



Town of Ashland

MASSACHUSETTS

MEETING MINUTES ASHLAND CONSERVATION COMMISSION March 28, 2022

1
2 Present: Cathy Van Lancker (Chair)
3 Greg Wands (Vice Chair)
4 Owen Ackerman
5 Gene Crouch
6 Preston Crow
7 Carl Hakansson
8 William Moulton
9

10 Agent: Becca Solomon

11 Meeting held by Zoom
12 Call to order: 7:02 P.M.
13

14 **Chair Cathy Van Lancker read the Ashland Conservation Commission virtual meeting protocols, and**
15 **meeting recording announcement.**
16

17 **Request for Determination of Applicability, Ashland DPW, Town Forest Culvert Replacement**

18 Mr. White, Town Engineer, summarized the location of the culverts sought for replacement. The first existing
19 culvert (culvert one) is a granite culvert with a secondary 6-inch pipe, which is not within the wetland. The
20 second existing culvert is a 6-inch PVC pipe within the wetland system. The first culvert is proposed to be
21 replaced with an 18-inch HDPE pipe, leaving the 6-inch secondary as an emergency overflow. The second
22 culvert (culvert two) is proposed to be replaced with a 12-inch HDPE pipe. Both replacements are to reduce
23 clogging and flooding. Sand bags will be used for temporary damming with pumps while the culverts are
24 replaced, and everything will be restored to normal conditions after work is complete.
25

26 Mr. Moulton asked for clarification on the location of the pipes. Mr. White described in further detail the
27 location along the trails within the Town Forest. Both culverts drain down to Winter Street. The first culvert
28 is at the intersection of the red trail and blue trail furthest from the parking lot. The second culvert is at the
29 intersection of the Red Trail and the Bay Circuit Trail (white trail). Mr. St Germain, from the Town Forest
30 Committee, clarified the culverts are along the water main running through the forest. The culverts are
31 undersized and eroding the trail.
32

33 Ms. Van Lancker asked for clarification on the size of culvert one. Mr. White responded that the granite
34 culvert is partially collapsed, and it is unclear what size it is meant to be. Currently the water is pooling
35 outside of the culvert due to the collapse and is leaving through the 6-inch secondary culvert adjacent. The
36 secondary pipe is not being replaced. Culvert two, which is upstream will be increased from a 6-inch pipe to a
37 12-inch pipe. Town vehicles drive over these trails and the culverts need to be able to handle that load. Ms.
38 Van Lancker pointed out that the second culvert, because it may add fill to level the trail, and being in the
39 wetland itself, may require a Notice of Intent. Mr. Crouch agreed, and clarified that the work represents an
40 alteration of bank and land under water and should not be handled as an RDA. Mr. Crouch stated that this
41 would be considered an improvement and stream crossing standards should be considered to ensure it is not
42 affecting wildlife movement along the stream. Mr. Crouch asked if the materials would be brought in by
43 Town Vehicles. Mr. White confirmed.
44

45 The Commission discussed the exemptions to utility work that may allow an RDA, and determined culverts
46 to not be considered such. Mr. Crouch asked why the culverts were originally constructed. Mr. White
47 speculated that they were installed when the water main was created.

48
49 Mr. Moulton asked if the stream was perennial. Mr. White thought it might be. Mr. St Germain agreed that it
50 flowed year round. Ms. Solomon state that the state lists it as intermittent. Mr. St Germain stated that in a
51 normal average year it does stop flowing for some weeks, in June through August. Mr. Crouch stated that it
52 was intermittent in that case. Mr. Wands asked how long the work would take. Mr. White stated that at most
53 it may take three days to do the work. A mini excavator may be used, and sand bags for the floodwalls.
54 Pumping would be done as required. A silt sock would likely be used. A generator may be brought in for the
55 pump.
56

57 **Motion:** Mr. Crouch motioned to issue a Positive 1 and Positive 5 determination. The motion was seconded
58 by Mr. Crow.

59 **Vote:** The motion passed with a 6-0-0 vote. (Rollcall vote: OA, PC, GC, WM, GW, CVL)
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61

62 **Emergency Certification, 27 Cedar Street, Kenneth Fickie**

63 Ms. Solomon summarized that there were three trees on the homeowner's property abutting wetlands. The
64 wetlands themselves were on town owned property. The trees were within the 25 foot no disturb line. They
65 were all rotted. Tree 1 along the house, is leaning towards the house, severely rotted, and likely to fall soon.
66 Tree 2 is hollow at the base is leaning towards a swing-set. Tree 3 is multi-stem, half is severely rotted and
67 leaning towards power lines, the other half is not. The homeowner was looking to have only the part leaning
68 towards the wetlands cut. The other two trees the homeowner requested to have felled onto the lawn and
69 either chipped or hauled off for safety concerns of the crew and risk of fire hazard.
70

71 Ms. Van Lancker asked if the homeowner had received an Emergency Certification previously. Ms. Solomon
72 clarified the homeowner had claimed he had the previous agent, Maeghan Dos Anjos, come out and provide
73 permission for work, but no records proving that had been found. It could exist somewhere, as the files were
74 currently being reorganized.
75

76 **Carl Hakansson joined the meeting at this time**
77

78 Mr. Fickie stated that all three trees are on his property and his property encompasses some of the wetlands.
79 Mr. Fickie shared a plan showing where the trees were located, and referred to Tree 1 (referred by the agent
80 as Tree 2), was abutting neighbor's property. Mr. Fickie reiterated what the agent stated, and summarized the
81 stormwater flow on the town-owned property abutting his. There's a large embankment which makes it
82 unsafe for the tree crew to fell it into the woods.
83

84 Ms. Solomon shared photos of the trees and described the issues identified with the trees. Ms. Solomon
85 confirmed that the trees are outside the town right of way and are not subject to the Scenic Road.
86

87 Mr. Crouch asked if there was a previous Emergency Certification provided for the work. Ms. Van Lancker
88 stated that Ms. Solomon believed it had been done, but could not be located. Mr. Crouch stated Emergency
89 Certifications were used for emergency situations, such as when a tree is falling onto the house, damaging
90 property or injuring people. If the issue with these trees has been going on for a while, it is not an emergency.
91 Ms. Van Lancker agreed. Mr. Crouch clarified that when an Emergency Certification is issued, it has to be
92 acted on within 30 days. Mr. Fickie responded that it's up to the schedule of the tree company, he doesn't
93 have control. Ms. Van Lancker stated that it only lasts for 30 days, and if it takes longer than that, it has to be
94 brought back before the Commission. Mr. Crouch stated if it can't be done in 30 days, it's not an emergency.
95

96 Ms. Van Lancker asked if an RDA would make sense on this project. Mr. Crouch agreed. Mr. Fickie asked
97 for clarification on what an RDA is. Ms. Van Lancker asked Ms. Solomon to go over the RDA process with
98 Mr. Fickie. Ms. Van Lancker asked if it could be filed for the following meeting. Ms. Solomon stated that if
99 the legal ad is paid prior to next Monday (April 4th) the legal ad could feasibly be posted in time to have it on
100 the April 11th meeting. Ms. Van Lancker asked Mr. Fickie to contact Ms. Solomon to go over the process. Mr.

101 Fickie asked further what the process was. Ms. Van Lancker reiterated that Mr. Fickie should reach out to Ms.
102 Solomon.
103 Mr. Fickie asked if he could get the Emergency Certification now, and apply pressure to the tree company to
104 do the work within the 30 days. Mr. Crow stated that the Commission must follow what the law says is the
105 correct process. Mr. Fickie asked if the tree falls between the meeting and the RDA approval, is the town
106 liable? Mr. Crouch responded that the trees are not town property so there is no liability held. If a letter can be
107 provided by a licensed arborist certifying that the trees are in imminent danger of falling on the house, then an
108 Emergency Certification can be considered. Mr. Crouch stated it needs to be a written statement. Ms. Van
109 Lancker clarified the letter needs to state that the trees are in imminent danger of falling down. Mr. Crouch
110 added that the letter must show that there would be injury to property or people.
111

112 **No motion was made and no vote was taken**

113
114 **Emergency Certification Re-Issue, Charles Lindsay, 146 E. Union Street**

115 Ms. Solomon summarized that the Commission had ratified this Emergency Certification at a previous
116 meeting. The homeowner was unable to schedule a tree company within the 30 days. The homeowner asked
117 if they needed to reschedule the work since the certification had expired two days before work was planned to
118 occur. Ms. Solomon had conferred with Ms. Van Lancker prior to re-issuing the Emergency Certification so
119 work could occur. Branches were continuing to fall off the trees around the power lines.
120

121 Mr. Crouch asked if the work was an emergency if it couldn't be completed in 30 days. Ms. Van Lancker
122 responded that the trees were falling, but the actual work didn't get done in time. Ms. Van Lancker asked that
123 in future, a statement is provided prior to an Emergency Certification being issued, that there is damage that
124 will occur due to the tree(s) in question. Mr. Lindsay stated that the trees had hit the power line previously
125 and pulled the mast head off his home. He was trying to avoid that happening again, and tried to push it
126 through in February, but the tree company was unable to get to it prior to March. Mr. Lindsay apologized for
127 the timing error.
128

129 **Motion:** Mr. Ackerman motioned to ratify the Emergency Certification. This motion was seconded by Mr.
130 Crow.

131 **Vote:** The motion passed with a 7-0-0 vote. (Rollcall vote: OA, PC, GC, CI, WM, GW, CVL)
132

133 Ms. Van Lancker reiterated that in future, Ms. Solomon should request a letter from an arborist or
134 horticulturist certifying that the trees are in imminent danger of falling.
135

136 **Discussion of 11 Metcalf Plan Change Request**

137 Ms. Solomon summarized that the project has an active Order of Conditions, that does not include the gas
138 line, as the original lines were intended to be used. Eversource ultimately determined the original lines were
139 too old and a new utility trench would need to be made with a new line put in. Some of the work would be
140 within the 100-foot buffer zone but not within the 25-foot no disturb zone.
141

142 Ms. Van Lancker asked if the line would go under an area that is already disturbed. Ms. Solomon clarified
143 that the entire parcel is currently disturbed for work approved under the current Order of Conditions. Mr.
144 Crouch asked if there is a plan showing the change. Ms. Solomon responded that she had the original plan
145 and determined the location of the proposed work based on the emailed request from the applicant. Mr.
146 Garcia, the homeowner, clarified the location of the work. On the right side of the house as viewed from the
147 street, to dig 25 feet from the street to the house. Mr. Moulton asked if the location was under the depicted
148 hydrangea on the plan. Mr. Garcia confirmed. Ms. Solomon clarified that the area in question currently exists
149 as disturbed dirt, and has not been planted yet. Mr. Hakansson asked for clarification on the location of the
150 property.
151

152 Mr. Crow stated that the property was within the Nyanza Plume and if it affected anything. Mr. Garcia stated
153 that it would only be a two foot deep trench, and no dirt would be removed from the property. Mr. Wands
154 asked if the old pipe would be left. Mr. Garcia confirmed. Mr. Hakansson asked if the property across the

155 street was also owned by Mr. Garcia. Mr. Garcia confirmed. Mr. Hakansson stated there was an infiltration
156 issue at that address and DEP provided an opinion. There was an obligation to let DEP know there was to be
157 work within the plume. Mr. Hakansson suggested that DEP be notified via email of the work. Ms. Solomon
158 clarified that the Nyanza Plume is not jurisdictional, and while it is recommended to notify DEP of the
159 proposed work, it should not be taken into consideration when approving or denying work. Ms. Van Lancker
160 agreed and asked the Commission if they felt this was a minor change or if it required an Amended OOC. Mr.
161 Moulton responded that he felt it was a minor change. Mr. Crow agreed as long as anything dug up remained
162 on site. Mr. Crouch clarified that nothing is issued if this is determined to be a minor change, but it can be
163 noted in the minutes. Mr. Hakansson asked who would notify DEP about work within the Nyanza Plume. Ms.
164 Van Lancker asked Ms. Solomon to provide Mr. Garcia the contact information for DEP. Ms. Solomon stated
165 she could provide that information and ask to be copied on the email sent. Mr. Wands asked if a line should
166 be drawn on the plans to show where it ties into the house and ties into the street. Ms. Van Lancker asked
167 Ms. Solomon to add that change and make the notation.
168

169 **Motion:** Mr. Moulton motioned to accept the proposed installation of a gas line, located in the northeast
170 corner of the property, as a minor change that does not require an Amended OOC. This motion was seconded
171 by Mr. Crow.

172 **Vote:** The motion passed with a 7-0-0 vote. (Rollcall vote: OA, PC, GC, CI, WM, GW, CVL)
173

174 **Discussion and Update of 65 Concord Street violations**

175 Ms. Solomon summarized what had occurred on the property. Work had begun in December 2021, with
176 stockpiled materials within 25 feet of the Sudbury River. The homeowner was asked for the piles to be
177 covered with tarp to mitigate any issues. On December 20th, an engineer contacted the agent stating they
178 would help the homeowner find a different engineer capable of creating a Notice of Intent. In March 2022,
179 the homeowner was advised again by Ms. Solomon to provide a Notice of Intent and a deadline was provided.
180 A new engineer contacted Ms. Solomon on March 16, 2022. The Notice of Intent was in progress. The piles
181 are still present and covered in tarp, and a dumpster is on site. The Building Inspector halted permits until
182 they receive Conservation approval as well. Ms. Van Lancker asked the Commission if an Enforcement Order
183 should be issued. Mr. Hakansson asked if anyone was present on behalf of the homeowner to speak about the
184 property. Ms. Solomon responded that she had contacted the engineer to advise them of the meeting, but did
185 not have a reliable way of contacting the homeowner. The engineer did not respond to the email. Mr. Moulton
186 stated an Enforcement Order probably should have been issued already, and felt one should be issued now.
187 Mr. Hakansson agreed.
188

189 Mr. Moulton stated a fine should be issued. Mr. Crow asked how long the halt from the Building Inspector
190 had been. Ms. Solomon stated the halt came near the end of February. The Commission discussed what would
191 need to be included on the Enforcement Order. Ms. Crow asked what the notification time is for NOIs. Ms.
192 Solomon stated that NOIs require abutter notification seven business days prior to the opening of the public
193 hearing, and a legal ad 5 business days prior, excluding holidays. Ms. Solomon shared the Enforcement Order
194 form provided by the DEP. DEP had advised that fines can't be included on the Enforcement Order itself and
195 should be determined in a meeting after the fact. Mr. Hakansson asked if that was specific to the state law.
196 Ms. Solomon confirmed and stated fines could be issued under the local bylaw if provisions exist to do so.
197 The Commission asked for the cease and desist to be included in the Enforcement Order, and a requirement
198 for a Restoration Plan and Notice of Intent to be submitted by April 25, 2022. The Order includes language
199 requiring the piles to remain covered and for erosion control to be installed.
200

201 Mr. Crouch asked what the piles were from. Ms. Solomon stated that the house was being gutted, and the
202 piles consisted of bricks, demolition material, and dirt.
203

204 **Cathy Van Lancker temporarily left the meeting at this time. Greg Wands took over as Chair of the** 205 **meeting**

206
207 **Motion:** Mr. Moulton motioned to issue the Enforcement Order with conditions as stated. This motion was
208 seconded by Mr. Crow.

209 **Vote:** The motion passed with a 6-0-0 vote. (Rollcall vote: OA, PC, GC, CH, WM, GW).

210
211 **Discussion of Mindess Project, Erosion Control**

212 Ms. Solomon summarized the events that occurred on the March 25, 2022. The Commission had received
213 some reports that the stream leaving the work site was turbid. Ms. Solomon also received a report but as it
214 was over the landline after hours, it was not received until Monday morning. An hour prior to the reports,
215 gravel berms had been installed by the request of Ms. Solomon and Mr. Langmeyer. Mr. Kendall had
216 provided a photo of the stream from Saturday morning showing it running clear. Ms. Solomon had also gone
217 out on Sunday morning and found it to be clear, as well as Monday morning and afternoon. It was noted that
218 there was some sediment built up on the bottom of the stream which confirmed that it had been turbid.
219 Shawmut informed Ms. Solomon that they felt the action of installing the crushed stone berms and scraping
220 out the build-up, had caused the issue. The stream has been running clear before and after the incident, except
221 for an issue in February that had been resolved.

222
223 Mr. Crouch stated he had received a call from a DEP employee that lived in the area that had observed the
224 sediment, and advised Mr. Kendall that he should be aware of the issue and make sure it stays clean. Mr.
225 Crouch asked if the channel around the field, redirecting the water from the pipe under the field had been
226 installed, and if the original pipe was still present and active. Mr. Kendall showed some of the pictures taken
227 by Shawmut, and summarized the work that occurred. The water is coming from the pipe in the swale, the
228 original pipe is still present but nonfunctional. The crushed stone was placed as a precaution

229
230 **Cathy Van Lancker returned to the meeting at this time and took over as Chair.**

231
232 Mr. Crow summarized that there was a problem, a fix was suggested, and the problem was resolved. Mr.
233 Kendall clarified that there was not a problem, but an action was suggested to pro-actively avoid a problem,
234 and that action caused the sediment. Ms. Van Lancker clarified that the stream would not be expected to have
235 sediment in future. Mr. Crow asked if there was an action that needed to be taken at this point. Ms. Van
236 Lancker stated that the intent of this item was just to discuss what had occurred, and clarify why it had
237 occurred.

238
239 **No motion was made and no vote was taken**

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241 **Review minutes from 3/14/22**

242 **3/14/22 Meeting Minutes:**

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

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

246 **Vote:** The motion passed with a 7-0-0 vote. (Rollcall vote: Rollcall vote: OA, PC, GC, CH, WM, GW,
247 CVL). It is noted that Mr. Ackerman, while present, was having audio difficulties and was unable to vote.

248
249 **Discussion of Framingham Proposed MVP Grant, Request for Support Letter**

250 Mr. Hakansson updated the Commission that the intended MVP Grant was being tabled until next season, and
251 no action is necessary. Mr. Crow clarified the location of the property. Mr. Hakansson reiterated that the
252 entire topic had been tabled with Framingham and Sudbury Valley Trustees, and recommended the
253 Commission do the same. Mr. Crow pointed out that the property is roughly where the Upper Charles Trail
254 was planned to be placed. Mr. Crouch said it could be allowed in a Conservation Restriction (CR). Mr.
255 Hakansson added that the Commission is not creating the CR, just potentially holding it.

256
257 Mr. Crouch asked if the Commission is still in a lawsuit with the owner, and if it would have any affect. Mr.
258 Hakansson stated that the Commission would be submitting a letter of support to Framingham for a grant, in
259 which the Sudbury Valley Trustees would be the owner and the three municipalities involved would be the
260 CR holders. Ms. Solomon added that the topic was brought to Town Counsel prior to being brought before
261 the Commission, and it had been advised as long as Sudbury Valley Trustees would be the owner, then it was
262 fine for the Commission to grant support.

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No motion was made and no vote was taken.

Member Prerogative:

Mr. Crouch asked after the mitigation proposed at Legacy Farms, and stated that Town Counsel had asked for an executive session with the Commission. Ms. Van Lancker clarified that it was only potential, and the action had not been decided on. Mr. Hakansson summarized that there was a meeting with Town Counsel and number of individual town employees in regard to the culvert work and the NOIs which needed to be signed by the Town of Ashland. Town Counsel asked to hold the NOIs until further clarification could be made. Mr. Crouch asked why the discussion would be in executive session as it is not currently in a lawsuit. Ms. Solomon clarified that Town Counsel was only considering executive session and would be making a recommendation as to what each party's actions should be. The meeting where this was proposed was in part done in confidence, and those details shouldn't be discussed without confirming with counsel first. Town Counsel is reviewing if the current course of action is the right course of action. Mr. Crouch added that if the discussion is about the Enforcement Order it's an open meeting issue, not a lawsuit and shouldn't be discussed in executive session. Mr. Crouch asked to be notified of what they would be discussing.

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 9:03p.m.

Documents reviewed by the Conservation Commission on 3/28/2022

- Document entitled, *Agenda, dated 3/28/2022*
- Document entitled, *Meeting Minutes, dated 3/14/2022*
- Document entitled, *WPA Form 1- Request for Determination of Applicability Ashland town Forest*
- Plans entitled *Town Forest Culvert Replacements 2022, dated 3/8/2022*
- Document entitled, *WPA Emergency Certification 146 E. Union Street Re-issue*
- Email correspondence entitled, *Tree Removal, dated 3/16/2022*
- Email correspondence entitled, *11 Metcalf Avenue, Ashland – Eversource Gas New Construction Gas Request, dated 3/15,2022*
- Email correspondence entitled, *Mindess – added protection, dated 3/25/2022*
- Email correspondence entitled, *65 Concord Street, dated 3/16/2022*
- Email correspondence entitled, *MVP Action Grant, dated 1/13/2022*
- Document entitled, *Draft Support Letter, dated 3/23/2022*