

Buckland, MA Conservation Commission Meeting Minutes

October 3, 2022

Via Zoom

Agenda

1. Review Previous Meeting Minutes
2. Discuss two requests for COCs for Great River Hydro for work done years ago
3. RDA at 0 March/Bray Rd. in Ashfield to determine if project will adversely impact upgradient wetland resource areas in Buckland
4. Ratification of Emergency Certification for a well installation at 22 Upper St., Buckland Ma.
5. Other items within 48 hours
6. Public Comment

Attendees

Kathy Lytle, chair

Alex Meade, member

Steve Howland, member

Mary Knipe, member

Jim Egan, member

Bill Peck, applicant

Mark K.

Ryan Nelson, R Levesque Associates, Inc.

Rowan Baker, public

Dena Willmore, public

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Chair Kathy Lytle opened the meeting at 6:30 pm

Items

1. Minutes of the September 12, 2022 meeting

Member Howland moved the minutes be approved as written; member Meade seconded the motion; all voted in favor.

2. Certificate of Compliance (COC) for Great River Hydro

Two projects - 2008/2009 NOI fish passage with Order of Conditions and 2014 Malley Park NOI with Order of Conditions - were never closed out with the proper paperwork. Members Howland and Meade met with representatives of Great River Hydro at the site, and determined the work was satisfactorily completed.

Member Meade moved that Certificates of Compliance be issued for 121-0088 and 121-0082; member Howland seconded the motion; all voted in favor.

3. RDA at 0 March/Bray Rd. in Ashfield

Ryan Nelson, representing the applicant Bill Peck, presented details of the Project as detailed by letter and application dated September 21, 2022, noting that the application has been reviewed by the Ashfield Town Conservation Commission, and will also be reviewed by Massachusetts DEP for 401, Water Quality Certification. Mr. Nelson noted the anticipated work will be done immediately adjacent to the pond. A site visit the previous week, a time of low stream flow, supported Mr. Nelson's assertion that when the project occurs, there will be no active stream activity. The spillway of the new outlet will be at the same elevation of the existing culvert.

Rowan Baker, an abutter to the south of the applicant property, expressed concerns about the project due to its sensitive location and presence of wildlife. Mr. Baker had previously submitted questions to the Conservation Commission detailing his concerns, including the accuracy of the submitted application and questions about lot and town boundaries; preservation of water quality and temperature; alteration of stream flow during and after the project; stability of the berm during excavation; future fish passage; culvert design; and the separate authorities engaged in reviews for required for approvals.

Member Howland asked whether the berm qualified as a dam. Mr. Baker and Mr. Nelson confirmed the structure did not qualify in height and impoundment as a dam in Massachusetts.

Mr. Nelson responded to Mr. Baker's questions that the pond has existed as a farm impoundment pond since at least the 1940s; the existing culvert has been crushed and thus there is no fish passage at this point; and that Mr. Baker's questions had also been raised, and addressed, at the Conservation Commission in Ashfield. Mr. Baker noted the Ashfield Conservation Commission had issued an Order of Conditions with their approval of the project.

Member Meade reported he and member Howland had met with Mr. Nelson at the site the previous week; had thoroughly reviewed the application; had contact with Massachusetts DEP; and reminded all in attendance that the Conservation Commission is constrained to address only issues related to the protection of wetlands in the Town of Buckland.

Member Meade moved the Conservation Commission issue a negative 2 determination with the following 6 (six) conditions:

- 1) The Order of Conditions issued by the Ashfield Conservation Commission on 6/30/22 for File Number 094-0183 includes conditions which will protect the interests of the Act over the entire project.

- 2) As no dredging or removal of material from Land Under Water will be conducted, the provisions of 310 CMR 10.56 (4)(a)5 are met and there is no

effect on LUW.

3) As work will be conducted during a time when the existing pond water level is low, and as the temporary culvert will be placed at the same level as the ditch cut by the Ashfield Highway Dept to prevent the pond from overtopping the road during abnormally high rainfall, there is no effect on Bank, meeting the requirements of 310 CMR 10.54(4)(a)6. Post-construction, the new permanent stream crossing will be at the same level as the existing exit culvert, ensuring the water level is not changed.

4) The area of Riverfront in Buckland will not be affected because no material will be added or removed in Buckland and the water level will not be altered either during or after construction.

5) Erosion and sedimentation controls must be installed and maintained as described in "Silt Fence Installation Notes" dated July 27, 2021 and stamped by Robert Levesque.

6) Buckland Conservation Commission members shall be allowed access to the project site at any time during the project.

Member Howland seconded the motion.

Member Knipe asked if abutters had been notified of the application and meeting; member Meade responded it was not required.

All voted in favor of the motion.

4. Ratification of Emergency Certification for a well installation at 22 Upper St., Buckland Ma.

Chair Lytle excused herself from the discussion; member Howland served as chair pro tem. Member Meade explained a new well was required - as per the WPA Emergency Certification Form "Failed water supply, new well needs to be drilled. Well is more than 100 feet from intermittent stream, but temporary containment basin is 80-100 feet from stream in buffer zone." The emergency certification has already been issued; the paperwork needs to be signed. Members made arrangements to sign the paperwork as required.

5. Other items within 48 hours

Chair Lytle resumed chairing the meeting.

There was no other Commission business

6. Public Comment

Dena Willmore asked if dredging an intermittent stream is allowable, and if so, what the process is.

Member Meade responded it is allowable through the Notice of Intent (NOI) process.

Ms. Willmore asked about the process if the proper paperwork had not been filed, and the appropriate approvals not granted.

Member Meade explained that if no one noticed, nothing would happen; but if it had been noticed and reported, an enforcement order would be issued. A friendly enforcement order would invite the violator to come forward with a formal plan, including the input of a wetlands scientist, for the Conservation Commission's review.

Ms. Willmore stated the violation she is concerned about occurred on the property of a member of the Conservation Commission, and is considering filing a written report.

Member Howland responded the Conservation Commission is aware of the violation to which Ms. Willmore is referring, and is hoping the friendly enforcement order will clear up the situation.

Member Howland moved to adjourn the meeting; member Meade seconded the motion; all in favor. The meeting was adjourned at 7:37 pm.

Respectfully submitted, Alison Cornish, Boards Clerk

Documents Referenced

September 21, 2022

Request for Determination of Applicability, Proposed Residential Driveway
0 March/Bray Road, Lot 7
Ashfield, Massachusetts 01330
(Assessor's Map & Parcel: Map 2, Parcel 93)

September 21, 2022

WPA Form 1- Request for Determination of Applicability
Peck Realty Trust, c/o A. William Peck & Mary P. Peck

June 25, 2014 Notice of Intent and July 30, 2014 WPA Order of Conditions
TransCanada Hydro Northeast, Inc.

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July 8, 2009 WPA Notice of Intent and September 4, 2009 WPA Order of Conditions
TransCanada Hydro Northeast, Inc.

September 16, 2022
WPA Emergency Certification Form
Curts Rich and Kathy Lytle