



**TOWN OF
MONTAGUE
MASSACHUSETTS**

TOWN HALL
One Avenue A
Turners Falls, MA 01376

CONSERVATION COMMISSION
(413) 863-3200 ext. 112
Planner@montague-ma.gov

**CONSERVATION COMMISSION
MEETING MINUTES**

Thursday, September 14, 2023 6:30 PM

Second Floor Meeting Room, Town Hall, 1 Avenue A, Turners Falls and via Zoom

ROLL CALL:

PRESENT: Mark Fairbrother (Chair), Toby Carter, Al Averill, Anthony Reiber, Sean Werle,
*Justin Fermann (7)

ABSENT: Margaux Reckard, Donna Francis

ALSO PRESENT: Maureen Pollock (Staff Liaison, Planner/Conservation Agent), representatives to
applicants, including: Ward Smith, Lance Kirley, Alan Douglass, and members of
the public

Chair Mark Fairbrother read his opening statement for the record.

Disclosures: none.

At this Meeting, the Conservation Commission conducted the following business:

MINUTES: Approval of Meeting Minutes from May 11, 2023

MOTION: Moved by Al Averill to approve the minutes from May 11, 2023. Seconded by Tony
Reiber. No discussion.

Roll call Vote:

Mark Fairbrother	AYE	Anthony Reiber	AYE
Toby Carter	AYE	Sean Werle	AYE
Al Averill	AYE		

Motion passes. 5-0-0.

PUBLIC MEETINGS:

**NOI #2008-01/DEP#229-0221- Request for Certificate of Compliance, filed by Ward Smith, 26
Hillside Road (Parcel #21-0-012)**

The Commissioners and representative to the applicant, Ward Smith (Wendell Wetlands Services)

conducted a site visit on September 13, 2023. Prior the site visit, Mr. Ward observed a pile of boards between the house and the wetland. The Commissioners observed that the boards have been removed from the premises and that the soil has been stabilized and revegetated.

MOTION Moved by Mark Fairbrother, seconded by Tony Reiber, to approve the Certificate of Compliance to NOI #2008-01/DEP#229-0221) filed by Ward Smith, 26 Hillside Road (Parcel #21-0-012). No discussion.

Roll call Vote:

Mark Fairbrother	AYE	Anthony Reiber	AYE
Toby Carter	AYE	Sean Werle	AYE
Al Averill	AYE		

Motion passes. 5-0-0.

NOTE: *Commissioner Justin Fermann arrives to meeting.

RDA #2023-05 Request for Determination of Applicability, filed by **Lance Kirley**, to determine whether the work proposed to demolish the existing building connector and garage and to construct a building addition with an expanded footprint to an existing single-family home at **82 Chestnut Hill Loop (Parcel #53-0-043)** is subject to the Wetlands Protection Act.

Commissioner Toby Carter recuses himself.

The Commissioners and representatives to the applicant conducted a site visit on September 13, 2023.

Ward Smith (Wendell Wetlands Services) and Lance Kirley (Classic Colonial Homes) introduce themselves. Lance Kirley gives a presentation. The property owners propose demolishing the rear portion of the existing home and construct a building addition with an expanded footprint to an existing single-family home.

The Agent shows an aerial view of the property and discusses the mostly forested parcel. The aerial image shows the position of the existing house, man-made pond, and intermittent stream.

Ward Smith presents a delineated wetland map which includes the intermitted stream north of the house. Ward concluded that under the Wetlands Protection Act Regulations, the stream is labeled as “intermittent” even though it flows most of the time. There is a man-made pond to the Northwest and a swale to the Southeast. There is no work proposed within 50’ of the wetlands. During construction, sediment erosion controls will be placed at the edge of the driveway and at the edge of the lawn.

The Agent mentions that the mature trees will be preserved. Lance Kirby confirms that the driveway design preserves the mature trees. Ward Smith mentions the need for some pruning of hazard branches of the mature trees near the house.

Lance Kirley disuses the footprint of the project which will include a full foundation for the new addition. The principal staging area will be on the (south) driveway-side.

Al Averill asks about drainage around the newly constructed addition foundation. Where is that discharged? Lance Kirley answers “to the right of the septic/leach area.”

Ward Smith comments that a Commission review of the drainage could be part of the conditions. The drain would be as far away from the wetland as possible. Ward seeks a negative 3 with conditions.

Construction is proposed by the spring/summer 2024. Mark Fairbrother asks about the foundation of the old basement. Kirley reports that it is dry.

The Agent proposes a condition that all temporary disturbances be stabilized by the end of construction.

MOTION: Moved by Sean Werle to issue a negative 3 determination with conditions for RDA #2023-05 filed by Lance Kirley to demolish the existing building connector and garage and to construct a building addition with an expanded footprint to an existing single-family home at 82 Chestnut Hill Loop (Parcel #53-0-043). Seconded by Tony Reiber. No discussion.

Roll call Vote:

Mark Fairbrother	AYE	Anthony Reiber	AYE
Justin Fermann	AYE	Sean Werle	AYE
Al Averill	AYE		

Motion passes. 5-0-0.

Toby Carter re-enters the meeting.

RDA #2023-06 Request for Determination of Applicability, filed by FirstLight Power Services LLC, to determine whether the proposed work for the installation of a drainage pipe at the toe of the Power Canal Left Dike with associated site work and preparation, at **15 Cabot Street (Parcels #08-0-1 & 09-0-001)** is subject to the Wetlands Protection Act.

The Commissioners and representatives to the applicant conducted a site visit on September 13, 2023. Margaux Reckard and Al Averill were in attendance. Margaux Reckard sent an email detailing her observations during the site visit, with supporting images.

Alan Douglass of FirstLight Power introduces himself and describes the proposal. The work is required by FERC. FirstLight will be doing drainage repairs to the southern side of the canal. A 1,000-foot strip of filter fabric would be installed to prevent erosion.

Alan Douglass shows a map of where and how the work will be done. FERC’s concern is that sediment will leak into the dike and the dike could fail. The wetlands are located on the map. The work will be done in winter when the land is frozen, and dewatering is less of an issue. Specs for sediment and erosion control were presented.

Referring to the WPA Form 1, Douglass presents this work as “maintaining existing structure for electric service to the public.”

Justin Fermann asks if the drainage system is going to daylight into the existing ditches and pipes in the

wetland? Douglass responds “Yes.” Fermann asks if Douglass knows the volume of water that the ditch will need to handle. (The ditch is not very big.) Douglass responds that he does not know the volume.

Mark Fairbrother comments that the ditch already has a substantial flow and asks if the pipe will do a better job taking away the water already leaving it? Douglass responds “Yes” it will intercept the water that is already going into the swale. The filter fabric is the chief element that keeps sediment for piping out of the berm.

Fermann asks for clarity about the seepage rate. Douglass responds that the seepage rate isn’t impacted.

The Agent asks about the operations and maintenance plan. Douglass responds there are weekly checks for sediment loading and increase in flow. The dike is monitored regularly.

MOTION: Moved by Justin Fermann to issue a negative determination for RDA #2023-06 filed by FirstLight Power Services LLC, to determine whether the proposed work for the installation of a drainage pipe at the toe of the Power Canal Left Dike with associated site work and preparation, at 15 Cabot Street (Parcels #08-0-1 & 09-0-001) is subject to the Wetlands Protection Act. Seconded by Sean Werle. No discussion.

Roll call Vote:

Mark Fairbrother	AYE	Anthony Reiber	AYE
Justin Fermann	AYE	Sean Werle	AYE
Al Averill	AYE	Toby Carter	AYE

Motion passes. 6-0-0.

NOI #2019-02/DEP #229-0254 – Request Extension Permit for Orders of Conditions, filed by the Town of Montague, “Montague City Road Drainage Improvement Project”, Montague City Road Public Right-of-Way; And Project Update.

On behalf of the Montague Department of Public Works, the Conservation Agent reviews the previously revised project impacts and requests to extend the Order of Conditions (DEP #229-0254) for 3 years..

Project Update: As discussed, and approved by the Conservation Commission at its April 12, 2023 meeting, the revised scope of work is to only occur on the Montague City Road public right-of-way. (see enclosed meeting minutes). No work or temporary activity will occur on the former Pan AM Railways parcel as previously detailed. The revised project proposes less removal of accumulated sediment and debris from the stream channel and adjacent wetlands. The scope of the two new catch basins within the Montague City Road public right-of-way will remain per the original Plan and will be connected to the existing drain system within outfall to the stream down gradient from the low point in the roadway.

This will allow the stream to connect to its original floodplain and restore the flood storage capacity of the wetlands. All impacts to water of the U.S. are temporary, and disturbed areas within the limit of work will be restored following construction.

Revised project will impact:

- Bank: 1,830 linear feet (LF) (reduced from 2,758 LF in 2019 OOC)

- Bordering Vegetated Wetlands: 8,999 sf
- Total Limit of Work within Riverfront: 17,516 sf (entire project limits)
- Land Under Water: 3,615 sf (reduced from 8,756 sf in 2019 OOC)
- The project will include dredging 275 cubic yards (cy) of sediment from the stream and adjacent wetlands and 225 cy of fill of Land Under Water.

Since the Conservation Commission's April 13, 2023 meeting, the only minor change reflected on the July 19, 2023 Plan compared to the January 2023 Plan is that the previously reported "Temporary Disturbance Area" highlighted in color yellow and within the resource area impact table has been removed. As part of the MassDEP Water Quality Certification review, MassDEP asked for this to be removed.

The following permits have been issued:

- Approved Order of Conditions, issuance date of July 11, 2019;
- Approved Water Quality Certification with conditions from MassDEP, dated July 20, 2023;
- Approved General Permit with conditions from the U.S. Army Corps of Engineers, dated July 27, 2023;

Request to Extend the Permit: The existing Order of Conditions for the Montague City Road Drainage Improvement was approved on July 11, 2019. This permit would have expired on July 22, 2022, but due to the COVID-19 emergency order, was tolled, and it will now expire on 10/16/2023.

Davenport Trucking was scheduled to start work in July 2023 but due to the extremely wet conditions caused by multiple recent heavy rain events, Davenport Trucking has informed the Town of Montague that they cannot start work until the project area dries up. Davenport Trucking and the Town of Montague hope to have a dry stretch this fall 2023 so work can commence.

Since it is unclear when work will be able to start, the Montague Department of Public Works respectfully request to extend this permit for 3 years from the pending expiration date of October 16, 2023 to October 16, 2026.

MOTION: Moved by Mr. Fairbrother, to extend the Permit for Orders of Conditions (DEP #229-0254) until October 16, 2023, filed by the Town of Montague, "Montague City Road Drainage Improvement Project", Montague City Road Public Right-of-Way. Seconded by Tony Reiber. No discussion.

Roll call Vote:

Mark Fairbrother	AYE	Anthony Reiber	AYE
Justin Fermann	AYE	Sean Werle	AYE
Al Averill	AYE	Toby Carter	AYE

Motion passes. 6-0-0.

NEW BUSINESS:

Project Update: Work needed to correct stormwater management systems, and adjacent wetlands at former Montague Burn Dump, Rear Turnpike Road - The Agent shows a map of Sandy Lane.

The amount of rain this summer has resulted in erosion at the basin at the bottom of the solar field. MassDEP sees this as an urgent situation and has given the Town a friendly enforcement order to address the stormwater and restoration. A site visit with representatives from DEP, Wetlands and Wastewater divisions met on site to form a plan. The Agent was present. The Town hopes to start as soon as possible.

OTHER BUSINESS NOT ANTICIPATED WITHIN 48 HOURS:

On behalf the Montague DPW, the Conservation Agent requests the Commission to consider issuing an emergency permit to: remove culminated debris and silt blocking water flow through a 36” grated culvert located at Turnpike Road, near intersection with Montague City Road.

The Conservation Agent conducted a site inspection on September 12, 2023. Shows Commissioners existing conditions photos from the inspection. About 30% of the inlet is blocked. DPW would like to remove leaves and sediment to clear the culvert. They will be using an excavator from the street. The DPW is asking the Commission to authorize the work before they start the larger drainage project on Montague City Road. The Conservation Agent mentions that DPW would like to use riprap for stabilization of the bank.

Al Averill asks “what constitutes an emergency?” The Conservation Agent replies “eminent threat to public health, safety or welfare.” The Agent thinks the intent is to do the work before the larger project commerce. Al Averill brings up recent storm runoff catastrophes in Leomister.

Justin Fermann does not think rip rap is necessary/advised. Mark Fairbrother thinks it’s best to wait a season after the clearing. Justin Fermann sees this as an emergency; the culvert would be an issue in extreme rain.

MOTION: Moved by Mr. Fairbrother, to approval the Montague DPW’s requested emergency certificate to use a mini excavator to remove debris and 1 ft³ of silt that is up against the culvert grate and the wingwalls of the 36” grated culvert located at Turnpike Road, near intersection with Montague City Road, with the following special conditions:

1. Staging of the mini-excavator shall occur over the road shoulder and shall not enter the resource area.
2. If it is determined in the field that staging needs to occur in or abutting the resource area, staging of the mini excavator shall occur on a construction mat.
3. All temporary disturbances shall be permanently stabilized.
4. The use of riprap shall be prohibited.

Seconded by Al Averill. No discussion

Roll call Vote:

Mark Fairbrother	AYE	Anthony Reiber	AYE
Justin Fermann	AYE	Sean Werle	AYE
Al Averill	AYE	Toby Carter	AYE

Motion passes. 6-0-0.

ADJOURN: Adjourned at 7:39PM