

Town of Mansfield  
Conservation Minutes  
February 22, 2021

RECEIVED  
TOWNS OFFICE  
2021 MAR 01 P 6:23

**MEETING HELD VIRTUALLY USING GOTOWEBINAR PLATFORM**

Present: Michael Healey, Chair; Dr. Aaron Roth, Vice Chair; Aaron Gallagher; Kostas Loukos; Sarah Joynes; Diane Simms; Katelyn Gonyer, Conservation and Environmental Planner.

The Chair read the following notice:

*Whereas both the Federal Centers for Disease Control and Prevention and the Massachusetts Department of Public Health have advised residents to take extra measures to put distance between themselves and other people to further reduce the risk of being exposed to COVID-19, Governor Baker has issued an order suspending certain provisions of the Open Meeting Law, Massachusetts General Law c. 30A, §20.*

*In order to satisfy the Open Meeting Law requirements, today's Town of Mansfield Conservation Commission meeting will be available to the public via GoToWebinar and Mansfield Cable. The instructions for joining via GoToWebinar are in the Meeting Notice on the Town's Website at [www.mansfieldma.com](http://www.mansfieldma.com) and then clicking on today's date on the calendar.*

1. Conservation Meeting Called to Order at 6:06 pm.
2. Old Business:
  - Approval of January 25, 2021 and December 16, 2019 minutes.

Mr. Loukos made the motion to approve the January 25, 2021 minutes.

Ms. Simms seconded the motion.

Mr. Healey – in favor

Mr. Loukos – in favor

Dr. Roth – in favor

Ms. Simms – in favor

Ms. Joynes – in favor

Motion passed 5-0-0 at 6:08 pm.

December 16, 2019 minutes were approved at an earlier meeting.

- OSRC Update:

Ms. Gonyer said there are vacancies, one on the Conservation Commission as well as one on the OSRC for a Conservation member. She said the OSRC will be meeting bi-monthly and will review and update the Open Space Plan.

Ms. Gonyer said a Mass Trail Grant was submitted two weeks ago and will allow for kiosks, signage and trail maps to be purchased for the five Conservation areas.

Ms. Gonyer would like to hold a virtual meeting for a basic wetland review. It would be an open topic forum to discuss any questions regarding the local by-law, the Wetlands Protection Act and basic procedures. She asked the Conservation Commission members to contact her by email if they have any questions or a topic they would like to discuss.

Ms. Gonyer discussed the MS4 permit under EPA, to understand all the stormwater access points in the town; this is a federal requirement for every town. She will send out a draft of the stormwater by-law; the Conservation Commission is responsible for upholding this set of regulations and the by-law. She will work with consultants and the Engineering Department on a draft and then the draft will be reviewed and edited by the Conservation Commission.

3. Request for Certificate of Compliance: Matthew and Amy Rainone, 110 Balcom Street.

Mr. Healey opened the hearing for a Certificate of Compliance for Matthew and Amy Rainone, 110 Balcom Street, Map 3, Lot 76 for the construction of a single-family house with limited project driveway crossing within 100 feet of Bordering Vegetated Wetlands under DEP SE 211-0905. The Order has expired.

Ms. Gonyer said this was heard at the January meeting but at that time she was waiting for a report from a consultant to verify the wetland restoration area; the report was submitted too late for review. She said all the appropriate documentation has been submitted, all the conditions have been met and she recommended a full Certificate of Compliance be issued with the on-going condition that the restoration area be maintained as a restoration area and not converted back to a wetland.

There were no Board comments.

Public Comments:

The Chair read the following notice:

*"It is important to us that you have a platform for your questions and comments during this meeting, therefore to ask questions or make a public comment during tonight's virtual meeting you must have registered and joined the meeting via GoToWebinar where you now have the ability to submit your question or comments through the questions option in your control panel, or you can use the raise your hand option to be allowed to speak.*

*For those who have joined the meeting via telephone who would like to ask a question or make a comment, you are now welcome to unmute your phone. We ask that you only have your phone unmuted while you are asking your question. Please mute when you are no longer live. You can unmute your phone by pushing \*6.*

*Please then state your name and address, and when acknowledge by the Chairperson you can then state your question or comment. When you are done with your comment please mute your phone again by pushing \*6.*

*As with any public meeting we ask you to be respectful of the Board members and the other residents who are making their comments by patiently and quietly waiting your turn. Thank you."*

There were no public comments.

Ms. Simms made the motion to issue a full Certificate of Compliance to Matthew and Amy Rainone, 110 Balcom Street, Map 3, Lot 76 for the construction of a single-family house with a limited project

driveway crossing within 100 feet of Bordering Vegetated Wetlands under DEP SE 211-0905 with the condition that the restoration area be maintained as a replication area.

Dr. Roth seconded the motion.

Mr. Loukos – in favor

Mr. Healey - in favor

Ms. Joynes – in favor

Dr. Roth – in favor

Ms. Simms – in favor

Motion passed 5-0-0.

Hearing ended at 6:21 pm.

4. Request for Certificate of Compliance: Robert Meeks, Jr., 72 Williams Street, Appaloosa Estates.

Mr. Healey opened the hearing for Robert Meeks, Jr., 72 Williams Street, Appaloosa Estates, Map 6, Parcel 48, for a proposed residential compound with pavement; grading, drainage and utilities within 100 feet of Bordering Vegetated Wetlands and Intermittent Stream under DEP SE 211-0747. The Order has expired.

Ms. Gonyer said this is an Order that was issued for the roadway for a five-lot residential compound only, which included the driveway, drainage and a crossing over the intermittent stream. She said an as built plan of the roadway and a letter were submitted by the engineer, all signage has been installed and all conditions are up to date.

Ms. Simms asked who would be maintaining the stormwater drainage. Ms. Gonyer said this is a private road and the compound association would be responsible for maintaining the drainage. She noted that if in the future the town makes this a public way, DPW would maintain the roadway. She said an on-going condition would be that the association would maintain the stormwater management.

Mr. Gallagher arrived at 6:25 pm.

There were no Board Comments.

Public Comments:

The Chair read the following notice:

*"It is important to us that you have a platform for your questions and comments during this meeting, therefore to ask questions or make a public comment during tonight's virtual meeting you must have registered and joined the meeting via GoToWebinar where you now have the ability to submit your question or comments through the questions option in your control panel, or you can use the raise your hand option to be allowed to speak.*

*For those who have joined the meeting via telephone who would like to ask a question or make a comment, you are now welcome to unmute your phone. We ask that you only have your phone unmuted while you are asking your question. Please mute when you are no longer live. You can unmute your phone by pushing \*6.*

*Please then state your name and address, and when acknowledged by the Chairperson you can then state your question or comment. When you are done with your comment please mute your phone again by pushing \*6.*

*As with any public meeting we ask you to be respectful of the Board members and the other residents who are making their comments by patiently and quietly waiting your turn. Thank you."*

There were no public comments.

Dr. Roth made the motion to issue a full Certificate of Compliance to Robert Meeks, Jr., 72 Williams Street, Appaloosa Estates, Map 6, Parcel 48 for a proposed residential compound with pavement, grading, drainage and utilities within 100 feet of Bordering Vegetated Wetlands and Intermittent Stream under DEP SE 211-0747 with the on-going condition that the residents of the private way will maintain the stormwater management.

Ms. Simms seconded the motion.

Mr. Gallagher – in favor

Mr. Loukos – in favor

Mr. Healey – in favor

Ms. Joynes – in favor

Dr. Roth – in favor

Ms. Simms – in favor

Motion passed 6-0-0.

Hearing ended at 6:29 pm.

5. Request for an extension of an Order of Conditions: Mark Rioux, Lot 3, 30 Saddle Ridge Road.

Mr. Healey opened the hearing for a Request for an extension of an Order of Conditions for the construction of a single-family dwelling with associated appurtenances within 100 feet of Bordering Vegetated Wetland and Natural Heritage Estimated and Priority Habitats under Dep SE 211-0937.

This application was issued an Order of Conditions for Lot 3 in 2006. All the work is outside of the 50-foot buffer zone and the actual dwelling is located outside of the 100-foot buffer zone. The Order was extended in 2018. Ms. Gonyer recommended a three-year extension. Erosion control is to be maintained throughout the project.

There were no Board Comments.

Public Comments:

The Chair read the following notice:

*"It is important to us that you have a platform for your questions and comments during this meeting, therefore to ask questions or make a public comment during tonight's virtual meeting you must have registered and joined the meeting via GoToWebinar where you now have the ability to submit your question or comments through the questions option in your control panel, or you can use the raise your hand option to be allowed to speak.*

*For those who have joined the meeting via telephone who would like to ask a question or make a comment, you are now welcome to unmute your phone. We ask that you only have your phone unmuted while you are asking your question. Please mute when you are no longer live. You can unmute your phone by pushing \*6. Please then state your name and address, and when acknowledged by the Chairperson you can then state your question or comment. When you are done with your comment please mute your phone again by pushing \*6.*

*As with any public meeting we ask you to be respectful of the Board members and the other residents who are making their comments by patiently and quietly waiting your turn. Thank you."*

There were no public comments.

Ms. Joynes made the motion to issue an extension of the Order of Conditions to Mark Rioux, Lot 3, 30 Saddle Ridge Road for the construction of a single-family dwelling with associated appurtenances within 100 feet of Bordering Vegetated Wetland and Natural Heritage Estimated and Priority Habitats under Dep SE 211-0937 for three years. Extension will expire April 21, 2024.

Mr. Loukos seconded the motion.

Ms. Simms – in favor

Dr. Roth – in favor

Ms. Joynes – in favor

Mr. Healey – in favor

Mr. Loukos – in favor

Mr. Gallagher – in favor

Motion passed 6-0-0.

Hearing ended at 6:37 pm.

6. Request for an extension of an Order of Conditions: Ron Nation, Mansfield Landing LLC, 265 Fruit Street, Quadrant 4, Map 36, Parcel 15.

Mr. Healey opened the hearing for the request for an extension of an Order of Conditions for the construction of airport hangars and associated parking area within 100 feet of Isolated Vegetated Wetlands under DEP SE 211-0929.

Ms. Gonyer said this project for the construction of an airport hangar, known as Quadrant 4, was very heavily permitted because it was so extensive with a delineation and a restoration plan of the wetland. She noted the restoration area is doing well and the Applicant is up to date on all the reports for the wetland area. She said an amendment to the Order was done for a 60'x60' building, known as Building "U". An extension was issued in 2018, which will expire April 2, 2021. She recommended the Order be extended for an additional three years.

Mr. Gallagher was now off camera.

There were no Board Comments.

Public Comments:

The Chair read the following notice:

*"It is important to us that you have a platform for your questions and comments during this meeting, therefore to ask questions or make a public comment during tonight's virtual meeting you must have registered and joined the meeting via GoToWebinar where you now have the ability to submit your question or comments through the questions option in your control panel, or you can use the raise your hand option to be allowed to speak.*

*For those who have joined the meeting via telephone who would like to ask a question or make a comment, you are now welcome to unmute your phone. We ask that you only have your phone unmuted while you are asking your question. Please mute when you are no longer live. You can unmute your phone by pushing \*6. Please then state your name and address, and when acknowledge by the Chairperson you can then state your question or comment. When you are done with your comment please mute your phone again by pushing \*6.*

*As with any public meeting we ask you to be respectful of the Board members and the other residents who are making their comments by patiently and quietly waiting your turn. Thank you."*

There were no public comments.

Ms. Simms made the motion to issue a three-year extension to Ron Nation, Mansfield Landing LLC, 265 Fruit Street, Quadrant 4, Map 36, Parcel 15 for the construction of airport hangars and associated parking area within 100 feet of Isolated Vegetated Wetlands under DEP SE 211-0929, to allow for the complete construction of buildings "C" and "U", with the following condition: the erosion control must be maintained as shown on the plan. The extension will expire April 2, 2024.

Mr. Loukos seconded the motion.

Dr. Roth – in favor

Mr. Loukos – in favor

Mr. Healey – in favor

Ms. Joynes – favor

Ms. Simms – in favor

Motion passed 5-0-0.

Ms. Gonyer said, because she has not seen the erosion control at the airport since last fall, in the spring she will go out and inspect to make sure it is still in place and functioning. She will also inspect the erosion control for any on-going projects.

Hearing ended at 6:48 pm.

7. Notice of Intent: Andrew Austin, 473 Bird Road, Map 39, Parcel 23.

Mr. Healey opened the hearing for a Notice of Intent for Andrew Austin for the construction of a garage/ addition and relocation of a driveway within 100 feet of Bordering Vegetated Wetland, ACEC, Canoe River, and NHESP Estimated and Priority Habitats under DEP SE 211-0986.

Craig Cygawnoski, RIM Engineering Co., Inc. and homeowner Andrew Austin were present.

Ms. Gonyer explained this is a single-family jurisdictional project and the Commission will have to look at different regulations to make sure we are able to create a permissible project. She said the wetland

delineation was done and verified, especially the points that were really close. She said currently there is no garage but there is an existing driveway with a slope from the driveway down to the wetland area. There is a shed in the 25-foot area that has been turned into a chicken coop and is shown on the plan. She said the proposal is for a garage and addition.

Mr. Cygawnoski explained the Applicant is proposing to add a garage and addition to the house; he noted the existing house is within the 50-foot area and all the work is within the 100-foot area with some of the work within the 25-foot buffer zone. He said the existing driveway is the high point of the lot and drops off at a 4:1 slope and goes toward the wetland. The Applicant would like to put a garage under with a 1<sup>st</sup> floor addition with a deck off the back of the house. Mr. Cygawnoski said with the garage under the road is higher than the garage. He said the Applicant is asking the Commission to consider that in the by-law you allow for grading associated with a single-family house addition and that the Commission consider the driveway as part of that addition. He said approximately 300-350 square feet of the driveway would be in the 25-foot buffer and, with the construction of a retaining wall, the total square-footage would be 575 feet. He said soils would be restored at the base of the wall and noted the lawn goes right to the wetland line in this area. He said the Applicant is proposing a planting mitigation area parallel to the vegetated bordering wetland, from the driveway to the back of the yard. To slow down and clean the water from the driveway there will be a trench half way down the driveway and the water will go into a crushed stone swale. The roof runoff from the garage/addition will go into a drywell to the left of the driveway, infiltrating through the existing lawn and wetland.

Ms. Gonyer said there is a lot of re-grading and the plan is showing portions of the driveway within the 25-foot area. She asked if the Commission believed this would fall under the exemption and, if so, how would the Commission permit the project. She noted the project does fall within a Priority Habitat and NHSP usually would say that anything in a lawned area is exempt for a single-family lot but since this proposal is to do a mitigation area and there would be a new curb cut for the new driveway, NHSP has asked to review portions of the project. She said she has been on site with Mr. Austin many times to try to find a middle ground between making sure there will not be any impacts to the wetlands and still getting the project the Applicant would like to see happen. She said the question would be if this is a permissible project or would this be something that would need to go for a Variance.

#### Board Comments:

Mr. Healey said he is not comfortable with granting an exemption for going into the 25-foot No Touch Zone for the following reasons: He does not understand the absolute necessity to move the driveway into the No Touch Zone and there are other alternatives that would allow the garage but not going into the No Touch Zone. He said the Applicant wants the garage to be at basement floor elevation but he wondered if the driveway could be oriented in such a way to stay out of the 25-foot area.

Mr. Cygawnoski said the issue would be if the driveway were to remain in the existing location all the water would be going toward the garage. Mr. Austin said they have look at many different orientations for the garage and have tried to minimize what is being done in the buffer zone while accomplishing one of the only feasible solutions for the expansion.

Ms. Gonyer said the exemption in the Bylaw for work in the 25 foot NDZ states: *The following activities may be permitted within 25 feet of a resource area: the creation of wetland replacement or mitigation areas, installment of drainage outfalls, grading work associated with additions to existing single-family homes, work on existing commercial or industrial facilities that does not increase the impervious area and*

Public Comments:

The Chair read the following notice:

*"It is important to us that you have a platform for your questions and comments during this meeting, therefore to ask questions or make a public comment during tonight's virtual meeting you must have registered and joined the meeting via GoToWebinar where you now have the ability to submit your question or comments through the questions option in your control panel, or you can use the raise your hand option to be allowed to speak.*

*For those who have joined the meeting via telephone who would like to ask a question or make a comment, you are now welcome to unmute your phone. We ask that you only have your phone unmuted while you are asking your question. Please mute when you are no longer live. You can unmute your phone by pushing \*6. Please then state your name and address, and when acknowledged by the Chairperson you can then state your question or comment. When you are done with your comment please mute your phone again by pushing \*6.*

*As with any public meeting we ask you to be respectful of the Board members and the other residents who are making their comments by patiently and quietly waiting your turn. Thank you."*

There were no public comments.

Dr. Roth made the motion to continue the hearing for Andrew Austin, 473 Bird Road, Map 39, Parcel 23 for the construction of a garage/addition and relocation of driveway within 100 feet of Bordering Vegetated Wetland, ACEC, Canoe River and NHESP Estimated and Priority Habitats under DEP SE 211-0986, to the March 22, 2021 meeting.

Ms. Joynes seconded the motion.

Ms. Simms – in favor

Ms. Joynes – in favor

Mr. Healey – in favor

Mr. Loukos – in favor

Dr. Roth – in favor

Motion passed 5-0-0.

Heating ended at 7:30 pm.

9. Adjourn:

Motion to adjourn at 7:32 pm (Ms. Joynes/Ms. Simms).

Dr. Roth - in favor

Mr. Loukos – in favor

Mr. Healey – in favor

Ms. Joynes – in favor

Ms. Simms – in favor

Motion passed 5-0.

Next meeting will be March 22, 2021.



*has a positive impact on the resource area and its function and value, the maintenance and construction of trails, resource improvement projects, such as the cleaning of streams or the creation of park areas. These exceptions will be reviewed.* She said the driveway is in the 25-foot area and questioned how this would be permitted under the by-law.

Dr. Roth said he can not see the justification for putting the driveway in the 25-foot area. He said whenever the Commission has allowed work in the 25-foot area, it is for the integrity of the property or for safety reasons but not for an expansion. He said there would be no benefit to the wetland if this would happen and said he is against it. Mr. Healey agreed.

Mr. Loukos said it is extremely difficult to do construction or any work on a property on that side of Bird Road. He said this house sits on the front of the hill and the steep incline there makes all the water pool at the bottom of the hill and at the base of the house. He said he has mixed feelings about moving the driveway into the 25-foot No Touch Zone but he does not know if the other alternatives would work to help the homeowner.

Ms. Joynes said the Applicant is trying to put the driveway under the exemption of grading work associated with additions to existing single-family homes. She noted the impervious surface area associated with the driveway would not be considered grading; she said the intent of the exemption is grading associated with another structure and she does not feel the construction of a driveway meets this exemption.

Ms. Simms said she had nothing more to add and said everybody raised every good comments.

Ms. Gonyer said the reason for the exemption was to allow for things that got pushed into 25-foot areas because of constraints, physical hardships or setbacks. This project is an expansion and an encroachment without a need for public safety or benefits to the environment. She does not feel permitting this project would fall under the exemption.

Mr. Austin asked what the next step would be. Mr. Healey said the plan submitted is not permissible under the opinion of the Commission. If there was a plan that did not require the moving of the driveway or would keep the driveway out of the 25-foot area, then that would be something to consider but the Commission is struggling with the proposed footprint of the project and protecting the interests of the Wetlands Protection Act. He said the Commission feels there is no reason to construct a driveway in the No Touch Zone of the wetlands.

Ms. Gonyer said the Commission could continue the hearing and Mr. Austin could submit a revised plan showing no work within the 25-foot area. She said they are waiting to hear back from Natural Heritage because they have issues with the cutting of the new driveway and would need their feedback regarding the endangered species. She said the Commission does have a variance procedure and Mr. Austin could contest the by-law if he wants to move forward with the design presented tonight and apply for the variance procedure. She explained it is a detailed process requiring a 2:1 mitigation and Mr. Austin would have to show a need for the project. She said Mr. Austin could request a continuation, withdraw the proposal or ask that the hearing be closed tonight but, if the hearing is closed, the Commission would be voting on what is now being proposed and he would have to go through the appeal process. Mr. Austin said he would like to continue the hearing and discuss options with Ms. Gonyer and Mr. Cygawnoski.

Michael S Healey  
Michael Healey, Chair

3-31-21  
~~3-31-21~~ initial  
Date