

**Carlisle Conservation Commission**  
**Minutes**  
**April 25, 2019**

Pursuant to the notice filed with the Town Clerk, Chair Angie Verge called the meeting to order in the Clark Room at the Town Hall at 7:10 p.m. Also present were, Commissioners Alex Parra, Lee Tatistcheff and Helen Young and Conservation Administrator Sylvia Willard. Not present were Vice Chair Melinda Lindquist and Commissioners Ken Belitz and Dan Wells.

**Project Updates:**

**162 Nowell Farme Road: Enforcement Order – Unpermitted Tree Removal within the 100-foot Buffer Zone of a BVW (May 2018)**

Willard reported the Enforcement Order (EO) dated March 27, 2019 sent by Certified Mail was returned as “unclaimed”. She noted the EO was also sent to the property owner via email. The Commission requested that Willard contact MassDEP if no response has been received from the property owner by May 13, 2019, the deadline for the submittal of a Notice of Intent including a Restoration Planting Plan.

**Conservation Land Management:**

**Rockstrom Conservation Land - CR and WPA Violation:** The EO issued in January following unpermitted tree removal requires that a Restoration Plan must be submitted to the Commission office no later than April 30, 2019. Willard said she has had no response following the issuance of the EO and to her knowledge the wetland flagging has not yet been done.

**FY20 Budget Update:**

**Staffing Requests:** Verge said she was speechless upon learning the BOS had approved an increase in hours for the Assistant Town Clerk after the Finance Committee had denied all staffing requests for increases and closed the Warrant at their previous meeting. She asked if this last minute change may have been because the Commission’s process was not as clear as that of the other department. Tatistcheff said she found this hard to believe because the Commission has been following the process as required for over 5 years. Tatistcheff said the Commission’s request for a grade change for the Administrative Assistant is actually more mandatory than the increase in hours. She asked if perhaps someone from the Commission could speak to this at Town Meeting or if that is an inadvisable action.

Current Administrative Assistant Mary Hopkins said it seemed the Commission had followed the process to a T beginning last summer. She said, as a long-term employee of the town, it seemed like the last-minute change in approval was handled in a very unfair manner. Verge said she found the situation extremely frustrating since she had not been aware that it was an option to go back to the BOS to appeal the Finance Committee’s decision to deny the requests.

Verge reported that when she presented the Commission’s request for support for CPA funding for the Open Space and Recreation Plan update to the Master Planning Steering Committee, it was asked why the Commission can’t pursue some of the grants that are available for OS&R communities. She said her reply was that she wished there were more hours in the week. Tatistcheff noted the Commission has regulatory requirements and cannot add to their burden for things they want to do before doing the things they are required to do within the timeframe allotted. (Note: Carlisle is not qualified for the OSRP grants.)

Verge asked if the Commission could move funds around within their General Fund budget. Willard said she believed the Commission would be required to discuss this with the BOS.

**Greenough Dam Repair Funding:** Verge reported the bids submitted for the project well-exceeded the \$300k that was being requested in CPA funding, coming in at \$360k to \$690k. She said the CPC discussed the issue at their previous meeting and their recommendation is that the Commission withdraw the request until next year when a determination has been made relative to potential state funding through the Environmental Bond Bill and, if state funding is denied, the Commission could then request CPA funding with more complete cost requirements.

Tatistcheff said, to take a contrarian view, the costs are not going to decrease and waiting only costs the town money. She said the Commission has been waiting for twenty years to repair the dam and the likelihood of an emergency does not decrease. However, she said she agreed going to Town Meeting is a very risky step.

*Following further discussion, Young moved to withdraw Article 22 from the Town Warrant. Tatistcheff asked if the Commission was required to have a majority of the quorum or a full majority of the entire Commission. Parra stated that in most instances a majority of the quorum present is required. Parra seconded the motion and all voted in favor with the exception of Tatistcheff, who abstained.*

### **7:20 p.m. (DOA-356) Request for Determination of Applicability**

**Applicant: George Paradissis**

**Project Location: 24 Milne Cove Road**

**Project Description: Removal of 5 trees located within the 100-foot Buffer Zone of a Bordering Vegetated Wetland and with four of them within Land Subject to Flooding**

Verge opened the meeting under the Massachusetts Wetlands Protection Act and the Carlisle Wetlands Protection Bylaw. Tatistcheff disclosed for the record that she resides in the neighborhood but is not an abutter and has never met the applicant, and said for those reasons she was not recusing herself.

Willard noted this property received a Negative Determination last summer for tree removal required for access to the construction zone for a failed septic system; during the review process a wetlands violation was discovered and was addressed by the previous owners; there is a final report due from the wetland scientist by June 1, 2019.

Mr. Paradissis presented the plan that was based on the still-valid delineation from the previous filing. The request includes removal of 5 large white pine trees located within the outer 50 feet of the Buffer Zone, one of which had split during a high wind storm. His tree contractor has evaluated the trees and determined they pose a danger due to the close proximity to the house. Tree removal will be done by crane with all debris and branches to be removed off site and with stumps left in place.

The Commission determined a Restoration Planting will not be needed since the area is heavily treed and the proposed removal will not negatively alter the canopy. *Tatistcheff moved to issue a Negative Determination/B3, the work described within the Buffer Zone, as defined in the Regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent. Young seconded the motion and all voted in favor.*

### **7:30 p.m. (DEP 125 -1064) Notice of Intent, Continued Hearing**

**Applicant: Dan Gainsboro, NOW Communities, LLC**

**Project Location: Bedford Road, Map 10 Parcel 4 Lot X**

**Project Description: Construction of 18 dwelling units, 9 of which proposed within the 100-foot Buffer Zone of a Bordering Vegetated Wetland, a 20-foot wide roadway with a crossing of an intermittent stream with an open bottom box culvert, sidewalks, stormwater management infrastructure and associated tree removal and grading.**

Verge opened the continued hearing under the Massachusetts Wetlands Protection Act and the Carlisle Wetlands Protection Bylaw.

Dan Carr of Stamski and McNary provided an update on the status of plan revisions. He reported the project has been reviewed by Planning Board consultant Nitsch Engineering, who has requested several changes as well as

clarification on certain aspects of the project. He said those changes have been made but a revised plan has not yet been submitted pending the completion of the BOH peer review. Tatistcheff asked Carr if, from a procedural perspective, they are in front of the Commission on a conceptual basis since they have not submitted the revised plans. She also asked if the Commission would be receiving an electronic copy of the plan being discussed tonight, since this is required under the provisions of the Open Meeting Law. Carr agreed to leave the plan. In continuing his review, Carr noted changes requested by the Trails Committee and the Fire Department are highlighted on the plan.

Following a preliminary review of the Landscape Plan with Willard, Carr said they will be providing straight species vs. cultivars and will be adding the 100-foot Buffer Zone as requested. Addressing concerns relative to the potential for construction traffic causing muddy conditions on Bedford Road, Carr said the Site Development Plan includes provisions for a construction entrance maintenance schedule.

Carr noted the greatest change to the grading on the site was due to a reconfiguration of the leach field in order to follow the contours of the land more closely, which resulted in a large reduction of required fill. Parra asked what their net import is following these changes. Carr said they are down to 8k cubic yards total but taking cut and fill from the foundations will result in a net import of 5k cubic yards, most of which will be used for the leach field and the crossing. Parra asked how much of the site they will have open at any particular time to balance the cuts and fills. Carr responded by stating they are considering phasing the construction so the entire site is not open at once. He noted there are certain aspects of the project that must be done in the beginning including the access road, which he said is where the majority of the fill will be used. Parra noted that to construct the access road will require fill from somewhere else. Gainsboro said they have not yet worked out these details but could potentially begin work more up near the Common Area and bring it back if that is preferable to the Commission.

Parra said his concern stems from an experience with a site when he previously served on the Commission 20 years ago, where the entire site was open and not adequately stabilized, which became a problem during wet seasons. He said because of this he would want to see a very careful plan of how they are going to do the cuts and fills and stabilize the site before the intermittent stream becomes flowing. Carr responded by stating they are aware of the importance of the erosion/sedimentation controls for a site like this and will be including designated soil stockpile areas with erosion control around them, as well as the use of temporary sediment basins to direct the construction flow to low areas in the ground before it reaches any resource area. The plan will also include haybale check dams when the road is first graded out, spaced at every 50 feet along the edges of the roadway to slow the flow of water and direct it to temporary sedimentation basins before reaching the siltation barriers around the perimeter of the development. Tatistcheff noted the Commission requires straw, not hay, bales.

Willard cited concerns relative to the potential for invasive plant material being brought onto the site within surface material and distributed within areas that do not require regular mowing maintenance. Carr said these areas will be loamed and hydroseeded with conservation seed mix once they fill them out and get final grades.

Verge reiterated the Commission's concerns expressed during their recent site visit with Carr relative to select exposed areas that were identified as potential problems. Gainsboro said part of their obligation for the ROSC process is to provide a Construction Management and Sequencing Plan. He said his site specialist is working on that now and he would be communicating the Commission's concerns to him and discussing potential means of addressing them. Carr noted they are also required to provide a SWPPP, which will require weekly monitoring reports on erosion controls as well as reports following every major storm event. The SWPPP also requires that 24-hour personnel are available on call so that any breaches/sedimentation/erosion control issues can be addressed quickly.

In concluding his presentation, Carr noted that Commissioner Wells had stated in a recent email that the shading that will be created with the stream crossing requires them to provide wetland replication. Carr said their office disagrees with that assumption and is also aware that the town of Carlisle has not required this for past projects exclusively for the shading aspects of a crossing. Parra asked what geographical area the crossing covers. Carr

estimated the wetland is ten feet wide at most within the crossing. Dr. John Rockwood of EcoTec, Inc., who was present for another hearing, suggested a potential compromise would be providing enhancement plantings on either side of the crossing to compensate for loss of vegetation under the crossing rather than excavating an area of Buffer Zone adjacent to a wetland. He noted that because they will be altering the wetland by removing vegetation, there should be some mitigation, which will be at the Commission's discretion as to how it is addressed.

Parra said another question is whether the Commission is interested in obtaining a peer review of the Construction Sequencing and Management Plan for this project. Willard clarified the CSMP is peer reviewed by the Planning Board's consultant but not from a wetlands perspective. Tatistcheff suggested Commissioner Wells could review the proposed CSMP and recommend whether it should be peer reviewed.

With no further questions or comments, *Tatistcheff moved to continue the hearing for DEP 125-1064 to May 16, 2019 at 7:30 p.m. The motion was seconded by Young and all voted in favor.*

### **8:00 p.m. (DEP 125-1063) Notice of Intent, Continued Hearing**

**Applicant: Robert Silva/Septic Preservation Services**

**Project Location: 95 Hanover Road**

**Project Description: Installation of a septic system for an existing single-family house with work within the 100-foot Buffer Zone of a Bordering Vegetated Wetland.**

Verge opened the continued hearing for DEP #125-1063 under the Massachusetts Wetlands Protection Act and the Carlisle Wetlands Protection Act.

Property owner/Applicant Chantal Nouvellon noted she had stated at the previous hearing her intention is to revert to the original septic plan for this project because she has no intention of doing any work within the Buffer Zone except for grading. Tatistcheff asked the applicant for the date of the previous plan. Nouvellon responded the previous plan was done in 2009 and revised by Stamski and McNary in 2012, when it was approved by the Commission and was then accepted by the BOH in 2014, 2015 and 2016 when and the septic system was partially constructed including the septic tank and pump chamber.

Nouvellon said when the new plan was submitted, the delineation was determined to be vastly different from that original plan. She said because of this she wants to ask the Commission if she can use the previous plan and delineation in order to finish the septic field and grading. Tatistcheff explained the wetland delineation from the previous has expired and is no longer valid and therefore the wetlands must be re-delineated and confirmed.

Nouvellon said when the new plan was reviewed in December the Commission required a peer review. She said at that time she asked Commissioner Dan Wells what the selection criteria is and how the Commission would judge it. She said at that time the Commission did not have criteria so she felt she is now being put in a position where the Commission is forcing her to go with one agency, which is Dr. John Rockwood or the other peer reviewer (Gillian Davies of the BSC Group). Verge clarified the fact that at the previous hearing the Commission said they would be happy to evaluate other proposed wetlands consultants. Nouvellon recalled the Commission also stated at the previous hearing that they do not necessarily have to agree with a proposed alternate peer reviewer's opinion so the determination is made by vote, and if the Commission is forcing her to choose a delineation review, she would agree to use Dr. Rockwood. Verge reiterated the fact that she is welcome to bring forth additional peer reviewers that she would like the Commission to consider. Nouvellon restated her intention to contract with Dr. Rockwood for a peer review.

With no further discussion, *Verge requested a motion to continue the hearing to May 16, 2019 at 7:45 p.m. with the applicant's approval and pending an additional peer review of the wetland delineations. The motion was moved by Tatistcheff, seconded by, seconded by Parra and all voted in favor.*

### **8:10 pm (DEP 125-1065) Notice of Intent, Continued Hearing**

**Applicant: John Nelson for the John Power Trust**

**Project Location: Skelton Road**

**Project Description: Installation of an 8-foot high cedar fence within the 100-foot Buffer Zone and within the 200-foot Riverfront Resource Area.**

Verge opened the continued hearing under the Massachusetts Wetlands Protection Act and the Carlisle Wetlands Protection Bylaw and requested a motion to continue the hearing at the representative's request to May 16, 2019 at 8:00 p.m. The motion was moved by Tatistcheff, seconded by Young and all voted in favor.

**Wetlands Protection Act/Carlisle Non-Zoning Wetlands Bylaw Violation: Complaint by owners of 33 & 61 Pilgrim Path of unpermitted alteration within in the 100-foot Buffer Zone of a Bordering Vegetated Wetland for the benefit of property located at 846 Bedford Road:**

Willard provided an overview of the issue using the site plan submitted by the property owners of 33 and 61 Pilgrim Path, explaining that some of the unauthorized tree removal and other activities fall under the Wetlands Protection Act Regulations and others are trespass issues that are not within the Commission's jurisdiction. She noted the owners of 51 Pilgrim Path were also affected by the work but have not submitted a complaint.

She reported conducting a site visit in January with the property owners at their request, during which she took photographs documenting the clearing relative to the property lines. She reported finding some of the tree removal, likely stump removal, grading, loaming and seeding to create a lawn some of which is within the inner 50 feet of the wetland that had been flagged by B&C Associates, but not submitted for approval by the Commission.

Potential options to address activity within the Commission's jurisdiction include ignoring the issue or issuing an Enforcement Order to the property owners of 33 and 61 Pilgrim Path, who will then be required to address mitigation requirements with the individual who did the unpermitted work. Parra asked what the property owners would want the Enforcement Order to include if the Commission were to take this approach. Allen said he wanted the damage restored on his property to the extent possible. Parra noted the Commission's jurisdiction is with respect to impacts on the wetlands, so the nature of the enforcement action they would be able to take, if inclined to do so, would be such restoration as may be necessary in order to restore the wetlands that is impacted on his property. He noted that Allen has other rights as a property owner to resolve this issue. Allen said he was just asking the Commission to do whatever can be done within their authority. Schmidt said his interest is in protecting the wetland and also in not being held liable at some point for damages done by someone else.

The Commission will be scheduling a site visit to further evaluate the impact of the work on the Buffer Zone and the wetlands.

**8:25 p.m. (DEP 125-1035A) Request for Amended Order of Conditions**

**Applicant: Curtis Peredina**

**Project Location: 120 Wolf Rock Road**

**Project Description: Construction of a proposed garage instead of a previously approved carport and located to the northwest of the previously approved location**

Verge opened the hearing under the Massachusetts Wetlands Protection Act and the Carlisle Wetlands Protection Bylaw.

Dan Carr of Stamski and McNary presented a revised plan dated April 25, 2019 which includes the addition of 9 trees proposed for removal to clear the site of the garage. (The revised plan had been submitted electronically earlier in the day.) He noted that the previous owners of the property received an Order of Conditions in 2017 to replace the system and construct a car port. The current amended plan proposes to construct a three-car garage in a revised location with an extension of the gravel driveway to meet the garage and to provide additional turning capacity. Also proposed is an underground electric service to the garage. The existing siltation barrier line will be adjusted to be located downgradient of the proposed garage. The revisions to the proposal will result in a change in distance from the wetland from 40 to 39 feet and an increase in size of the garage from 500 to 864 s.f.

The Commission determined a planting plan should be provided as mitigation for the tree removal. Willard noted the previous OOCs included the requirement that a planting be submitted for the area around the septic system but one was never submitted before the property was sold. She also noted the previous owners had received a Continuing Condition to conduct ongoing removal of Japanese Knotweed, which the current owner has continued and which will carry forward to the Amended OOCs. Carr agreed to provide the applicant with a copy of the Original OOCs for his reference in providing the planting plan required under the previous OOCs.

*Tatistcheff moved to close the hearing for 125-1035A, Parra seconded the motion and all voted in favor. Tatistcheff moved to authorized the request for an Amended OOCs to include the plan dated April 25, 2019 with the following Special Conditions: a planting plan including 3 trees and 5 shrubs shall be submitted for approval; a drip edge shall be provided at the garage. Parra requested a friendly amendment that the Amended OOCs be recorded with marginal ref to original Order. Tatistcheff accepted the amendment. Young seconded the motion and all voted in favor.*

#### **Extension Permit Requests:**

**8:45 p.m. (DEP 125-0971) Order of Conditions; 61 Judy Farm Road; Adam Ostrow; Project: tree clearing, expansion and extension of a driveway to a common driveway and installation of a dry hydrant stand pipe into an existing pond; Issued 10/22/2014; 4<sup>th</sup> Extension Request**

Willard reporting having conducted a review of the wetland flags that had been reestablished according to the ORAD plan issued on 1/10/2014 with peer reviewer Dr. John Rockwood of EcoTec, Inc.

Rockwood was present to discuss his findings as submitted in his report to the Commission dated April 25, 2019. He stated the wetland flags shown on the site plan accurately reflect the wetland boundary reviewed in the field during the site visit. Several of the flags were not located correctly based upon stubs of the former flags or based upon topography or other site features. His recommendation is to require that the surveyor should relocate by instrument survey those flags identified in his report and that the surveyor provide a letter that states that such work has been completed in accordance with professional requirements that is stamped, dated and signed over the stamp. In addition, Rockwood recommended that the Commission require that the soil that has eroded from the driveway should be removed from the wetland by hand and the driveway edge repaired to prevent such erosion moving forward.

The review for this request was continued pending receipt of the written documentation from the surveyor in accordance with Dr. Rockwood's recommendations.

**8:55 p.m. (DEP 125-1000) Order of Resource Area Delineation; South Street, Parcels 54 & 56; Applicant: Attorney Howard S. Fisher on behalf of Ira Nagel, Trustee, Inga L. MacRae Trust; Issued: 5/5/2016; Requesting two-year extension to 5/5/2021**

Verge opened the discussion. Parra recused himself stating he has consulted with Howard Fisher in the past prior to his current term serving on the Commission. He noted his absence will result in a lack of quorum.

The Commission agreed to allow Howard Fisher at his request to provide additional information relative to the extension request, noting they would be unable to comment or to make a determination due to the lack of a quorum. Fisher stated the property had been tied up in litigation and as a result they have been unable to move forward. He asked that the Commission schedule a continuance of the discussion following their review the requirements within the Wetlands Protection Act Regulations relative to the circumstances under which a request for an ORAD extension can be denied. He stated it was his opinion that the only possible reason for not granting the extension is the delay issue and he believes they have an equitable argument in that the delay was beyond the applicant's control.

#### **Spring Town Meeting Warrant Articles:**

**Article 27: Right to Farm Bylaw:** ... "encourages the pursuit of agriculture, promotes agriculture-based economic opportunities and protects farmland within the Town of Carlisle by allowing agricultural uses and related activities to function with minimum conflict with abutters and town agencies."

Resident David Freedman and Agricultural Committee Associate Member John Lee were present to request the Commission's support for the Right to Farm Bylaw. Lee provided an overview of the proposed bylaw, stating it is largely if not solely an opportunity for the town to state specifically that it supports the rights of farmers within stated parameters. He noted the proposed bylaw does not change existing bylaws and is based on the state's right to farm bylaws and is adapted from the bylaws of surrounding towns. Lee said the other advantage to adopting the bylaw is it creates a dispute resolution structure. Freedman noted the bylaw provides protection only for farmers with acceptable practices.

*Tatistcheff moved that the Conservation Commission support Article 27 Right to Farm Bylaw as it will be moved at Town Meeting, Parra seconded the motion and all present voted in favor.*

**Article 35: Amended General bylaw regarding Firearms, Explosives and Hunting - ..."** to exclude firearms, explosives and hunting on town-owned land."

Citing their initial vote to support the Deer Committee/Bow Hunting Program because of ecological concerns relative to the negative impacts on habitat, the Commission voted as follows: *Tatistcheff moved that the Conservation not support Article 35, Young seconded the motion and all voted in favor.*

**Upcoming Meeting Schedule:** May 16 & 30; June 13 & 27; July 18, 2019

9:15 p.m. *Tatistcheff moved to adjourn, Young seconded the motion and all voted in favor.*

Respectfully submitted,  
Mary Hopkins, Administrative Assistant

**DOCUMENTS PRESENTED:**

NOW Communities/Bedford Road, Map 10 Parcel 4 Lot X: Revised Site Development Plan dated April 8, 2019