



**Town of Boylston** Conservation Commission [conservation@boylston-ma.gov](mailto:conservation@boylston-ma.gov)  
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## **REGULAR MEETING MINUTES**

### **AUGUST 17, 2020**

Members via Remote: Joe McGrath, Chip Burkhardt, Dan Duffy, Mark Coakley, Jeffrey Walsh

Members Absent: None

Others Participating Remotely: Scott Heim (Northeast Ecological Services); Attorney Matt Watsky; Ken Sydow; Neil Gorman (David Ross Associates); Mark Anttila, (46 Compass Circle); Onni Wirtanen (5B Cheryl's Way)

Recorder: Melanie Rich

Joe McGrath, Chairman of the Conservation Commission, opened the virtual meeting at 7:00 p.m. and announced it is being held via video conference. He informed everyone that they can email him at ([jmcgrath@boylston-ma.gov](mailto:jmcgrath@boylston-ma.gov)) with any questions which will be answered during the meeting; they can dial in as well.

Commissioners Roll Call: Mark Coakley, Chip Burkhardt, Jeff Walsh, Joe McGrath, Dan Duffy

**PUBLIC HEARING (continued) – 11 French Drive (Tower Hill Botanic Garden) – Notice of Intent Application and Stormwater Control Permit Application** to redevelop the Tower Hill Botanic Garden main entrance off French Drive (DEP#115-425)

The applicant requested an extension via email to continue the hearing to the next meeting in order to complete the DCR Variance process. Mark Coakley made a motion to accept the request for continuance to 7:00 p.m. on September 21<sup>st</sup>; Jeff Walsh seconded; roll call vote: all voted in favor; motion approved.

**PUBLIC HEARING (continued) – Perry Road (Map 13/Parcel 21-K AND Map 18/Parcel 3-2) (Security Monitoring Holdings, LLC) – Stormwater Control Permit Application** to construct a single-family house, septic system and associated site work, with a driveway off Perry Road (SCP#2020-2)

Mr. May requested an extension via email to continue the hearing to the next meeting. Mark Coakley made a motion to accept the request for continuance to 7:15 p.m. on September 21<sup>st</sup>; Joe McGrath seconded; roll call vote: all voted in favor; motion approved.

**PUBLIC HEARING (continued) – 260 Shrewsbury Street (Dragon 88) – Notice of Intent Application** to divert stormwater runoff from the fill slopes as well as stabilizing non-vegetated or sparsely vegetated slopes due to the former placement of unauthorized fill which impacted and created Bordering Vegetated Wetlands (DEP#115-\_\_\_\_)

Scott Heim (Northeast Ecological Services) attended remotely. No DEP file number has been issued. Mr. Heim has contacted DEP but has not heard back. Jeff Walsh disclosed that he was present for the June hearing but not the July hearing. He stated that he reviewed the meeting minutes and watched the video of the July meeting and will prepare a Mullin Rule Affidavit so he can continue to participate.

Mr. Heim said the only change was the inclusion of the construction sequence on the plan. Dan Duffy asked if we knew why a DEP number had not been issued; Mr. Heim said no. The Commission was hoping to get the construction done this growing season. Mark Coakley said one DEP's initial comments asked how they were going to meet the performance standards for wetland replication and asked if that could be the reason. Mr. Heim said it could be, but that he explained the differences in the wetland delineation lines that were done on the two parcels over the years to the DEP. The applicant requested a continuance. Mark Coakley made a motion to continue the hearing to September 21<sup>st</sup> at 7:05 p.m.; Dan Duffy seconded; roll call vote: all voted in favor; motion approved.

**PUBLIC HEARING – 21 Woodland Drive (Shrewsbury Homes, Inc.) – Stormwater Control Permit Application** to request a waiver from Section 9.04.01(a) because the physical construction of a subdivision roadway or other infrastructure has not been proposed under the proposed plans. (SCP#2020-3)

The hearing could not be opened due to inaccurate abutter notification. It will be on the September 21<sup>st</sup> Agenda.

### **COMMISSION BUSINESS**

Compass Pointe Update – Jeff Walsh recused him from the matter. Joe McGrath said we have the new surety bond in place in the amount of \$150,111 which was reviewed and approved by Town Counsel. Attorney Watsky said because the full bond was restored, they decided not to proceed with giving information to Graves Engineering to complete a revised stabilization estimate, feeling that the original amount was still adequate to cover the work at that time.

Mr. McGrath asked for public comment. Mark Anttila (46 Compass Circle) asked if it was enough money to complete the work. Mr. McGrath said the estimate was done by Graves Engineering in the past relating to work specified in the original plans; the Commission is comfortable that the money is sufficient. Mr. Anttila asked what year the original estimate was completed; Mr. McGrath did not have that information available tonight but could find out for him. Mr. Anttila asked if it was prior to the additional homes being approved. Mr. McGrath said no that it was summation based on the current housing plans. Mark Coakley agreed that Mr. McGrath's statement was accurate. Onni Wirtanen (5B Cheryl's Way) asked about an as-built plan. Mr. McGrath said the applicant has not submitted an as-built yet and explained the process that when the applicant does request a Certificate of Compliance they have to submit an as-built with a statement in writing, signed and stamped by a professional engineer or registered land surveyor, certifying that the work was done according to the conditions of the Order and referencing the specific site plan. Until the Commission receives a formal submittal there is nothing to act on; it is the consensus of the Commission at this time that \$150,111 is sufficient.

Compass Pointe Bond Status (Jim Haynes is requesting the release of the Reduced Letters of Credit #3042 (\$51,597.00) and #3078 (\$16,200.00)) – The applicant is asking that the Commission release the letters of credit that were incorrectly reduced without the Commission's permission last year. Mark Coakley felt we did not have enough information and, based upon lack of cooperation, would table it. Attorney Watsky said the intent of providing 100% of the prior amount of the bond was to give the Commission the same amount of security it had when the project started that it was going to be enough to cover any eventuality and would be able to release the letter of credit. Dan Duffy said there appears to be two letters of credit. Attorney Watsky was only aware of one; he will have to speak to Mr. Haynes. Mr. McGrath had the two Rockland Trust letters, but they don't specify the areas they relate to. Mr. Anttila said whatever the original amount is it should be that. The Commission is only aware of one bond

reduced. Attorney Watsky was told by Mr. Haynes that the \$150,111 letter of credit that was reduced was for Conservation and the other letter of credit was for the Planning Board. Attorney Watsky asked for a copy so he can investigate further. Mr. Duffy suggested we look into further and take it up at the next meeting since we need to understand the second letter of credit. Mr. McGrath agreed and said we need to get a definitive answer before any additional funds can be returned.

Lilymere Estates Update (Jim Haynes is requesting replacement of the Lilymere Letter of Credit with a Bond after a revised estimate from Graves Engineering) – Jeff Walsh recused himself from the matter. The Commission is not approving the replacement of the letter of credit with a bond; the Commission is only approving a request for a revised estimate from Graves Engineering. When the revised estimate is received, the Commission will then consider the ramifications of it. Mark Coakley made a motion to request Graves Engineering to do a revised stabilization estimate for Lilymere Estates; Chip Burkhardt seconded; roll call vote: all voted in favor; motion approved.

Mr. Coakley gave an informational only update and said the Earth Removal Board has not received any SWPPP reports since July 24<sup>th</sup>; they were to report weekly. He asked Nina Gardner to contact Mr. Haynes. Since the last visit a few weeks ago, he said only 15% of the slopes behind the project were hydroseeded and some of the structures were moved into. Chip Burkhardt had the same observations; some areas were stabilized but no stabilization on the slopes. Joe McGrath asked for public comment; there was none.

Patrick Burke (WDA Design Group) regarding Graves Engineering Tower Hill (Peer Review #4) (Joe McGrath Update) – Joe McGrath contacted Mr. Burke to confirm with him, because we received an additional review letter from Graves Engineering after the project was approved, that they are still in compliance with the permit that was issued; Mr. McGrath is comfortable that they are still in compliance with the terms of the permit.

Request for Certificate of Compliance for DEP#115-389 (32 Boulder Way) Ken Sydow – Mark Coakley visited the site and said it appeared to be completed with what was approved. However, he did have a concern about the Cultec systems. There is no access for cleanouts; the manufacturer's installation recommendation is to have cleanouts and an O&M Plan. It is basically in compliance, but there is no O&M Plan for the Cultecs, and Mr. Sydow said he doesn't know anything about them. If the house sells, does he need to disclose it or is it on the Commission because we signed off on something that was not done to manufacturers specifications? Joe McGrath said it impacts the O&M Plan if they don't have the functionality in the unit for a cleanout. The engineer needs to provide us something from the manufacturer that says they can do what they need to do with the way it is set up and, if not, fix it. Chip Burkhardt said there are different shapes and sizes of Cultec units, and some don't come with inspection or cleanout ports. It is possible they purchased a model that does not to have inspection ports. He is not entirely sure that they require an O&M Plan, but we need to do our due diligence. He agreed they are basically in compliance but need to supply information about the O&M Plan or if it not necessary for this model. Mr. Duffy said the first place is to start with who installed it, what was installed, designed and put in; get a cut sheet on who installed it and what type of maintenance and access is provided. An additional Cultec chamber infiltration system was constructed on the south side of the as-built dwelling. Three Cultecs were put in; the plan called for two; they are not where they were approved. Mr. Coakley said the model has a cleanout port and an O&M Plan. Mr. Duffy thinks we should ask them to demonstrate how what they installed it, how it complies with the plan submitted, and how they intend to maintain it. Mark Coakley made a motion to request from the applicant an O&M Plan or any information with regard to the Cultec systems and if they meet the manufacturer's specifications; Mr. Duffy seconded; roll call vote: all voted in favor; motion approved.

Vote to Close Out 70 Reservoir Street (Howley) 53G Account \$369.35 – Chip Burkhardt made a motion to close out the 53G account for 70 Reservoir Street and return the funds to the applicant; Mark Coakley seconded; roll call vote: all voted in favor; motion approved.

Eversource (Sewall Street Gas Main Extension Project) – Project completion reports were received. The work is completed, and the sediment control barriers removed. They kept the Commission aware of the status of the project during the work. The matter is now closed.

Reorganization (Confirm Vice Chair) – Jeff Walsh was confirmed as the Vice Chair.

Review Correspondence/Emails/Complaints – A complaint letter was received from J. Kelly on June 28<sup>th</sup> about someone on Sewall Pond. Mark Coakley visited the area and found a new pressure treated lean-to on an old slab. He called the Building Department and was told there was no permit pulled because it did not meet the size requirements and it was on an existing slab. There is no alteration to the roof runoff or square footage of the impermeable area. He tried to contact them, but nobody answered. He did not think there was a violation, but if there was it would be de minimus. Chip Burkhardt commented that we want to address all complaints but if they are sent anonymously, we can't help. The person making the complaint should have a conversation with us so we could respond better. The Commission always tries to work with the residents.

Local Initiative Program Feedback (100 Shrewsbury Street) – The site is across from Butler Deardon. It is a 40B project, but when it goes under a Local Initiative Program, the state gives more assistance to the town and the town has some say in terms of what permits are required. Existing town bylaws and federal regulations need to be paid attention to. It is not sure how the Stormwater Permit fits into the master permit process. Jeff Walsh said LIPs follow the same rules, they often times are called “friendly 40Bs”, they go through a vetting process with the BOS, when it comes to the Comprehensive Permit, the applicant is required to meet all state and federal regulations; they have to come to the Commission if they have to file a Notice of Intent. Local regulations are addressed through the Comprehensive Permit; we can advise the ZBA about the Stormwater Permit but did not think we would be issuing a Stormwater Permit; it would be under the Comprehensive Permit. Mr. Walsh strongly recommends sharing any input with the ZBA. Dan Duffy said our Stormwater bylaw follows design standards required by DEP or EPA. Mr. Walsh said we should expect an NOI filing and we should handle it like any other NOI filing. Joe McGrath asked that any comments be emailed to him by Wednesday so he can consolidate them and send them to the Town Administrator. He will also send a copy to all members.

Attorney Watsky provided information as to the difference between an LIP project and a standard 40B project. A LIP project is a 40B project but is one where the town is partnered with the developer and co-applicant; the Board of Selectmen ends up being the co-applicant with the developer. The project is subject to state permits and the ZBA grants the local approvals. The key difference is who is the applicant and the financial aspect, the state provides significant technical support and long-term permanent limits on profits that come out of the project. A normal 40B can have 20% profit going to the developer; the LIP can only have 10% profit and is deed restricted to assure it, which the town will be able to monitor. If profits are generated beyond the 10%, it can be directed into the town for additional funding for low income housing.

Mark Coakley made a motion to approve the Meeting Minutes dated July 20, 2020; Joe McGrath seconded; roll call vote: Coakley/McGrath/Burkhardt/Duffy voted in favor; motion approved; Walsh abstained.

Regarding Compass Pointe, Mr. McGrath wanted to acknowledge that the Commission did receive an email from Onni Wirtanen with questions and believed the Commission answered all his questions with the exception of one which asked if we signed the extension requests; the answer was yes (for one year).

September 21<sup>st</sup> was confirmed as the next meeting date.

Jeff Walsh said the new Master Plan Steering Committee is being assembled by the Board of Selectmen and he will be attending the meetings. Joe McGrath said he has volunteered for the Open Space and Recreational Planning Committee. The members thanked them both for serving.

Ken Sydow and Neil Gorman (David Ross Associates) joined in at 8:10 p.m. to discuss his request for a Certificate of Compliance. Mark Coakley told him it was discussed earlier and was the opinion of the Commission that they wanted to see additional information from his engineer regarding any Operation and Maintenance recommended by the manufacturer. According to the manufacturer's website, there is an O&M Plan and it requires access. Mr. Gorman said Cultecs can be used a few different ways. Under the drainage use there are two areas, one can be used for runoff from paved surfaces (parking lots and areas carrying contaminants) where they need to be monitored and maintained because of the contaminants that can get in the chambers. The chambers on Mr. Sydow's project are receiving runoff from the roof. It is not considered contaminated if there are shingled roofs which he has. He didn't see the need in this application to have maintenance on them because they are not going to be contaminated by the runoff from the roof. They did not propose any maintenance on the original plan that was approved; it is like a drywell or other subsurface structure that receives runoff from the roof. Mr. Coakley did not dispute that. The note on the drawings says it is to be installed in accordance with the recommended guidelines from Cultec's current recommended installation guidelines; he did not see any recommendation proposed and asked if he could get that from the manufacturer. Mr. Gorman said that is a standard note that is put on all the plans that installer's install them in accordance with the manufacturer's guidelines. Mr. Coakley said the manufacturer's guidelines recommend cleanouts; that's where there is a disconnect. Mr. Gorman said he never had to supply that in the past and wondered why he was being asked for it now. Mr. Coakley said because he did the research and went through the manufacturer's specifications per his note and, as far as he could see, there are no cleanouts that are recommended by the manufacturer and questioned it. The specs don't match up with the installation. Note 3 refers to Cultec's current recommended installation guidelines for 100HD. Mr. Gorman will look into it. Mr. Sydow said when Mr. Coakley mentioned it prior, he went through the Cultec information and found that it is not required or recommended. Mr. Coakley said what he had did recommend it and there is a 40-year O&M Plan with it. Mr. Duffy said if we could get something from Mr. Gorman where the guidelines come in relative to roof runoff being clean stormwater infiltration and what Cultec requires for clean stormwater infiltration, that would be sufficient. Mr. Coakley was fine with that but said if we are approving things going into the ground with no access for maintenance and the manufacturer recommends maintenance, whose issue is it if the property is sold if the Commission approved it but it wasn't installed the way it was supposed to be installed. He wants to make sure we are doing it right. Mr. McGrath agreed.

Having no further business to discuss, Mark Coakley made a motion to adjourn; Jeff Walsh seconded; roll call vote: all voted in favor; motion approved. The meeting adjourned at 8:18 p.m.