

TOWN OF LEE

32 MAIN STREET

PUBLIC MEETING

POSTED IN ACCORDANCE WITH THE PROVISIONS OF M.G.L. CHAPTER 39 SECTION 23B - AMENDED.

CONSERVATION COMMISSION

**Meeting Minutes**

**PLACE OF MEETING: Judge's Chambers, Town Hall**

**DAY, DATE & TIME: Wednesday May 7, 2014 at 7:00 PM**

**Members Present: Kathy Arment, Chair, Stu Dalheim, Vice-Chair, Marilyn Hansen & Jaime Wickham**

Also Present: Mark Stinson, DEP Circuit Rider and Ellen Mary Dagastino (public)

Ms. Arment called the meeting to order at 7:00 PM.

.7:00 PM: David Iselin 315 Church St. This was a continuation of a public hearing for an addition to his house. To date the Commission has not received the new information Mr. Iselin said would be sent to us. Mr. Stinson reminded the Commission that technically the Commission has 21 days to respond to a Request for a Determination of Applicability and that the applicant's permission is needed to continue the public hearing. Ms. Garry will contact Mr. Iselin to see where the paperwork is and ask him to respond to us giving us the permission to continue his hearing. Ms. Arment motioned to continue the public hearing until 5/21/14 at 7:00 PM, seconded by Mr. Philpott, vote unanimous.

7:15 PM: Charles Auster 13 Chanterwood Rd: Mike Kulig, Berkshire Engineering regarding a change to Mr. Auster's project. Mr. Auster would like to reuse the previously constructed decking and have it remain on site. This decking would be set on concrete blocks and place on the lawn up gradient from Goose Pond. The decking would be approximately 10' from Goose Pond. Mr. Stinson reminded the Commission that we should have received a request to amend the Notice of Intent. Ms. Garry reminded the Commission that at the last hearing they had reviewed a request from Mr. Kulig. Mr. Philpott made a motion to allow this minor change to the NOI as long as the work for moving and placing the decking was done by hand, Ms. Arment seconded, vote unanimous. Mr. Kulig said he would email a request for the change to the

Commission.

7:30 PM: Roger Scheurer & Dee Dee Scheurer, Laurel Lake Water Power, 41 Laurel St re: a public hearing for a Request for Determination of Applicability. The project is to repair a driveway on the Laurel Lake Dam. The damaged area is approximately 5'x10'. He will cut out the damaged blacktop, bring in new soil, compact it and then blacktop the area. Ms. Arment made a motion to issue a negative #3 determination with the following conditions: 1) Place protective fabric in the work area to prevent any debris from getting into Laurel Lake. 2) All the work is to be done by hand except for the compaction which will be done by a small compactor. 3) If during the repair work the original scope of work, as outlined in this RDA, changes the applicant must notify the Commission and return to explain the expanded scope. 4) The Commission reserves the right to enter the property for the purposes of monitoring this project.

Ms. Arment made a motion to accept, as written, the minutes of 4/16/14, seconded by Mr. Dalheim, vote unanimous.

Andrew and Kelsey McMeekin and Mike Sorrentino came in to discuss property at 800 West Rd. The McMeekins are interested in buying the property. The Commission reviewed the plot plan and answered their questions. It was suggested that the original file be reviewed to see if the order of conditions was recorded and if a certificate of compliance was issued.

8:00 PM: Ron Fortune, Consulting & Design, LLC, Dr. Wise and Tony Caropress for Dr. Wise, 33 Park St., Suite #6. Dr. Wise plans on constructing a second story to this property which is in the floodplain of the Housatonic River. The Commission reviewed this project and answered questions. The Commission asked for a Request for Determination of Applicability for this project. Mr. Fortune will forward the request to the Commission and Ms. Garry will schedule the public hearing for 5/21/14 at 7:15 PM.

8:15 PM: Fred & Rita Chittenden, 230 Church St re: update on status of work regarding their enforcement order. Brett Kamienski, S-K Design attended to represent the Chittendens. According to Mr. Kamienski the wetland has been delineated and he mentioned an intermittent stream. At that point Mr. Stinson, Mass DEP, pointed out that the stream was perennial. They review Mr. Stinson's paperwork and Mr. Kamienski agreed that indeed the stream was perennial. According to Mr. Kamienski fill was brought in and approximately 3155 sq. ft. of wetland has been altered. In order to restore this area Mr. Kamienski suggested that they go into the area with a bucket and slowly pull the material back and expose the original vegetation so that it can regrow. Mr. Stinson reminded the Commission that an enforcement order is the Commission telling someone to do something. A Notice of Intent is the applicant asking for permission to do something. Since the Chittenden's did not meet the enforcement order's deadline of 5/7/14 for providing a Notice of Intent Mr. Stinson suggested that the Commission issue a new enforcement order. Ms. Arment made a motion to agree that the stream on this property is perennial based on stream stats and the Wetland

Protection Act regulations, seconded by Mr. Philpott, vote unanimous. Then Ms. Arment made a motion that the first enforcement order is null and void and to issue a new enforcement order, seconded by Mr. Philpott, vote unanimous. With the following information: Extent & type of activity; disturbance of approximately 3155 sq. ft. of bordering vegetative wetland, clearing a significant amount of riverfront area and work within the estimated habitat of rare species without approval. Suggested conditions: 1) That a restoration plan and planting plan for the riverfront area and the bordering vegetative wetlands shall be filed with the Commission on or before 6/2/14. 2) Pending approval of the planting plan the bordering vegetative wetland shall be restored by 7/1/14. 3) Pending approval of the planting plan the riverfront area shall be restored by 11/1/14.

I mentioned the following phone calls I received: 1) Brian Bonito WMECO he contacted us about maintenance work replacing 7 structures in Lee. Mark Stinson, DEP reminded us that even though this work is exempt from WPA regulations they still have to get a 401 permit. Ms. Garry to call Mr. Bonito to make sure he knows this. 2) Bill Dunleavy 480 Cooper Creek Rd regarding planting screening at this property. Ms. Garry to call him back to let him know that the Commission will do a site inspection to review this project. 3) Mike Callahan, Beaver Solutions. He has been hired by Housatonic RR to install a fence and pipe flow device. Mark Stinson, DEP said we should make sure that our health department does deem this work to be a threat to human health and safety. If they do then we should issue an emergency certification form. Ms. Garry to follow up with Tri-Town Health and Mr. Callahan and if Tri-Town agrees then Ms. Garry will issue emergency certification.

The Commission discussed the Cimini property at 49 Chanterwood Rd. She has applied for a building permit for a new house and also it seems she is using rock from her property to build a structure on the lake front. Ms. Garry to pull file and contact Mr. Philpott for review. A cease and desist may be necessary.

Respectfully submitted,

Deborah Garry