

Minutes for November 22, 2021

Approved 12/22/21



6:10 PM

The meeting was delayed due to the a quorum issue. At 6:10 PM a roll call vote by Vice Chair Satterwhite resulted in the following:

- + Vice Chairman Lisa Satterwhite stepped in as Chairman.
- + Member James Vaille was present.
- + Associate Member Duke Magoun stepped in as voting member.
- + Associate Member David Sawin was present.
- + Chairman Brian McLoone, Member Mahendra Patel and Hearing Officer Robert Sennett were not present. (*Member Sennett arrived at 6:35 PM*)
- + Conservation Agent Sandra MacFarlane was present.
- + Steve Ryerson, Director of Communications was the Commission's off-site host for the remote audience.

Acting Chair Satterwhite welcomed all present and made the following announcements:

I. GENERAL ANNOUNCEMENTS:

1. Reconsideration of vote for Commission's Designee for CPC – *as per Town Mgr.*

VOTE: Upon a motion and second made by Members Vaille and Magoun, it was voted 3-0-0 to reconsider the 9/29/21 vote for the Commission's Designee to CPC.

As per an email from the Chairman noting his interest in the position, the Commission supported Chairman McLoone for this position.

VOTE: Upon a motion and second made by Members Vaille and Magoun it was voted 3-0-0 for Chairman Brian McLoone to be the Commission's representative member to the Community Preservation Committee.

2. Next Meeting: December- To be determined

VOTE: Upon a motion and second made by Members Magoun and Vaille, it was voted 3-0-0 to schedule the next Conservation meeting for December 22, 2021 at 6 pm.

II. ACTION ITEMS: Due to the delayed start to the meeting, Action Items were taken at the end of the public hearings.

6:15 PM

III. PUBLIC HEARINGS:

1. CDOA-21-13, 102 River Rd.- RDA- *for dock and platform repairs on North River*

PRESENT: Paul Lauderbach, PE. Merrill Engineers and Land Surveyors, Inc., Peter Wahl, Harbor Mooring, Applicant's Representatives, Applicant Nancy Callanan

DISCUSSION: Mr. Louderbach presented a plan dated 10/22/21 showing repairs to a concrete pier and float located in the North River. It was confirmed that the project had approval from the North River Commission and that an application had been submitted to MA DEP to renew the owner's Chapter 91 Permit. Mr. Lauderbach pointed out that this maintenance project was necessary to stabilize the existing structure. Further, that the existing cement platform is to be removed and 8 new 4' x 4' wooden piles would be installed to stabilize the new platform. In response to the Commission's questions, he noted that there would be no digging, but that some disturbance would occur within the river when the concrete and supporting rocks were removed.

VOTE: Upon a motion and second made by Members Vaille and Magoun, it was voted 3-0-0 to close the hearing and issue a Negative #2 and #3 Determination of Applicability.

- + **Member James Vaille recused himself from the next hearing as he is an abutter to the project.**
- + **Associate Member David Sawin stepped in as a voting member.**

2. CDOA-21-21, 220 Brook St.- RDA- *for septic system upgrade in BVW buffer*

PRESENT: Stephen Nelson, RS, Clearwater Recovery and Contractor Jerry Esposito, Applicant's Representatives.

DISCUSSION: Mr. Nelson presented a plan dated 9/10/20 showing the abandonment of a failed septic system and the installation of a new Title V rated septic disposal system 28 ft. from an on-site bordering vegetated wetland (BVW). Due to the constraints of the site, erosion control materials and limit of work were proposed at 35 ft. from the BVW. He noted that Board of Health approval has been issued. The Conservation Agent reported that the wetland line was accurate and

VOTE¹: Upon a motion and second made by Members Magoun and Sawin, it was voted 3-0-0 to close the hearing and issue a Negative #3 Determination of Applicability.

6:35 PM-

✚ **Member Robert Sennett joined the meeting and Associate Member Magoun stepped down** *(after the above vote).*

✚ **Member James Vaille returned to the meeting and Associate Member Sawin stepped down.**

The Commission's quorum continued with Lisa Satterwhite, Robert Sennett, and James Vaille until the end of the meeting.

Public Hearings (cont'd):

3. CDOA-21-14, 191 Water St.- RDA- *for upgrade to Electric Substation #910 in BVW buffer*

PRESENT: Heidi Graf, PE, BSC, Applicant's Representative *(attending via Zoom)*

DISCUSSION: Ms. Graf presented a plan dated 10/05/21 showing the installation of approximately 85 linear ft. of UG conduit and three 48 sf foundations for one set of three 69kV CCVT's on the high side of transformer 1 to add overvoltage protection. This work requires a 3-ft-wide trench and excavation of approximately 4 cyd's of earth for each CCVT foundation (12 cyd's total). She noted that the proposed work is entirely within the existing substation yard enclosed with a chain-linked fence and that all excavated soils will be stockpiled within this area as well. The Agent noted that the work area was similar to that previously permitted through Conservation and confirmed that the plan measurements were accurate.

VOTE : Upon a motion and second made by Members Magoun and Sawin, it was voted 3-0-0 to close the hearing and issue a Negative #3 Determination of Applicability.

4. CNOI-21-19, SE 31-1245, 119 Plain St.- NOI- *for septic system upgrade in BVW buffer*

PRESENT: Peter Lyons, PE,

DISCUSSION: Mr. Lyons presented a plan dated 8/23/21 showing the abandonment of a failed septic system and the installation of a new Title V rated septic disposal system. He pointed out that the existing system was located 7 ft from the on-site bordering vegetated wetland (BVW) and was within inner riparian (0-100 ft. riverfront area (RFA)) to the Drinkwater River. Whereas, the new system was proposed at 51 ft. from the BVW with the majority of the field located within outer riparian (100 – 200 ft. RFA).

Assoc. Member Sawin questioned the 26% reduction in the size of the system. Mr. Lyons explained that due to the constraints of the site, a reduced system is necessary. Also that even at 26% reduction (800 sf to 598 sf) the system meets the State requirement by 119%. The Agent noted approval of the system by the Board of Health, but will re-confirm the meeting date and the reduction issue. She also pointed out that approximately 50% of the lot was covered by BVW, the house, built prior to the Rivers Protection Act, was entirely within inner riparian, and that the entire lot was covered by resource area (BVW and RFA). Due to these conditions, conservation posts were required at the wetland line within historically mowed lawn. After further review of the plan, the Commission agreed that the plan was an improvement over existing conditions.

¹ Member Sennett arrived at the end of the discussion for 220 Brook Circle, but did not join the discussion nor vote until the next hearing.

VOTE: Upon a motion and second made by Members Vaille and Magoun, it was voted 3-0-0 to close the hearing and issue a Negative #2 and #3 Determination of Applicability.

5. BL 20-64, SE 31-1215, 110 Industrial Way- *for commercial structure, septic, etc. in RFA and BZ to BVW*
PRESENT: Cameron Larson, PE, Environmental Consulting and Restoration, LLC, Applicant's Representative

DISCUSSION: Mr. Larson updated the Commission on the progress of the cleanup at the site and noted that the applicant will not be requesting a continuance. He explained that the previous continuances were necessary due to the pending sale of the property, and complications due to the death of the owner without a final sales agreement have put the project on hold. He noted that the original plan detailed an office building, reconfiguration of the driveway, and new commercial septic system, among other associated items for a landscaping company. However, the applicant has withdrawn those plans from the Planning Board, and wished to be permitted by the Conservation Commission for the preliminary work completed on the site through Conservation.

The Agent gave a brief history of the project and explained that the initial site inspections revealed multiple violations on the site within inner riparian to the Drinkwater River and BVW buffer zone. Further that the initial Notice of Intent included resolution of those issues as well as the plans for the building and new septic. She noted that cleanup of the site was imperative to the health of the nearby river and took place for safety reasons prior to the close of the hearings to avoid an Enforcement Order. Work that was required included:

- ✚ removal of all abandoned vehicles and metal debris
- ✚ removal of all other debris piles and trash from the site (entirely within riverfront area and BVW buffer)
- ✚ an area of parking for employee vehicles was established outside of the 35 ft. setback to the top of slope
- ✚ removal of invasives, cleanup of site, and initial restoration of the RFA and BVW buffer zone was completed.

As the applicant would be conducting a landscaping business from the site, initial improvement activities included the removal of invasive species from the wooded inner riparian. The Agent and Mr. Lyons confirmed that the above activities were completed. Mr. Lyons added that an area >35 ft. from the river was established with concrete barriers for mulch, soil, and similar landscaping products. The Agent confirmed that the bins had been moved out of the 35 ft. setback. Mr. Lyons requested that the hearing be closed with issuance of an Order of Conditions based on the above completed activities. He confirmed that the applicant understands that a new Notice of Intent is required for any future construction or installation of the septic, parking lot paving, and/or utilities installation. The Agent recommended the installation of conservation posts at 30 ft. intervals (flexible due to grade and site conditions) and fencing of 4 ft. height, both at the 35 ft. setback from the river. A question arose regarding the septic system, and it was confirmed that there are no plans to install the new system, the proposed building, or reconfiguration of the driveway.

VOTE: Upon a motion and second made by Members Sennett and Vaille, it was voted 3-0-0 to close the hearing and issue a modified OOC based on work completed.

IV. ADMINISTRATIVE: IV.1. - 3. Commission reviewed with no revisions required.

1. Minutes- 9/29/21

2. Agent's Report

3. The following addresses were issued Minor Activities Permits or Event Permits:

- CHPD-21-13- Scheduled Event- *for training Sept. 20 event at Clark Bog Firing Range*
- CSI-21-22 thru 26- Site Inspections *(not related to application or permit)- for wetland review on Washington St., King St. rear, Brookbend Rd., and Saltwind Dr.*
- CMA-21-10- Minor Activities Permit- *for removal of hazardous damaged trees in BZ to BVW*

4. Other - *Those items not reasonably anticipated by the Chair within 48 hours of the meeting*

7:15 PM

II. ACTION ITEMS: This section of the agenda was taken out of order due to public hearing times.

1. Request for Certificate of Compliance-

- 90 Birchwood Rd.- SE 31-1214

VOTE: Upon a motion and second made by Members Sennett and Vaille, it was voted 3-0-0 to issue a Certificate of Compliance.

- 27 Bonney Ln.- SE 31-1216

VOTE: Upon a motion and second made by Members Sennett and Vaille, it was voted 3-0-0 to issue a Certificate of Compliance.

2. Ratification of Enforcement Order- 965 and 965A Washington St.- The Conservation Agent provided copies of the original complaint file and Enforcement Order, as well as 3 updated Enforcement Orders for unpermitted work on this site. Due to circumstances involving a prolonged sales process, renters, and transfer of ownership, restoration work on this site has not been completed. The Agent reported that the new property owner has been fully updated on the enforcement actions and is aware that the Conservation Office holds funds in escrow to complete the restoration work if necessary. Remaining work includes:

- a. BVW buffer restoration completion with 2 yrs. of monitoring;
- b. installation of cape cod-type berm or split rail fence at the 35 ft. no-disturbance setback of the northern BVW behind the building;
- c. replacement of the pine grove that was removed (requires a permit) near the billboard;
- d. restoration of the southern BVW buffer zone around the billboard.

The Agent noted that although the Commission voted originally to not ratify the EO at their 7/28/18 meeting due to the initial cooperation of the owner, the restoration project has been delayed several times. In explanation from the former owner, renter and other business complications caused delays on several occasions. However, in 2019 and 2020, two additional violations on the site took place. When restoration plans were offered by a renter on site, that too was delayed due to the pending sale of the property. Due to the above, the Cons. Agent requested the Commission to vote to ratify the original EO, as well as the updates.

VOTE: Upon a motion and second made by Members Sennett and Vaille, it was voted 3-0-0 to ratify the original EO, the 2019 updated EO, the 2020 updated EO and the 11/22/21 update to the Enforcement Order.

Minutes Respectfully Submitted by
Sandra MacFarlane, Conservation Agent, CDMI

Documents Provided at meeting:

- 11/22/21 Agenda
- COC Requests for 90 Birchwood Rd. and 27 Bonney Ln.
- CDOA packet for 102 River Rd.
- CDOA packet for 220 Brook St.
- CDOA packet for 191 Water St.
- OOC packet for 119 Plain St.
- OOC packet for 110 Industrial Way
- 9/29/21 draft Minutes (*10/27/21 meeting was cancelled*)
- 11/22/21 Agent's Report (*including Oct. information*)
- Minor Acts and Event Permits as listed in IV.3.