



CITY OF NORTH ADAMS, MASSACHUSETTS

Conservation Commission

PUBLIC MEETING

MINUTES

November 18, 2020

Call to order Chairman Moran called the public meeting to order at 6:02 p.m. with the presence of a quorum.

Members present virtually Chairman Jason Moran, Vice Chairman Andrew Kawczak, Jason Canales, Adam Galambos, and Elena Traister

Members absent Tim Lescarbeau

Others present virtually Andre-Anne Chenaille and Charlie Labatt – Guntlow & Associates, Mark Stinson – DEP, Katy Wilkins – Tighe & Bond

Chairman Moran read the following statement regarding virtual meetings:

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this public hearing of the North Adams Conservation Commission is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but the public can listen to this meeting while in progress by via teleconference at zoom.us. Members of the public attending this meeting virtually will be allowed to make comments if they wish to do so, during the portion of the hearing designated for public comment, by teleconference.

New business

- A Notice of Intent submitted by Sparkboro Wellness NAMA Corp for property located at 1268 Curran Highway for the construction of a commercial building, paved parking area, and retaining wall/grading within state jurisdictional buffer zone that also includes a wetland replication area.

Chairman Moran requested a motion to open the public hearing. Commissioner Traister made a motion to open the public hearing. Commissioner Canales seconded the motion. All in favor. Motion carried.

Chairman Moran opened the meeting by stating that he would normally turn it over to the applicant to review site plan, etc., however, he first wanted to state that two things were happening that were a little disturbing. The first was that work had started without permission/permitting. The second was that in November of 2017 he attended a site visit to this property with Vice Chairman Kawczak and the Board of Health due to a Title V issue of a failed septic system. The consultant at the time determined that any work that would happen would impact a wetland because the whole property was a wetland minus the house, the driveway and the garage. Nothing was formally submitted to the Conservation Commission or the Board of Health because the property owner sold the property. It doesn't appear in the current site plan that there is any wetland on the property and that is confusing knowing the history of the previous site visit. Chairman Moran inquired about whether the applicant had an opportunity to go out and do their own soil sampling and vegetation characteristics that led them to this or is this new information to them. Charlie Labatt of Guntlow & Associates explained that they were able to see the site partially disrupted and he knows a little of the history. There were a couple of different engineers that were hired to do a replacement design. Mr. Labatt stated that he thought that the engineer that Chairman Moran met with did not finish the design. The design that was shared with Guntlow was done by a young gentleman. Mr. Labatt looked at his soil evaluation and performed his own soil evaluation and reviewed the site. There was a sump pump from the basement constantly pumping water on to the back lawn. Mr. Labatt explained that his conclusion was based on his soil evaluations from adjacent to the house where the water wasn't being pumped

continuously all the time. The groundwater table is about 20 to 24 inches. Mike Wall was the person that he saw where he had designed a system. He had groundwater at about 12 inches and he had actually designed a system in an area that they thought was actually the wetland. He used just MassGIS mapping for his wetland delineation which obviously is not the best thing to use. They felt that the rest of the site may have had some vegetation and stuff on the lawn and all of that stuff wetlands related but that the hydrology was false. In its natural hydrology there wouldn't be water to support that. They looked at aerial photos. Old aerial photos and some of the history and the floodplain mapping to see what they felt the extent of the wetlands was when you subtracted that non-natural hydrology - the pumping of the basement. He also saw the building just prior to them demolishing it when the pump was turned off and wasn't pumping out there and the static water level in the basement was consistent with the groundwater table that he had been in. The static water level in the basement was about 12 inches high in that location, it didn't go over his boots and probably at that time was actually probably still 3 feet below grade. That was probably closer to the middle of summer of the prior year. They used what was ultimately the lack of a natural hydrology, some aerial photos and such in review of the site to evaluate what they felt was a more appropriate wetlands delineation. He explained that is probably different than what they saw in 2017 when the past owner was constantly providing that hydrology on the whole back lawn. Chairman Moran confirmed that there was a constant presence of water being flown about all over the place.

Mark Stinson explained that when he does Notice of Intent reviews he has easy access going back to the 1997 black and whites. He didn't look at historical but looked while online at the meeting. There's a nice site, historicaerials.com and it looks like the perennial stream has actually been relocated from where it had been in 1960 or so. Looking at the 1960 aerial photo; the house, the garage, and driveway were there but the perennial stream was relocated so you can get kind of a hint where the wetlands might be. If you can't prove a violation now - and it's hard to because you had the driveway, the garage, the house, and it is uncertain if they filled the wetlands where they put it, so we're not going to call that a violation. One of the things you look at when you do a delineation is you look for what the Army Corp calls HTM, human transported material. Is there recent filling of any wetland really subsequent to the act from 1973 or so and he couldn't answer that. Historicaerials.com is a great site you can look at historic USGS as well as historic aerials. They have one that goes back to 1940 and it's all nothing. There is only Curran Highway and that's about it there. In 1960 you can see where the area is finally getting construction built up so he wouldn't doubt it was really wet but where the historic wetlands were he could not confirm.

Chairman Moran requested any further input from Vice Chairman Kawczak. Vice Chairman Kawczak agreed with Chairman Moran and his recollection of the site was extremely wet and there was vegetation all over the place. Emily Stockman of Stockman Associates was the wetland scientist at the time and whether or not she correctly or incorrectly assessed artificial hydration or not due to the sump pump he didn't know. The site was very wet and very squishy. She had it delineated in and around the north section there near the road area to the bowling alley and a number of fingers wrapped around the back of the garage. She didn't go too far in terms of going toward the bowling alley only because the initial discussion was the septic system was going to be put in the front where the entry driveway is. It was intended to be an elevated system four or five feet with washed sand and all of that good stuff. The site was wet, vegetation all over the place. The standing trees providing shade have all been removed. As a conservation commission he feels that the site must be looked at.

Mr. Labatt explained that a new building is proposed on site with a new commercial building with associated parking and stormwater management; subsurface retention, rain garden and deep sump basin and outlet control. The area is roughly 4,000 square feet single story slab on grade frost walls type of building. There are 20 or 21 parking spaces. Proposed retail with associated parking and site improvements to lessen the grade off of Curran Highway as well as to provide enough vertical separation for the stormwater underground detention. A fair amount of the site has been raised and they propose a retaining wall along the north edge where they intend to replicate the wetland where they felt was in a historical ditch line associated to when the road to the bowling alley was created and that's where they saw a lot of metrics so they tried to not grade into that area to confine the site with a retaining wall on that north wall or on that north side but they have extended well into what was the back lawn area. As proposed, the site would be serviced by municipal water on Curran Highway and they proposed a connection to the city sewer shared with Pedrin's and Valley Park Bowl who all foresee the need for municipal sewer. That would be a separate project that they will evaluate with respect to wetlands and if need be get a permit. All of the site impacts shown on this lot are shown as part of this application so there is a sewer pump station and a force main leaving the southeast side of the parcel. In regard to vegetation there is a replication plan as well as a landscape plan for the proposed site. The owners bought the property and mistakenly went after it very quickly to clean up the site and tear everything down before they could get a handle on things to slow them down and get them to stop. Generally, the site is flat and a couple of feet below Curran Highway below the raised drive into Valley Park Bowl but generally flat and draining to the north. It appears from the flood mapping and looking at the flood profile and the river at the end of the culvert under Valley Park Bowl that elevation is the extent of the 100-foot flood boundary so it may just barely touch the proposed site. Mr. Labatt explained that they made their judgment on what they thought was the wetland boundary but would be open to discussion with the commission if they would like to further the discussion.

Chairman Moran requested confirmation that they are bringing in quite a bit of fill material and raising the fill by about 4 feet or so in some spots. Mr. Labatt confirmed that it's about 4 feet that they are trying to maintain about at least 18 inches of cover over the top of the subsurface detention area. The subsurface detention area itself is about 2 feet in section so they were trying to get the bottom of that at grade or just above existing grade for accessibility of everything. It's a level building and a fairly long footprint and in trying to keep all of that there's not much room to grade anything down from a parking lot at 5% and handicap spinning bases at less than 2%, so essentially that amounts to leveling that area but the elevation was established based on that subsurface detention, the profile and trying to create something that will work there. It works very well with respect to Curran Highway. That driveway now is a little bit of a problem to get out of and trying to pull into traffic so it should improve that situation a lot.

Chairman Moran requested clarification that the site improvements are limited to the physical footprint of the site of the applicant and if and when they needed to come back for a potential sewer force main with their abutters, they would come back as one group or one entity for approval. As of right now if they had approval for this they may or may not be able to perform this work if they don't have a sewer line connection. Mr. Labatt confirmed that they are in the process of working with their neighbors to design a shared sewer system connection. They have reached out to the city and Tim Lescarbeau for discussion about the best place to connect. That route is not finalized. One of the key factors is Cumberland Farms. They already have a sewer connection and the applicant has asked if they could cross their parcel but they may not be able to. They may have to go around their parcel which is likely to be Old South State Road and then they would be within 200 feet of the river. They haven't truly evaluated, not knowing the final route of where this shared sewer will go to know what level of permitting is going to be required to go in front of the conservation commission. It will require some permitting in front of the conservation commission of at least three to five landowners for this combination of shared sewer line. They have confined to this application just the improvements on this lot, even the portion of the shared sewer system that exits their lot. They would file separately for the shared portion in the future.

Chairman Moran clarified that they could have an approved notice of intent for this project but depending upon what happens with the force main there could be a chance that they do not get an approved project for the force main and then they can't move forward with this project. Mr. Labatt confirmed that if the sewer connection system does not work they would have to come back and amend the permit to include an on-site septic system.

Chairman Moran stated that he would like to see a little bit more proof of a wetland study to feel comfortable. Chairman Moran requested questions from the commissioners.

Commissioner Traister stated that she was appreciative of the collaborative efforts for the group city septic project and inquired about the guidance received from the state about how the underground stormwater chambers are subject to UIC program requirements. Mr. Labatt explained that UIC is underground injection control. It means that they will need to file a permit with that particular department within DEP so that everyone knows that this exists out on the site in case there was ever any contaminants or anything being injected. It's documentation that there is some subsurface potentially discharging towards a groundwater.

Commissioner Traister inquired about the guidance from the state saying all stormwater BMPs must be designed, constructed, operated, and maintained per the BMP manual and they provided the rain garden BMP and requested further explanation of the rain garden design. Mr. Labatt explained that their details sheets show a typical cross section anywhere. This rain garden is designed to essentially detain six to nine inches of runoff and then that runoff is filtered through a couple of feet of basically a sandy or topsoil blend with the organics as well. Traditionally they do a lot of rain gardens that are left as meadow as the vegetation but in this case, they have proposed other plantings in tune with ornamental plantings around the landscaped islands. The key components of the rain garden are the filter media that takes it down a couple of feet. They usually have about eight inches of crushed stone underneath the filter media and if need be depending on the site if impervious soils are encountered then they have a drain in that so that it doesn't get stagnant or ponding water but allows for the filtering of TSS and such out of the stormwater runoff.

Commissioner Canales inquired about what's been done to the current site to set up so that there's no damage to the current wetlands that it borders. Mr. Labatt clarified erosion control measures and further explained that the typical toe of slope perimeter of the site silt sock type material proposed and a check dam in front of the culvert that goes under the road to the north to try to maintain any erosive type materials and sediments on the site from going into any neighboring wetlands. Commissioner Canales inquired about a timetable to do those before any other work will be done to protect the wetlands. Mr. Labatt explained that they would like to start the concrete work and install all the erosion controls to contain any excavations that are necessary there. There is an existing foundation in place that would also need to be removed before any real work could begin but prior to anything happening, they would install erosion controls. Vice Chairman Kawczak requested clarification about who is currently connected to the sewer system and whether it enters into the town of Adams sewer system. Mr. Labatt clarified that it does enter Adams but it's a part of North Adams city network. They do not have to deal with the town of Adams, they just deal with Tim Lescarbeau in the City of North Adams. There's a section from the north end of the industrial park just north of Cumberland Farms and that sewer

collection system runs south and there's 1,000-2,000 feet that is actually the City of North Adams sewer. Anyone that connects on the North Adams side gets their permits through the City of North Adams. The wastewater treatment facility in Adams was underutilized so any additional flows are not a challenge. Vice Chairman Kawczak requested confirmation that there is no one connected on the Pedrin's side of the road. Mr. Labatt confirmed that there is no one connected on the Pedrin's side on the north side of Hodges Cross Road. The last one as far as heading north is Cumberland Farms. When they rebuilt Cumberland Farms they made a new connection to what is the end of the city's network in Old South State Road. Pedrin's and Valley Park Bowl are very interested as well as a couple of the smaller neighboring commercial land owners. The key users in this project would be Valley Park Bowl and Pedrin's.

Vice Chairman Kawczak inquired about whether the white riprap was added by the Hilltown Demolition contractor. Mr. Labatt explained that all of that would be removed. That is where the replicated wetland would be. It did appear to be a historical kind of drainage on the northern edge of the property. They are proposing to remove all of that and restore it.

Vice Chairman Kawczak inquired about the vegetation on the north side in regard to dogwood plantings. Mr. Labatt stated that they were open to suggestions with respect to their replication plan. A Red Osier dogwood is fine. There wasn't any particular visual goal on this wetland by the owner or applicant so they had just pulled together some typical species that work well but would modify that list by condition of the permit if desired by the commission.

Vice Chairman Kawczak inquired about the federal versus state delineation and knowing where to look for the soils if the plantings were compressed removed by the construction on site which is appalling because the owner obviously knew there were wetlands on site and yet someone ignored that kind of messaging. Now we are dealing with the aftermath of wetland encroachment and destruction. Mr. Labatt explained that there are three parameters of a wetland; the vegetation, the soils, and the hydrology. In this case, like beavers create wetlands where there never were wetlands before they're providing hydrology to areas that aren't normally hydric and it doesn't take long for soils to change and look hydric. That could be the case as well here and that's one of the reasons that hydric soils alone or colors or soils alone weren't used when they realized what the hydrology was for the bulk of that area. In any wetlands, especially in Massachusetts, you are looking for all three of those. Mr. Labatt suggested to continue look at it together in the spring.

Chairman Moran requested clarification of whether the 100-year flood zone either grazed the property or it wasn't at the elevation of the 100-year flood. Mr. Labatt stated that they think it's confined to the upstream inlet of the culvert under the Valley Park Bowl drive. That's an elevation that is essentially equivalent with their best guess calculation of using the flood profile as to what elevation the flood is supposed to be there. It's just barely on the northwest corner of the parcel. Chairman Moran confirmed that somewhere around 713.5 is where the foot elevation is and inquired about the two different buffer zones associated with this parcel; the northwest and the southeast corner. Mr. Labatt explained that there are actually three buffers.

Chairman Moran requested confirmation that Mr. Labatt felt comfortable that all the water would either be able to leave at the 713.38 invert going underneath Valley Park and be able to potentially infiltrate. Mr. Labatt confirmed and explained that they're not catching any more water from neighboring parcels than they already do so the watersheds existing on their proposed were based on the island between the drives between the development to the south, Valley Park drive, and Curran Highway. They did the typical stormwater modeling existing to proposed and they haven't increased peak discharge rates. The culvert is partially submerged now and probably has been for quite some time. It's not on their property, it's on a leg of frontage land that is part of Valley Park. He doesn't believe there's necessarily a need to improve it. Its capacity is currently diminished from sediment that has accumulated over the years. Chairman Moran stated that he understood, it just seemed like an awful lot of re-routing of existing slopes and grades to try to generalize water along with making a site that on the surface of the existing conditions plan versus the proposed conditions plan it would seem that they are increasing the imperviousness by 2-3-400%. He wanted to make sure that they are able to handle the flow from a stormwater perspective. Mr. Labatt explained that is why the subsurface detention is the size it is. They did have the house, the garage, and the driveway associated to that that was impervious prior.

Chairman Moran expressed further concern that there is history of a meeting a few years ago and nothing formal was submitted but a respected firm here representing Sparkboro Wellness and there was a previous respected firm at the time.

Technical difficulties interrupted the meeting and Chairman Moran was not able to rejoin immediately and requested that Vice Chairman Kawczak lead the meeting. Vice Chairman Kawczak explained that he and Chairman Moran feel a little uncomfortable about the delineation because the vegetation was definitely showing and they didn't have a wetland indicator to know where to look for wetlands. The hydro soils and the colors and the color charts are all integrated but what the commission saw they felt was substantially greater than the accumulated numbers that Mr. Labatt provided which was in round numbers a thousand square feet. He noted that there must be a way in terms of cooperation to either wait for the spring to come so the vegetation can grow on its own with the new found hydrology or a combination of things to preserve schedule through legal means. He explained that he hoped there could be some cooperation that can be conducted between Emily Stockman and Guntlow & Associates in terms of the wetland scientists to compare notes and

either say yes or no. Due to their history with the site both Chairman Moran and Vice Chairman Kawczak feel uncomfortable with the simplistic answer. It also troubles them to a high level of degree that the project was started with knowledge of wetlands on site of any size. Mr. Labatt explained that he understood and agreed that it may be best to continue this hearing to a later date maybe in the spring. Discussion of a date certain of January 5 at 6:00 p.m. instead of a spring date.

Vice Chairman Kawczak requested a motion to continue the hearing until the date of January 5 at 6:00 p.m. Commissioner Traister made a motion to continue the hearing. Commissioner Canales seconded the motion. All in favor. Motion carried.

Other business

- Emergency Certification Ratification for National Grid for Line #5 (Pole #30 and access from Butler Street).

Vice Chairman Kawczak opened the meeting to Katy Wilkins of Tighe & Bond. Ms. Wilkins explained that tropical storm Isaiiah came through and knocked out one of the distribution line polls on line number five which goes from Adams to North Adams Brown Street substation and North Adams up and over the hill into Zylonite substation in Adams. Structure number 30, the crossarm, which connects the two poles at the very top had broken off and was hanging down so a portion of the conductor was also hanging which is the line itself so National Grid identified this from a helicopter line review. The distribution line crews couldn't get there with their equipment, they could only get up there by UTV or ATV with some adventuring but they weren't able to get the equipment up there to change out the pole. The drill rig that's mounted on the back of the truck with the bucket to move everything around and drill the new holes and put everything where it needs to go and take out the old pole couldn't get through so they called in the transmission line crew that has bigger, more heavy-duty equipment and they couldn't get there as well. They had to reevaluate and realized they were going to need to expand a few trees and build a road out of gravel to get the equipment up and in there. They submitted an Emergency Order to the Conservation Commission to build a road and access structure 30 to do the replacement. They were able to get in there, build their road, not over any wetlands and streams and replace the pole. Structure 30 has been replaced. All of the timber matting has been removed that was in the wetland and spanned the stream channels. The access road is still in place and they will be submitting an RDA to retroactively permit that so they can keep the access road in place for future maintenance and future work up on the line.

Vice Chairman Kawczak confirmed that they will need to submit an RDA in the future to keep that road in place for future maintenance over the next three months.

Vice Chairman Kawczak requested questions or comments from the commission.

Commissioner Traister inquired about Butler Street as it is in Adams and whether they were involved or had to be notified. Ms. Wilkins explained that the gravel pit that starts the right of way is in Adams but most of the work that they were doing was in North Adams so there weren't any wetland resources in Adams so they haven't notified them of anything.

Mr. Stinson inquired about what resource areas were impacted, if any, by the road work. Ms. Wilkins explained that they just installed the 10-foot wide gravel access road in buffer zone. Mr. Stinson clarified that there were no resource area impacts and agreed that at least an RDA would be necessary to keep it there.

Commissioner Kawczak requested a motion to support this emergency certification form with the added requirement of an RDA submittal over the next 90 days. Commissioner Traister made a motion to support the emergency certification with the added requirement of an RDA submittal over the next 90 days. Commissioner Galambos seconded the motion. All in favor. Motion carried.

Approval of minutes Public meeting – July 27, 2020

Vice Chairman Kawczak requested a motion to accept the minutes of July 27, 2020. Commissioner Canales made a motion to accept. Commissioner Traister seconded the motion. All in favor. Motion carried.

Adjournment Meeting adjourned at 7:20 p.m.

Respectfully submitted,



Michelle Ells
Conservation Commission Secretary