



# Town of Ashland

MASSACHUSETTS

MEETING MINUTES  
ASHLAND CONSERVATION COMMISSION  
May 9, 2022

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

11 **Meeting held by Zoom**  
12 **Call to order: 7:00 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, Christine Gatti, 167 Cedar Street, Tree Removal**

18 Ms. Solomon summarized the proposed work to remove 4 trees near a wetland edge. Three trees are heavily  
19 decayed and leaning over the house and back deck. One of the larger trees is completely hollow. Both larger  
20 trees are multi-stem. One small tree may need to be removed to access the other small tree.

21  
22 Mr. Wands asked if the trees would be felled into the wetland and left where they fall. Ms. Gatti stated that  
23 wood that falls in the wetland can be left there, and if it falls elsewhere they can have it taken away. Mr.  
24 Moulton asked what equipment would be used to take the trees down. Ms. Gatti responded that they hadn't  
25 hired a company yet, and were working with an arborist who would recommend companies.

26  
27 **Motion:** Mr. Crow motioned to issue a negative 3 determination. This motion was seconded by Mr.  
28 Hakansson.

29 **Vote:** The motion passed with a 7-0-0 vote. Rollcall vote: Rollcall vote: OA, PC, GC, CH, WM, GW, CVL).  
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31

32 **Request for Determination of Applicability, Chitrang Patel, 224 Oregon Road, 224 Oregon Road,**  
33 **Septic Replacement**

34 Mr. McIntyre, McIntyre Engineering, summarized the project to replace a failed septic system which failed  
35 Title 5 Inspection. The failed system is within the 100-foot buffer zone, but outside the 50-foot buffer zone.  
36 Testing was done in other locations on the property, to find a suitable location for the replacement. It was  
37 determined that constructing the replacement system in the same location as the one being removed was the  
38 best option. The new system will be raised to lift it out of the groundwater table, and will be placed using  
39 alternative technology to avoid excessive mounding. Erosion Controls will be placed along the edge of the  
40 lawn. An existing pile of rocks will be moved to the existing lawn edge at roughly the 25-foot No Disturb  
41 Zone, with an informational sign marking the protected resource area. A square block shown on the plan as a  
42 "possible future garage" is not proposed in this application, and is not being sought for approval at this time.  
43

44 Ms. Van Lancker asked for the erosion control to be extended to the full extent of the work around the  
45 existing deck. Mr. McIntyre agreed. Mr. Wands asked if there was a sewer main going through that section of

46 Oregon Road that could be connected to instead. Mr. McIntyre stated there was not. Ms. Van Lancker stated  
47 that there were medallions available at Town Hall that could be placed on the rocks to mark the No Disturb  
48 Zone. Mr. Crouch asked if the work was approved by the Board of Health. Mr. McIntyre stated that the Board  
49 of Health had approved the work pending Conservation Commission approval. Ms. Van Lancker asked Ms.  
50 Solomon to include the medallions as a condition. Mr. Moulton asked if the boulders should be placed at the  
51 25-foot No Disturb Zone line, or left as shown on the plan. Mr. McIntyre stated that a portion of the lawn was  
52 already within the 25-foot No Disturb Zone. Ms. Van Lancker felt the rocks should be left as shown on the  
53 plans. Mr. Crouch requested a condition be added that no grass clippings or landscape debris be disposed of  
54 into the wetlands or No Disturb Zone.

55  
56 **Motion:** Mr. Hakansson motioned to issue a negative 3 determination with the conditions as stated. This  
57 motion was seconded by Mr. Crow.

58 **Vote:** The motion passed with a 7-0-0 vote. (Rollcall vote: Rollcall vote: OA, PC, CH, GC, WM, GW, CVL).  
59

60  
61 **Notice of Intent, Matt Lundsted, Aikens Road Sudbury River Access Facility**

62 Ms. Van Lancker stated the applicant had requested a continuance to the May 23<sup>rd</sup> meeting at 8:15pm. There  
63 was no further discussion.  
64

65 **Motion:** Mr. Moulton motioned to continue the hearing to May 23<sup>rd</sup>, at 8:15pm. The motion was seconded by  
66 Mr. Crow.

67 **Vote:** The motion passed with a 7-0-0 vote. (Rollcall vote: Rollcall vote: OA, PC, CH, GC, WM, GW, CVL).  
68

69 **Certificate of Compliance, Jonathan Williams, 184 High Street, DEP File Number 95-0788**

70 Ms. Solomon summarized that everything had been recorded as required. The bounds were installed, though  
71 were installed level with the ground. The final locations of the bounds are marked on the as-built plan. The  
72 original Order was granted under the Ashland Wetlands Bylaw Amnesty Program. Mr. Crouch asked if the  
73 design included encroachment in to the 25-foot No Disturb Zone. Ms. Solomon responded that it appeared the  
74 Order was for work previously done in the No Disturb Zone under the Amnesty Program, and it was difficult  
75 to tell how much was pre-existing and how much was proposed new work. Minutes for the public hearing had  
76 noted the filing was to correct the existing development under the bylaw. Mr. Williams agreed and clarified,  
77 that the house was purchased in 2004 from the first owner who had it built in 2002. The retaining wall had  
78 been built in the No Disturb Zone, and at the time the Amnesty Program was presented to the homeowners to  
79 correct the plot plan and add the bounds. There had been no work since the 2002 construction. Mr. Hakansson  
80 stated that the Wetlands Bylaw was adopted around that time. Mr. Waterman, WDA Design Group, stated  
81 that they had notes from Mr. Selby, a previous Conservation Agent, in 2008.  
82

83 **Motion:** Mr. Hakansson motioned to issue the Certificate of Compliance for DEP File Number 95-0788. This  
84 motion was seconded by Mr. Crow.

85 **Vote:** The motion passed with a 7-0-0 vote. Rollcall vote: Rollcall vote: OA, PC, GC, CH, WM, GW, CVL).  
86

87 **Ms. Van Lancker left the meeting at this time. Mr. Wands took over as Chair.**  
88

89 **80 Cross Street, Chantal Kokaram, Plan Change Request**

90 Ms. Kokaram shared a redlined planning showing the proposed changes. The original plan was for one tall  
91 retaining wall wrapping around the pool area. The proposed change is to create a tiered area with two short  
92 walls to create a more gradual slope to better control runoff and drainage. The walls would be moved closer  
93 the property line. It would add 300ft<sup>2</sup> more patio space between the wall and the pool. The changes are on the  
94 side furthest from the wetlands. It would be within the current limit of work approved by the Commission  
95 The Drainage plan would be the same. The total disturbance of the approved work with the changes amounts  
96 to 22.6% of the property, with less than 1% increase contributed by the changes. The work is downhill from  
97 the neighboring properties. Mr. Crouch asked if the plan has gone to the Building Inspector. Ms. Kokaram  
98 stated that the revision was sent both to the Building Inspector and the Conservation Agent at the same time.  
99 Mr. Crouch noted that the work is within the setback, and needs approval from the Building Inspector. Mr.

100 Crouch clarified that the black lines on the plan were the original approved plans, and the red lines are the  
101 proposed changes.  
102

103 Ms. Solomon stated that this could be approved as a minor plan change recorded in the meeting minutes and  
104 the revised plans and approval in the file for the work; or the Commission could request an Amended Order.  
105 Mr. Crow stated that if the entire project had been completed, and then came to the Commission with an RDA  
106 for the proposed changes, it likely would be accepted as a no impact finding. It would be reasonable to  
107 approve this as a minor change. Mr. Hakansson asked how this request differs from a previous plan change  
108 request by the Public Safety Building which required an Amended Order. Mr. Moulton stated that for the  
109 Public Safety Building, it was a new proposal, where a temporary berm for construction purposes was being  
110 proposed for replacement with a permanent berm for stormwater purposes, which was not approved. The plan  
111 change request being discussed for 80 Cross Street, was a modification of an already approved high wall to  
112 make it stepped instead. Mr. Moulton felt it would be minor as it is away from the wetland and was already  
113 approved. Mr. Crow asked if there was a need for engineer review on anything. Ms. Solomon stated the  
114 largest concern would likely be stormwater, but with the grading of the property there would likely be no  
115 impact on abutters.  
116

117  
118 Mr. Crouch asked if the original wall was going to be built. Ms. Kokaram clarified that the part of the original  
119 wall on the property boundary would not be constructed in the shown location in black, but modified to be  
120 two tiered walls shown in red. The wall facing the street will be built shorter, with the second short wall  
121 creating a tier on that side as well. Mr. Crouch stated that normally the original approved plan is what is  
122 approved with the Certificate of Compliance. Ms. Solomon stated that it would be included in the file folder,  
123 and when a Certificate of Compliance is requested, the as-built plan would be based off the minor plan  
124 change shown compared to the existing conditions. Mr. Crouch clarified in the past, when a Certificate of  
125 Compliance was requested and something was done without permission, the Commission has requested  
126 Amended Orders before issuing the Certificate of Compliance. Mr. Crow responded that there was a  
127 difference when the applicant comes to the Commission first, rather than after the fact. Mr. Crouch agreed,  
128 and added that in the end what is approved in the Certificate of Compliance, needs to be what was approved  
129 in the hearing process. Additionally, there is technically no minor plan change under the Wetlands Protection  
130 Act. There is under the Act, a change to the Order for scribner's error, such as spelling or an incorrectly  
131 referenced lot; or Amended Orders. Mr. Hakansson felt that there is good argument on both sides, but the  
132 applicant did come before the Commission to make this part of the public record in the same file for a  
133 modification on something already approved. Mr. Crouch agreed this is a minor change, the scope of the  
134 project has not changed, but the Commission should further decide if they will allow minor changes. Mr.  
135 Hakansson added that there needs to be some consistency and precedent of what is accepted and what is not,  
136 and it cannot be arbitrary. Mr. Moulton asked if they should consider codifying the minor plan change in the  
137 bylaw. Ms. Solomon stated that while the Wetlands Protection Act did not say anything about minor plan  
138 changed, the DEP did issue a policy about minor plan change that was generally accepted. It can be added as  
139 a discussion item for a future meeting if the Commission wanted to discuss this further. Mr. Crouch asked if  
140 the policy was still valid. Ms. Solomon stated that the policy is still on the state website and has she is aware  
141 of noting it had been revised or revoked.  
142

143 **Ms. Van Lancker rejoined the meeting at this time and took over as chair.**  
144

145 **Motion:** Mr. Moulton motioned to accept the plans presented as a minor plan change not requiring an  
146 Amended Order. This motion was seconded by Mr. Crow.

147 **Vote:** The motion passed with a 7-0-0 vote. (Rollcall vote: Rollcall vote: OA, PC, GC, CH, WM, GW, CVL).  
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151 **Enforcement Order, Peter Venuto, Burnham Circle, Discussion**

152 Ms. Solomon summarized that the Peer Reviewer Mike Carter of GCG, the Town Planner Peter Matchak, and  
153 Evan White and Kevin Langmeyer from DPW, visited the site on Friday, May 6, 2022, and reviewed the

154 stormwater basin and berm. Mr. Carter had requested a smaller stormwater basin constructed adjacent to the  
155 one being inspected be reviewed by the engineers, and that both an as-built plan and redlined plan be  
156 submitted for review.  
157

158 Ms. Solomon recommended that GCG review the plans when received from Connorstone. The required soil  
159 testing had not been scheduled yet. Ms. Van Lancker asked what the Commission was still waiting on. Ms.  
160 Solomon responded that Connorstone was requested to provide engineer plans detailing the existing  
161 conditions and proposed plans for reconstruction of the berm pending the results of the soil tests. Once the  
162 soil tests are completed Connorstone should be submitting the requested plans and GCG should review them.  
163 Ms. Van Lancker asked if this item should be continued to the next meeting. Ms. Solomon stated that as it's  
164 not a public hearing it wouldn't require a vote to continue to a specific date and time. The Commission could  
165 choose to continue until the requested documents have been submitted.  
166

167 Mr. Cavanaugh, 32 Whittemore Drive, a member of the Whittemore Estates Home Owner's Association  
168 (HOA), stated that the HOA was only made aware of the issue with the berm the week prior, and there was  
169 concern over the information provided to them, and the future management of the stormwater system. When  
170 the construction is completed the management of the system will be passed onto the HOA of 6-14 households  
171 who have great concerns about the construction of this basin. Mr. Hakansson stated that this development has  
172 gone through at least three developers, and there was concerns from the Commission when it came before  
173 them the first time. Over the past year Ashland changed Building Inspectors and Conservation Agents and  
174 between that and COVID, some things may have slipped through the cracks during that time. Mr. Hakansson  
175 felt they were all surprised when they visited the site. Ms. Van Lancker added that the plans submitted by  
176 Connorstone will be peer reviewed by GCG and provide their comments as well. Mr. Crow stated that there  
177 are places where he has seen problems with development in the past; almost every time it is not a problem  
178 with the engineering company, it's a problem with the developer not building to the design. Mr. Crow felt  
179 that this berm had many things that shouldn't have been done, such as including large boulders in the berm.  
180

181 Mr. Dassoni, 49 Hawthorne Road, recalled that when Whittemore Estates first came for site review they did  
182 soil testing that showed they could only build to a certain extent. The land is slightly inclined and the basin  
183 itself should be re-measured and fixed. Mr. Hakansson stated that the slope is steep, and you can't clear-cut a  
184 hill with a pond at the bottom without expecting run-off problems; however, the Conservation Commission  
185 cannot prevent that, only make mitigations so it does not become a problem.  
186

187 Vivian Williams, 34 Whittemore Drive, a member of the Whittemore Estates HOA, stated that they have  
188 already had to redo their yards, driveways, and rain garden as a result of drainage issues. What has already  
189 been given to them has been subpar, and there is concern that this would not be any different. Mr. Crouch  
190 recommended that the HOA hire their own consulting engineer to review things. Mr. Cavanaugh stated they  
191 were considering hiring a consulting engineer already. Mr. Cavanaugh asked how many stormwater HOAs  
192 exist in Ashland currently, and if there was any history of them failing or not working. Mr. Cavanaugh  
193 continued, the Pond behind this berm, is tributary to the Sudbury River, and it is concerning that general  
194 homeowners would be responsible for managing a stormwater system they know nothing about. Mr.  
195 Cavanaugh asked if this arrangement was unique in Ashland, and how they have worked in the past? Mr.  
196 Crouch responded that there are a few developments with an HOA responsible for stormwater systems. At  
197 least three larger developments, and some smaller ones. There was a problem with a dam that cracked on one  
198 basin, but at the time the developer was still responsible. Cirrus Apartments have several basins as well.  
199 There are some earlier associations that don't have basins because they predated the stormwater requirements.  
200

201 Ms. Van Lancker asked the HOA to provide their contact information to Ms. Solomon to be informed of the  
202 next meeting for this topic.  
203

204 **No motion was made and no vote was taken.**  
205  
206  
207

208 **Review and Vote Draft OOC, Ashland Town Forest, Culvert Replacement**  
209 The Commission reviewed and edited the draft special conditions recommended by Ms. Solomon.

210  
211 **Motion:** Mr. Wands motioned to issue the Order of Conditions with the Special Conditions as written. This  
212 motion seconded by Mr. Crow.

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

214  
215 **Review minutes from 4/25/22**  
216 **4/25/22 Meeting Minutes:**

217 Commission Members reviewed and edited the April 25, 2022 meeting minutes.

218 **Motion:** Mr. Moulton motioned to approve the April 25, 2022 meeting minutes as amended. The motion  
219 was seconded by Mr. Crow.

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

221  
222 **Member Prerogative**

223 Mr. Hakansson asked Ms. Solomon for an update on Legacy Farms. Ms. Solomon responded that Mike Carter  
224 from GCG would be on site later that week. There were no further updates at the time. No agreement has  
225 been signed. Town Management has not been approached to sign a Notice of Intent. Mr. Hakansson asked  
226 after the claim that the Enforcement Order was still in place. Mr. Hakansson thought the Enforcement Order  
227 had been released. Ms. Van Lancker stated that the Commission did not vote to release the Enforcement  
228 Order and that it was released for those homes already started, but not for new work. Mr. Hakansson stated  
229 that the Enforcement Order should either be enforced or lifted. Mr. Crouch stated new work was still going  
230 on. Mr. Hakansson asked if the Commission was still stopping work, or if it should be revisited with an  
231 updated Order. Ms. Van Lancker responded that it should go through Town Counsel. Mr. Hakansson stated  
232 that the Commission should figure out what they want to do, and follow through with it. Mr. Crouch  
233 responded that the Commission required the developer to stop all work and fix the issue before going further.  
234 It may not have been enforced, but it also hadn't been asked to be lifted either. In lieu of fines the  
235 Commission agreed to having the NOI submitted to improve the stormwater management, but that NOI has  
236 not been received. The cease and desist is still in effect. Ms. Van Lancker asked Ms. Solomon to follow-up  
237 with Town Counsel regarding the Enforcement Order and whether it applied to new work as well, and that  
238 they recommend for going forward. Mr. Hakansson asked that Town Management be asked prior to going to  
239 Town Counsel.

240  
241 **No motion was made and no vote was taken.**

242  
243 **Meeting Adjournment:**

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

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

246  
247 The meeting was adjourned at 8:51p.m.

248  
249 **Documents reviewed by the Conservation Commission on 4/11/2022**

- 250 ● Document entitled, *Agenda, dated 5/9/2022*
- 251 ● Document entitled, *Meeting Minutes, dated 4/25/2022*
- 252 ● Document entitled, *WPA Form 1- Request for Determination of Applicability 167 Cedar Street*
- 253 ● Document entitled, *WPA Form 1- Request for Determination of Applicability 224 Oregon Road*
- 254 ● Document entitled, *WPA Form 8A- Request for Certificate of Compliance, 95-788*
- 255 ● Email Correspondence entitled, *80 Cross St. Revisions, dated 5/2/2022*
- 256 ● Plans entitled, *Site Plan 80 Cross St., dated 4/28/2022*
- 257 ● Document entitled, *80 Cross St Revision Narrative, dated 4/28/2022*
- 258 ● Document entitled, *Draft OOC Town Forest 95-0965*