

Boxborough Conservation Commission  
Meeting Minutes  
Wednesday October 2, 2013 Town Hall

Members present: David Follett, Charlene Golden, Norm Hanover, David Koonce, Dennis Reip (Chair), and Hoff Stuart. Dennis called the meeting to order at 7:35 pm.

Motion was made by Charlene, seconded by David Follett and voted unanimously to approve the corrected minutes of Sept. 4, 2013.

Motion was made by Norm, seconded by David Follett and voted unanimously to approve the corrected minutes of Sept. 18, 2013.

Motion was made by David Follett, seconded by Dennis and voted unanimously to approve the Order of Conditions 113-503AMENDED for 34 Massachusetts Ave.

Regarding the Request for a Certificate of Compliance for the Harvard Ridge Condominiums, the silt fence is still up from a previous project. Norm will write a letter to the Association.

Norm, on behalf of LanSCom, discussed abandoning some trails at the Patch Hill Conservation property.

8:00 PM NOI hearing DEP no: 113-517

Project Location: 276 – 318 Codman Hill Rd Rd Assessor's Map 1-1-135-0.0.

Project Description: The project includes removal of dead or stressed trees located within the wetland and riverfront area adjacent to the condominium property.

Applicant/Property Owner: Codman Hill Condominium Association.

Lead Reviewer: Hanover

Present: Brian Waterman, Wetland Specialist, Waterman Design Associates, Inc. consultant to the applicant.

Brian presented the NOI and associated Tree Removal Plan dated Sept. 5, 2013.

Discussion: the Commission noted that this is a safety issue that is easily conditioned.

Motion was made by Norm, seconded by Dennis and unanimously voted to close the hearing.

8:30 PM NOI hearing continuation DEP no: 113-515

Project Location: Flagg Hill Rd Assessor's Map 09-4-332-0.B

Project Description: to construct a limited project driveway crossing, driveways, wetland alteration, wetland replication, culverts, curbing, retaining walls, associated grading and utilities for the construction of three single-family dwellings.

Applicant: Walter Eriksen, Flagg Hill Road LLC Property Owner: Arthur Trefrey

Lead Reviewer: David Koonce

Present: Walter Eriksen and Steve Eriksen, Norse Environmental Services, applicant consultant.

Documents Presented: As requested at the last meeting, information on the limit of work; an operational and maintenance plan; and a plan showing the large trees to be removed in the resource area.

Discussion: the Commission reviewed the report dated Sept. 30, 2013 from Places Associates,

consultant to the Commission. A list of action items was generated and the applicant will submit an updated set of plans for review prior to the next meeting.

David Koonce will work on an Order of Conditions for the next meeting.

Motion was made by David Koonce, seconded by Norm and unanimously voted to continue the hearing to Oct. 16, 2013 at 8:15 pm.

9:10 Dennis presented the following summary of Site Meeting at MMAF property at corner of Tamarack Lane and Stow Road on October 1, 2013.

Attendees:

Jim Gorman and Vince Amoroso - BOS

David Follett and Dennis Reip - ConsCom

Owen Neville - Ag Com

David Lindberg - Building Inspector

Don McPherson and Greg Sheets - MMAF

Brad Mitchell - Mass Farm Bureau Federation

Bob and Cheryl Stanley - farmers

Neighbors et al: Don Copeland, Bill Sutcliff, Liz West, Dwight Sipel, Peter Rudenko, Mark and Julia Hutton, and others.

Primary points of discussion:

- A site meeting was held to discuss the use of the Tamarack field area for agriculture.
- The initial discussion was specific to the portion of the field in the ALRA that was the subject of a recent EO issued by the ConsCom.
- The primary issue was whether or not the ALRA qualifies for the agricultural exemption.
- MMAF asserted that the land has been in continuous use including recent grass cutting, and past use as nursery stock (pine trees).
- This was the first time the ConsCom has ever heard of the claimed nursery activity.
- ConsCom asserted the land has not been in agricultural use (per WPA) based on previous "abandoned field" documentation, previous discussions regarding the field use with MMAF and others, and the ConsCom's observed absence of any qualified activity for the past 10 years or more.
- Brad Mitchell provided some guidance on what may qualify and what may not. However, no firm conclusion was reached.
- The ConsCom expressed interest in allowing agriculture as long as it is documented under an NOI so that the activity could be clearly defined and conditioned as needed to protect the wetlands interests.
- The parties agreed to disagree on whether the land qualifies for the exemption.
- Given the consensus that agricultural use was agreeable to all, Brad Mitchell offered that one solution would be for Stanley/MMAF to document their proposed use under a NRCS or other farming plan and submit this as part of an NOI filing.
- The parties were agreeable to this approach in concept.
- Bob Stanley is primarily interested in crop use - alfalfa now and possibly other crops in the future.
- Don M. expressed interest in maintaining the claimed nursery stock activity.
- Vince Amoroso expressed concern that any plan be complete and not subject to future debate or disagreement.

- Likewise, the ConsCom expressed the need for the NOI to include sufficient detail of what would allowed, and not allowed, to avoid an enforcement issue in the future.
- It was agreed that Stanley/MMAF would prepare and submit an NOI and that a filing in the next couple of month would suit the schedule for an intended OOC by late spring/early summer.
- A discussion of Bob Stanley's immediate interest in planting an alfalfa crop along with the ConsCom's interest in stabilizing the field resulted in the agreement to revise the EO to order stabilization by way of planting the alfalfa crop as soon as possible.
- The revised EO will allow only the planting, and not harvesting or cutting, and would require approval by a quorum of the Commission on Wednesday 10/2.
- Vince A. expressed the understanding that the ConsCom will proceed with this course of action (revised EO and subsequent NOI review) relying upon the representations of the landowner and farmer that they will not use the EO to argue that the land was returned to agricultural use and their agreement that the revised EO is without prejudice to the right of the ConsCom to review and take action on the future NOI.
- David Follett, Dennis R., Don M. & Brad Mitchell observed the edge of field near the Nursery. At various times during the meeting Don expressed an interest in clearing and grubbing from the nursery back into the wetland by 100', 50' & 20'. Brad agreed to review the law and provide his interpretation of this proposed activity.
- The status of the 2.5 acres of mitigation area was also discussed.
- The ConsCom confirmed that this is consistent with the current recorded OOC.
- The consensus was that this was an undesirable outcome, but the ConsCom confirmed that this is legal and binding at this point.
- The ConsCom confirmed that MMAF could at any time submit an NOI to perform other activity and/or corrective action that could provide for agriculture to return to the mitigation area.
- The ConsCom stated an understanding that MMAF would need to file and NOI again in the future to address new activity/alteration required for compliance with FAA regulations.
- MMAF was non-committal on what they may do in the future.

David Koonce leaves the meeting at 9:45 pm.

The discussion continued with a review of a revised Enforcement Order as detailed above.

Motion was made by Dennis, seconded by Hoff and unanimously voted 5 – 0 to approve and sign the revised Enforcement Order for Bob Stanley, farmer at MMAF.

The Commission discussed the Open Meeting Law complaint from Bob Stanley. They also reviewed the procedures and time line for response. Dennis will write the reply.

Motion was made by Hoff, seconded by Norm, and unanimously voted 5 – 0 to adjourn at 10:10 pm

Respectfully submitted, David Follett.


  
 Approved \_\_\_\_\_ Date 11/6/13