

Town of Lakeville
Conservation Commission
September 13, 2022 at 7pm

Members present: Chairman Robert Bouchard, Joseph Chamberlain, Mark Knox, Nancy Yeatts, and Josh Faherty. Members absent: John LeBlanc. Member Chamberlain called the meeting to order at 7pm. Part of this meeting was recorded by LakeCam (taping started during the discussion for 303 Pond Lane).

Meet with CPC - discussion. The Commission met with the Community Preservation Committee to give input and ask any questions.

147 Staples Shore Rd - Notice of Intent - Zenith Consulting Engineers - continued from August 23rd. There was a discussion regarding the septic system upgrade.

A motion was made and seconded, it was:

Voted: to close the hearing and issue an Order of Conditions with the standard conditions and the hay bale line placement to be approved on inspection by Agent.

Unanimous approval.

Documents: WPA Form 3- Notice of Intent packet, additional abutter certified receipts, revised septic design plan.

16 Anderson Way - Request for Determination of Applicability - St. Yves - installation of in-ground pool. There was a review of the plan with discussion.

A motion was made and seconded, it was:

Voted: to issue a negative 3 determination with the condition that the Agent be called to inspect the silt sock prior to work.

Unanimous approval.

Documents: WPA form 1 Request for Determination of Applicability, plan.

LakeCam recording begins

303 Pond Lane - Request for Determination of Applicability - Christensen - treatment for Beech Leaf Disease. Don and Sue Christensen were present for discussion. The Commission reviewed the proposal and material safety data sheets for fungicide treatment for Beech Leaf Disease. Member Yeatts had spoken with the Department of Conservation & Recreation (DCR) and questioned if the treatment would even work. Ms. Christensen said the plant pathologist at U-Mass Amherst had also recommended the same treatment. Chairman Bouchard spoke with the Department of Environmental Protection (DEP) and they were cautious about an untested system and weren't really in favor of the treatment. Member Knox thought they should give the applicant another week or two and maybe make some more phone

calls. He would hate to not let them treat these trees, even if this is a test to get feedback to see if there's positive results in any way, as long as the utmost caution is taken around the resource area. Member Yeatts said she wasn't sure they even have the authority to approve this. Ms. Christensen added that she was told by the plant pathologist at U-Mass that it needed to be done by next week or it's probably too late because the buds are forming.

Upon a motion made by Member Yeatts, seconded by Member Faherty, it was:

Voted: to issue a positive determination

Discussion: Member Faherty said his fear was that if you treat the trees this year, they maybe look good next year, and then they get it again. It could just create a spiral where you have to come to the Commission every two-years to treat with these potentially dangerous chemicals next to the pond. He didn't want to see the Beech trees go, but a way to stop it is to remove the trees.

Four in favor, one opposed (Knox)

Documents: WPA Form 1 Request for Determination of Applicability, proposal, addendum to letter to ConCom, photos, letter to ConCom, Rampart fungicide material safety data sheet, MycoApply material safety data sheet, newspaper articles on tree diseases.

18 Fuller Shores - Request for Certificate of Compliance for SE192-777 - Zenith Consulting Engineers. Chairman Bouchard said that he had done a site visit and was satisfied with the work that has been done.

Upon a motion made by Member Yeatts, seconded by Member Knox, it was:

Voted: to issue a Certificate of Compliance for 18 Fuller Shores Rd.

Unanimous approval.

Documents: Request letter, WPA Form 8A Request for Certificate of Compliance, plan, photos, WPA Form 5 Order of Conditions.

Clark Shores Association - Request for Determination of Applicability - vegetation maintenance. Joan Moran from Clark Shores Association was present for discussion. Ms. Moran said pre-Covid the Association approached Chairman Bouchard to do some maintenance on the beaches and boat ramps to remove some vegetation that started to become invasive and take over the beaches. Due to Covid, the maintenance was never done. A few months ago, they spoke with Chairman Bouchard about doing the work and explained the maintenance plan. After work commenced, the abutters became upset. Both Chairman Bouchard and Member Chamberlain did site visits and Callie Harper from DEP called Ms. Moran and issued a cease-and-desist. Chairman Bouchard said he observed some of the work that was being done. In the beginning he was satisfied it was consistent with the original plan. After a call, Chairman Bouchard went out and thought they were off track. He specified exactly where the limit of pruning should be. Member Knox asked if Clark Shores Association had ownership and/or maintenance of the six listed properties. Ms. Moran said they did. One of the photos showed an overgrown chain-link fence. Member Knox said he wanted to make sure they weren't going over the property line. Ms. Moran said they would just trim it on their side and it would be up to the people on the other side to maintain their property. Member Knox asked if they would be removing any stumps or roots. Ms. Moran said no, it was all vines, but Third beach had more bushes. Chairman Bouchard said he would like to continue the procedure where they will notify him so he can come out and verify the work.

Member Knox asked if there was an allowable term that an RDA could stay active. So that they could be allowed to do this for two seasons in perpetuity. Member Faherty said an RDA is good for three-years.

Upon a motion made by Member Yeatts, seconded by Member Knox, it was:

Voted: to issue a negative determination with the condition that they stay in contact with the Agent so he can supervise.

Unanimous approval.

Discussion: Member Faherty asked how much work was left to be done. Ms. Moran gave a description of what had been done so far. Chairman Bouchard asked about the runoff and ditch that had been excavated and replaced. Ms. Moran said they have had it engineered, but it would probably be next spring. Chairman Bouchard said when they do decide to do the work, he would like to see the plan.

There was additional discussion regarding tree diseases. Member Chamberlain said he asked that the two newspaper articles be included in the meeting packet. He said the headline that “As many as one in six US tree species at risk of extinction” scares you. He had never heard of Beech Leaf Disease until about 90 days ago. These diseases are basically hitting shade trees, old growth hardwoods.

Adopt Mullin Rule - Adopting this rule would allow members of a Board, Committee, or Commission holding adjudicatory hearing to vote even though the individual has missed one meeting. Member Knox said that this was brought forth by the Town Planner so if they had a special permit hearing, which some can go on for four or five meetings, a member could miss a meeting. Member Chamberlain asked if the Conservation Commission would qualify for this since they don’t issue special permits. Member Knox said since the Commission has hearings it would qualify. It would be the Zoning Board of Appeals, Conservation Commission and Planning Board that could adopt it.

Upon a motion made by Member Faherty, seconded by Member Chamberlain, it was:

Voted: to adopt the Mullin Rule.

Unanimous approval.

Announcements - Chairman Bouchard said he had received a letter of interest by a resident to be on the Commission. There was a brief discussion. Member Yeatts suggested the topic be put on the next agenda.

New Business - Chairman Bouchard said he wanted to discuss Member Yeatts’ concern about posting a notice. He said it was his understanding from the regulations that an RDA doesn’t require a legal ad. Member Yeatts said it is under our submittal requirements. Chairman Bouchard said he agreed, but what happened was when the pandemic started, we were relieved of that obligation and we never went back to it. He said if the Commission wanted to go back to that policy, he was for it. Member Yeatts said for the Long Pond project, if it was in the paper there are people from Long Pond Association that have done a lot of work to get those weeds out of the pond that might have attended and been interested in what that was about. Member Chamberlain said the assumption on the part of DEP years ago was that an RDA would be for really minor work. And if a positive determination was issued, then it would go to a filing and then people would be notified. Member Knox asked if he could suggest a change to our requirement to keep the RDA notification, but limit it to direct abutters. Any abutter directly in contact with the subject property would be notified. Member Yeatts said they’ve seen RDAs for septic systems and she felt that sometimes the RDA should be an NOI. Member Knox thought maybe

if it's a septic system it would be an NOI. Member Yeatts said with an NOI, not only does DEP give a file number, but they make comments. If the beech trees had been a NOI, it would have a file number and DEP would have given us comments. Member Knox said it started as an Emergency Certification. Member Yeatts said that's another thing, we don't really have what constitutes an emergency. Member Faherty asked if there was a fee for anyone putting in an application to post it in the paper. Member Chamberlain said they pay for the ad. Chairman Bouchard added that there was a \$75 fee for filing an RDA. Member Knox said they pay for the ad and they pay for the mailings.

Meeting Minutes - Member Yeatts had a question about the minutes. The Clear Pond discussion, the Commission was looking for verification of where the sand came from. Chairman Bouchard said the sand came from their usual suppliers of salt and sand. Member Faherty added that the sand was a donation.

Upon a motion made by Member Chamberlain, seconded by Member Knox, it was:

Voted: to approve the meeting minutes from July 12, 2022.

Unanimous approval.

Member Knox asked about the filing for 8 Paul Avenue, had they heard from Natural Heritage. Chairman Bouchard said they received a letter, but they can't start because they need to hire a muscle expert and they need to do a sweep. They are trying to appeal it, although there is no appeals process apparently. The discussion turned back to RDA filings. Chairman Bouchard said they could still do a case by case basis and the Commission can vote. When an application comes in, they would decide on whether they thought it would require notification. If it did, that would be subject to a vote. Member Yeatts said they don't have to notify abutters on an RDA, they only have to put it in the paper. It was in our submittal requirements. Chairman Bouchard said it's not required by legal standards. Member Knox asked if the Commission wanted to keep it. Member Yeatts thought they should keep it since the RDAs were starting to ask for more work. There have been RDAs for septic systems lately. She was concerned since septic systems affect people's wells. Member Faherty thought it might be too subjective. Member Knox said he was fine with making all septic upgrades NOIs. He was fine with the smaller projects filing an RDA. If it's an RDA for a smaller project, it doesn't require the mailing. Member Chamberlain said usually the engineer does the initial determination of whether it's an RDA or an NOI. This will be added to the next meeting for discussion and possible vote.

Adjournment - (7:48pm)

Upon a motion made by Member Knox, seconded by Member Faherty, it was:

Voted: to adjourn.

Unanimous approval.