

Leominster Conservation Commission Meeting  
6:02 pm, September 26, 2023

Jim Chambers, Bob Sicard, Mike Cichy, Chair Chuck Raymond, and Conservation Agent Nick Kremp present.

**Pursuant to MGL CH 131 § 40, Massachusetts Wetlands Protection Act, the Leominster Conservation Commission will hold a Public Hearing on a Request for a Determination of Applicability for the partial resurfacing of a tennis court in the wetland buffer and riverfront area of Fall Brook. Address: Meadow Pond Drive, Map and Parcel 482-2-12 .**

Bob Kelly, Meadowbrook Condo Association, presented on the project. Applicant is seeking to dig up and remove the old tennis court and resurface it with a new fence in a smaller area than currently exists. Mr. Kremp stated that the wetlands on site have not been flagged but the applicant is not proposing any work past the treeline which roughly follows the wetland line. Mr. Cichy suggested adding a condition that erosion control barriers be installed around the area of work. Mr. Chambers suggested reducing loss of vegetation as much as possible.

Joan Connor, of Fallbrook Condos, asked a question about further tree clearing and the permitting requirements for this activity around wetlands. Mr. Raymond explained that if it's near or inside of wetlands, they should contact the agent before proceeding with any activity. However, the Commission is understanding in situations concerning public safety and always allows for the careful removal of hazard trees.

Mr. Cichy made a motion to approve the order of conditions, DEP file #199-1185 with the special conditions that erosion control barriers be installed prior to start of work, that the agent be contacted at least 48 hours prior to the start of work, and that no machinery or equipment associated with this project will cross into the wetland area. Mr. Chambers seconded. Motion passed 4-0.

**Pursuant to MGL CH 131 § 40, Massachusetts Wetlands Protection Act, the Leominster Conservation Commission will hold a Public Hearing on a Request for a Determination of Applicability for the replacement of a dock. Address: 10 Lakeshore Drive, Map and Parcel 477-1A .**

Paige McClosky and Brendan McClosky of 10 Lakeshore Drive presented on the project. When they moved in to the property in June of 2021, there was an old dock on their portion of the lakefront which had rotted away and was removed soon after. That area has a concrete pad which has remained clear of vegetation. They are now seeking to install a new, removable dock at this location. If it is removed, it will be stored nearby in the lawn area.

Mr. Chambers made a motion to find a negative 2 determination. Mr. Sicard seconded. Motion passed 4-0.

**Pursuant to MGL CH 131 § 40, Massachusetts Wetlands Protection Act, the Leominster Conservation Commission will hold a Public Hearing on a Request for a Determination of Applicability for the installation of an in-ground pool in a wetland buffer zone. Address: 49 Sky Lane, Map and Parcel 369-14-9.**

Brianna Weigel, representing the applicant in place of Matt Marro, and Ed Snyder, Snyder Pools, presented on the project. They are proposing an in-ground pool, patio, and walkway coming directly off of the back of the house. This will include some minimal grading on the poolside of the project, but no

grading necessary on the patio portion closest to the wetland. Erosion controls proposed include straw wattle and silt fence. 45 feet is the closest approach to the wetland boundary proposed for this project.

Mr. Sicard made a motion to find a negative 2 determination. Mr. Cichy seconded. Motion passed 4-0.

### **Continued Hearings**

**Pursuant to MGL CH 131 § 40, Massachusetts Wetlands Protection Act, the Leominster Conservation Commission will hold a Public Hearing on a Notice of Intent for the construction of a 21-unit apartment building in the wetland buffer and riverfront area of Fall Brook. Address Brooks Pond Road, Lot 8A, Map and Parcel 317-5D-1 . DEP File #199-1184.**

Chris Anderson, Hannigan Engineering presented on the project. He related that at the previous meeting on August 8, 2023. At the time, Mr. Kremp said that he would review the video and look into how to proceed if the hearing was in fact continued on August 8.\*

Mr. Kremp then went on to read DEP's comments on the project, which are as follows:

"What is the cumulative Riverfront Area that has been impacted at this location from previous projects since 1996? Will the total Riverfront Area impact from all projects since 1996, including the current project, exceed 10% or 5,000 sq ft? Does the total RFA alteration listed in the NOI include the expansion of stormwater BMPs? Surface basins and mitigation may be deducted from Riverfront Area impact calculations towards the 10% provided there is not a practical alternative but should still be quantified for review. Please provide the quantified area of alteration to RFA. An alternatives analysis is required for work in Riverfront Area and should explore multiple options and evaluate feasibility. The applicant did not appear to have submitted an alternatives analysis to MassDEP. The box on the NOI form is checked but was not uploaded. Please see 310 CMR 10.58(4)(c). "The alternatives analysis may reduce the scale of the activity..." All proposed alternatives must also meet performance standards. If seeking redevelopment status, please demonstrate how the project complies with 10.58(5)a-e. Please note the Department does not consider lawn areas to be degraded. LID does not include: deep-sump catch basins, proprietary water quality devices, underground storage systems, infiltration basins, or sediment forebays. TSS treatment chain information does not appear to include any infiltration basins. Are they being used to treat TSS? Each treatment train requires a separate worksheet."

Mr. Anderson then went on to discuss some of the history of this site and stormwater regulations relating to DEP's comments. He mentioned that the improvements to the detention basin take into account an anticipated increase in impervious area on the property from a proposed project on Lot 9A to be covered in an upcoming Notice of Intent to be filed. He ultimately agreed to provide written responses to DEP's comments prior to the next meeting on October 10, 2023.

Mr. Cichy made a motion to continue the hearing for DEP File #199-1184 until the NOI for Lot 9A is ready to be presented. Mr. Sicard seconded. Motion passed 4-0.

\*There was in fact a vote of approval for this project on August 8, 2023, but this was ultimately rescinded by majority vote of the Commission at the following meeting on October 10, 2023.

### **Regular Meeting**

### **Enforcement -**

## **Harwood Terrace, Bobrek stormwater analysis**

Brendan Pyburn, Bobrek Engineering, presented on the analysis.

Mr. Pyburn briefed the Commission on the site and the stormwater system which Bobrek was hired to analyze. He described the slope failure which resulted in an enforcement order to repair the slope and the stream immediately below the failure. There was a site walk with John Bobrek, Nick Kremp, and Mr. Brennecke, the property owner, on August 1. On that walk, they observed the repairs to the slope failure which consisted of rip rap from the top of slope to the toe of slope, terminating in a “plunge pool” of stone and rip rap. The purpose of the pool is to slow the flow of water as it exits the drain pipe and enters the wetland and stream area. The purpose of the rip rap up the slope is to stabilize that slope in the event of future overtopping of the driveway during heavy rains that overwhelm the swale where stormwater enters the pipe upslope of the driveway, as happened during the initial failure. Additionally, Mr. Pyburn noted that the area is still in active construction.

Ultimately, Bobrek Engineering found that it appears that the pooling of the water in the swale and driveway above the area of the slope failure was not accounted for in the initial models which were used to inform the original design.

Their final recommendation is that in the request for a Certificate of Compliance at the close of construction, there should be an as-built presented by the Engineer to the Commission showing that the entire site meets stormwater standards as well as the Order on file.

Mr. Sicard asked a question about the sediment remaining in the stream channel of lot 7A of Hillery Road from the July failure. Mr. Kremp confirmed with Mr. Brennecke that he had previously agreed to have this cleaned out with hand tools. Mr. Brennecke agreed.

Mr. Kremp read a written statement from Diane Paralta and Raymond Hoy, the property owners of lot 7A of Hillery Road. It read as follows:

“First we would like to send our apologies for not attending the meeting. We are owners of Lot 7A Hillery Road. We would like our comments to be on record in this meeting and ask that your comments be made part of the minutes for the record. Our land is not selling because of the plan that the Commissioners have approved for the lot above our lot on Harwood Terrace that has literally destroyed our land as a buildable lot. We have had several buyers now, of which two builders have had serious interest but have reneged or decided against the purchase due to the water runoff from that Harwood Terrace property above ours. We had an initial offer that was backed out of due to the extremity of the water issue. Our land has been seriously altered due to the allowed plan of the lot above ours; that this Committee approved. There are multiple water trenches developed on our land as a result of the drainage systems on the Harwood Terrace lot. The water rushing down to our land was ongoing before the driveway above our lot collapsed, but the driveway collapsed because of the allowed plan. This beautiful lot that is an approved building lot in a lovely neighborhood has been listed for sale for almost 7 months now. It is due to the approved site plan on Harwood Terrace and actions of this committee that it has not sold. Each day that it is not rectified is costing us time and money. We would like the drainage pipe situation be rectified as soon as possible to prevent water running down to our lot. We believe someone has to take responsibility and some action immediately. Thank you for your time. Ray Hoy and Diane Peralta”

Mr. Kremp and the Commission agreed that the Commission has done as much as they can to address Mr. Hoy's and Ms. Peralta's concerns mentioned in the letter.

Mr. Brennecke, Mr. Kremp, and the Commission generally approved of Bobrek Engineering's recommendation that the applicant submit an as-built plan which shows the site's stormwater infrastructure is performing as designed.

### **9/11/23 Flood Overview**

Mr. Kremp gave a brief summary of the recent historic flooding in Leominster and the subsequent Emergency Declaration from the State and the City's pursuit of disaster funding from FEMA and MEMA. Mrs. Mia McDonald of Massachusetts Department of Environmental Protection's Central Office was also in attendance to supplement the summary and answer additional questions.

### **Emergency Certifications -**

#### **Distributing Reservoir Dam**

Mr. Cichy made a motion to ratify the emergency certification for the repair work at Distributing Reservoir dam. Mr. Sicard seconded. Motion passed 4-0.

#### **Barrett Park Dam**

Mr. Sicard made a motion to ratify the emergency certification for the repair work at the Barrett Park dam. Mr. Chambers seconded. Motion passed 4-0.

#### **208 Pleasant Street culvert temporary repairs**

Mr. Chambers made a motion to ratify the emergency certification for the temporary repair work to the culvert which runs under Pleasant Street. Mr. Sicard seconded. Motion passed 4-0.

#### **556 Central Street tree removal**

Mr. Chambers made a motion to ratify the emergency certification for the tree removal in the riverfront area of Fall Brook. Mr. Sicard seconded. Motion passed 4-0.

#### **245 Exchange Street bank armoring**

Mr. Chambers made a motion to ratify the emergency certification for the bank armoring to protect the property owners driveway. Mr. Sicard seconded. Motion passed 4-0.

### **Certificates of Compliance -**

#### **Whitney Carriage Apartments, DEP File #199-1105**

Mr. Sicard made a motion to approve a complete certificate of compliance for DEP File #199-1105. Mr. Cichy seconded.

#### **Whitney Carriage Apartments, DEP File #199-1106**

Mr. Cichy made a motion to approve a complete certificate of compliance for DEP File #199-1105. Mr. Sicard seconded.

### **Adjournment**

Mr. Cichy made a motion to adjourn the meeting. Mr. Sicard seconded. Motion passed 4-0.

Meeting adjourned at 8:52 pm.