



Town of Ashland

M A S S A C H U S E T T S

MEETING MINUTES
ASHLAND CONSERVATION COMMISSION
March 23, 2023

1
2 Present: Catherine Van Lancker (Chair)
3 Greg Wands (Vice Chair)
4 Owen Ackerman
5 Preston Crow
6 Carl Hakansson
7 Gene Crouch
8 William Moulton
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11 Agent: Becca Solomon
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13 **Meeting held by Zoom**
14 **Call to order: 7:15 P.M.**
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17 **Joint Meeting, Planning Board, General Discussion, Permitting Process and Procedures**

18 Ms. Kendall, stated that the meeting was being recorded. Ms. Kendall invited Ms. Van Lancker to start the
19 conversation on what the Conservation Commission's jurisdiction is, and what the permitting process
20 entails.
21

22 Ms. Van Lancker stated that the Conservation Commission enforces the Massachusetts Wetlands Protection
23 Act (WPA) the Local Wetlands Bylaw, and the local Stormwater Bylaw. The WPA gives the Commission
24 jurisdiction over wetlands and intermittent stream and a 100-foot buffer zone around them, perennial
25 streams and river and a 200-foot Riverfront Area around them, and flood zone. Any work done in those
26 areas require a permit from the Conservation Commission. Stormwater is partially included in the WPA, as
27 stormwater can runoff into wetland resource areas and carry pollutants with it, and that developments do
28 not result in greater volumes of stormwater runoff than existing conditions. Typically, for large projects the
29 Conservation Agent is contacted by the applicant, and most likely submit a Notice of Intent. Residential
30 homes do not always need a Notice of Intent (NOI) if the project is minor and a Request for Determination
31 of Applicability (RDA) can be filed instead. Normally the Conservation Agent assists applicants with choosing
32 the correct permit application. For an RDA, the Commission is usually determining if the work is going to
33 have significant impact to the wetlands or not. In situations where the work will not have significant impact,
34 a permit is issued stating that. If the Commission finds that the work would have a significant impact, they
35 can require an NOI to be filed instead.
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37 Ms. Van Lancker stated that for the Stormwater Bylaw, there are multiple triggers, including any work in
38 Ashland that alters more than 5,000 square feet. Ms. Solomon added that any project that goes to the
39 Planning Board's Site Plan Review also triggers the Stormwater Bylaw. A waiver can be requested when the
40 only trigger is Site Plan Review, and no impervious surface is being added.
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42 Mr. Crouch stated that the Wetlands Protection Act is a state law, but the commission issues a local permit.
43 The permits can be appealed to MassDEP, who becomes the issuing authority if the appeal is successful. In

44 such cases, the Conservation Commission is essentially removed from the project. The local Wetlands Bylaw
45 adds some additional authority, granting protections to vernal pools, and creating a 25-foot No Disturb
46 Zone. Mr. Crouch clarified that RDAs are only for work in buffer zone, or determining if work or an area is
47 jurisdictional to the Commission. The Notice of Intent is for most other projects, and receives an Order of
48 Conditions (OOC), which creates conditions that the applicant must follow, in order to protect the wetland
49 resource areas.

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51 Ms. Tesmenintsky asked what is the jurisdiction automatically, and what areas should the Planning Board be
52 looking to ask for Conservation Commission input on. Mr. Crouch stated that if the Planning Board is aware
53 wetland resource area on a property, the Planning Board can inform the applicant of the Conservation
54 Commission's process. Ms. Solomon added that the Building Inspector has a list of properties within
55 Conservation Jurisdiction and cross references that list for all projects with outside alterations. Usually, the
56 Building Inspector also provides a plan to the Conservation Department and Ms. Solomon will review aerial
57 imagery and GIS software to further determine if the work is within conservation jurisdiction. Similarly, if
58 something is submitted to the Conservation Department, the Building Department is notified, and as
59 necessary, the Health Department and Planning and Zoning.

60
61 Mr. Matchak, Town Planner, agreed with what Ms. Solomon had stated, and added that all the staff shares
62 an office, and communication is maintained on all projects. Ms. Kendall asked if every project that comes in
63 is then reviewed for wetlands regardless of it's a large project or a single family home. Ms. Solomon stated
64 that almost every project passes her desk and is reviewed for wetlands. Ms. Tesmenintsky asked if vernal
65 pools are considered wetlands. Mr. Crouch stated that vernal pools are special type of wetland classified for
66 the type of wildlife that lives in them. They are ephemeral pools that dry up each year, cannot contain fish,
67 and support certain species of frogs and salamanders rely on for breeding purposes. Mr. Crouch continued
68 that there is a list of certified vernal pools maintained by the Natural Heritage Endangered Species Program.
69 The local Wetlands Bylaw protects vernal pools whether or not they have been certified. Mr. Crouch stated
70 that there is no map that definitively shows wetlands around town. The DEP has done mapping across the
71 state which is available online through MassMapper, but it is an estimate and not something to rely on. Mr.
72 Crow added that the wetlands change. Mr. Crouch stated that delineations are valid for three years. An
73 applicant can submit an Abbreviated Notice of Resource Area Delineation (ANRAD), where the Commission
74 confirms that a delineation is accurate, in which case an Order of Resource Area Delineation (ORAD) would
75 be issued, and is valid for three years. Ms. Solomon added that the DEP wetlands delineation forms which
76 are used in confirming the delineations, are valid for seven years if the Commission confirms so for the
77 purposes of extending Orders of Conditions.

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79 Mr. Crow stated that he was surprised by how many of the projects Conservation receives that are single
80 family homes, with owners looking to install a patio or swimming pool, but they abut wetlands.

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82 Ms. Jurczyk asked if the Planning Board had a project and part of the project is within buffer zone, how
83 should the Planning Board determine if they can approve the work or not, as they would not be able to tell
84 what is or isn't a buildable area under the Conservation Commission's jurisdiction. Mr. Crouch stated that
85 the WPA states that all local permit approvals should be filed for before they file with Conservation
86 Commission. Mr. Crouch stated there can be issues between communication between boards on a project
87 as collusion needs to be avoided, but the Planning Board can ask, and the Conservation Commission can
88 respond and say if the project is within their jurisdiction and if it is being reviewed. Mr. Hakansson added
89 that the Conservation Commission is typically able to spot situations that require the Planning Board
90 approval, or other approvals, and will ask where the applicant is in the process with those respective boards.
91 Ms. Jurczyk stated that Planning Board also has some jurisdiction with stormwater and that communication
92 should be maintained on projects requiring it. Mr. Crouch agreed, and clarified that the stormwater bylaw
93 allows for the Conservation Commission to delegate stormwater review to the Planning Board if needed in

94 cases where Planning Board may have jurisdiction and Conservation does not. Mr. Crouch continued that
95 the WPA requires stormwater as part of the Notice of Intent except for certain exemptions.

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97 Mr. Arjona asked if the Conservation Commission had plans for the Sudbury River to integrate it in a way
98 that is accessible for the public. Mr. Crouch stated that the Conservation Commission is a regulatory board,
99 and rarely sponsors projects. The Conservation Commission reacts to proposed projects. If the land is
100 privately held, which most of it is along the River, the Conservation Commission cannot compel
101 homeowners to not develop their properties. Mr. Arjona asked if the land is deteriorating, what is the
102 remediation to fix it. Mr. Crow responded that if someone notices an impact to the resource area
103 negatively, such as dumping yard waste, then it can be brought to the Conservation Commission. There is a
104 process for violations. Ms. Solomon added that when the Conservation Commission reviews a project, there
105 are very limited reasons, which are spelled out in the WPA, that give the Commission the ability to deny a
106 project. Those reasons being a lack of information, or not meeting the regulations of the WPA or local
107 Wetlands Bylaw. Outside of those reasons. The WPA does not say that applicants cannot develop in
108 resource area, it outlines regulations that need to be met in order to develop in resource area. The
109 Conservation Commission cannot deny a project because it is a development in an area they want to keep
110 for recreation, that's not allowed under the WPA. Mr. Crouch added that there is natural erosion that will
111 occur, and while a property owner or DPW may promote measures to mitigate or repair the erosion which
112 the Conservation Commission would review as part of the permit process, the Commission wouldn't go out,
113 see that and say it needs to be repaired. Ms. Tesmenintsky stated the Planning Board has policy making
114 authority that can create some restrictions. Other towns sometimes have a River Overlay District that could
115 create those limitations.

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117 Mr. McClean, asked who enforces the Order of Conditions for the Conservation Commission. Mr. Clean
118 continued that there was an old wetland on Chestnut Street that had not been maintained and needed to
119 be cleaned out before they could continue on the project, and asked what the method would be for
120 enforcing such maintenance. Mr. Crouch stated that the wetland Mr. McClean referred to was not actually a
121 wetland, that it was a stormwater detention basin that was approved by the Conservation Commission. It
122 had been choked out by invasive weeds, and needed cleaning. An applicant had come before the
123 Conservation Commission for a project in the area, and the Commission had required them to clean out the
124 basin prior to work to ensure it could handle the volume of stormwater being directed to it. Ms. Van Lancker
125 added that concerns about projects that are not being maintained should be sent to the Conservation
126 Agent, who will either deal with it on her own, or direct it to the Conservation Commission. Mr. Crow added
127 that Ms. Solomon often goes out to the sites to inspect them to make sure they are in compliance. Mr.
128 Crouch stated that one of the usual conditions the Conservation Commission implements requires a pre-
129 construction meeting as well. Mr. McClean asked what the repercussions are if the work is not meeting the
130 conditions. Mr. Crouch stated that there are fines that can be issued, as well as Enforcement Orders.
131 Enforcement Orders can be issued on the spot or later, but they must be ratified by the Conservation
132 Commission at meeting.

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134 Ms. Tesmenintsky asked, concerning PFAS (Perfluoroalkyl and Polyfluoroalkyl substances), how
135 Conservation Commission would be involved going forward with regulation. Ms. Van Lancker stated that the
136 Conservation Commission would be discussing the matter at a future meeting. Ms. Tesmenintsky stated that
137 it would be good to keep communication open between the two boards as the PFAS regulations will have a
138 significant impact in the near future. Mr. Crouch stated that the issue with PFAS is that it needs to be tested
139 for, it's been around for many years, and he's not aware of any specific hotspots that would be a source for
140 it in town. Mr. Crouch continued that firefighting foam often contains PFAS and if the Fire Department has a
141 training area, that they could test in there for PFAS. Ms. Tesmenintsky stated that the Ashland State Park did
142 release a warning about high PFAS levels. Mr. Crouch stated that it is a contaminant and the WPA and
143 Stormwater Bylaw aim to prevent contaminant release, but what those regulations would look like for PFAS
144 aren't clear yet.

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Ms. Jurczyk asked if there was anything the Planning Board could consider going forward to update bylaws. Mr. Moulton stated that the Conservation Commission had recently amended the Stormwater Regulations to require NOAA Atlas 14 precipitation data for stormwater calculations instead of TP40 which is 60 years old. Mr. Crouch stated that the difference is that the runoff calculations are higher for pre- and post-development calculations. This new data allows for more accurate designs to ensure stormwater runoff post-development is not greater than the runoff pre-development.

Mr. Hakansson stated that effective communication should be maintained between the Conservation Commission and Planning Board, and if there are questions they should be asked. Mr. Hakansson continued that questions can always be sent to the Conservation Agent who can pass them onto the Conservation Commission.

Mr. McClean asked, concerning alternative designs for Total Suspended Solids (TSS) removal, if there is incentive to do TSS Removal rather than a large stormwater basin. Mr. Crouch stated that what the removal rating from manufacturer's data says is different from what DEP allows to be counted. Stormceptors can be used a pre-treatment, but basins are necessary. If there isn't room for a basin, then subsurface infiltration basins can be used. Mr. Crouch added that questions can always be asked to the Conservation Commission at public meeting, and if needed joint-meetings can be planned in the future.

Meeting Adjournment:

Motion: Mr. Moulton moved 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 8:15p.m.

Documents reviewed by the Conservation Commission on 3/23/2022

- Document entitled, *Agenda, dated 3/23/2022*