

CONSERVATION COMMISSION  
MINUTES  
December 2, 2020  
**7:15 PM**  
Virtual Meeting

**Present:** Terry Maitland, Amy Green, Tim McKinnon, Carolyn Kiely, Zywia Chadzynska, Jim Colman, Suzanne Flint

**Absent:**

Natural Resources Director and recording secretary: Tom Tidman  
Zoom Host: Fran Portante

**Regular Business**

**7:15 PM:** Terry opened the meeting and read the virtual meeting protocol

**7:20 Hybid Farm: New License Agreement**

Jim updated the Commission on the status of the license at Hybid Farm, noting that Rita McConnon is selling the property, with perspective buyer Abigail Vargus wishing to purchase the property and continue the farming practice as had been licensed with Ms. McConnon. The purchase is contingent upon the license being extended to the new buyer.

Abigail Vargus mentioned that her intention is to continue the arrangement that had been established with Ms. McConnon. In the long term, animal-assisted therapy may be added to her plan. She has met with Terry and Jim and Town Counsel, And she has consulted with her attorney. Abigail noted that she plans to use the conservation land in the same way Rita had, and plans to make improvements to fences that have fallen into disrepair. Abigail mentioned she hopes to close on the property in early January.

Tim inquired if the new entity was to be a non-profit organization, if Ms. Vargus would continue to rescue horses, and would the goal of the enterprise be to continue in the way Rita ran activities? He also asked if Town Counsel had reviewed the insurance. He explained that the Commission needed to be certain there was no appearance that they were selling any rights to town owned land. The Commission needed to be certain that the license agreement is with a non-profit organization.

Abigail responded that she would continue in a similar manner to the existing license, and for the long-term, her organization may look into animal assisted therapy. The license will be held by a non-profit company.

Terry said he would be willing to work with Abigail to re-write the license agreement. He asked if the Commission would be comfortable authorizing him to act on the Commission's behalf.

**Decision:** Jim moved to authorize the Conservation Commission Chairman to sign the new license agreement, once the following requirements have been met:

- (1) The chairman is comfortable that the finances of the real estate deal don't include payment for the license for use of town land.
- (2) Insurance must be obtained and be in place prior to signing the license.
- (3) The Existing language in section 2.2 of the license will be changed to "fields will be maintained...."
- (4) The Non-profit organization will be formed and be made a party to the license prior to signature.

Tim seconded the motion and the roll call vote was unanimous.

**7:30 Notice of Intent:** 53 Conant Street 85-1290

*Justin & Margaret Potnick for a project at 53 Conant Street (town atlas plate I2, parcel 60). The proposed project is an addition to an existing single-family dwelling. Work will occur within 100 feet of wetlands.*

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Seth Donohoe with Ducharme & Dillis Civil Design Group, presented for the property owners Justin & Margaret Potnick. Seth mentioned he had flagged the wetlands at the rear of the lot, which at the nearest point are 46 ft. away from the existing house. The project consists of the construction of a 22 ft. X 25 ft. garage with a family room above and the installation of a screened porch under an existing deck. Seth noted that the garage addition will be constructed where a paved driveway had been. An area of pavement 8 ft. X 25 ft. would be removed and loamed and seeded. A recharge trench will be constructed along the length of the garage collecting both roof and driveway runoff. Excavated materials generated during construction will be stored outside the 100 ft. buffer. Seth agreed that runoff from the screened porch roof will be directed to the left side of the deck away from wetlands onto existing lawn.

The hearing closed at 8:05 pm.

**Decision:** Tim moved to issue a standard Order of Conditions, with one Special Condition: Runoff from the deck and screened porch roof shall be directed to the west side of the deck away from wetlands. Amy seconded the motion and the roll call vote was unanimous.

**7:45 Notice of Intent: Concord Water Department, Nagog Pond**

*Town of Concord Water and Sewer Division for a project at Nagog Pond, specifically near Nashoba Road and Great Road ( town atlas plate C4-14, parcel 14). The project is the replacement of the open pond section of pipe and intake structure, installation of a small diameter pipe and investigation of existing intake pipe along that section. Materials and equipment needed to install the new deep water intake pipe will be transported onto Nagog Pond from a barge and crane installation, requiring a temporary construction road within wetlands resource areas.*

**[Note: Carolyn Kiely recused herself from this hearing as a Commissioner, and joined as an abutter ]**

Concord Water & Sewer Superintendent John Rogers introduced the project to the Commission, He noted that the project before the Commission tonight includes the installation of barges to be placed on Nagog Pond near the intersection of Nashoba Road and Rt 2A/119, allowing access onto the pond for phase 1 work approved under DEP file 85-1291. John then took the Commission through a series of alternatives for access onto the pond that Concord had considered, concluding that the access being presented this evening would have the least impact on wetlands resource areas.

Environmental Partners Project Engineer Eric Kelley then took the Commission through the proposed barge and crane installation method. The purpose of the 2 barges and the crane are to move equipment and materials onto the pond to complete previously approved phase 1 work. That work was to replace the open water section of pipe, the intake structure and to install a small diameter “air burst” pipe. A temporary mobilization and work area with construction matts (within the Nashoba Road Right-of-Way) will be created by blocking off the turning lane on Nashoba Road to create a 4200 sq.ft. staging area. A permit must be obtained from MASSDOT and the Town of Acton to block off a portion of Nashoba Road. A traffic management plan must be submitted to MASSDOT. In order to access the pond, 20 ft. of guardrail will be removed, a gravel base installed to hold access beams and ramps allowing crane access onto the barge. The gravel base will be contained within a filter sock boundary to prevent gravel from eroding into the pond. Mr. Kelley estimated construction requiring 6 to 8 weeks to complete, with a total of 8 to 10 weeks to account for work area set-up and tear-down.

The Commission had a series of questions:

- Would the work proposed under this NOI filing require a separate Ch. 91 permit?
- Because work is planned for the spring, have provisions been put in place for turtle and amphibian migration to and from the pond?

- Commissioners asked for more detail and assurance that oil, grease and other lubricants from the crane, while sitting on the barge, would not find their way into the pond.
- Where will crane greasing and re-fueling occur?
- Can the crane be moved back onto the staging area for re-fueling?
- Commissioners asked about the project SWPPP (Storm Water Pollution Prevention Plan) and an O& M plan specific to this NOI?
- Would a generator be located onsite and if so, where?
- How many employees would be onsite during the construction period, and where will they park their vehicles?
- Who is responsible for providing environmental monitoring during construction?

Eric Kelley responded to the Commission questions as follows:

- Supplemental information will be compiled and sent to the Commission for review before the next hearing.
- We will reach out to Fish & Wildlife to discuss our planned spring work schedule and how it might impact the Bald Eagle nesting season and other wildlife.
- The contractor will be required to have an environmental monitor onsite,
- Concord Water will routinely visit the work area and Environmental Partners will have LEC Environmental Consultants, Inc. onsite to ensure environmental compliance.
- We will be sure to require that the generator remain on land when not in use on the barge.
- Not sure if the crane will crawl off the barge for re-fueling and greasing, but that can be clarified in the O&M plan.
- The General Contractor, D&C Construction and H.B. Fleming, the Marine Contractor, will be responsible for securing off-site parking for their employees.
- Approximately 1000 linear feet of HDPE (high density polyethylene pipe) will be fused together and floated across the pond to the new intake pipe location.
- The barges will be brought to Nagog Pond from a salt water environment and will be pressure washed before entering Nagog Pond.

Eric noted, that in addition to the supplemental information to be supplied, the Commission should review the “Environmental Protection Procedures” section 01110 of Appendix F – “Checklist for Stormwater Report,” submitted with the Notice of Intent. Many of the Commission’s questions regarding re-fueling and protection against migration of pollutants are outlined in this section. John Rogers stated, he would make sections of the contract, relevant to stormwater control, available to the Commission.

**Abutter questions:** There isn’t any proof of ownership for the area where work will occur, including access onto the ponds. Does Concord own the land and if not, how can an OOC be signed and issued prior to ownership of the property in question being first obtained?

John Rogers agreed that this is a confusing area, where no clear ownership has been established. The State ROW will have a permit from MASSDOT for the work and an agreement with the Town of Acton will be obtained for closing the section of Nashoba Road.

John Rogers stated the Town of Concord will host a pre-construction outreach session for the public, to be coordinated with Town of Acton liaison to the project, Matt Selby,

Chairman announced that the hearing would be continued to December 16<sup>th</sup> at 7:15PM.

**New Business: Informal Project Reviews (Discussion): Rescheduled for Dec. 16.**

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**Special Business:** none

**Consent Items:**

**Certificate of Compliance:** 85-792 - 461 Massachusetts Avenue; for Order of Conditions filed under the Town of Acton By law

**Decision:** Amy moved to issue a Certificate of Compliance, Jim seconded the motion and the roll call vote was unanimous.

**Minutes:** November 18, 2020: Reviewed by TM, AG, TMC, KC

**Decision:** Amy moved to accept the minutes of Nov. 18. Zywia seconded the motion and the roll call vote was unanimous.

*At 9:45 p.m., it was moved and seconded to adjourn the meeting.*

*The motion was approved [unanimously].*

**Documents and Exhibits Used During this Meeting**

Hybid Farm New License Agreement

53 Conant St. NOI

Concord Water Barge NOI Packet

461 Mass. Ave. RCOC 85-792

These documents may be found here: <http://doc.acton-ma.gov/dsweb/View/Collection-11857>



*Terrance Maitland, Chair*