

AGAWAM CONSERVATION COMMISSION  
February 10, 2022

MEMBERS PRESENT:

Henry Kozloski  
S. Page Fallon  
Sheryl Becker  
Jill Ward  
Frank Meagher  
Keven Brown

MEMBERS ABSENT:

Magda Galiatsos

ALSO PRESENT:

Taryn Egerton

VIA Zoom Webinar

Mr. Kozloski called the meeting to order at 6:02 PM.

1. PUBLIC HEARING CONT. – Notice of Intent – 0 South West Street & 0 Pine Street – Town of Agawam

This agenda item was previously continued to the February 24, 2022 meeting.

Ms. Becker joined the meeting at 6:02 PM

2. PUBLIC HEARING CONT. – Notice of Intent – Aspenwood Associates LLC – 0 Silver Street & 0 Doane Avenue

Kirk MacNaughton of Aspenwood Associates LLC was present to give an update on the project. Mr. Kozloski asked whether all the items have been resolved. Mr. MacNaughton stated that they're still working on it and that they received comments from Agawam Engineering last week. Mr. Kozloski noted that the project has been ongoing and thinks certain things must be resolved: All flags accurately located by GPS and reestablished on site, limit of line work must be staked in the field, when the limit of line work is staked and flags are back up, the commission will make an onsite, distances from wetlands to BVW must be clearly depicted on the plan, response to accuracy/elevations must be corrected, final plan depicting where the wetland boundaries are, and a final plan that engineering has approved. Mr. Kozloski suggested a deadline of 2/18/22 at 1:00pm for these requirements to be fulfilled. Mr. MacNaughton stated it is not within his personal control whether that deadline can be met, noting Engineering review

time and on sites. Mr. MacNaughton noted he received comments from the Commission's peer reviewer last week and that the peer reviewer agreed on the wetland boundaries during the site visit last summer. Mr. Kozloski asked when he would be able to get these items met. Mr. MacNaughton requested that no deadline be set considering he feels the process is almost complete. Mr. Fallon stated that he can understand why Mr. MacNaughton is upset with his engineer, as the plans look sloppy and the Agawam Engineering memo has 14 pages of comments. He noted that there is a concern that if this is how the project is being designed, how will it be built and maintained. Ms. Ward agreed with Mr. Fallon and stated that the Agawam engineering comments were not responded to in a meaningful or helpful way. Mr. Brown noted that the peer review comments could be addressed and minor plan updates regarding the Wetlands Protection Act that could be done. Regarding the suggested requirements from Mr. Kozloski, Ms. Ward noted that she believes that all items could be resolved with the exception of a final plan approved by Agawam Engineering or conversely reject the application for lack of information. Mr. Kozloski stated he felt that that requirement should be kept in but is flexible on the date of the deadline. He also stated that there are outstanding items that need to be addressed that are outside of the Commission jurisdiction but effect the drainage system.

Motion was made by Ms. Ward and seconded by Mr. Meagher to have the first six comments on the requirements list to be completed by February 18, 2022.

Mr. MacNaughton stated that his original plans were done by the surveyor by his coordinate system, not GPS, and the consultant, SWCA, established the wetland boundary with GPS, met on site with the Commissions peer reviewer. He was told that the coordinate system and the GPS system are not 100% compatible and may not align, which resulted in the comment from the peer reviewer. Mr. MacNaughton also stated that with the review time for his consultants and Agawam Engineering, a deadline of February 18, 2022 may not be enough time, and suggested a deadline.

Motion was made by Ms. Ward and seconded by Mr. Brown to amend the previous motion to have the completed date of the 6 requirements to be March 8, 2022.

#### ROLL CALL VOTE 6 – 0

Mr. Kozloski stated that Mr. MacNaughton had previously requested the Commission to be the holder of the open space parcel and the request was sent to the town solicitor for review. Ms. Egerton stated that the solicitor had issues with the HOA part of the request, whether it would be considered a legal entity. Mr. MacNaughton asked whether his attorney could talk with the town solicitor to talk about his hesitations. Ms. Ward thinks this is a good idea as there are numerous objections from the solicitor. Mr. Meagher doesn't think the Commission should be involved with this since future developers may have the same request. Ms. Ward noted that the solicitor stated that HOAs are not designed to take on the legal responsibilities of Conservation Restrictions and that future homeowners of the street would be unprepared for their obligation, especially financially. Mr. Kozloski stated that the Commission would be doing a job outside of the Conservation Commission, doing the work for a project that is not a town project. Ms. Ward

states she is inclined to table this discussion to give the attorneys time to talk, but notes she agrees that the Conservation Commission should not be the holder of the parcel. Mr. Fallon asked whether a nonprofit organization takes care of and maintains the conservation restriction and the Conservation Commission inspects it independently. Ms. Ward states that land trusts enforces and manages the land. Mr. Kozloski said in these situations, the commission does not do the inspections because it is privately owned.

Motion was made by Ms. Ward and seconded by Mr. Fallon to table this discussion until the town's attorney and Mr. MacNaughton's attorney get a chance to speak.

ROLL CALL VOTE 4 – 2 (Meagher, Kozloski)

Mr. Kozloski then opened the meeting up to the public.

Lisa Patnode, 40 Doane Ave, stated that at the last meeting, Mr. MacNaughton noted that this type of arrangement for the Conservation Restriction is common and asked for examples of this in Agawam. Mr. Kozloski stated there are no examples in Agawam and said that the Commission cannot police itself, which is why they do not hold any parcels currently. Ms. Patnode asked whether there are situations where HOAs are granted the conservation restriction because this is a dangerous precedent. Ms. Ward added that Agawam has not done this, but is aware of situations in Hadley and Amherst that have done this. She added that it is typically not done with HOAs, but instead individuals. Ms. Patnode is worried about the dumping of leaves or tree cutting in the conservation area and who would be ensuring the homeowners are not violating the restriction. Ms. Patnode stated that Anderson Associates responded to only 5 of the 6 comments from the peer reviewer. Mr. Kozloski noted that the requirements set forth in the previous motion should resolve these issues. Ms. Patnode said she is interested in seeing the grading issues addressed. Mr. Kozloski stated that the Commission is concerned.

Stu Kibbe, 40 Doane Ave, asked whether the January 20, 2022 memo from DPW within the purview of the Conservation Commission as well. He is concerned about the grading issues described in comment #16. Mr. Kozloski stated that anything outside the buffer zone is not in the Commission's jurisdiction, but the engineer must design the drainage system to handle the increase in water.

Mr. MacNaughton requested a continuance to March 10, 2022.

Motion was made by Mr. Fallon and seconded by Mr. Meagher to continue the Public Hearing - Notice of Intent – Aspenwood Associates LLC – 0 Silver Street & 0 Doane Avenue to March 10, 2022.

ROLL CALL VOTE 6 – 0

3. PUBLIC HEARING CONT. – Notice of Intent – Main Street – Westfield River Interceptor Sewer Relocation Project – Agawam DPW (Continued to May 26, 2022)

This agenda item was previously continued to the May 26, 2022 meeting.

4. RATIFY EMERGENCY ORDER – 23 Walter Way

An emergency order was issued on January 31, 2022 with an end date of March 1, 2022.

Motion was made by Ms. Ward and seconded by Ms. Becker to ratify the emergency order for 23 Walter Way.

ROLL CALL VOTE 6 – 0

5. DISCUSSION – Junior High Outdoor Classroom

Laura Fallon from the Junior High School was present to discuss the possible outdoor classroom project. Ms. Fallon stated that they would like to address the trees that are on the rail bed. Ms. Fallon stated that the Conservation Club has marked trees that they believe should be cut down and hopes the Commission can have an onsite to see if they agree. She stated there are wetlands on the property and that they want to clean up the site, as it is full of debris. There have been talks with the Town regarding cleaning up the site. Mr. Kozloski asked whether there's been a plan drawn up for the entire project. Ms. Fallon stated that there is not, but that they're working with Fish and Wildlife who will give them examples of plans. Mr. Kozloski mentioned that the tree warden could get involved to see if there are any trees that may need an emergency order, and the cutting of other trees would need a Notice of Intent. Ms. Ward agreed that the Commission and tree warden should both be involved. Mr. Kozloski suggested that the onsite should include the commission, tree warden and whoever is doing the tree cutting. Mr. Fallon asked whether the plan should be done in sections considering the project will take years to complete. Ms. Ward would be more inclined to get an overall plan and consult on any issues as they arise. Mr. Kozloski noted that wetland delineations would remain in effect as long as the Order of Conditions are valid, and that extension are available if the project takes longer than the original 3 years given.

6. REQUEST FOR EXTENSION – 138 South Street

Mr. Kozloski stated that the homeowner is requesting an extension to reseed areas of the project site that have erosion.

Motion was made by Ms. Ward and seconded by Mr. Meagher to extend the Order of Conditions for 138 South Street for 1 year.

ROLL CALL VOTE 6 – 0

7. Correspondence and Complaints

Ms. Egerton noted that the Commission will need to set up a site visit at 260 Garden Street for a possible violation. Mr. Kozloski stated the tree warden has agreed that a tree at 174 Edgewater Rd is rotted and needs to be removed.

8. APPROVAL OF MINUTES – January 27, 2022

Motion was made by Ms. Ward and seconded by Mr. Meagher to approve the minutes of January 27, 2022 as written.

ROLL CALL VOTE 6 – 0

Motion was made by Ms. Ward and seconded by Mr. Brown to adjourn the meeting.

ROLL CALL VOTE 6 – 0

Meeting was adjourned at 7:19pm.