

**MINUTES OF PUBLIC HEARING  
HELD BY THE PLANNING AND ZONING COMMISSION  
NOVEMBER 18, 2019**

**ROLL CALL:**

Members Present: Eric Prause, Chairman  
Patrick Kennedy, Vice Chairman  
Michael Stebe, Secretary

Alternate Members Sitting: Julian Stoppelman  
Bonnie Potocki

Alternate: Teresa Ike

Absent: Jessica Scorso

Also Present: Gary Anderson, Director of Planning  
David Laiuppa, Environmental Planner/Wetlands Agent  
Nancy Martel, Recording Secretary

The Chairman opened the Public Hearing at 7:00 P.M. The Secretary read the legal notice when the call was made.

JON KEANE – To construct a berm to divert water runoff at 4 Fir Grove Road. – Inland Wetlands Permit (2019-096)

Mr. Laiuppa reported that the applicant had a prior permit for the construction of a deck. While inspecting the progress, Mr. Laiuppa observed an earthen berm in the wetland area behind the home. He stated Mr. Keane explained that the stream behind the house, running south to north, occasionally floods his yard. Mr. Laiuppa related to Mr. Keane that the fill in a wetland is not allowed without a permit.

The measurements of the berm, as reported by Mr. Keane, are approximately 6 ft. wide at the base and 3 ft. high. The berm occupies approximately 1,152 cubic feet within the upland review area and approximately 2,286 cubic feet within the wetland area, according to Mr. Laiuppa. He reported the applicant has not provided temporary impact calculations to either the wetland or the upland review area. Mr. Laiuppa noted that, at a previous meeting, he requested a description of the wetland which had been impacted by the berm, which has not been provided. Additional information is required by the regulations, which were explained in detail by Mr. Laiuppa.

Mr. Prause assumed that the applicant has not provided any information on the principle values and functions of the wetland or proposed what feasible and prudent alternatives were considered, which Mr. Laiuppa confirmed.

Ms. Potocki reported that she walked the property and stated there is an intermittent channel running directly along the berm, which she explained in detail.

Mr. Laiuppa informed the Commission about the channel noted by Ms. Potocki. He also explained the timeline and details of the photographs displayed.

Mr. Prause sought confirmation that about two thirds of the berm is in the wetlands, which Mr. Laiuppa confirmed.

Mr. Kennedy suggested taking public comments about the application.

Ms. Sharon Morna, who has resided at 619 Hillstown Road for six years, asked when the berm was built. Mr. Laiuppa responded that it was built in the summer of 2019. Ms. Morna reported that an area of her property started flooding in December 2018. She stated that she showed her pictures to the Town Engineer, who was puzzled.

Mr. Dick Borden, 646 Porter Street, introduced himself as the Vice President of the Manchester Land Conservation Trust. Mr. Borden thanked Mr. Laiuppa for a very thorough, professional and objective review of the facts. He reported that the Conservation Trust is concerned about the property the Land Trust owns, Buckland Pond Park, and the impact of the berm on the wetlands and upland area. He surmised that, if the berm had been constructed under a permit, it might have been done differently, with the proper safeguards to protect the pond.

Mr. Laiuppa reported he received an e-mail from Colin McNamara, the Chief Steward of the Manchester Land Trust. Mr. McNamara stated:

Regarding the construction of an unpermitted berm in relation to the Buckland Pond Watershed, the Manchester Land Trust's position on this issue is that we do not approve of any sort of unpermitted berm that would disproportionately force flood waters off of their natural course and cause them to seek alternative routes, resulting in greater flooding in high water events to our and other neighbors' properties.

Mr. Prause acknowledged that the applicant has not attended the hearing and has already violated the regulations. He sought the Commission's input on how to handle the matter at the meeting.

Mr. Anderson stated the applicant knew about the meeting. However, there was no information provided about why the applicant was not present. Therefore, if the Commission feels they have enough information to close the hearing that can be done. If the Commission feels there are outstanding questions they would like the applicant to answer, keeping the hearing open is an option as well.

Mr. Stoppelman agreed there are two options for the Commission.

Mr. Stebe commented that, whether the work has been completed or not, the Commission would still be in the current situation. He reiterated that, the applicant has been notified and they were required to provide additional information. Therefore, Mr. Stebe stated that the Commission must act on the information available at the public hearing. He commented that, prior to construction of the home, the Town knew that the property is in fairly active and fluctuating wetlands, and he assumes the berm will have a significant impact on the wetlands.

Ms. Potocki remarked that the applicant has been afforded adequate time and allowed to submit material for approval of the permit. However, the applicant has decided not to appear before the Commission and, therefore, they have violated the municipality's Inland Wetlands and Watercourse regulations.

Mr. Kennedy was of the opinion that the applicant built the berm and, under potential zoning enforcement, came back and filed an application to retroactively legitimize the action. Unfortunately, if the Commission continues the hearing, that would delay the Staff's ability to move ahead with enforcement. He stated it appears questionable that the applicant could present enough information to obtain the permit.

Mr. Stoppelman stated that the applicant should receive notice of the consequence of his non-appearance and the Commission should keep the public hearing open.

Mr. Stebe asked about the process, remarking that if the Commission closes the public hearing, it will become an item of new business which can be acted on at the current meeting or the next.

Mr. Laiuppa noted that the applicant showed him a video depicting water flowing on the house side of the berm, which was after the berm was constructed.

Mr. Stebe remarked that, given the information and the final photo showing the berm partially diverting water from the applicant's property, it is also diverting the water from entering the wetlands properly.

**MOTION:** Mr. Kennedy moved to close the public hearing. Mr. Stebe seconded the motion. Mr. Stebe, Ms. Bonnie Potocki and Mr. Prause voted in favor of closing the public hearing. Mr. Stoppelman voted against closing the public hearing.

The Chairman closed the public hearing at 7:45 P.M.

I certify these minutes were adopted on the following date:

January 6, 2020

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Date

\_\_\_\_\_  
Eric Prause, Chairman

**NOTICE: A DIGITAL RECORDING OF THIS PUBLIC HEARING CAN BE HEARD IN THE PLANNING DEPARTMENT.**