

Minutes
Conservation Commission
Lee Town Hall 32 Main Street Lee, MA Courtroom
Wednesday August 7, 2019

Members of the Commission Present: Kathy Arment, Chair; Stu Dalheim; James Wickham, John Coty, Jr.; Josh Wright, Intern

Members of the Commission absent: John Philpott; Marilyn Hansen

Members of the Public Present: Braxton Shafiroff; Seana Stover; Chester Wezevitz; Sue and Jim Horsford; Nicolas Galletout, Ethan Winter, Cypress Creek; Peg Biron; Rob Hoogs, Foresight Land Services; Gerald Drake, Jr.; Jeff Jourdain, Jourdain Forest Mgmt; Tom Touponce; Kristen O'Brien; Jeff Braim; Rick Digrigoli; Bob Piccolo; Joe Gardino; Gail Ceresia; Shawn Secular; Lewis Brooks; Thesa Curley; Deidre Consolati

Enforcement Order 1365 Pleasant Street Ms. Arment explained that there have been numerous complaints about the work in the riverfront including the fence, the cutting of a tree and the clearing of the bank within the 200' jurisdictional riverfront. A permit for the work should have been obtained from the Commission and have included a letter from NHESP regarding any endangered species in the area. Mr. Shafiroff said that the fence didn't need a permit from the building inspector, but needed repairing; he cut honeysuckle and other bushes off the bank to clear it and did put some fill into the bottom of the hill. He also installed some steps on the far right. He needs to file a WPA Notice of Intent with a replication plan included. The Commission suggested he hire a wetland engineer to help with this.

Continued Request for Determination of Applicability Glenn Hersh & Nancy Elliott 470 Cooper Creek Rd. Native plantings; investigation of DEP #196-0402 plan changes from Order of Conditions An email was received asking for a continuance to the next meeting. **Motion by Ms. Arment with a second by Mr. Coty to continue to the August 21, 2019 meeting at the applicant's request. Unanimous approval**

Continued Request for Determination of Applicability Scott LePrevost 58 Canal Street Warehouse addition All other permits for this project, have been obtained as requested by the Commission. **Motion by Mr. Wickham with a second by Ms. Arment to issue a Negative 2 Determination of Applicability. Unanimous approval**

Approval of minutes of the July 17, 2019. **Motion to approve by Ms. Arment with a second by Mr. Coty. Unanimous approval**

Continued Scenic Mountain Act Notice of Intent Revere Solar

Submittals from the public: Email letter from Bill Apfel dated March 15, 2019 to the Planning Board and the Conservation Commission; Letter from Mohamed A. Zabian, dated July 16, 2019; Submittals View Scapes/View Shed undated, received June 19, 2019 and Revised View Scapes/View Shed, Caroline-Meyer-Young, Gail Ceresia dated July 31, 2019.

Mr. Reardon, Tetra Tech:

The total acreage of the site is 98 acres. Thirty eight (38) acres on an elevated plateau off Chanter Road are being used for a 5 MW ground mounted passive solar energy array which includes the panels, the security fencing area, the tree cutting and a part of the access road. The whole site is subject to the SMA (Scenic Mountain Act) regulations. The project is designed to be outside of wetland resource areas and wetland buffer zones. Chanter Road which is now paved to the last house on the road, is to be used as the access road. The rest of the access way will be a gravel driveway 20' wide; the national fire code requires the 20' width and the utility company usually requires an 18' width. It can be requested that the Fire Chief allow a driveway of less than 20'; if this would happen, the applicant would be amenable to it. Grading is needed for the access to the site and within the site. There are storm water basins around the site to mitigate for peak volume run off. These basins are spread out so that all the run-off will be dispersed. The mitigation for the scenic views is the location of the site being on a flat plateau and the leaving of 1000 feet of tall trees. The outward facing slopes will not have any panels. The project is only visible from elevations above it where one can see over the trees and look down on the site those being Chanterwood and potentially Moose Drive. Grass will be planted under the solar panels.

Meeting opened for Commission discussion.

Mr. Wickham : Is the project conditioned to not developing the 63 acres that is not being used for the solar array? Would the applicant/owner commit to not developing this?

Mr. Reardon and Mr. Galletout: This could be a consideration.

Mr. Coty: Are there other state regulations that need to be considered?

Mr. Reardon: None are known except electrical permits

Mr. Coty: Is a Commission site visit possible?

Mr. Reardon: It is doubtful it would be helpful. Discussion ensued.

Ms. Arment: I would prefer to see exactly where the site is on the mountain as the photos don't clarify it; a balloon test would help with this.

Mr. Reardon: Doubtful as to how this could be done with all the tall trees around the site

Mr. Hoogs: Potential issues—the actual impact of clearing the site needs to be considered. The presumption is that clearing of ½ acre or more will have an impact as the clearing itself is an impact. The view of the actual array, not just the panels themselves, needs to be considered. Perhaps a balloon of 100' would help in visualizing the site. The clearing itself will leave a depression in the area or a notch; this needs to be considered as a negative impact. The Commission must be convinced that there will be no impact and the mitigation is acceptable.

Ms. Arment: The impact of this is different from the impact of a house in the same area. What happens if the project doesn't work? Who is responsible? Again, the balloon issue was raised.

Mr. Galletout: a site visit and/or a balloon test with a 100' high balloon would not help to visualize the impact.

Mr. Hoogs: It is important to have a decommissioning plan that includes the concerns of the Commission including replanting as a part of the restoration of the site once the panels are removed; replanting is different than just letting the site grow back. Concerns of the

Commission may not overlap with those of the Planning Board which conditioned the site plan approval to include a decommissioning plan approved by them. Plans for the restoration of the site need to be provided to this Commission.

Mr. Wickham: I am wondering what your definition is of clearing. The definition of clearing in the SMA is cutting or otherwise removing fifty (50) percent or more of aerial coverage of trees. Aerial coverage is defined as the ground area equivalent of the tree canopy in full leaf. Are you considering clearing in a broad application and not considering it in the context of each individual tree?

Mr. Reardon: It is being considered in the broad application—all tree removal and not the removal of single trees.

Meeting opened to public discussion at 8:18 PM.

Ms. Ceresia: I am submitting an updated letter and photos of view sheds dated July 31, 2019. Each of the photos shows the cell tower as a reference point.. I am concerned about slopes on site.

Mr. Reardon: There are slopes greater than 15% on the site in sporadic areas. There will need to be grading done. Plans for mitigation are on file.

Ms. Arment read a letter from the Roosas on Forest Street and a letter from the Apfels on Goose Pond, both of whom have concerns about the project.

The applicant will be submitting NPDES paperwork for a permit.

Ms. Ceresia: Are there any protuberances on the ridgeline?

Mr. Reardon: No

There was another discussion about the width of the driveway. Again, the codes were stated. The fire chief can have it changed to less than 20' but the next fire chief might change it back to 20'.

Mr. Reardon: We will look into it

Mr. Digrigoli: I have a concern about safety on the road. Large, heavy trucks need the wider road.. One could probably see the balloon 100' up.

Mr. Hoogs; It is help with visualization.

Mr. Reardon: It is almost impossible to do.

Ms. O'Brien: I am an abutter and don't mind the solar panels. Erosion has been a focus of people on Forest Street for a long time; I don't think it comes from this site. She approves of the project.

Ms. Horsford: The SMA was written to prevent this type of project from happening. More than 1 acre is being cleared; 38 acres are being deforested. It is not needed.

Mr. Reardon: The SMA regulations don't prevent this; it is to make sure the work is done responsibly.

Ms. Consolati: Opposes the solar array.

Mr. Wezevitz: I can see the top of the hill from late October until mid May. I don't want to see the solar array; I want to see the wildlife.

A letter in support of the project was read from Mohamed Zabian.

PLEASE NOTE: There were several comments by public members that could not be heard on the tape because of background noise, interruptions and/or the distance from the recorder.

Mr. Hoogs: The purpose of the is protection of scenic views, erosion, flooding, substantial destruction of vegetation, substantial changes in topographic features, and adverse affects on watershed areas. (Specifics are found on page 1 of the SMA Regulations.) The Act spells out performance standards. The applicant must prove by evidence that these performance standards have been mitigated. The technical review of the plans has not been done yet. It is a work in progress.

The Commission can make conditions on the permit if they so desire. They can reserve the right to do site visits with notice. They can require that the applicant have one or more environmental monitors to do the monitoring of the site and submit annual reports. The gravel driveway is a limited project. The amount of riverfront area and buffer zone impacted by construction needs to be stated. The point source discharge needs to be addressed. The swale to the culvert takes an overland flow—up gradient flow. This needs to be considered.

Mr. Reardon and Mr. Hoogs had different opinions on this and will be considering it in the next phase of the review.

There can be a conditions about "after fact" jurisdiction if any erosion enters into a jurisdictional area.

The second phase of the review has not been done. An extension of the contract needs to be done. The amount would be \$4000.

Mr. Touponce gave the Commission freedom to access the site for a site visit. It is to be the Commission only.

Ms. Ceresia would like to go on a site visit, also. She needs to permission from landowners to enter their property.

Motion by Ms. Arment with a second by Mr. Wickham to close the public hearing at 9:49 pm. Unanimous approval

Motion by Ms. Arment with a second by Mr. Wickham to continue the WPA Notice of Intent until August 21, 2019 with the applicant's consent. Unanimous approval

Ms. Arment: The Commission will made arrangements with Revere Solar to extend the contract with Foresight Land Services with Revere Solar paying another \$4000 for a total of \$7500.00

A thank you to Mr. Wright for all his time serving as an intern this summer.

Motion to adjourn by Ms. Arment with a second by Mr. Wickham to adjourn at 10 PM.