



Town of Ashland

MASSACHUSETTS

MEETING MINUTES
ASHLAND CONSERVATION COMMISSION
May 8, 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
9

10
11 Agent: Becca Solomon
12
13

14 Meeting held by Zoom
15 Call to order: 7:00 P.M.
16

17 **Chair Catherine Van Lancker read the Ashland Conservation Commission virtual meeting protocols, and**
18 **meeting recording announcement**
19

20 **Request for Determination of Applicability, 12-16 Union Street, Map 15 Parcel 76, Oak Consulting Group**
21 **LLC, Proposed Subdivision**
22

23 Mr. Moulton recused himself.
24

25 Mr. Malone introduced himself as the applicant's representative and shared the proposed plans on screen.
26 Mr. Malone summarized that the parcel is adjacent to the new Public Safety Building. The purpose of the
27 filing is to meet the requirements of the Zoning Board (ZBA) for submission of a definitive subdivision plan
28 to lock-in the zoning as residential, and that a positive determination is expected, and the applicant intends
29 to file a Notice of Intent.
30

31 Mr. Crouch asked what it meant to lock-in the zoning. Mr. Crow clarified that a definitive subdivision plan
32 locks the zoning as residential for eight years, so that even if the zoning for the area is changed the
33 subdivision can still be built. Ms. Solomon added that the ZBA's local bylaw required that a Request for
34 Determination of Applicability be specifically filed as part of the Definitive Subdivision Plan. Mr. Crouch
35 expressed that the language of the bylaw should be for either a Determination of Applicability or an Order
36 of Conditions from the Conservation Commission. Ms. Solomon stated that it has been brought up with the
37 Town Planner and he will be bringing it to the Zoning Board to be reviewed.
38

39 **Motion:** Mr. Wands moved to issue a Determination of Applicability with both positive 4 and 5
40 determinations. The motion was seconded by Mr. Crow.

41 **Vote:** The motion passed with a 6-0-0 vote. (Rollcall vote: OA, PC, GC, CH, GW, CVL)
42

43 **Notice of Intent, 0 Fountain Street, Margaret Ottaviani, Garage Extension, DEP File No. Not Issued**

44
45 Mr. Moulton recused himself.
46
47 Mr. Waldron introduced himself as the representative for the applicant, and summarized the proposed
48 project to install an extension to an existing garage. The house and existing garage is on the half of the lot in
49 Framingham, the extension is on the lot in Ashland. The two sides have different street numbers. Mr.
50 Waldron showed the plans on the screens.
51
52 Mr. Crouch clarified that the 25-foot No Disturb Zone is not on the property. Mr. Waldron confirmed. Mr.
53 Waldron asked what the current site conditions were where the garage extension is proposed. Mr. Waldron
54 stated that the area is mostly cleared, with some maple trees.
55
56 Ms. Van Lancker noted that as there is no DEP File Number issued, the hearing cannot be closed.
57
58 Mr. Dassoni, 49 Hawthorne Road, asked what information the applicants need to submit to ensure the
59 meeting is closed at the next hearing. Mr. Waldron stated that it appeared the two filings, when originally
60 submitted to DEP were mistaken to be one filing instead of two. A new copy has been sent via certified mail
61 to DEP and a copy emailed, so DEP can issue a new file number for the Ashland portion of the project.
62
63 **Motion:** Mr. Wands moved to continue the hearing to May 22, 2023 at 7:05pm. The motion was seconded
64 by Mr. Crow.
65 **Vote:** The motion assed with a 6-0-0 vote. (Rollcall vote: OA, PC, GC, CH, GW, CVL)
66
67
68 **Notice of Intent, 1 Shore Road, Robert Gonfrade, Porch and Sunroom Addition, DEP File No. not issued**
69 Ms. Solomon summarized the proposed project to replace an existing porch with a new porch with
70 sunroom. The existing deck will be fully removed, including the footings. The new deck will be installed with
71 new footings consisting of concrete piers. There will be no change from the existing footprint. Ms. Solomon
72 noted that erosion control is not shown on the plan.
73
74 Ms. Van Lancker asked if dewatering will be necessary. Mr. Crouch stated they may not be necessary. Mr.
75 Crouch asked if the piers will be cast in place. Ms. Solomon reviewed the plan specifications calling for all
76 concrete. Mr. Crouch stated that they will likely use sonotubes or the like to form the concrete. Mr. Crouch
77 asked if soil will be removed from the site. Mr. Gonfrade confirmed. Mr. Crouch asked if the area of work is
78 existing lawn. Mr. Gonfrade confirmed. Mr. Crow asked if all the materials for the existing deck will be
79 removed as well. Mr. Gonfrade confirmed.
80
81 **Motion:** Mr. Crouch moved to continue the hearing to May 22, 2023 at 7:05pm. The motion was seconded
82 by Mr. Crow.
83 **Vote:** The motion assed with a 7-0-0 vote. (Rollcall vote: OA, PC, GC, CH, WM, GW, CVL)
84
85 **Ms. Van Lancker temporarily left the meeting at this time. Mr. Wands took over as Chair.**
86
87 **Enforcement Order Amendment, Whittemore Estates, Dep File No. 95-883**
88 Ms. Solomon stated that after the previous meeting on April 24th, she had met with Mike O'Brien from QC
89 Development, Barry Rothberg from Newport Construction, Peter Matchak the Town Planner, Mike Carter
90 from GCG Associates, as well as multiple DPW staff, and had discussed the issues on site, and the need to
91 correct them. Ms. Solomon continued that she had had a site visit with Mr. Rothberg after the meeting, and
92 that he had agreed that there were several issues on site needing to be corrected. Ms. Solomon also noted
93 that the septic systems behind 2 and 4 Burnham Circle, had now eroded below finish grade. Ms. Solomon
94 stated she had not received any direct communication since, but that Mr. Matchak had received

95 confirmation that Mr. Rothberg was hired to finish everything that was listed on the Planning Board's bond,
96 as well as correct some of the stormwater issues; however the extent of work to be done for the
97 stormwater issues has not been made clear. Ms. Solomon added that some of the fines issued have been
98 formally appealed.

99
100 Mr. Crouch asked for clarification on what was being amended on the Enforcement Order. Ms. Solomon
101 responded that the Commission, during the previous meeting, requested to have the item added to the
102 agenda regarding unclean fill that had been identified.

103
104 **Ms. Van Lancker rejoined the meeting at this time.**

105
106 The Commission reviewed the original order and discussed amendments regarding the violation of general
107 condition 7 of the Order of Conditions by the use of unclean fill.

108
109 Mr. Hakansson asked for clarification on the appealed fines. Ms. Solomon stated she had limited
110 information, as she had received a phone call from the Framingham District Court requesting we call them
111 back regarding the appeal of the violations. On the return call, Ms. Solomon was notified that 83 tickets had
112 been appealed. Ms. Solomon noted that 291 tickets had been issued so far, and it was not made clear which
113 tickets were being appealed. Ms. Solomon added that she had asked for a copy of the appealed fines or
114 other documents filed, but was told that there was nothing they could send over. A formal hearing notice
115 was received that morning, scheduling the hearing for July 20, 2023 at 12:00 noon over Zoom. Mr.
116 Hakansson asked if Ms. Solomon knew who had appealed the fines. Ms. Solomon stated she assumed it was
117 Mr. Ross, but she had been unable to get that answer from the court; and the hearing notice from the Court
118 had been issued with Chelcie Development LLC as the defendant, rather than the Town by mistake.

119
120 Mr. Hakansson asked if there was an expected start date for Mr. Rothberg to begin work. Ms. Solomon
121 stated that she did not have a date communicated to her. Mr. Wands asked if the fines are still being issued.
122 Ms. Solomon confirmed.

123
124 Mr. Crow asked for an update on the killdeer on site. Ms. Solomon stated that there were no longer eggs in
125 the nest, and that she presumed they had hatched. Ms. Solomon continued that she did not see the baby
126 birds around, so either they were hiding, or did not survive. Mr. Crow asked if the work on the berm could
127 be started. Ms. Solomon stated as long as the birds were not still using the nest, then they could do the
128 work. Mr. Crouch noted that when the young killdeer hatch, they are on the ground following their parents,
129 and they may still be present if the parents are hanging around.

130
131 Ms. Deibler, 40 Whittemore Drive, asked for clarification on whether Mr. Rothberg would be repairing the
132 larger stormwater basin. Ms. Solomon stated that Mr. Rothberg was hired by QC Development, and can only
133 do the work that he is hired for. During the site visit, Mr. Rothberg, in his individual capacity, stated he
134 agreed the entire site needed to be worked on. Ms. Solomon continued that what Mr. Rothberg was
135 actually hired for, may not be for everything on the site. Ms. Solomon added that she is getting this
136 information second hand from the Town Planner, and can only convey what she had been told. There may
137 be more clarity on the matter, but it has not been communicated to the Conservation Office.

138
139 **Motion:** Mr. Moulton moved amend the Enforcement Order as discussed. The motion was seconded by Mr.
140 Crow.

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

142
143 Mr. Laurino, 6 Burnham Circle, asked what remedy would be required for the unclean fill. Ms. Solomon
144 stated that usually tests would be required to determine where the unclean fill is located to better identify

145 the location, after which a plan would be submitted showing the locations of unclean fill and a phase plan of
146 how it will be removed and replaced.

147

148 **Wetlands Violations, 501 Pond Street, DEP File No. 95-973**

149 Ms. Solomon summarized that the initial issues were due to the erosion control not being installed correctly,
150 but that Mr. Stevens, Trask Development, had corrected them since the agenda had been posted. The silt
151 fence had been reset, and broken posts replaced. An extra layer of mulch control had been installed on the
152 interior sides of the silt fence for extra reinforcement and filtration. The silt sacks have been installed. A
153 swale has been installed along the perimeter to further allow sediment to settle before leaving the site,
154 along with a temporary settling pond where water will be directed to during construction. The area is
155 planned to be hydroseeded for stabilization until work start in the fall. Ms. Solomon added that she had
156 requested the hydroseed also include a flocculant to further assist in mitigating sediment release.

157

158 Mr. Stevens added that the water settles out quickly on site. Mr. Crouch asked where the fill for the
159 stockpiles on site was coming from. Mr. Stevens responded that they have a site in Natick where some of
160 the piles are coming from. The other piles are from MassDOT for their Pond Street project.

161

162 Ms. Van Lancker stated that it seemed the issues had been adequately resolved.

163

164 **No motion was made and not vote taken**

165

166 **Wetlands Violations, 224 Oak Street, No Associated DEP File Number**

167 Ms. Solomon summarized that this violation had been reported by two of the Commission members for
168 excavation work and the construction of a retaining wall that was in 100-foot buffer zone and close to the
169 25-foot No Disturb Zone line. Ms. Solomon continued that he had spoken with the property owner, who had
170 not realized he needed a permit for work if outside the No Disturb Zone markers on site, and did stop once
171 notified to do so, and put straw wattle down as requested to mitigate erosion until meeting with the
172 Conservation Commission. Ms. Solomon stated that she understood the intent of the homeowner was to
173 mitigate erosion and allow for the growth of native vegetation between the retaining wall and the wetland,
174 where previously, nothing was able to grow. Ms. Solomon continued that the homeowner had expressed
175 concern over the oil and gasoline coming off the road and into the wetland from the cars driving by. Ms.
176 Solomon continued that the retaining wall is 54 feet from the wetland edge, with the overall disturbance at
177 35-feet from the wetland edge. Ms. Solomon added that because it was existing lawn before, this would
178 likely have been an RDA application had been permitted correctly, and that Mr. Nordstrom, the
179 homeowner, was will to do whatever the Commission wanted to correct the issue, whether that was to
180 receive an Enforcement Order or to file an after-the-fact permit; however, DEP NERO currently discourages
181 after-the-fact permits.

182

183 Mr. Nordstrom stated that he knew the No Disturb Markers were there, but did not realize he needed a
184 permit if outside of them.

185

186 Mr. Moulton asked about some equipment tracks that went into the wetland area. Ms. Solomon stated that
187 there were some rocks that had been dropped in the wetland, and that when asked, Mr. Nordstrom had
188 informed her he had stopped the workers as soon as he saw that and intended to remove the rocks by
189 hand. Mr. Nordstrom stated he had not removed the rocks yet, in order to await the Commission's
190 response.

191

192 Mr. Nordstrom showed on screen, photos of the landscaping done on the other side of the driveway,
193 outside of the 100-foot buffer zone to show what the intention was for the other side. Three
194 rhododendrons will be planted along the retaining wall to assist stabilization, and the road side cleaned up

195 of the debris left from the original development of the site. Ms. Solomon stated the front area did have
196 rocks and cement present that was left from the builders.
197 Mr. Crow asked if the wall had additional work planned. Mr. Nordstrom stated that it was finished, and that
198 they just have the plantings left. Mr. Nordstrom continued that he had returned the wildflower mix he had
199 purchased, as Ms. Solomon had informed him that not every native mix is native to the region, and they
200 want to make sure it is native.

201
202 Mr. Crow stated that an Enforcement Order would likely be appropriate, with conditions requiring the
203 plantings be native and the area on the road side cleaned up. Mr. Crouch asked why DEP is no longer
204 preferring after-the-fact permits. Ms. Solomon responded that DEP has preferred Enforcement Orders with
205 mitigation and restoration conditions, as they had concern about after-the-fact permits allowing projects
206 through that may not have been allowed to be done in the way they were. Ms. Solomon continued that
207 putting in the native plantings would contribute to the restoration of the buffer zone area. Mr. Crow stated
208 that he didn't see any reason to take out the wall. Mr. Crouch agreed and continued that he wasn't sure
209 why the Commission couldn't require an RDA by filed for it after-the-fact so it's on record. Ms. Solomon
210 stated that DEP will get a copy of the RDA or the Enforcement Order either way. And the file kept in
211 perpetuity.

212
213 Mr. Hakansson clarified the location of the site. Mr. Crouch asked if the shed in the rear of the property was
214 within jurisdiction, and if it had been permitted. Mr. Nordstrom responded that it had received sign offs
215 from both the Building Department and Conservation Commission.

216
217 Ms. Van Lancker summarized the proposed requirements as allowance of finishing plantings on top of the
218 wall, removal of the stones from the wetlands by hand, submission of a plan of the plantings that will go in
219 below the wall and what will be done with the stones in the road side of the wall.

220
221 **Motion:** Mr. Wands moved to issue an Enforcement Order with requirements as discussed. The motion was
222 seconded by Mr. Crow.

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

224
225 **Wetlands Violations 220 Oregon Road, No Associated DEP File Number**

226 Ms. Solomon showed an aerial image on the screen, and summarized that the Building Inspector had
227 reported a significant clearing in the area. Ms. Solomon continued that she had noted the presence of
228 wetlands shown on MassMapper, and had parked on Independence Lane to look into the disturbed area.
229 Ms. Solomon showed the estimated clearing from the 2021 aerial imagery to present, which was
230 approximated by the MassMapper system to amount to about 43,000 square feet, with somewhere
231 between 20,000 and 30,000 square feet of that within the 100-foot buffer zone of the wetlands. Ms.
232 Solomon added that there was a drainage channel on the west property boundary which connected the
233 wetland on the property to another across the road.

234
235 Ms. Van Lancker recommended an Enforcement Order. Mr. Moulton recommended daily fines until a
236 restoration plan is submitted. Mr. Crouch suggested that one fine be issued, and daily fines be held for if the
237 Enforcement Order is not complied with. If a restoration plan is going to be required, time needs to be given
238 to complete that.

239
240 Mr. Crouch asked if the homeowner had contacted Ms. Solomon yet. Ms. Solomon stated that she had not
241 received any correspondence. Mr. Crouch asked if an Enforcement Order or fines had already been issued.
242 Ms. Solomon stated she had sent a letter notifying of the violations using the format left by the previous
243 agent Ms. Dos Anjos, which also required them to attend the meeting. Mr. Moulton suggested a single fine
244 be issued, and an Enforcement Order issued requiring the property owner to contact the Conservation
245 Department, attend the May 22, 2023 meeting, and submit a restoration plan. Mr. Crouch added that the

246 wetland needs to be delineated, and the plan submitted showing the wetland line, 25-foot No Disturb Zone,
247 and 100-foot buffer zone, the extent of the clearing and the restoration plantings.

248 **Motion:** Mr. Moulton moved to issue an Enforcement Order with requirements as discussed. The motion
249 was seconded by Mr. Crow.

250 **Vote:** The motion passed with a 7-0-0 vote. (Rollcall vote: OA, PC, GC, CH, WM, GW, CVL)
251
252

253 **Wetlands Violations, 65 Concord Street, DEP File No. 95-967**

254 Ms. Solomon summarized that the property had received two enforcement orders already with a Notice of
255 Intent had been filed in response to the first, but that no Order of Conditions had been issued. The Notice of
256 Intent process had been left with a continuance pending further information which was never received. The
257 entire property is within Regulated Floodway of the Sudbury River, and Riverfront Area, with Bank on either
258 side of the property, and wetlands in the rear. The second Enforcement Order was issued in response to
259 clearing of vegetation on the property in violation of the first Enforcement Order in November of 2022.
260 Additional work was done by that time, largely consisting of the work that was on the Notice of Intent. On
261 April 11, 2023 it was reported that a fence had been installed in the front of the property, and shortly after
262 additional fences were installed on the sides of the property where it borders the Sudbury River, at which
263 point additional fines had been issued. The property owner had responded that they believed the work had
264 been approved and went forward with the work, and that they had cleared the vegetation to protect their
265 family from the snakes that were in the yard, and did not realize the clearing or fences required a permit.
266

267 Mr. Moulton asked where the Notice of Intent stood, and if it needed to be revised to include the fences
268 and clearing. Ms. Solomon stated that the NOI had been continued pending four pieces of information:
269 confirmation of if the area was in the Nyanza Plume; a no rise certification be applied for with FEMA for
270 work in Regulated Floodway; explanation of how the work would meet the compensatory flood storage
271 requirements of the Bordering Land Subject to Flooding regulations; and whether the proposed deck would
272 consist of sonotubes or a different material.
273

274 Ms. Van Lancker asked Mr. Campos Souza if the engineer was still the same as before. Mr. Campos Souza
275 stated that he had received the three violation tickets, two for \$300 and one for \$100. He spoke to his
276 engineer back on May 20, 2022 about what was needed, and the engineer had told him he needed to dig a
277 hole on the property for the drywell, and he had contracted some guys for the work, who told him he
278 needed the Order of Conditions from the Conservation Commission. Mr. Campos Souza continued that he
279 waited for the permit, but never heard anything more. He talked to the engineer again, who told him he
280 could do everything in four months, but after waiting 10 months he had heard nothing. Mr. Campos Souza
281 added that the yard is very wet, and there were lots of snakes, and that they had a bear as well.
282 Additionally, trash keeps coming from upstream. Mr. Campos Souza stated that he has a six-year-old child
283 and he was concerned about the safety of her and her friends, so he cleared the plants and built the fences
284 to protect them, with the fence on top of the banks to not disturb the Sudbury River.
285

286 Ms. Van Lancker asked for the Notice of Intent to be completed. Mr. Hakansson asked if Ms. Solomon could
287 communicate with the engineer and the homeowner to ensure that both are on an agenda at the same
288 time. Mr. Crouch asked if the clearing had extended into the wetland or not. Ms. Solomon stated she could
289 not tell without going on the property.
290

291 Mr. Campos Souza asked if he could put loam in the back corner by the fence or if he needed to wait. The
292 Commission informed Mr. Campos Souza that he needed to wait, and could not do any work on the
293 property without a permit. Mr. Moulton added that if any additional work is done he could have more fines.
294 Mr. Crow clarified that if there is work that needs to be done in an emergency then Ms. Solomon could issue
295 a permit.
296

297 **No motion was made and no vote taken.**

298

299 **Review minutes 4/24/2023**

300 **4/24/2023 Meeting Minutes:**

301

302 The Commission determined to move this item to the next meeting.

303

304 **No motion was made and no vote taken.**

305

306 **Member Prerogative**

307 Mr. Hakansson asked for an update on the Pond Street issue with MassDOT parking vehicles in the wetlands
308 across from Market Basket. Ms. Solomon summarized that there were a few issues along Pond Street in
309 multiple locations, and that DPW had been acting as point-person for the project. There was the area by
310 Market Basket, an area by Algonquin Drive that was lacking erosion controls while a stockpile was present,
311 and an area by 501 Pond Street that had some illicit discharge, and other issues with DPW including a fire
312 hydrant being knocked over. Ms. Solomon stated she did not have an update from DPW yet on the status
313 for those issues, if she doesn't hear back she would have them back on the meeting.

314

315

316 **Meeting Adjournment:**

317 **Motion:** Mr. Moulton moved to adjourn the meeting. The motion was seconded by Mr. Crow.

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

319

320 The meeting was adjourned at 9:04p.m.

321

322 **Documents reviewed by the Conservation Commission on 5/8/2023**

323

- Document entitled, *Agenda, dated 5/8/2023*

324

- Document entitled, *WPA Form 1 Request for Determination of Applicability, 12 Union Street, dated 4/4/2023*

325

- Document entitled, *Stormwater Management Study for Village at Clocktown*

327

- Email correspondence entitled, *12-16 Union Street Ashland Conservation Filing*

328

- Plans entitled, *Village at Clocktown Union Street, dated 4/3/2023*

329

- Document entitled, *Notice of Intent 0 Fountain Street, dated 5/19/2022*

330

- Plans entitled, *Plan for Proposed Addition 0 Fountain Street, dated 1/9/2023*

331

- Document entitled, *RE Notice of Intent Application for Proposed Sunroom Addition at 1 Shore Road, dated 3/24/2023*

332

- Plans entitled, *Plot Plan of Land 1 Shore Road, dated 1/16/2023*

333

- Email correspondence entitled, *501 Pond, dated 5/2/2023*

334

- Email correspondence entitled, *501 Pond Street Stormwater Issued, dated 4/24/2023*

335

- Email correspondence entitled, *FW: 501 Pond, dated 4/11/2023*

336

- Document entitled, *Notification of Wetlands Violations 501 Pond Street, dated 4/24/2023*

337

- Email correspondence entitled, *224 Oak Street, Wetlands Violation, dated 4/25/2023*

338

- Document entitled, *Notification of Wetlands Violations 220 Oregon Road, dated 4/27/2023*

339