” and the Commission would have to determine if the work is minor or major. Mr. Crouch added that the definition of a Historic Mill is in the Wetlands Protection Act.

Mr. Morgan, 136 Concord Street, asked what the interpretation of mill feeder streams would be. Ms. Van Lancker stated that the resource areas were defined in the ANRAD. Mr. Crouch clarified that if it's a natural river or perennial stream than Riverfront Area would apply. Riverfront does not extend off the bank of a canal. The Riverfront Area is measured from the outside edge of a channel; however, a Historic Mill Complex would be exempt.

Ms. Nardone, 86 Eliot Street, asked if on the same site one area might be subject to Riverfront Area and one area only to buffer zone, if only part of the work is within the mill footprint. Mr. Crouch said in regards to what was determined in the ANRAD process for the mill site, it may have been determined that there is no Riverfront Area due to the Historic Mill Complex exemption; however, the buffer zone, no disturb zone, and flood zone does not go away.

Ms. Nickole, 4 Eliot Circle, asked if the resource areas, regulations, or exemptions would change if the Zoning of a property changed. Mr. Crouch responded that the regulations that the Conservation Commission enforces is not determined by zoning and would not change. Mr. Hakansson stated that the 200-foot distance applies to Riverfront Area, which Mr. Crouch clarified was considered a resource area and not a buffer zone; 100-foot buffer zone comes from the State Wetlands Protection Act; and the 25-foot no-disturb zone is only from the Local Wetlands Bylaw. The Riverfront Area is part of the state law and is a different jurisdictional zone from the other areas; however, the Conservation Commission has jurisdiction over all of them.

Mr. Dassoni, 49 Hawthorne Road, asked if the mill was being changed. Ms. Van Lancker stated that they do not have plans before them. The discussion is for educating citizens about parts of the Wetlands Protection Act, Local Wetlands Bylaw, and stormwater. Mr. Dassoni asked how this differs when a developer comes

before the Commission. Ms. Van Lancker responded that a developer would come before the commission with a request for permit and plans showing the work and resource area delineations. This discussion is resultant from a group of people who wanted to have more information on what the Commission does. Mr. Crow added that residents asked for clarification as to their jurisdiction. Mr. Hakansson clarified that some people asked the Commission pre-emptively what jurisdiction they would have when a plan was presented. The request was made pro-actively by residents who do not have much experience with Conservation Commission meetings, to learn what would be an appropriate question for the Commission, and what would not. Each Board has different jurisdictions and deliberate only on topics within that jurisdiction.

#### **Discussion of Tree Protections in the Stormwater Bylaw**

Ms. Van Lancker stated that it was asked if tree protections could be added to the Stormwater Bylaw. Mr. Crouch responded that he had reviewed the example of the tree protections added to an Erosion Control Bylaw in Brookline. The Erosion Control Bylaw is different from a Wetlands Bylaw or Stormwater Bylaw. Ashland does not currently have an Erosion Control Bylaw. Mr. Crouch expressed some concerns over having regulations on replacing trees that are taken down on private property. The Stormwater Bylaw already requires a permit for clearing of 10,000ft<sup>2</sup> or greater. Mr. Crouch stated that if the Commission felt that was not enough, then it could be changed. Ms. Van Lancker asked what the effect would be if the threshold was reduced to 5,000. Mr. Crouch stated it would bring more people before the Conservation Commission. The Commission would have to discuss what the mechanism is to replace the trees. Possibly talking with DPW to set up a system where if someone takes a tree down would they have to provide funds to a tree replacement fund that DPW could use to replace street trees.

Mr. Hakansson asked if this topic had ever come before Planning Board. Mr. Crow stated that there was discussion about how the topic could be addressed from a Planning Board perspective, but nothing ever made it before the Planning Board. There was concern that the Planning Board did not have jurisdiction because there was no site plan review, such as ANRs. It would be limited to subdivisions and site plan review on larger projects. Mr. Hakansson stated that Conservation Commission had no jurisdiction on trees, unless they are standing in wetlands. Mr. Hakansson asked if the Planning Board were approving something where a lot of trees would be removed, would it trigger another bylaw. Mr. Crow stated it might be possible to change the conditions for site plan review to include removing a certain number of trees, but it may need legal review to see if it would be applied the same way on residential property versus commercial property. Mr. Hakansson stated exemptions or variances could be available. Mr. Hakansson questioned if Massachusetts or another state had regulations on clearcutting. Mr. Crouch stated that some towns require a census of trees over a certain diameter size be inventoried. Mr. Crow agreed and said it is required by the Planning Board for subdivisions.

Mr. Crouch summarized that trees are taken down because they are in the way, and it makes it easier to build, but it doesn't necessarily mean that should be allowed. Mr. Hakansson brought up the recent issues with Legacy Farms as an example. Ms. Van Lancker thought Mr. Crouch's idea to have a replacement tree fund was a good idea. Mr. Crouch stated that the Conservation Commission cannot impose regulations on Planning Board's regulations; however, the Commission can amend the Stormwater Bylaw or create a separate Tree Protection Bylaw. Mr. Hakansson brought up discussions from Whittemore Estates that involved tree removal. Mr. Hakansson stated that the Sustainability Committee should feel free to approach the Conservation Commission to discuss further. Mr. Hakansson suggested that the Sustainability Committee seek to get input from not just Conservation and Planning but also from the citizens.

Mr. Morgan, 136 Concord Street, asked if there was a draft being discussed. Ms. Van Lancker stated no, the commission was just considering the topic.

Mr. Dassoni, 49 Hawthorne Road, stated he felt a Tree Protection Bylaw would be good for the town.

**Meeting Adjournment:**

**Motion:** Mr. Hakansson motioned to adjourn the meeting. The motion was seconded by Mr. Crow.

**Vote:** The motion passed with a 7-0-0 vote. (Rollcall vote: OA, PC, GC, CH, WM, GW, CVL).

The meeting was adjourned at 8:54p.m.

**Documents reviewed by the Conservation Commission on 2/28/2022**

- Document entitled, *Agenda, dated 2/28/2022*
- Document entitled, *WPA Form 1- Request for Determination of Applicability Half Crown Circle*
- Document entitled, *WPA Emergency Certification 146 E. Union Street*
- Plans entitled, *Ashland Bark Park Conceptual Design Draft*
- Document entitled, *WPA form 2- Determination of Applicability Marathon Park*
- Document entitled, *WPA Form 1- Request for Determination of Applicability Marathon Park*
- Document entitled, *Marathon Park Proposed Improvements, dated September 2021*
- Plans entitled, *Marathon Park Improvements Plan, dated September 2021*
- Document entitled, *Brookline Erosion and Sediment Control Section 8.26.2*