

**MOTIONS**

**CALL TO ORDER**

Meeting called to order by Ms. Angus, Chair at 7:02 p.m.

**ATTENDANCE**

Members: Angus (C), Allen, Brooks, Butler, Clark, Healey,  
Staff: Willson, Ziomek

**COMMENTS FROM CHAIR, DIRECTOR'S & WETLAND ADM'S REPORTS**

Angus introduced Robert Brooks as the new Vice Chair and Fletcher Clark as the new CPAC liaison; both positions voted on at the last meeting.

Willson stated that the draft updated floodplain maps for Amherst are done and on the Town's webpage. FEMA is looking for comments by July 26<sup>th</sup>. Please go to the Town's website to take a look at the maps and send comments to her and she will give them to Chris Brestrup, Senior Planner. There will be a FEMA meeting in August or September that will be a joint meeting of Conservation Commission and the Planning Board to discuss the maps. Willson will work on finding a date. She stated the LAND grant for the Epstein property was submitted on July 11, 2017.

Ziomek stated field staff have finished the work on the Fish and Wildlife Habitat Enhancement Grant. Work under the grant was done at Atkins Flats, Lawrence Swamp, and Eastman Brook Conservation Areas. Markert's Pond is slowly filling. He stated we hired Tighe & Bond to conduct a Phase I inspection of the Owens Pond Dam. Inspections are required under the state DCR dam safety program. Owen's Pond Dam is considered a low hazard dam. The report indicates some work needs to be done, trees need to be removed from the dam sides. All work would come before the Commission.

Ziomek stated summer staff has been busy clearing trails and cutting back along the trails. He said they will be mowing Mt. Pollux for 4<sup>th</sup> of July. The Puffer's Pond Breakfast raised \$7,690 which will go toward hiring summer staff and work at Puffer's Pond. David Sharken and the Friends of Puffer's Pond did a wonderful job and we are very grateful for their efforts. Kody Clark will be leaving the middle of August to return to school to continue his education. Very happy for him and very supportive of his decision. We will be advertising for a new assistant land manager soon. Town Manager, Paul Bockelman, will come to the next meeting on July 26, 2017 to introduce himself and to speak with the Commission

**CONSERVATION COMMISSION'S ACTION**

**Minutes:** No minutes to review

**PERMITS/CERTIFICATES**

**7:15 PM Work within Conservation Restriction – Tim Houlihan and Abida Adnan for expanding parking and landscaping at 910 Southeast St.**

Angus stated the CR is held by the Conservation Commission on an approx. 10 acre parcel on SE street. Shee added it's a fairly new CR written in 2002. Willson presented the site plan on the overhead. The property is located at the corner of Station Rd & SE St. It includes the hay field that runs south all the

way to Station Rd abuts the horse farm on Station Rd. The house is an exclusion of the CR. Ziomek noted that the house is actually in a building envelope within the CR, which is a little different than an exclusion. CR predates Ziomek's time with the Town, Pete Westover, former Cons Dir, negotiated with the owner at the time to create the CR.

Tim Houlihan, landscape architect with Zen Associates, provided photographs of the property and presented the proposal for the property including: removing a section of fence along the driveway and adding a new split-rail section of fence along the entrance of the driveway, adding plantings along the driveway and northern property line, enlarging the guest parking area, redoing the entry walkway associated with the front entrance to the house, expanding existing driveway and parking area on the side of the house, adding to the existing deck, adding new plantings at front and rear of the house and the addition of a shed at the rear of the property. Tim indicated that they are proposing to keep the guest parking area paved with asphalt (400sf), but would like to use permeable concrete pavers for the existing driveway/parking area (500sf).

Angus said it is appropriate and required that they come before us to ask about these landscaping ideas and we need to make a determination if we think the proposed modifications fit within the CR. We don't deal with this that much – people asking to modify properties that we have CR on because we don't have many CRs with private residences. Angus asked for the area currently being hayed to be pointed out on the overhead. She said looking at the aerial photos it appears that someone has been maintaining (mowing) the area outside of the exclusion. Houlihan said yes.

Ziomek said in response to abutter reports staff went to the site and saw that some cutting had been done that should have come before the Con Com. Certain cutting beyond the scope of the CR, invited the owners to come in and present something to you. Suggested that the mowing appears to be beyond the exclusion area, but that may predate the current owner. Willson pointed out the haying line on the overhead. Angus stated she feels that the values of the CR, scenic views and ag use and aquifer protection, are in the backyard not the front of the house. So the biggest concern here is the creep out into the agricultural field on the east side of the house (backyard).

Angus said she doesn't feel that the yellow shaded area which is being depicted as area of allowable shed is actually described that way in the CR in a figure or text. Healey pointed out that the proposed shed location is east of the exclusion area. Ziomek stated it is incumbent upon the applicant to make the case as to why these improvements, which are by and large aesthetic, are in keeping with the CR. He would like to hear more about how these improvements meet the spirit of the CR. One of his biggest concerns is precedent and creep outside the exclusion zone slowly taking square footage away from a tillable field.

Houlihan said starting at the street the idea is to increase the evergreen screening between properties which the applicant and neighbor think is important. He didn't feel that it necessarily enhanced the CR, but certainly it didn't detract from it at all. You could make the case that it would increase wildlife habitat and benefits the CR for a couple of reasons: (1) for the screening (2) in the back the view shed would benefit from some planting. Right now it is just fields up to the back of the house. There is nothing to soften or transition from house to field. Plantings will frame the views out from the house and also for people looking at the house/property – something that transitions from low to high offers a visual break.

Houlihan points out the two areas where they want to add pavement to the current driveway for parking/turnaround. He feels that they are asking to fix what should have been done in the first place to accommodate two cars. You can't really back out of the garage now, so adding a turn around would

help. Understands that they are creeping beyond the restriction line. Would prefer to do asphalt there, but certainly happy to put in permeable paver as well. In the backyard they are planning to set pavers on a terrace, adding a bunch of planting. Feels that in general it is a net gain in terms of settling the house into the landscape by creating some terracing down and plantings.

Brooks stated following up on what Ziomek said, our responsibility is to protect the interests of the public not the land owner. Need to pay attention to the west side of the house, again we are not concerned with the applicants view but the public's view, if you put in conifers and mounded plantings you're essentially blocking the public's view. As far as ag land, you can put the screenings on your exclusion zone, you don't need to put them on public property and they would serve the same function. The shed is allowed, but so far to the east? It could have been put further to the north of the house and served the same function and it would have taken less of the agricultural land.

Butler said old aerial photos actually show trees planted outside the exclusion zone where it is currently maintained for lawn. Talking about expanding the driveway, adding the asphalt is very problematic. The old aerial shows two cars parked at the southern end of the driveway so there is room. Houlihan responded the problem is that when two cars park here now it makes it difficult to get in and out of the garage. Yes, two cars can currently park in that area. This spot currently allows one car, this one you can squeeze two, but it is at the detriment to being able to get out of the garage. Butler asked if there are plantings outside of the exclusion zone behind the house? They were not in the 2015 image, but they are in the 2017 image, so they were put in sometime during that period. Houlihan said they are no longer there. We wanted to open the view and they were obstructing the view.

Jim Hoerle, abutter to the north. Has a number of issues: where the existing fence is to be moved, is becoming the new property line, so approximately 50% of all your landscaping on that area needs to be redesigned. Houlihan responded he understands with the property line modification the planting along the edge and the location of the proposed fence will need to comply with that new property line.

Hoerle stated he is concerned with the asphalt, the plan shows new 400 sf of asphalt maybe 10-12 feet from the property line. The property line is being moved, so the asphalt will be 4-5 feet from the property line. The trees along the property line are very old Shagbark Hickory trees. The digging and installation of the asphalt could damage the root systems of the trees and potentially kill them. The shed is another issue. He'd been told by Whirlwind Landscaping that this is going to be a barbeque area for them. They already have a little stone wall back there and spread woodchips and have done some cutting previous to the Town getting involved. The shed should be for agriculture, be a farm shed. This barbeque area is completely outside of the excluded area and I am absolutely opposed to that. This very formal landscape plan is not in keeping with South East Street and the scenic corridor. The conservation restriction talks about the values of agriculture and scenic views. I'm completely opposed to what's being proposed here. I am a farmer next door. I live on the street, it's a scenic corridor, its farm country and this are extremely formal gardens.

Angus asked what is the mechanism by which the Commission approves or makes a decision on a request for work on a CR?

Ziomek responded, I would advise the Commission to take this under advisement tonight and not vote. I think a site visit for the Commission is needed. Since this is the first CR request we've dealt with in a long time we should consult Town Counsel. Have Town Counsel review the CR and the applicant's plan and give you some feedback for your next meeting.

Healey stated our decision should be based on the statement from the CR saying, “The following acts and uses are permitted by written approval, but only if such acts or uses do not materially impair significant conservation interests as listed above.” Are these requests in the interest of the Conservation Restriction? The shed for example, seems like a large shed, but it is specifically listed in the CR, but why does it have to be so far east? It says it can be anywhere, but again with the restriction, it seems if one puts it there one can’t hay that area. So why can’t it go much further west, since the north west corner of the property is clearly never going to be hayed.

Angus stated we need to know from Town Counsel how to memorialize our decision. Record it with the CR? Angus asked if the northern property line is currently being changed? Adnan said yes, it is being approved by the Planning Board right now and should be recorded within two weeks of approval. Angus asked how does that affect the CR? Houlihan responded the property line is going to shift down approximately 10 ft. Ziomek said I don’t know if your lawyers have looked closely at this, because it appears to be a subdivision. You are essentially subdividing the property. Hoerle stated both attorneys have talked with the Planning Dept and all decided it was not a subdivision, just slice of pie that has been in dispute. Property line has had a number of questions. For example the Town GIS map shows the property going right to the fence. There are old iron pins in that area as well. So there are a number of reasons to dispute the property line, and we have come to an agreement and plans have been drawn up. I’ve met with Chris Brestrup. Angus said it would be good to get input from Town Counsel on that.

Butler said he wanted to second what Healey was saying. There is kind of the gray area where at one level it says you can’t impair conservation and underneath it says, but you can do this. Kind of strange. So yes, you can put in a shed, but you can’t impair conservation. Angus could the shed be brought further to the west? Healey said a smaller shed further west – we have much less of an issue with. For all of the proposed landscaping, it is permitted unless it impacts or materially impairs significant conservation interests. That language is specific.

Houlihan said we don’t have the shed design yet, that’s the maximum size. I am hearing some concern about the location and its function. So this is good information to help us with the design, there is some flexibility for the location. The benefit of having it away from the house is it isn’t just right there in front of you. Brooks said you’re putting something on land we have jurisdiction on, it’s not the view from the house we’re concerned with it’s the public’s view of the shed. I’m willing to compromise, if the shed was moved to the west so that it is adjacent to the house and is outside the area that is in active agriculture usage now I maybe could agree. But, to say that it is going to look good from the deck, is not going to persuade me to do anything. Houlihan pointed to some proposed locations for the shed. Hoerle said I’d like to know what the shed is going to be used for. I feel that he should be used for agriculture purposes. Angus said it doesn’t say that explicitly. It says shed, accompanied by the conservation interests.

Hoerle said I’m concerned that it is going to be used as a little living area – as a cookout area with a 6’ wide gravel path that now extends from the driveway almost down this whole 600’ property line. So you have a driveway, a 6’ gravel small road going all the way down to the shed. I don’t consider that to be of scenic view. I’d like to point out that #1- the value of scenic landmark talks about outstanding views from the north across the Thompson farm, which I own, east to the Pelham Hill and south to the Mt. Holyoke Range. Angus said we have been so focused on views from South East Street that we are not considering views from Station Road to the north. Which, you will see more of this from Station Road because of the topography than you will from South East Street.

Ziomek said we will do some research with Town Counsel, do a site visit, and the applicant can make changes to the plan based on the feedback they’ve gotten tonight. Willson will schedule them to come before the Conservation Commission again.

**7:30 PM Notice of Intent (cont'd from 6-14-17 mtg) – Todd Gaines/Breck Group Amherst Massachusetts, L.P. for construction of an apartment building and associated parking areas, driveways, utilities, and stormwater management system within buffer zone to bordering vegetated wetlands at 408 Northampton Rd (Map 13D, Parcel 51).**

Angus stated the applicant has requested that this be continued. Our Conservation Commission and Hadley's Conservation Commission have hired a third party peer review to look at the delineation and we don't have that information yet.

**Motion Brooks, 2<sup>nd</sup> Clark commission VOTED** unanimously (6-0-0) to continue the hearing to July 26, 2017 at 7:30 p.m.

**7:45 PM Work on Conservation land – Joan Deely, Land Stewardship Inc., for invasive plant removal at Gulliver Meadow Conservation Area (Map 11B, Parcel 164).**

Joan Deely, landscape architect for the project, stated since our last meeting we visited the site with Beth, Brad and the Riddles to look at the area where the Riddle property and the Town of Amherst properties join to mark the boundary and discuss how to treat the invasives without herbicides. The Riddles would like to get rid of the invasives but the plants extend onto Town land. The red shaded area on the plan shows the really heavy multiflora rose, mixed in with various weed, some glossy buckthorn, and grape.

Angus said last time we talked about doing a site visit. Is there anything else we asked for or wanted? Deely responded just to see if there were other options or ways to approach this and it seems at this point the best solution is to mow which was already part of our proposal. Deely spoke today with the contractor who will mow and he said he can't get it as low as Brad would like. Brad's concerned with popping a tire if the woody plants aren't mowed low enough, he's also concerned with the wet areas closer to Riddle's property where he historically hasn't been able to get a tractor.

Willson stated the Town's property line comes through what is already lawn, so the whole hedge of invasives is actually on conservation land. So anything that is going to be treated for invasives, is on conservation land. Chris Riddle, property owner, said Brad thinks that if we get it knocked down, he can keep it in check by mowing it. Except for the caveat with the wetness. So last time we didn't consider the mowing as a long term solution. Ziomek stated we have over 2,000 acres of conservation land to manage. So, I don't want to make a promise for you or the Riddles that we can mow consistently. We mow this field once a year, it has a fair number of invasives in it, we don't have a long term plan for that. This is something facing private and public land owners all over New England. I just want to make sure that we don't make any promises to you or to the Riddles that this is going to happen every year in August like clockwork, because it may not. I'm very much in favor of trying this. I think it is a very interesting experiment. The Riddles are willing to put a fair amount of money and resources toward it. I think for the Commission you all have to consider the application of herbicides and what your stance is going to be.

Ziomek added, if the property line is correct, any area that is currently lawn that is on Town land, part of the plan needs to have that revert back to native or semi-native plantings. This kind of creep of mowing to the west by some feet - we need to pull that back to the property line. We know where the pins are, so we can mark that and say that needs to be revegetated. It sounds like the Commission is OK with mechanical removal but not herbicides on conservation land. Deely said we can also do grappling. Some

of those big roses can be fully ripped out of the ground, but there is going to be resurgent plants from seed bank. My concern is that if it is not mowed by the Town regularly, it feels a little futile. Healey added Brad has indicated that some years the field is just too wet to mow. Deely said we have narrowed it down to two spots where we believe we need to use herbicides. On the Riddle side of property line, I would like to reserve the opportunity to at least be able to use cut stem treatments if necessary. Some of the stems that are growing there are really big and it is a good way to treat bittersweet.

Deely said all other abutters are in agreement with working on this project to remove invasives. Willson noted that the applicants will be coming to the Commission with a Notice of Intent for being within the wetland boundary.

Angus said so we are voting for only mowing/grappling on conservation land (chemical treatment restricted to the Riddle side of the property line) with an attempt to leave native trees and shrubs.

**Motion Clark, 2nd Allen commission VOTED** unanimously (6-0-0) to allow removal of invasive species as per the plans using only mowing/pulling on conservation land no chemical treatment.

#### **MISCELLANEOUS UNTIMED ITEMS:**

##### **Intermittent stream debris removal – 310 Market Hill Rd.**

Willson stated owner purchased home in 2015 and the previous owner had done cutting of trees along the stream. The owner is looking for guidance as to what he can do to clear up some of the debris left on the bank and in the stream. Willson felt some of the material should be left to protect the stream and preserve wildlife habitat. Commission did a site visit that morning. Commission determined that he may take out cut wood (without using big equipment), leave trunks, don't drag material through the stream, and that he must come to the Commission if he wants to do any other work.

**Motion Butler, 2nd Brooks commission VOTED** unanimously (6-0-0) to allow owner of 310 Market Hill Road to remove material that has already been cut but to leave large materials where they sit. Any additional activity in the wetland boundaries must come before the Commission.

##### **Ratify Enforcement Order #2 – 162 Farview Way**

No discussion.

**Motion Brooks, 2nd Clark commission VOTED** unanimously (6-0-0) to ratify Enforcement Order #2 for 162 Farview Way.

##### **Permit extension request – Amherst Hills**

Willson said that there is still development going on and therefore the permit needs to be extended. They must do it every three years.

**Motion Brooks, 2nd Butler commission VOTED** unanimously (6-0-0) to extend the permit for Amherst Hills as requested until April 24, 2019.

##### **Topics not reasonably anticipated 48 hours prior to the meeting**

### **Mill River Park**

Ziomek stated the Town improved both Mill River 1 and 2 little league fields using CPA funds under a Notice of Intent. The Town replanted the infields with sod which did not fare well during really hot days. Mill River 2 is closest to the pool, so DPW & Amherst Baseball were able to water that infield using hoses and have kept the grass alive. Mill River 1, which is closer to the stream, ended up with a lot of loss of grass. Ziomek talked with DPW and Amherst Baseball and there is a plan to bring water lines out to both fields. They will work with the Commission, but in the interim DPW asked that since this grass is threatened, because it will be a month or two before the lines go in, can DPW do a one time emergency pumping from the Mill River onto Mill 1, which might be an hour or two to hyper hydrate that infield. The Town has spent \$150,000 on all the improvements to Mill River.

Christiane indicated that she would feel better about it if the pump that they use to get the water from the river was the same as what the Fire Department uses when they practice. Butler asked where the closest fire hydrant was in relation to the field and could the Fire Department use that instead. Ziomek indicated that possibility could be looked at and if there is one nearby, check to see if the Fire Department has long enough hoses to reach the field. Brooks asked why can't the Town just truck in water? Ziomek said that part of it is economics, the Town does not have a truck with a container on it that is large enough. Brooks asked how many gallons do they estimate they will need? Ziomek talked with Alan Snow, who is the division director. Alan indicated that they would be pumping 80 gallons/minute for about an hour. They want to super saturate the infield in case the temperatures reach 90 in the next couple of weeks.

Healey noted that a farmer had requested to do a similar thing, and they would not let them do it. Ziomek reminded them that situation was different, in that it was an ongoing issue during a drought. Angus asked the Commission if they could agree that other options should be evaluated, last ditch effort okay, one time use? Willson noted that this will not set precedent for this location, as the water lines are going to be put in. Ziomek also noted that they will also be adding irrigation system for the infields using Town water. So they won't be asking to do this repeatedly.

Willson said that an emergency certification could be issued if the they need to pump the water, they may not need to do it all. Christiane also wanted the circumstances included for why they were allowing it. That it is not a drought, that it is a one time thing, because for her it makes it clear that it is not a precedent. Willson indicated that will go into the minutes.

### **Wild Parsnip**

Ziomek stated we have found an infestation of wild parsnip at the community gardens on Mill Lane. It's not that large and we are looking at ways to deal with it.

### **ADJOURNMENT**

**VOTED** unanimously to adjourn the open meeting at 9:00 p.m.