



**CITY OF GARDNER
CONSERVATION COMMISSION
Minutes of the Meeting of
June 10, 2019
Hubbard Conference Room
Gardner City Hall Annex Room 203**

Members Present:

Chairman Greg Dumas, David Beaugard, Duncan Burns, Michael Hermanson, Donna Lehtinen, and David Orwig. Also present was Conservation Agent Jeffrey Legros.

Members Absent:

Norman Beaugard

Guests & Visitors:

David Albrecht, PE, Borrego Solar; Shawn Collette, Builder, Brookside Drive/Wilder Brook Subdivision; Alan Rousseau, Resident; Steven Rockwood, Resident; and Martin Bowers, Resident, Volunteer Associate Member.

Public Hearings

6:30 The Gardner Conservation Commission resumed the joint Public Hearing under MGL, Ch. 131, § 40, Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance on the Notice of Intent filed by Princeton Repower, LLC, 30 North Gould Street, Suite R, Sheridan WY, 82801, represented by Environmental Resources Management, for the construction of a 5.78 MW ground-mounted photovoltaic solar array to be constructed on 24 parcels totaling approximately 23-acres of land along Princeton Street and Keyes Road in Gardner on land currently owned by Cedar Hills, LLC, 52 Congress St., Boston, MA 02108. Work will include site preparation, including grading and clearing of vegetation, maintenance, construction, and extension of existing roads, construction of stormwater management infrastructure & Best Management Practices and installation of photovoltaic panels, mounting racks, and electrical utilities. Resource Area impacts will include work within the buffer zone of Bordering Vegetated Wetlands. No work will occur within the 100-foot Buffer Zone of a Potential Vernal Pool or the 30-foot 'No-Disturb' Zone of all Wetland Resource Areas. No structures will occur within the 60-foot 'No Build' Zone.

6:34 A motion was made by D. Burns to continue the hearing until July 22, 2019 at the applicants request. The motion was seconded by M. Hermanson and voted unanimously, all in favor.

The matter was previously continued from the Meetings of Jan. 14 & 28, Feb. 11 & 25, Mar. 11 & 25, Apr. 8, and May 13, 2019.

6:34 The Gardner Conservation Commission resumed the joint Public Hearing under MGL, Ch. 131, § 40, Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance on the Notice of Intent filed by Redzico Dev, LLC, 1201 Orange Street, Suite 600, Wilmington, DE, 19801, represented by Environmental Resources Management, for the construction of a 6.42 MW ground-mounted photovoltaic solar array to be constructed on 18 parcels totaling approximately 24-acres of land along Princeton Street and Keyes Road in Gardner on land currently owned by Cedar Hills, LLC, 52 Congress St., Boston, MA 02108. Work will include site preparation, including grading and clearing of vegetation, maintenance, construction, and extension of existing roads, construction of stormwater management infrastructure & Best Management Practices and installation of photovoltaic panels, mounting racks, and electrical utilities. Resource Area impacts will include work within the buffer zone of Bordering Vegetated Wetlands. No work will occur within the 100-foot Buffer Zone of a Potential Vernal Pool or the 30-foot ‘No-Disturb’ Zone of all Wetland Resource Areas. No structures will occur within the 60-foot ‘No Build’ Zone.

6:36 A motion was made by M. Hermanson to continue the hearing until July 22, 2019 at the applicants request. The motion was seconded by D. Orwig and voted unanimously, all in favor.

The matter was previously continued from the Meetings of Jan. 14 & 28, Feb. 11 & 25, Mar. 11 & 25, Apr. 8, and May 13, 2019.

6:36 The Gardner Conservation Commission resumed the joint Public Hearing under MGL, Ch. 131, § 40, Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance on the Notice of Intent filed by Imperial Blue Systems, LLC, 9 Loockerman Street, Suite 202, Dover, DE, 19901, represented by Environmental Resources Management, for the construction of a 6.59 MW ground-mounted photovoltaic solar array to be constructed on 31 parcels totaling approximately 33-acres of land along Princeton Street and Keyes Road in Gardner on land currently owned by Cedar Hills, LLC, 52 Congress St., Boston, MA 02108. Work will include site preparation, including grading and clearing of vegetation, maintenance, construction, and extension of existing roads, construction of stormwater management infrastructure & Best Management Practices and installation of photovoltaic panels, mounting racks, and electrical utilities. Resource Area impacts will include work within the buffer zone of Bordering Vegetated Wetlands. No work will occur within the 100-foot Buffer Zone of a Potential Certified Vernal Pool will occur. As part of this project, a 3,000 square-foot Wetlands Replication Area is being proposed to account for a condition of the previous, and outstanding, Order of Conditions associated with

the site. Other than that Wetland Replication work, there will be no disturbances within the 30-foot 'No-Disturb' Zone of all Wetland Resource Areas. No structures will occur within the 60-foot 'No Build' Zone.

6:37 A motion was made by D. Burns to continue the hearing until July 22, 2019 at the applicants request. The motion was seconded by M. Hermanson and voted unanimously, all in favor.

The matter was previously continued from the Meetings of Jan. 14 & 28, Feb. 11 & 25, Mar. 11 & 25, Apr. 8, and May 13, 2019.

Meeting Acting Chairman D. Beauregard called the meeting of June 10, 2019 to order.

Minutes

7:54 A motion was made by M. Hermanson to approve the Minutes of the Meeting of May 13, 2019. The motion was seconded by D. Orwig and voted unanimously, all in favor.

Orders of Conditions

None

Request for Determination of Applicability

None

Request for Certificate of Compliance

None

Request for Extension of Order of Conditions

6:38 **DEP File #160-0261:** Wilder Brook Subdivision (Brookside Drive & Leo Drive); Order of Conditions Issued: May 10, 1999; Most recent extension expired: February 26, 2018

Mr. Shawn Collette, current builder of homes on Brookside Drive (lots owned or formerly owned by Saint Paul's Trust and part of the Wilder Brook Subdivision project within the area under the overriding oversight of the Order of Conditions, DEP File #160-0261, was asked present any information he had related to the Request for Extension and issues of non-compliance on the site.

Mr. Collette stated that he had installed silt fence in front of two homes that had recently been constructed but have not yet been stabilized as no lawns had been seeded or established at this time. This was done in response to a request of the Conservation Agent after he noticed that sediments were leaving those sites and entering into nearby catch basins and outfalling to an unmaintained detention basin adjacent to Wilder Brook and Bordering Vegetated Wetlands within an area

subject to DEP File #160-0261. Evidence of transport of sediments into Wetland Resource Areas through the unmaintained outfall of the detention basin was noted by the Agent. Mr. Collette also indicated that he had sand removed from the catch basins along Brookside Drive and Leo Drive to prevent further outfall of sand and sediments into the detention basin and any Wetland Resource Areas.

Agent Legros stated that a plan would need to be presented to address other issues, including maintenance of the onsite detention basins and removal of old deteriorating and unnecessary or unmaintained, non-functional erosion control silt fencing. These actions would be necessary to bring DEP File #160-0261 into compliance before he could recommend an extension or Certificate of Compliance for that Order of Conditions to the Commission.

Mr. Collette indicated that he did not have any information to present and that he was not familiar with or directly responsible for any previous Orders of Conditions, including DEP File #160-0261. He indicated that he was only interested in the Lots that he has owned and constructed, or planning to construct, including, potentially, Lot 51, which is currently awaiting a building permit application sign-off by the Conservation Commission. He wanted to know why that application sign-off had not yet been signed by the Commission, or it's Agent.

Agent Legros stated that the matter of Lot 51 was a separate matter from the Order of Conditions Extension request in front of the Commission at this time and that the appropriate Notice of Intent or Request for Determination, relative to that matter, should be submitted to the Commission for their review by the appropriate entity or their designated representative.

Agent Legros noted, for the record, that it has come to his attention through a review of Commission files that, according to previous plans submitted to the Commission in 2004 for Lot 52, there is a potential isolated wetland located within Lot 51. As such, under the current local Wetlands Protection Ordinance further review by the Commission under that Ordinance is warranted.

Commission Member D. Burns stated that he felt the matter was separate but not unrelated and that the site, and any outstanding Orders of Conditions, including DEP #160-0261, should be brought to within compliance and/or properly closed out before any new work was permitted on a site or as a portion of a project that was not currently within substantial compliance with an existing or previous Order of Conditions or the Wetlands Protection Act and local ordinance.

7:10 A motion was made by D. Burns to DENY the request for an extension of the Order of Conditions (DEP File #160-0261) as it was currently expired for an extended period of time exceeding 1-year (since February 26, 2018), had been originally issued 20-years ago, and was currently not within compliance of the

Conditions of the Order. The motion was seconded by D. Orwig and voted unanimously, all in favor.

Commission Member D. Burns noted for the record that any new work or work that had not yet commenced and completed under the Order would require a new filing.

Agent Legros noted that a letter would be prepared and sent to Saint Paul's Trust, care of Mr. Henry Cormier, notifying him of the Commission's decision and with respect to bringing the site within compliance and refile for any new or remaining work, and for submitting a Request for Certificate of Compliance for DEP File #160-0261, and any other outstanding Orders of Conditions related to the project.

Request for Minor Changes of Work

None

Enforcement Order

- **Sapphire Park As-Built Plan Structures within the 'No Build' Zone:**
In relation to this matter, and as required by the Enforcement Order, a Notice of Intent for wetland replication has been submitted to the Commission and a Hearing will be held on June 24th, 2019. Currently, there is also a question related to the wetland line at another location on the property (near Lot 54 Opal Lane) and the potential that one or more lots may also be in violation of the 'No Build' and/or 'No Disturb' Zones of the Wetlands Protection Ordinance.

At the previous meeting of May 13th Agent Legros recommended that this matter be investigated by the Commission by a site visit prior to moving forward with the existing Enforcement Order as the potential violation(s) are related to the ongoing enforcement matter. A site visit was conducted by the Agent and three Commission Members (D. Beauregard, D. Burns, D. Orwig) on Friday, May 17th to review the existing conditions of the area in question and to walk the alternative wetland line that is being proposed by Mr. Donell and his Wetland Scientist.

Agent Legros and Commission Member D. Orwig reported to the other members on the findings of that visit. The area in question (previously flagged as Wetland as approved by the Original Order of Conditions), located between Lots 54 & 55 off of Opal Lane, included the presence of some wetland indicator plants and some upland plants and appeared to be a transition zone with organic, yet rocky, soils.

Based on this site visit, and the presence of some wetland indicator vegetation, including black gum trees, and given the conflicting delineation and opinion of Mr. David Crossman, Wetland Scientist, the Commission recommended that a

3rd-party review be conducted by one of the City's on-call engineering consultants, qualified in Wetland Science and Delineation, to help inform the Commission and provide a qualified, unbiased opinion and recommendation.

The matter was tabled until the next meeting so that such a review can be initiated and conducted.

- **DEP File #160-0610: West St. Solar Project, Borrego Solar**
David Albrecht, PE, Borrego, described erosion control and site measures taken since the meeting of April 22nd and since the initiation of 3rd-Party Stormwater Oversight Monitoring by SWCA initiated on May 7, 2019. Some improvements have been made based on SWCA's initial inspection and recommendations report dated May 14, 2019. However, Agent Legros and SWCA monitor, Ryan Joyce have noted ongoing issues and the need for additional controls measures to stabilize and control the directed flow of water on several portions of the site and the resulting erosion and sedimentation that is continually occurring at those locations.

Mr. Albrecht acknowledged the ongoing issues and again reaffirmed Borrego's commitment to addressing them and achieving complete stabilization. He said that he will work with SWCA and he site supervisor and contractor to implement corrective measures as needed and to whatever extent necessary to solve the problem.

Agent Legros noted that the Commission is still awaiting receipt of a plan for the proposed long-term corrective measures (stormwater infrastructure) and revised drainage calculations resulting from the proposed measures and extreme flood event scenarios.

Mr. Albrecht stated that they just recently completed surveying the site and would provide the revised plans and drainage calculations to the Commission by Friday, June 14, 2019. He also stated that the plans for the raingarden remediation area located at the interconnection point would be provided to the Commission at that time. The raingarden will be designed in coordination with Environmental Consultant, SWCA.

7:28 A motion was made by D. Burns to continue the matter until the meeting of July 22, 2019 pending submission and 3rd party peer review of revised plans and drainage analysis report. The motion was seconded by D. Lehtinen and voted unanimously, all in favor.

- **DEP File #160-0611: Otter River Road Solar Project, Ameresco Solar**
7:35 Agent Legros updated the Commission on the status of the site and monitoring activities of SWCA. Reports from SWCA that the site is currently being controlled and that implemented swales, gravel check dams, and erosion control

waddles have sufficiently controlled the site erosion and sedimentation issues. Further, it was noted that grass is becoming established in many areas of the site that have been seeded.

SWCA and Agent Legros will continue to monitor the site with respect to vegetation establishment and soil remediation measures as proposed or needed and to ensure compliance.

Plans for corrective measures, long-term stormwater infrastructure implementations, and remediation will be submitted by the applicant, Ameresco, along with the as-built plans for the site. Seeding of the 30-foot 'No-Disturb' Zones, as required by the Enforcement Order to provide a vegetative filter strip was conducted on May 17th, 2019 by the applicant's hydroseed contractor.

- 7:37** A motion was made by M. Hermanson to continue the matter until July 8, 2019 for an update on the establishment of seeding and results of oversight monitoring reports by SWCA. The motion was seconded by D. Burns and voted unanimously, all in favor.

Agent Legros will continue to monitor the site and will forward along rain-event inspection reports from SWCA to the Commission.

Emergency Certification

None

Presentations

None

New Business

- **Vote to accept the conveyance of the deed for the lot formerly known as the "Cowee Wood Lot" (M47-24-9; approximately 80-acres) purchased by the Gardner Conservation Commission in 1983**

7:38 A motion was made by M. Hermanson to accept the Conveyance Deed from the City of Gardner to the Gardner Conservation Commission for the "Cowee Wood Lot" (M47-24-9; Book 60543, Page 295; ~80-acres) formerly purchased by the Conservation Commission in 1983 and hereby formalized as conservation land protected under Article 97 of the Massachusetts Constitution. The motion was seconded by D. Orwig and voted unanimously, all in favor.

- **Vote to accept the deed for acquisition of a 0.5-acre parcel of land on Clark Street (H37-23-36) by the Gardner Conservation Commission from the Gardner Fish & Gun Club**

7:39 A motion was made by D. Burns to accept the Deed for the acquisition of a parcel of land (H37-23-36; Book 60542, Page 181; ~0.5-acres), located on Clark Street on the east side of Bailey Brook, from the Gardner Fish &

Gun Club to the City of Gardner, Conservation Commission for conservation purposes under Article 97 of the Massachusetts Constitution and the guidelines of the North American Wetlands Conservation Association Grant Program (USFWS). The motion was second by D. Orwig and voted unanimously (5-0), all in favor, with M. Hermanson abstaining as he is a member of the Gardner Fish & Gun Club.

Old Business

- **National Grid Park Street Substation repair**
Update: A gravel water bar was installed at the top of the slope near the end of the cemetery access road to prevent water from sheet flowing down the “path” into the substation site and to eliminate the erosion and sedimentation that was occurring at that location. The correction appears to be working.
- **75 Oriole Street (DEP #160-0615) septic closure and sewer-line connection**
Update: Ms. Valiose has indicated that the work will begin in Late June or July

Motion to Adjourn

7:55 A motion to adjourn was made by M. Hermanson. The motion was seconded by D. Orwig and voted unanimously, all in favor.

Respectfully submitted,

Jeffrey D. Legros, Conservation Agent

All materials used at the meeting are available for viewing at the office of the Conservation Agent, Room 202 of the City Hall Annex.

Minutes are available as follows:

- Minutes are available on the City of Gardner website (www.gardner-ma.gov) under Conservation Commission.
- By appointment or request in Conservation Agent’s office, Room 202 of the City Hall Annex
- Community Development & Planning office, Room 201 of the City Hall Annex