



Town of Ashland

MASSACHUSETTS

MEETING MINUTES
ASHLAND CONSERVATION COMMISSION
August 28, 2023

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

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9 Absent: Gene Crouch

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11 Agent: Becca Solomon

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13 **Meeting held by Zoom**
14 **Call to order: 7:00 P.M.**

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

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19 **Request for Determination of Applicability, 5 Holly Lane, Septic Replacement and Site Grading**

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21 **Ms. Van Lancker recused herself on this item. Mr. Wands took over as Chair.**

22
23 Ms. Solomon showed the submitted plans on screen and summarized the proposal to replace an existing
24 septic system. The existing system will be removed entirely, the new system put over top, and the remaining
25 area filled and graded. Ms. Solomon stated that the Request for Determination Form was filled out seeking
26 two determinations. The first for if the area depicted is jurisdictional under the Wetlands Protection Act,
27 and the second to determine if the work is jurisdictional under the Wetlands Protection Act. An erosion
28 control barrier is depicted on the plan but type is not specified.

29
30 Mr. Wands asked what work was within the 100-foot buffer zone. Ms. Solomon responded that the
31 approximate location of the existing septic system is right on the edge of the 100-foot buffer zone and work
32 to remove it may pass further into the buffer zone. Mr. Crow noted that the erosion controls are also in the
33 buffer zone.

34
35 Mr. Hakansson proposed a positive 1 and negative 3 determination. Mr. Moulton noted that a positive 1
36 determination would require a Notice of Intent. Ms. Solomon clarified that a positive 1 and negative 2
37 determination both state the area is jurisdictional, but a positive 1 states that dredging, filling, or altering
38 will requiring a Notice of Intent, while negative 2 states that what is shown on the plan will not dredge, fill,
39 or alter, and does not require a Notice of Intent.

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41 Mr. Dassoni, 49 Hawthorne Road, asked how they will mitigate the affect to wetlands. Mr. Hakansson
42 clarified that the vote to be taken is to determine if the area is jurisdictional and if it will have an impact on
43 the wetlands or not. Mr. Crow clarified that the work is touching the buffer zone, not the wetlands.

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Motion: Mr. Hakansson moved to issue a Determination of Applicability with both a Negative 2 and Negative 3 determination. The motion was seconded by Mr. Crow.

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

Ms. Van Lancker returned to the meeting at this time, and took back over as Chair

Notice of Intent, 11 Bay colony Drive, Oxbow Associates Inc, Sewer Pipe Connection, DEP File No 95-987

Mr. Strohsahl, Oxbow Associates, introduced himself and Mr. Stevens, Trask Development, as the representatives for the project, and summarized the project. The proposal is a sewer pipe connection for the Town of Ashland from the Ledgemere Pumping Station to Blue Jay Lane. The project was required to be done as part of the 501 Pond Street project requirements from Planning Board. The connection will provide an alternate path for waste water to go in the event that the Ledgemere Pump becomes overwhelmed. The work is to occur on an easement held by the Ashland Department of Public works (DPW), which crosses 11 Bay Colony Drive, and the Great Bend Farm Trust Conservation Restriction. The connection will be 27 feet long and partly within the wetland itself. It will be dug down about 10 feet. Dewatering will occur into a silt bag up hill and allowed to flow naturally back to the wetlands. The site will be returned back its original conditions upon completion. Soil will be stratified during removal and put back in the same order it was found. Invasive species will be removed from the site, and any native shrubs that are present and salvageable will be set aside and replanted upon completion of work.

Mr. Hakansson recommended a site visit be held.

Ms. Van Lancker asked what the access for the work area was. Mr. Strohsahl responded that there is an existing gravel driveway that comes from near 9 Bay Colony Drive warps around to the pump station. Ms. Van Lancker asked if the fence is being kept. Mr. Stevens stated that the fence is in poor condition and will likely be replaced. Mr. Stevens stated that they intend to do the work during a cold period where the ground is more solid, with the anticipation that work will take 5 days or less.

The Commission discussed and scheduled a time for a site visit.

Motion: Mr. Hakansson moved to continue the hearing until September 11, 2023 at 7:05pm. The motion was seconded by Mr. Crow.

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

Certificate of Compliance, Village of Americas, Commonwealth Design LLC, DEP File No. 95-684

Mr. McLoughlin, Commonwealth Design LLC, requested the item be continued to the September 11th meeting to allow time for the Commission to schedule the site visit.

The Commission discussed and scheduled a time for a site visit.

No motion was made and no vote taken.

Enforcement Order Ratification, Legacy Farms phase IV, Vin Gately, Dep File No. 95-976

Ms. Solomon stated that the applicant had requested the item be moved to later on the agenda until Mr. Bemis could join the meeting.

The Commission determined to hold this item until after the Wetlands Violations, Mindess item.

No motion was made and no vote taken.

Wetlands Violations, Mindess

95 Ms. Solomon summarized that the Commission had, at the previous meeting, requested additional
96 mitigations and restoration be proposed. Three resource area locations were identified by the project team.
97 The three areas identified were the trail area within buffer zone of the pond, the outlet of the swale to the
98 intermittent stream before it crosses Concord Street, and the confluence of the three culverts after the
99 stream crosses Concord Street. Ms. Solomon stated of the mitigation and restoration recommendations
100 proposed, the only concern was the riprap proposed within the stream channel, which is not allowable
101 under the Wetlands Protection Act. Ms. Solomon recommended that the riprap be changed to coir logs and
102 live plantings for stabilization.

103
104 Mr. Conroy, Shawmut, shared the proposal on the screen and provided further detail. For location 1 by the
105 pond, it was determined by Nitsch Engineering that there was not sediment in the pond, but there was
106 sediment accumulated in a low point on the trail adjacent. The proposal is to remove the added sediment
107 from the trail by hand, and install additional silt fence and wattle until construction finishes. Location 2,
108 where the swale enters the intermittent stream, had some sediment deposited at the pipe outlet. The
109 proposal for this location is to again, remove the sediment by hand and to install natural stones. Location 3,
110 where three outlets meet, has sediment deposit from the Concord Street outfall, which is proposed again
111 for hand removal of the deposited sediment. Additional stones are proposed to help with scouring.

112
113 Mr. Hakansson asked if Location 3 is owned by the Town. It was determined, looking at the plans, that it
114 may be private property, but it is unclear. Mr. Hakansson continued that he had concerns about the pond,
115 and what impacts it may have had that are not visible impacts. Mr. Hakansson asked if a Water Quality
116 study or wildlife habitat survey could be done. Mr. Hakansson added that he wanted to know if the isolated
117 wetlands to the west of the pond was a vernal pool or not, as well as data on the pond that corroborates the
118 claim that the pond is unaffected.

119
120 Mr. Moulton stated that the report mentioned the curb cut on Concord Street at location 1 and asked if
121 there was consideration for a mitigation to treat the water coming off there. Mr. Conroy responded that the
122 curb cut is not a site issue, it's a Concord Street design issue. Mr. Moulton responded that it was sediment
123 from the Mindess site that went into Concord Street and entered the Pond and potentially carried to the
124 Sudbury River. Mr. Conroy responded that the curb cut was highlighted to bring attention to the fact that
125 the area was already subject to untreated road runoff, and continued that he did not deny that sediment
126 had entered the pond from the Mindess site and most likely made its way to the Sudbury River, but that it is
127 not solely a project issue, but a road design issue. Mr. Conroy continued that he felt the proposal to remove
128 the deposited sediment by hand was suitable. Mr. Moulton stated that runoff was required to be kept on
129 site and wasn't, and asked if there is some mitigation that can be installed to treat the runoff for the
130 remaining duration of construction. Mr. Conroy outlined the mitigations they had already installed, which
131 did appear to work during the more recent rain storm.

132
133 Mr. Ackerman asked for clarification on the size of location 2. Mr. Seymour, Shawmut, responded that it is
134 about a 3-foot by 3-foot area. Mr. Ackerman asked how much of the sediment was inside the pipe. Mr.
135 Seymour responded that the majority of the pipe was replaced when it was diverted under the stream, and
136 there is about 8-feet left of the original pipe. Mr. Conroy clarified that the original pipe was impacted with
137 sediment, but it was unclear to what extent.

138
139 Mr. Hakansson asked Mr. Conroy if he was disagreeing with the proposal to measure data for the pond. Mr.
140 Conroy responded that he was not disagreeing, but added that there were no baselines to compare with.
141 Mr. Conroy continued that he can take the request back to the project team and School Building Committee.
142 Ms. Van Lancker asked if an Enforcement Order needs to be issued. Ms. Solomon stated that the
143 Commission would need to issue an Enforcement Order to require a mitigation and restoration plan be
144 implemented.

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146 Mr. Moulton reiterated that mitigation, such as a rain garden would be appropriate at location 1. Mr.
147 Conroy responded that he is not sure of the intent of the area, if it maintained as a trail or otherwise, it
148 would be difficult to put in a rain garden. Mr. Quinlan, Vertex, state that such a decision would need to be
149 made by the School Committee.

150
151 Ms. Van Lancker asked Ms. Solomon the Enforcement Order should be issued. Ms. Solomon responded that
152 the Commission could vote to issue an Enforcement Order and have it require the submission of a
153 restoration plan to be approved and implemented, or the Commission could wait for the plan to be
154 submitted, which is already in the works, and vote then to issue an Enforcement Order requiring its
155 implementation. Mr. Hakansson recommended waiting until the next meeting to provide the project team
156 time to discuss and come back with options.

157
158 **No motion was made and no vote made.**

159
160 **Enforcement Order Ratification, Legacy Farms phase IV, Vin Gately, Dep File No. 95-976**

161 Ms. Solomon summarized that there is an existing Enforcement Order issue in response to sediment
162 entering the Hopkinton Reservoir and adjacent wetlands both in Ashland, in 2021, affecting one part of the
163 Legacy Farms Development in the Weston Lane area. Ms. Solomon continued, in July 2023, Hopkinton had
164 found some issues that resulted in the Hopkinton Conservation Commission (HCC) issuing a new
165 Enforcement Order and cease and desist in addition to their own previous Orders. On August 8th, issues
166 occurred from the site previously under the Enforcement Order from Ashland Conservation Commission
167 (ACC), and the newly cleared Phase IV parcels, which resulted in sediment leaving both areas and entering
168 the reservoir and associated wetlands. On August 9, 2023, it was observed that sediment laden water was
169 being pumped out of a basin that was constructed on Phase IV, and was being directed off site without
170 going through a filter bag, and bypassed three rows of silt fence and compost sock due to the amount of
171 water, and ultimately made it to the Hopkinton Reservoir within Ashland. On August 10th a site visit was held
172 with Mr. Bemis, and representatives from the HCC, during which several mitigations were discussed. Not all
173 mitigations were implemented, and Hopkinton ultimately issues a revised cease and desist order requiring
174 the site to be fully stabilized before any further stormwater infrastructure could be installed. On August 18,
175 2023 another storm resulted in sediment laden water entering the same resource areas again, at which
176 point DEP NERO was contacted, and the recommendation was made to administratively issue a new
177 Enforcement Order for the new Phase IV parcels, which was issue a August 24th for violations under the
178 Wetlands Protection Act, with a separate Notice of Violations and Fines amounting to \$800 addressing
179 violations under the local bylaw. The Enforcement Order required the access road be stabilized with gravel,
180 crushed stone, or other suitable material, and the rest of the Phase IV site be stabilized prior to any further
181 work on the property. A cease and desist was also included for any work outside of what is required by the
182 Ashland Conservation Commission or HCC. Since then, the site has been hydroseeded and grass is beginning
183 to grow, but is not yet fully stabilized.

184
185 Ms. Van Lancker asked if there were any sediment deposits in the wetlands that need to be removed. Ms.
186 Solomon stated there was some sediment deposited in the wetlands abutting the reservoir. Ms. Van Lancker
187 asked if the Enforcement Order required those deposits to be cleaned up. Ms. Solomon responded that she
188 had not included such requirements, in lieu of the Commission determining how they wanted the area
189 restored given the previously approved restoration plan. Ms. Van Lancker suggested that the Enforcement
190 Order be amended to include the removal of the sediment deposits by hand.

191
192 Mr. Hakansson agreed with Ms. Van Lancker and asked if there had been any impacts to the pumping
193 station. Ms. Solomon stated that Ms. Navarro, Ashland DPW, was present and may be able to address the
194 question. Ms. Navarro stated that she could not speak to the recent storms, but that the increased need for
195 treatment has not yet been alleviated. Mr. Hakansson asked what the status of the mitigation work was. Mr.

196 Bemis responded that it has been too wet for work to begin, but they did cut trees in anticipation of
197 beginning work.

198
199 **Motion:** Mr. Hakansson moved to ratify the Enforcement Order as amended. The motion was seconded by
200 Mr. Crow.

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

202

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

204

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

206 Ms. Solomon stated that the replication plan has still not been received, but the applicant has asked the
207 Commission if the replanting should use DEP's formula for restoration, a 2:1 replacement, or some other
208 calculation. Mr. Crow asked what DEP's formula was. Ms. Solomon stated she was not sure. Mr. Hakansson
209 asked if there was a precedent they have used in the past. Mr. Moulton suggested that DEP's standards be
210 used if they exist, and otherwise a 2:1 replacement based on Diameter at Breast Height (DBH) of the cut
211 trees. Mr. Moulton expressed concern about the density of plantings. Ms. Solomon stated that there are
212 two common methods of the planting, the first being a designed planting similar to how wetland
213 restorations are done, with each planting having space to grow, and the second being a method used on
214 large clearcuts called the Miyawaki Method which is a high density planting, allowing the best suited trees
215 to outcompete the rest and reach maturity quickly. Mr. Hakansson recommended that the Commission wait
216 until a more clear plan is submitted and the applicant present prior to making a decision.

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

219

220 **Ms. Van Lancker rejoined the meeting at this time and took back over as Chair.**

221

222 **Wetlands Violations, 65 Concord Street, DEP File Number 95-967**

223 Ms. McArthur introduced herself as the representative for the property owner, and stated that she had
224 been on site with Ms. Solomon and re-delineated the wetlands. Ms. Solomon summarized the previous
225 actions taken on the site in regard to the Enforcement Order, fines, and Notice of Intent. Ms. Solomon
226 stated that the plan for the Notice of Intent will need to be revised to include the changes on the site.

227

228 The Commission discussed re-scheduling the hearing for the Notice of Intent. The Commission determined
229 to add a meeting date on October 2, 2023 that was previously not scheduled.

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

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233 **Review minutes 8/14/2023**

234 **8/14/2023 Meeting Minutes:**

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236 The Commission determined to review the minutes at the next meeting.

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

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240 **Meeting Adjournment:**

241 **Motion:** Mr. Hakansson moved to adjourn the meeting. The motion was seconded by Mr. Wands.

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

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244 The meeting was adjourned at 9:25p.m.

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246 **Documents reviewed by the Conservation Commission on 8/28/2023**

- 247 ● Document entitled, *Agenda, dated 8/28/2023*
- 248 ● Document entitled, *WPA Form 1 5 Holly Lane, dated 7/24/2023*
- 249 ● Plans entitled, *Board of Health Plot Plan, dated 6/30/2023*
- 250 ● Document entitled, *Notice of Intent, dated 6/22/2023*
- 251 ● Document entitled, *EO2023-3 and Notice of Violations and Fines Legacy Farms, dated 8/24/2023*
- 252 ● Document entitled, *Hopkinton Revised Cease and Desist Letter Legacy Farms, dated 8/14/2023*
- 253 ● Document entitled, *Mindess Elementary Evaluation of Wetland Impacts and Erosion and Sediment*
- 254 *Controls, dated 8/23/2023*
- 255