

Northside News



Yearning for Spring? Garden Party at Minute Man National Historical Park, May 31, 2017.

Lincoln's Neighborhood Newsletter

February 2, 2018

What's Hot

McLean Hospital Project on Bypass Road – Town Awaits Judge's Decision, Neighbors File Petition *(see McLean Hospital below)*

New Minuteman Tech Building Takes Shape; Town Cites Contractor for Violations *(see Minuteman Tech below)*

**60 Apartment Rental Development Proposed along Route 2
*(See Oriole Landing below)***

Transfer Station – Latest News *(See Transfer Station below)*

**The Many Delights of Minute Man National Historical Park;
Upcoming Events and Stewardship *(see MMNHP below)***

**Carole Kasper Runs for Lincoln-Sudbury School Committee
*(see LSRHS School Committee Election below)***

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McLean Hospital



Properties at 16 and 22 Bypass that have been purchased by McLean Hospital.

McLean Hospital's lawsuit against Lincoln went to trial in early October. After McLean's attempt to put a psychotherapeutic inpatient facility in two adjacent residences on Bypass Road was blocked by the Lincoln Zoning Board of Appeals (the "ZBA"), McLean sued the town in Massachusetts Land Court. The ZBA decided in November 2016 that the facility was not primarily "educational" and that it therefore did not qualify under Massachusetts law (the "Dover Amendment") for an exemption from our local residential zoning. McLean appealed, hoping that the Land Court will reverse the ZBA's decision and rule that their proposed use of the properties can go forward.

McLean's difficulties were largely a result of its poorly researched, highly unusual -- some might say reckless -- purchase. It spent almost \$ 3 million on two residential properties without verifying that it could obtain the local permits necessary for its program. Typically, a purchase of this type would only occur subject to a "permit contingency" that would allow the buyer to back out of the purchase if permits could not be acquired. In this case, however, McLean had already purchased the properties when it discovered, months later, that permits would not be granted.

McLean's decision to go forward with the purchase may have relied on an early opinion of Lincoln's Town Counsel Joel Bard that the proposal would be exempt from local residential zoning. Bard's opinion was based on limited information contained in a letter written by McLean that described the project. Although opinions of Town Counsel are normally protected under attorney-client privilege (the Town is the client), that privilege was waived when the opinion was published on the Town's public website in early May 2016.

Town boards are free to make their own determinations; they can decide on their own whether to follow the opinions of Town Counsel. The ZBA, with two members who are lawyers, conducted a thorough examination of the facts and ultimately decided that the project did not qualify for exemption from local zoning. Neighborhood residents hired their own lawyer during this process. Their lawyer was, in effect, arguing for the integrity of the Town's residential zoning district.

After McLean appealed the ZBA's decision in Land Court, the residents' lawyer stayed on the case and teamed up with a lawyer hired by the Town. It would normally be the Town's responsibility to fully defend the decision of the

ZBA in court. However, in this instance, the residents have been billed personally for most of the legal expenses that have been incurred. They question why they should absorb costs of defending the Town's zoning and the ZBA's decision. To resolve the issue, they have placed a citizens' article on the warrant for this year's Annual Town Meeting that asks the Town to fully fund those expenses.

Complete case information can be viewed on the Land Court website (click [here](#)). The case number is 16 MISC 000694.

Minuteman Tech

Large construction projects are never fun for abutters and the Minuteman High School's massive new building going up at the corner of Route 2A and Mill Street is no exception. After clearing approximately 10 acres of forest, steel beams are beginning to rise at the site of the 265,000 square foot project following a summer punctuated by multiple daily blasts to remove granite at the worksite.

Abutter Paul Lewis of Mill Street recounts a miserable summer with "scary" blasts and little to no communication from the general contractor, Gilbane Construction Company. The Lewis property is a 2.5 acre parcel immediately adjacent to the new building. Lewis describes himself as "totally disappointed" with every aspect of the project including numerous interactions with Gilbane.

"They [Gilbane] left huge piles of crushed rocks on my property line...right in my back yard. I get up at about 4:30 a.m. to start my day and construction work was starting at 5:00 a.m. My wife and father-in-law who is 92 years old couldn't believe it.

"In addition, Gilbane placed a port-a-potty right in front of my neighbor's back porch — she is 90 years old — unbelievably disrespectful!" Lewis found Gilbane employees to be "the rudest and completely disrespectful to the neighbors." He noted: "Gilbane doesn't care. They do what they want and then apologize later."



Neighbors tour the construction site on 10/23/2017. Residents were unaware that placement of the large rock crusher near Mill Street residences violated the Construction Mitigation Plan.



Crusher adjacent to rear yard of a Mill Street residence 11/25/2017.

Repeated calls to the Lincoln Conservation Commission did not bring any results, Lewis noted. It wasn't until December 2017, when he threatened to "complain to the state" that Dan Walsh, Lincoln's Building Inspector came out. "Dan improved things...he made things happen and things are better." Lewis believes Gilbane is no longer in violation of the Construction Mitigation Plan (click [here](#)) they submitted to the Town last July.

"They are no longer starting early since Dan came out," Lewis says. "And, they've installed a proper silt fence and corrected several other violations."

Lewis admits that things have improved and he credits Dan Walsh with making that happen. Still, he notes, "they cut down so many trees for this...it is totally disgusting."



Paul Lewis at his property boundary, 11/25/17. Boulders have broken the construction fence and tumbled onto his property. According to the Construction Mitigation Plan, this area should not have been used for stockpiling excavated material.

In accordance with the Planning Board's Site Plan Approval that was granted in May 2017, Gilbane submitted their Construction Mitigation Plan to the Town in July 2017. The Plan was not distributed to residents by Gilbane or by the Town, although it may have been posted among a voluminous set of technical documents on the Town website. When residents were given a tour of the construction site three months later, in October, they were unaware of the existence of the Mitigation Plan and did not realize there were violations of the Plan that were already occurring. It was only after extraordinarily noisy and dusty rock crushing operations began in October near two Mill Street homes that residents became alarmed.

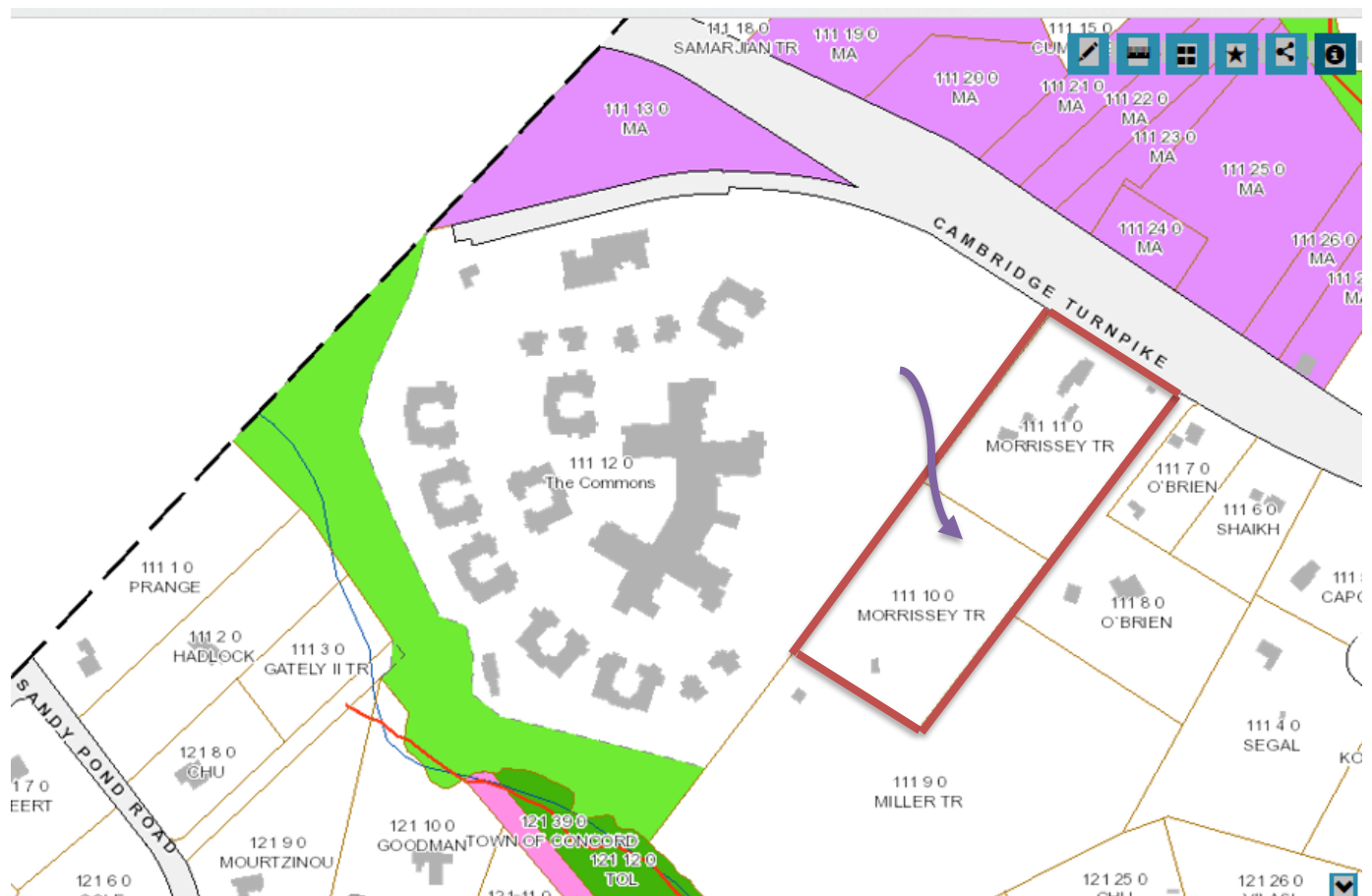
Although the project seems to be on a better track now, it is not clear how violations of the Construction Mitigation Plan

persisted for more than a month. The Town is receiving ample funds to monitor and inspect the project. It has already received a building permit fee of

approximately \$ 160,000 for the foundation and steel work, and fees may eventually swell to over \$ 1 million as construction continues. The Town is also receiving additional payments that cover engineering peer review and ongoing inspectional services by outside consultants.

Oriole Landing

A 60 unit rental apartment complex has been proposed for the Morrissey properties on the south side of Route 2 adjacent to The Commons. The proponent of the project is Civico Development. Civico has built several multifamily residential projects in eastern Massachusetts (click [here](#)). For this project to go forward, their proposal will need approval by a 2/3 vote at the Annual Town Meeting in March. A coalition of the Town's housing committees is supporting the proposal and will contribute \$ 1 million from the Affordable Housing Trust in return for permanent restrictions on the development that guarantee all 60 units will count towards the Town's subsidized housing inventory. Without this project, in 2020 Lincoln will likely fall below the state's 10% benchmark for so-called "affordable" housing, as described in Chapter 40B of the Massachusetts General Laws. Towns that do not meet the benchmark are vulnerable to development that would be exempt from local zoning controls. If the Town supports this proposal, it will be accepting dense development in a specific location to prevent the possibility of unwanted development elsewhere in Town with little control over location, scale, and character. Lincoln was one of the first towns in Massachusetts to meet the 10% benchmark, and it has been the Town's policy to maintain or exceed that level.



Aside from a few large scale developments – The Commons, Battle Road Farms, Lincoln Woods, Minuteman Commons – Lincoln's recent approach to meeting the 10% benchmark has been through scattered site housing that is more

consistent with neighborhood character. These dwelling units typically require subsidy of about \$ 200,000 per unit. The housing coalition believes that, for less than \$ 17,000 per unit, this project offers the Town a much better deal.

As frequently happens with rezoning proposals, there can be a townwide benefit but a localized burden. This quadrant of the Crosby's Corner neighborhood has already been impacted by the dense development of The Commons. One of the reasons The Commons was originally approved is also one of the reasons supporting the Civico project, i.e., to meet the 10% benchmark and block potential developers from using Chapter 40B to bypass local zoning. However, there are a large number of voters now living at The Commons. It remains to be seen whether they will support or oppose the proposal. A neighborhood group not specifically connected with the Commons has already formed in opposition to the project.

Civico presented their proposal at a public meeting on January 31st. A video of the meeting is available [here](#). Information about the project is also available on the Town website (click [here](#)).

Transfer Station

Solar Project

The 2017 Annual Town Meeting gave the green light (pun intended) to installation of a solar photovoltaic generating facility on the capped landfill. However, Town Administrator Tim Higgins reports that some challenges have arisen. There have been “fairly substantial changes in the state and federal financial incentives,” and the Town needs to work out “an access plan and design that addresses National Park sensitivities.” He adds “we should have a clearer understanding as to the likelihood of a viable plan within the next month or so.”

Groundwater Monitoring

The Massachusetts Department of Environmental Protection issued a landfill closure permit in 1988 that required the Town to perform annual testing of groundwater monitor wells installed around the perimeter of the landfill. The Town complied until May 2000, and then stopped testing when the lab that was doing the testing went out of business.

The Town has been attempting to get back in compliance and has been corresponding with Mass DEP since December 2015. According to DEP records, new monitor wells have been installed and groundwater testing was performed at approximately 3 month intervals until July 2017, in compliance with a DEP decision dated July 25, 2016. The decision requires that further testing be performed semiannually going forward, but the Town has filed a request to lengthen the test interval to one year. The Town does not yet have confirmation that the request has been approved.

The DEP decision included a condition that the Town test private wells within ¼ mile of the landfill no later than December 31, 2016. Samples were collected in October 2017, approximately 10 months after the date ordered in the DEP decision. The comprehensive tests revealed excellent water quality with no

contaminants detected at any residence with a private well. A few residences in the area are on town water, and those residences were also tested. The results for those residences show the same low-level contaminants (chlorine byproducts at levels deemed safe for drinking) that are observed throughout the Town's municipal water system.

MMNHP – Minute Man National Historical Park

We're lucky to have Lincoln resident Margie Coffin Brown as the Resources Program Manager for MMNHP. Aside from the Park's historical resources, the Park is home to a diverse array of flora and fauna. It's Margie's job to manage these resources and to educate us about them. Margie has provided the following writeup about stewardship opportunities and upcoming events at the Park. And don't miss her lecture at the Lincoln Council on Aging, recorded several weeks ago (click [here](#)).

Margie Coffin Brown, Natural/Cultural Resources Program Manager, Minute Man National Historical Park, January 24, 2018

Lincoln is filled with jewels of open space and historic sites, many of which are in North Lincoln and within Minute Man National Historical Park. The park spans 1,038 acres in Lincoln, Concord, and Lexington, and contains dozens of historic buildings, picturesque fields, aged stone walls, plus nine miles of trails. Assisting with the care of its many resources offers opportunities for exercise, education, and comradery. The park's resource stewardship program welcomes volunteers of all ages to help preserve the nationally significant resources. Here are a few upcoming programs related to the park's gardens, orchards, trails, battlefield rehabilitation, and commemorative events.

Iris are a prominent feature in the Buttrick Garden overlooking the North Bridge in Concord. The Friends of Minute Man National Historical Park support the preservation of the exceptional collection of iris and daylilies that have made the Buttrick Gardens a showpiece for decades. On Sunday afternoon, March 25th, the Friends of Minute Man National Park will sponsor a lecture by Iris expert Jan Sacks, to be held at Bemis Hall in Lincoln. Based on the guidance offered by Jan Sachs and the American Iris Society, volunteer stewards will continue to improve the condition of the Buttrick Garden beds throughout the growing season. A highlight will be the "Garden Party" a gala event in late May, when the irises are at their peak bloom.

Orchards were an essential component of colonial period homesteads. Last spring, the Lincoln Minute Men collaborated with the park to replant the orchard just east of the Hartwell Tavern. The orchard was planted in memory of former Lincoln Minute Man Captain Laurence Zuelke and former Lincoln Clerk Nancy Zuelke. Throughout the 2017 growing season, the park hosted "Stewardship Wednesdays and Fridays" to coordinate care for the orchard, which included introducing grazing goats and sheep. The park will continue to organize these events in the 2018 season, including an 8-week summer stewardship program for high school and college students, 18 years and older. The program includes hands on resource management work throughout the park plus travel to other National Parks in the Northeast to gain park planning and management training.

The Battle Road Trail is a much loved and heavily used trail. The park is planning a trails stewardship training in late March/early April where experts in the field of unpaved trail maintenance demonstrate techniques for reducing erosion, maintaining culverts with hand tools, improving the trail surface with stabilizers, and constructing and maintaining boardwalks. The park is hoping to build a program of trail stewards to ensure that the 5.5-mile Battle Road Trail retains its accessible and scenic qualities. Rehabilitation of the section of trail near the Hartwell Tavern began in November and will resume in late April with the application of new compacted surface material.

April events are fast approaching. On the morning of April 7th, participate in "Park Day," a volunteer stewardship in the Parker's Revenge area on the Lincoln/Lexington line and assist with preparing the battle site for a tactical demonstration. In the afternoon, visit the Meriam House in Concord and the Paul Revere Capture Site in Lincoln for commemorative ceremonies. For more

information on stewardship programs, contact Margie_coffin_brown@nps.gov or call 978 318 7830. To learn more about the many programs in the park, visit www.nps.gov/mima/plan_your_visit.

...And join in the celebration of the “Year of the Bird” at the Park with birdwatching expeditions in the Spring (click [here](#) for information and dates).

LSRHS School Committee Election

Readers of Northside News may be interested to know that Carole Kasper, of Concord Road, is running for a seat on the Lincoln-Sudbury High School Committee. Carole is the mother of two boys--one at Lincoln School and one at the high school. She has been deeply engaged with Lincoln institutions for years and brings strong experience in management consulting to the role. As some may know, traditionally, two seats on this six member board have been held by Lincoln residents. However, the seats are NOT reserved for residents of any particular town--i.e. ALL six seats could be filled by residents of either town. We STRONGLY encourage readers to get to know Carole and to give her candidacy thoughtful consideration. Below is list of confirmed coffees/meet-and-greet events. The list will be updated in the coming weeks, so watch your email for additional locations, dates and times.

- March 9 Lincoln Woods community room 9:30 to 11:00 a.m.
- March 11 Home of Nancy Marshall, 23 Beaver Pond Road 3:00 to 4:30 p.m.
- March 14 Bemis Hall Forum (all candidates invited) 1:30 to 3:00 p.m.
- March 18 Home of Jennifer Glass, 11 Stonehedge 3:00 to 4:30 p.m.
- March 21 Home of Sabra Alden, 6 Brooks Hill Rd. 9:30 to 11:00 a.m.

Lincoln School Building Project

Although the Lincoln School Building Project is outside our usual “24/7 Coverage of All Things Lincoln Northside,” we’re happy to provide this link for current information on the project: <http://www.lincolnsbc.org>

Northside News is a community based newsletter designed to foster communication and advocacy for the residents of North Lincoln.

Our goal is to keep everyone in the neighborhood informed about issues that uniquely affect our part of Lincoln. Please let us know if you would like to contribute articles or join us on the Editorial Board.

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