

Dudley Conservation Commission
Meeting Minutes
March 27, 2024

The scheduled meeting of the Dudley Conservation Commission was called to order on Wednesday, March 27, 2024, at 6:04 PM in Room 321A of the Dudley Municipal Complex by Vice-Chairman, George Slingo.

Members Present: Samantha Costello, Wesley Mroczka and James Koebke

Absent: Richard Androlewicz, Francis Mikolajczak

Attending on ZOOM: Commission Environmental Consultant Matt Marro, Brian Lebrec

Call To Order:

The meeting was called or order at 6:00 p.m. by Vice-Chairman George Slingo. He announced that the meeting was being recorded and the Pledge of Allegiance was recited.

New Business:

1. NOI: #0 Southbridge Road / Parcel ID 220/025 – Alexis Fortes

- Robert Duff of McClure Engineering was present to represent the applicant who wants to construct a single-family house, driveway and install a septic system.
- Matt Marro stated that a DEP # was issued with no comment. He visited the site and said the delineation was fine, the house plans are standard, and everything is outside the normal bylaw zone. He stated that the applicant was using 9" waddles but did not see that noted on the plan where they would be placed. He recommended that the erosion protection be placed in the back on the 50' line behind the septic and on the sideline by the grading. Mr. Duff said they would go down the property line and probably continue it by going through the woods. Matt Marro said that would be fine and that the plan and the site looks very much in order and are very thorough.
- Vice-Chairman Slingo asked if any abutters were present. There were none in attendance. He then asked if the Commission had any questions. Seeing none he closed the public hearing.
- Samantha Costello made a motion to issue a standard Order of Conditions for Southbridge Road, Parcel 220/025 with the covenant that more erosion barriers near the 50' line. Seconded by James Koebke. All in Favor 4-0-0, unanimous.

2. NOI: Hayden Pond Road – Brian Lebrec Living Trust

- Applicant Brian Lebrec was present via Zoom.
- Matt Marro stated that DEP had not issued a file number yet, so the Commission is unable to close the public hearing.

- Vice-Chairman Slingo opened the public hearing at 6:10 pm.
- Matt Marro said that he did not have the pdf file of the plans, but he had pictures of the site that he could share.
- Mr. Lebrech stated that the first picture was of the area where trees had been cut down. It was his intention to park vehicles on the site, such as boat trailers. He also plans on using wood chips or soil to level out the lot and cover the tree stumps. Last year he used the site to store some granite. Most of that material has been removed and no other materials of that nature will be stored on the site. He has placed hay bales and silt fences on the site.
- Matt Marro stated that the ground had been turned over and Mr. Lebrech had taken materials from the site. The project before the Commission is a retroactive filing. Mr. Lebrech had cleared the trees prior to filing the NOI. Matt Marro said there would need to be discussion on replanting on the property within the 25' zone. The 25' would have to be measured off the shoreline. Matt Marro recommended good size shrub plantings to create a better density and buffer; they will grow faster than replacement trees would. He added that it would have to be marked off in the field. He informed Mr. Lebrech that doing work on the property for the purposes that he stated would be permissible under the bylaw, as long as the distance from the shoreline was greater than 25'. However, Mr. Lebrech would have to be certain that he did not fill the grade in; he could not raise the grade because the area is in a flood zone. He said that it would have to be considered and felt that is probably what the State is currently examining.
- Mr. Lebrech asked if Matt Marro would be staking the property and if he would inform him of the variety of shrubbery required. Matt Marro stated that Mr. Lebrech would need to stake out the area and he would verify it to make certain that it was okay, but planting conditions would be written in the Order of Conditions. Matt Marro said he could work off the 25' marking, calculate the square footage and come up with a density of planting based on a square pattern of planting. He thought shrubs had to be a minimum of 5' apart.
- Vice-Chairman Slingo asked Matt Marro if Mr. Lebrech could grind the stumps. The reply was that the stumps could not be removed but grinding them would be fine.
- Mr. Lebrech asked if he could bring in woodchips because there was a lot of debris on the forest floor. The woodchips would be used to flatten it out because it is rough, and the stumps can only be ground down so far. Matt Marro addressed the Commission and told them that if Mr. Lebrech were to bring material in to flatten the area, he would prefer it to be something more naturalized like wood shavings, but they would have to be greater than 25' away from the edge of the water. That area had to be replanted and maintained as a no touch zone. Because of the way the bylaw is written, there will be a perpetual maintenance condition on Mr. Lebrech's permit which will be recorded on his deed.
- Vice-Chairman Slingo asked if the Commission had any questions. There were none.
- Vice-Chairman Slingo asked the abutters if they had any questions.
- Abutter Jackie Vallee stated that she was the abutter who had been most impacted by Mr. Lebrech's demolition of the property. She had several issues, one being that Mr. Lebrech had used her property to access his property for the last six months. Six months ago, he had taken down over 20 trees without a permit. She described how she first contacted the Commission immediately after the trees had been taken down and how she was told that a cease-and-desist order would be issued. Vice-Chairman Slingo confirmed that conversation. Jackie Vallee said that the cease-and-desist order never happened, and Mr.

Lebrec had continued to work on the property with a bulldozer and had cleared part of her land. She can no longer tell where the survey pins are anymore for her land and Mr. Lebrec has created a pathway from the road to his property. Her biggest concern is that the access way will open Hayden Pond to excessive boat traffic from outside. She said that Hayden Pond has been one of the best and cleanest ponds in the town. The Hayden Pond Association has worked hard to keep it that way. She stated that she had sent pictures of algae like substance in the cove to Water and Wetlands to ask for their input; she did not tell them that there had been any type of construction taking place. Water and Wetlands replied that it was an alga that was blooming; that it could be from runoff or a milder winter than usual. The abutters are concerned about the water quality. She does not want any public access. She does not want Mr. Lebrec clearing her land and stated that he had brought in truckloads of huge rocks; his continual use of his bulldozer is dirtying the water. Jackie Lavallee said that over the last six months, she had been told by the Conservation Clerk that the Wetlands Consultant would look into the matter, but she had not heard anything from Matt Marro during this time. She stated that the people should be able to trust their local government to enforce the rules for everyone; she felt that it was not being done.

- Vice-Chairman Slingo said that after he visited Jackie Lavallee, he went to the Town Hall and found out where Mr. Lebrec lived and issued the cease-and-desist that day. He personally did not hear of any further building or work that was continuing. Jackie Vallee provided the Commission with pictures that she took of the property and explained each photograph. Conservation member Samatha Costello asked if there was a picture of the backhoe being used. She said she did and showed photographs of the truckloads of rocks that were brought onto the site. She showed pictures of the area on her land that Mr. Lebrec had cleared. Member Samantha Costello said it was unfortunate, but the Conservation Commission had no control over property lines but everything else was a concern. Jackie Lavallee stated that in a conversation she had with Mr. Lebrec, he stated that he knew he was on her land, and he would fix it.
- Vice-Chairman Slingo asked Matt Marro if he had heard what Jackie Lavallee had said; Matt Marro replied yes, he had. Vice-Chairman Slingo asked if Mr. Lebrec had continued to work on the property. Matt Marro said he saw work going on and did see soil being disturbed. When he contacted Mr. Lebrec, he was told that Mr. Lebrec was taking material off the site or parking a vehicle. Matt Marro cautioned Mr. Lebrec not to do any further work.
- Donna Gauthier of 10 Norman Lane stated that she has been a resident of Hayden Pond since 1959. She walks every day with her dog and has observed Mr. Lebrec working on his property three times. The third time she saw him working, she spoke with him and told him that he had a cease-and-desist order and was not supposed to work on the property. She asked him what he wanted to use the land for. He replied that it would be used for storage. Ms. Gauthier stated that Mr. Lebrec had told someone else that he wanted to make a park on the site, which she interpreted as meaning public access. In the three times that she has witnessed him working, he has moved land and has disrupted the earth and destroyed the land. All the abutters are very upset. They have invested a great deal of money over the years to keep the pond safe and clean. In the span of a few months, Mr. Lebrec is destroying what is valuable to them. The silt fences and bales of hay are not

installed correctly and there are holes under the silt screen and some areas have nothing at all. The Hayden Pond Association had asked Mr. Lebrec to attend their Fall meeting on November 4, 2023; he did not attend. She stated that Mr. Lebrec should know the rules of the pond because he resides on Pierpont Pond.

- Joe Gadoury, property owner in the North end of Hayden Pond near Cottage Road. He has lived on the pond his entire life and been a property owner for 25 years. He stated that he is the Vice-Chairman of the Hayden Pond Association but made it clear that he was not speaking on behalf of the Association. He heard from property owners that he feels is a very reliable source of information and that they were initially told that site was purchased to be used as a parking lot for construction equipment. During that time, it was also discussed that there was an intention to create a boat ramp. He felt that this information was a huge red flag for obvious reasons. Over the years that he has lived there, he has been picking up garbage that comes solely from people who do not reside there. He also noted that people have trespassed over land to put their boats in the water; these people do not spend any money on weed treatment. The abutters have spent an enormous amount of money to keep that pond clean and it is spotless because of their efforts.
- When Mr. Gadoury went to the Conservation office to review the NOI, he noticed that the application referred to building a single-family home and stated that none of this information seems right; it's dubious at best. The abutters are deeply concerned and absolutely do not want to introduce any kind of public access to the pond because it has been problematic in the past. Outside people come in, they don't know the path, they create safety issues and bring boats from water that has not been treated. Public access would only serve to make the situation significantly worse. He feels that the abutters are entitled to some very clear explanations as to what exactly is being planned, what would be permitted and exactly what would not be permitted before this situation goes any further.
- Vice-Chairman Slingo stated that if you were to look at the NOI application that describes the general project description, it says adding a parking area at grade within flood plane and buffer zone. The grade will not change, and gravel is to be placed to allow parking, replanting of shrubs within 25' setback. Vice-Chairman Slingo said that Matt Marro will enforce the 25' setback and the replanting, so there won't be a boat ramp there. Mr. Gadoury said that if the abutters could be certain that there would not be a boat ramp there, they would feel good about that. He questioned the application that indicated the building of a single-family home. Vice-Chairman Slingo said that it couldn't happen because the required setbacks could not be met, and Mr. Lebrec would not be able to install a septic system and said that the single-family home being checked off was a typographical error on the application. Mr. Gadoury stated that there was more than one typo and he wanted it to be part of the record. He then referred to the diagram of the site that was submitted and said it was not a plan as required. He said that other people on the pond and been fastidious with their buildings and with the help of the Commission everyone made certain that every rule was followed. The matter before the Commission was not an example of following the rules.
- Jackie Vallee wanted to know if it makes sense to have a storage facility for construction equipment that close, sitting on the edge of the water. The vehicles all have gas and diesel engines. Vice-Chairman Slingo stated that Mr. Lebrec had said that the site was for him to park his boat trailer and jet skis. Jackie Vallee said that Mr. Lebrec told her it would be for

construction equipment; he's got a large utility trailer which is used for construction. He has also had a backhoe on the property all through the winter months.

- Vice-Chairman Slingo asked Mr. Lebec if he would like to comment. Mr. Lebec said that he did have boat trailers and a trailer on the site. His intention is to use the site as a parking site for his things. He did put materials there; he went through Conservation, and he has a DEP file number. He's currently doing a large landscape project on Pierpont Pond, and he uses the Hayden Pond lot to store hardscape materials like granite block. He has moved the materials and his machine off the site. He has been moving back and forth between the two locations. When he was done, he raked back the pine needles and the ground debris to cover the tracks that had been made on the property. He lives on the water, and he understands; he is a member of the community. It is not his intention to make enemies. He does not have land where he lives, and he purchased the Hayden Pond lot because it is within proximity to his primary residence so he could leave his boat trailers there. It was never his intention to build a single-family home or anything more than putting his boat trailers on the lot. He did have the excavator there during the winter, but he does not need to keep it there if it is a problem. He has tried to appease the number of people that have stopped and interrupted his day to express their displeasure. He will be taking care of the trees and does not want to put a park on the site. He visited Jackie Vallee last Fall. Her biggest concern was people entering the pond from that location, and he agreed. He said he would be putting a blockade or cable up. He said that as far as he was aware, everything was satisfactory. It is still his intention if that's what the members of the Hayden Pond Association want. He told the Commission that they could speak with him about any issue should one arise, and that he is trying to make things right. He plans on using the site and perhaps putting a canoe in the water regardless of what the neighbors thought.
- Cheryl Osowski Dubois, who has lived on Hayden Pond since 1951, decided to rebuild her family home and to remove a patio which was 20' from the water; she received a cease-and-desist order. She did have a DEP number, but it was not posted on the work site. She didn't ignore the order; she returned from vacation to immediately resolve the matter. She checked to make certain that she was compliant before continuing the work. She didn't ignore the order or continue the work and didn't say that she did not care what anyone else thought. She said that Mr. Lebec did not have a DEP notice in place or silt fences when he took down the trees and did other work. Mr. Lebec has property on the water, and she felt that he was fully aware of the laws.
- Joe Gadoury stated that he believes what the Hayden Pond Association would most appreciate from the Conservation Commission is their help in making sure that nothing is allowed to happen that will damage the water or functionally allow public access.
- Vice-Chairman Slingo said that he wasn't certain that he could legally say that he can't allow someone to come onto Mr. Lebec's property to put a canoe in the water. Mr. Gadoury understood however, creating a path to the pond open would not work for any of the Association members. Mr. Lebec can certainly do what he wants with his land within the guidelines. Vice-Chairman Slingo said that Mr. Lebec stated that he would put a cable up. Mr. Lebec said that if that is what the people on Hayden Pond wanted, he would put the cable up and no one would use the property as a boat launch. He said that Pierpont is a closed pond and the people there have the same challenges. He also said that the access that is being referred to was always there and that he did not create the access path; it was

there when he cut down the trees. People had been using it as a boat launch and leaving behind garbage. Mr. Gadoury said there was never a formal boat launch, but if the boat was small enough there were ways that people could get on and they did. Mr. Gadoury stated that if the site were locked, that would be best for all involved and it would be appreciated. Beyond that there's the issue of taking care of the runoff and the water quality. The Association wanted the Commission to know how they felt, and they are asking for help from the Commission.

- Donna Gauthier said that even if Mr. Lebrech were to put up a cable, people could still jump over and access the pond.
- Vice-Chairman Slingo said to let Matt Marro oversee the 25' no touch zone, from the water 25' up. Then let's see if there is even room for a boat. This might all be a moot point. Someone from the audience said that Mr. Lebrech should not continue to work until he receives the filing number from DEP. Vice-Chairman Slingo agreed.
- Ron Thunberg, 17 Cottage Road said Mr. Lebrech should not be any filling in the flood zone; there should not be any additional fill brought to the site. The sketch shows ruins and Mr. Lebrech wants to fill in the ruins; that is not allowed unless he compensates for it somewhere else. Mr. Thunberg would like to see Mr. Lebrech submit an engineered plan. The plan that was used to draw the sketch is a Registry of Deeds plan that was recorded many years ago. He stated that Mr. Lebrech is working within all buffer zones right down to the resource area. He wants Mr. Lebrech to provide an engineered plan so that Matt Marro and the abutters can review and understand the proposal.
- Ray Zemski, a resident of Hayden Pond since 1971, agreed with what the other abutters said. He wanted to add that 10 years prior there was an issue on the pond that caused a massive milfoil. The residents could not swim or ski; they had to dig out the milfoil in clumps, load it into boats and bring it to shore. He stated that the abutters did not want to see any runoff.
- Vice-Chairman Slingo stated that because there was not a DEP number, the public hearing would be continued until the next Conservation meeting on April 17, 2024. Samantha Costello made a motion to continue the public hearing for Lebrech on Hayden Pond Road until April 17, 2024; the motion was seconded by James Koebke. The motion was unanimously approved (4-0-0).

Matt Marro asked for two things to happen in between hearings. He stated that Mr. Lebrech would have to take the silt fence and trench it in by hand. He would have to dig a trench, put the silt fence in and bury it tight to the ground. Matt Marro also wanted the 25' zone measured off so he could look at it prior to the next public hearing because of the planting that needs to be done. The planting is going to be designed to eliminate the possibility of a boat launch or anything like that. He had spoken to Mr. Lebrech and told him the reason for the 25' Zone, especially in that area. He would not be allowed to have a dock, a beach, a boat launch or anything like that.

Vice-Chairman Slingo asked Mr. Lebrech if he had heard what Matt Marro said; he replied yes, he had heard, but asked for clarification. Matt Marro stated that where the silt fence was currently, was not installed properly and instructed Mr. Lebrech on the correct way to install the silt fence to keep any potential erosion contained. Once that is completed, the 25' zone would need to be

marked off so the measurements could be verified. At that point, if more erosion protection was required, Mr. Lebrech would be informed while at the site. Mr. Lebrech said that he understood.

Mr. Thunberg stated that he felt it was important for Mr. Lebrech to have an engineered plan and that the matter should be acted upon that evening. Mr. Lebrech is still under a cease-and-desist order; the Commission has the authority to require him to provide a detailed plan. He hoped that would be part of the Commission's proposal. Vice-Chairman Slingo replied that they were taking steps and wanted to make sure that Matt Marro would oversee everything to 25'. If Matt Marro determines that an engineered plan is needed, they would require one. Mr. Thunberg disagreed stating that the NOI application specifically states that the applicant must have a stamped plan by a registered surveyor or an engineer. Dialog continued between Mr. Thunberg and Vice-Chairman Slingo regarding the requirement of an engineered plan. Vice-Chairman Slingo asked for Matt Marro's thoughts on the matter. Matt Marro stated that the Commission could require an engineered plan and that Mr. Thunberg was correct. Samantha Costello asked if they could re-open the public hearing. Matt Marro said, as a point of order, the Commission had already continued the meeting to a time certain, but Mr. Lebrech had been placed on notice. Addressing Mr. Thunberg's point, DEP will be reviewing the NOI application, which means they also have a copy of the sketch. Matt Marro noted that there was a flood plain on the property so the State may ask for a drawing with more detail.

Samantha Costello made a motion that Mr. Lebrech provide an engineered plan to present to the Conservation Commission and the DEP indicating his intentions and the proposed placement of all things; the motion was seconded by Wesley Mroczka. The motion was unanimously approved (4-0-0).

3. OOC Extension – Larner Pond Association / Ratify Vote – Approved July 19, 2023

- Matt Marro stated that the Commission had approved a 3-year extension, but there was not a record of the vote, so a ratification of the vote was needed.
- Samantha Costello made a motion to ratify the vote for Larner Pond Association that was approved July 19, 2023, to be extended 3 years. The motion was seconded by Wesley Mroczka and was unanimously approved (4-0-0).

4. Request for Certificate of Compliance – Eric Johnson /118 Pierpont Road

- Matt Marro said this action was needed to invalidate the Order of Conditions that the Commission had previously issued. The need to replace the proposed septic had been eliminated, so the applicant is not going to carry out the OOC and they are going to sell the property. They need to close out and clear up that order. The motion to issue the Certificate of Compliance has a check-off box on the form for invalidating the OOC. He will work with the Clerk to have that completed. This action will clear up the homeowner's title. If anyone else needed to perform any work on the property, they would need to file a new Notice of Intent.

- James Koebke made a motion to issue a Certificate of Compliance for Eric Johnson, 118 Pierpont Road because the work never commenced. Motion was seconded by Samantha Costello. The motion was unanimously approved (4-0-0).

5. Approval of Minutes

- December 13, 2023: Samantha Costello made a motion to approve the minutes of December 13, 2023, as presented; the motion was seconded by Wesley Mroczka. The motion was unanimously approved (4-0-0).
- January 24, 2024: Samantha Costello made a motion to approve the minutes of January 24, 2024, as presented; the motion was seconded by Wesley Mroczka. The motion was unanimously approved (4-0-0).

6. Other Business

- Vice-Chairman Slingo recognized Mr. Webb so that he could ask the Commission which direction he would need to take regarding a project and to make a presentation.
- Bud Webb stated that he was representing Mark and Jenn McKenzie of 166 Klondike Road; he presented photographs of the location to the Commission. He wanted to know if he was required to file a Request for Determination or a Notice of Intent. He described the proposed project that included removing and replacing existing concrete steps with sod. In addition, he would be removing a concrete patio and replacing it with pavers.
- Matt Marro asked if anything would be going into the water. Mr. Webb stated that the work would be about 3' short of the high-water mark. Matt Marro said that an application for a Request for Determination would be fine. He had looked at the overlays of the property. There is a flood plain, but it's confined to the water and only goes up to the shoreline, so on that lot, it's not a problem.

Adjournment:

- Samantha Costello made a motion to Adjourn. Seconded by Wesley Mroczka; the vote was unanimously approved (4-0-0). The meeting was adjourned at 7:09 PM.

Documents Included:

Agenda: March 27, 2024

Meeting Minutes: December 13, 2023 & January 24, 2024

WPA Form 3 – NOI #0 Southbridge Road – Alexis Fortes

WPA Form 3 – Hayden Pond Road – Brian Lebrec

WPA Form 7 – Extension of Permit for Order of Conditions – Larner Pond Association

Respectfully submitted,
Ora E. Finn
Conservation Clerk
March 27, 2024

Richard J. Androlewicz, Chairman

George Slingo, Vice Chairman

Francis Mikolajczak

Samantha S. Costello

James Koebke

Robert Tuttle

Wesley Mroczka