



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

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## REGULAR MEETING MINUTES SEPTEMBER 21, 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; Matt Marro; Mark Anttila, (46 Compass Circle); Onni Wirtanen (5B Cheryl's Way); Peter Garry (3B Cheryl's Way); Nicole Hayes (Goddard Consulting); Vito Colonna (Connorstone Engineering); Brittanie Derr (Paul Massad Landscaping)

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.

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

**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 October 19<sup>th</sup>; Jeff Walsh 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#115-427)

Scott Heim (Northeast Ecological Services) attended remotely. A DEP file number was issued. Mr. Heim said they need to file for a Water Quality Certification; work will not start until the spring. He visited the site and said it has become more vegetated than before. Mr. Coakley noted that DEP's comments strongly recommended that the applicant provide an additional 163 square feet of wetland replication and/or consider removing all or some of the original fill, and additional information should be provided the DEP concerning the composition of the fill and whether it qualifies as solid waste. At least 4" of topsoil is recommended on all restored slopes. Mr. Heim said the two properties did create more wetland area than was placed by the fill. The applicant does not feel he can remove the fill based on the size of the slope; it is not a possibility; there is no way to get to the bottom of the slope. He asked if Mr. Heim had addressed them with DEP; Mr. Heim said he had not filed the Water Quality Certification yet and will do it then. Mr. Coakley asked about the analysis of the fill. Mr. Heim said it seems to be construction material and there were no signs of debris. The plan calls out for 2"-3" of topsoil, but 4"

can be specified in the Order. Since construction will not start until the spring, the members agreed to continue the hearing to get more information on the Water Quality Certification to be included in the Order.

Mr. McGrath asked for public comment. Hearing none, Mr. Heim requested a continuance. Mark Coakley made a motion to accept the request for continuance to October 19<sup>th</sup> at 7:05 p.m.; Dan Duffy seconded; 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)

The applicant did not appear nor request a continuance. Mark Coakley made a motion that the hearing be closed and the application be denied without prejudiced for lack of information and lack of appearance and to waive the application fee for this application submittal only (Perry Road, Map 13/Parcel 21-K AND Map 18/Parcel 3-2); Dan Duffy seconded; voted 4-0-1 (Jeff Walsh abstained); 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)

Joe McGrath abstained from the matter. Vito Colonna (Connorstone Engineering) said technically it is a two-lot subdivision; they have been before the Planning Board. It is a low impact project; there will not be construction of a roadway, only a common driveway constructed in a right-of-way. The project is 4.35 acres; there is an existing house; there will be another single-family house in the rear of the lot. The overall development will be kept under one acre to keep below the stormwater standards. Not having to build an infrastructure for a roadway is the reason they are asking for a waiver. They did some drainage during the permit process with the Planning Board. There was a pre-existing drainage issue on Woodland Drive where runoff was coming down from different sites; they added an inlet at the entrance to alleviate the runoff from their site. He showed the site plan and explained the existing lot, house and driveway. They will follow the existing alignment through the existing driveway and branch off a new driveway to the rear of the property. The limit of work is the tree line. The drop inlet collects everything before it gets to the roadway where it eventually goes to a wooded area. There are no wetlands within 100 feet of the work.

Mr. Colonna said they will use the existing driveway as the construction entrance until they need to put in a stone construction entrance; an erosion barrier will be placed around the limit of work and also around the inlet. Mr. Duffy said there is 6-foot difference in the elevation from the roadway. Mr. Colonna said they are trying to match the existing grade to minimize the impact. Mr. Duffy asked about the slopes on the sides of the driveways. Mr. Colonna said grass swales will be on both the upgradient and downgradient sides. The slopes for the development will be loamed and seeded and if needed they will use an erosion fabric. Mr. Duffy said an erosion control fabric on anything over 3:1 slopes is good practice and beneficial for stabilization.

Mr. Walsh asked about the waiver from Section 9.04.01.a. Mr. Colonna said it applies to the applicability section that says all subdivisions would require a stormwater permit and because it is technically a subdivision, they needed to do it. The existing property is an expansion of what is currently cleared.

They are not stumping, only physically widening the cut. Mr. Walsh was reluctant to waive the applicability of the subdivision and concerned about setting a precedence for other small subdivisions that may be worthy of fully going through the permit process. Mr. Duffy said we have the appropriate paperwork, the procedure has been followed for a public hearing and abutter notification; he has no problem with what is proposed, but would suggest a special condition be added that any slopes greater than 3:1 be stabilized with an erosion control fabric. Mr. Burkhardt had no objections. Mr. Walsh asked for public comment. Hearing none, Dan Duffy made a motion to close the public hearing; Mark Coakley seconded; all voted in favor; motion approved. Dan Duffy made a motion to issue Stormwater Control Permit SCP-2020-3 to Shrewsbury Homes, Inc. for a lot at 21 Woodland Drive, Map 26, Lot 76 with standard conditions and Special Condition #21 that any slopes that exceed 3:1 be stabilized with an erosion control fabric in addition to top soil and seed; Mark Coakley seconded; voted 4-0-1 (Joe McGrath abstained).

**PUBLIC HEARING – 100 Shrewsbury Street (Steve Venincasa/Casa Builders & Developers) –**  
**Abbreviated Notice of Resource Area Delineation Application for confirmation of all wetland resource**  
**areas on the parcel located at 100 Shrewsbury Street (DEP#115-\_\_\_\_\_)**

Nichole Hayes (Goddard Consulting) participated remotely. The resources on the site include bordering vegetated wetlands, isolated land subject to flooding and bordering land subject to flooding. Documentation has been submitted showing the stream channel on the site has been documented as intermittent; 7 DEP filings showing portions of Sewall Brook on site upgradient and downgradient have been deemed intermittent. She will do a site walk to review the wetland resources on the site. Jeff Walsh would be comfortable with peer review to confirm the resources areas identified by the applicant's team and the delineation of the resource areas; the members agreed. Ms. Hayes was informed of the process for peer review. It was left to her to discuss with the applicant and see if they want to establish a 53G account for the cost of the delineation or open an account for additional review. She said for now it will be for the review of the resource areas. The scope will be limited to the ANRAD at this time. The plan will be sent to Ecotec to obtain a budget for activities related only to the ANRAD and the estimate will be forwarded to Ms. Hayes. Once the account is set up, she can coordinate the ANRAD review with EcoTec. Mr. Coakley said with regards to riverfront issue, the regulations are clear, we will rule that it is intermittent and will need photographic evidence. She said it was part of the submission. She said we are in a drought situation and cannot take physical evidence of the dry intermittent stream channel now so they are using the prior documentation over the last several years that proved that multiple sections of Sewall Brook have been deemed intermittent by DEP. Mr. Coakley said we could accept that as opposed to the statutory requirements. We should make it clear to Ecotec that we are seeking their opinion on that aspect part of the application, and we can take it under advisement what their recommendation as well as other research done prior to the next meeting. Mr. Coakley remembered doing the gun range and they could provide information; different Orders had different outcomes. Ms. Hayes requested a continuance. Jeff Walsh made a motion to accept the request to continue the public hearing to October 19<sup>th</sup> at 7:10 p.m.; Dan Duffy seconded; roll call vote: all voted in favor; motion approved.

**COMMISSION BUSINESS**

Compass Pointe Update – Jeff Walsh recused himself from the matter. The Commission received photos from Mr. Anttila and Mr. Gary (residents of Compass Pointe). Attorney Watsky said at the last meeting, Mr. Haynes requested the letter of credit be released because he provided a \$151,000 bond. There was a separate \$120,000 letter of credit which Attorney Watsky was unaware of. His understanding was that that as the project was proceeding, Mr. Haynes requested five additional lots (16, 60, 61, 1A & 3A) be

released for construction under the Stormwater Permit. The Planning Board released a letter of credit and he asked if he could transfer it to Conservation. The bank reissued the letter of credit dated 2/30 2018 so the units would be managed properly and be stable. The lots were completed and Certificates of Occupancy issued for all of them. With the letters of credit about to expire and the bank having the previously issued approval by the Planning Board to release it, they contacted Mr. Haynes and he said to renew them; the bank reduced it for the smaller amount. The letter of credit was issued for the stability of the lots. Lots 60 & 61 were not in the wetlands. Lots 16, 1A & 3A still have slopes issues but said that is what the \$151,000 bond was issued for. He said the \$120,000 was lost track of, was for a specific purpose and that purpose is over and should let it go.

Mr. Duffy asked for an update on where we stand with regard to project and stabilization of the lots we have been talking about for a very long time and understand where we are, how we made some specific requests of the applicant that he has either elected not to provide information or has ignored specifically related to the as-built condition of the slopes on the lots off Compass Circle where we viewed that the toe of slope is at the water limit. Mr. Haynes agreed to provide us with that as-built as compared to where the water level was when the project was permitted; that has not been done. We asked for as-built slope information on the other side and he decided he did not want to provide it to us. That was the basis of having our engineer prepare a new cost estimate. We are speculating that the \$151,000 bond is adequate, but nobody really knows, the work has not been confirmed. We maintained that we need a new and updated cost estimate.

Attorney Watsky said where they left off with the \$151,000 bond having been provided, it was very clear that intention at that time was to withdraw the request for the Graves Engineering estimate for a reduction of the bond and agreed to leave the \$151,000 in place, proceed with stabilizing the slopes, and when that was done will come in with the as-built plan. They have not proceeded with the survey work to provide the as-built plan at this time because there is more work to do. Matt Marro said lots 60 and 61 are stabilized; they are not part of the slope areas. Lots 1 and 3 are in decent shape. Lot 3 going into lot 5 is weedier. Lot 6 is pretty well stabilized. Lot 4 is growing ok; it slowed because of the drought. He will loam and seed the areas that did not grow because of the drought. Mr. Duffy asked him to confirm that loam was going to be brought out because that was not something he did the last time; it was requested but not done. He asked what the schedule is; Mr. Marro said this week; strictly loam and seed.

Mr. Duffy went back to the OOC which had specific stipulations for what we wanted done based on the steepness of the slope and wanted to know if they intend to comply with it or asking to do something different than we approved. Mr. Marro will review the OOC with his client; the plan right now is to loam and seed the areas that did not grow in. Mr. Duffy said the applicant agreed to complete the work based on plans that were submitted and approved by the Commission. He said if they plan to put top soil on it, he would want to make sure they renewed all the erosion control barriers because they will be more susceptible to erosion than the existing case, and the work complies with the plans that were submitted to us and approved by us. Mr. Marro will review the erosion control barriers and double check their conditions.

Mr. McGrath said we received pictures today 3B Cheryl's Way and 16D and asked the status. He asked if Mr. Marro was going to work on 3B in terms of stabilization; Mr. Marro said that was correct. The photos he saw are the areas that will be loamed and seeded. On Unit 4 there were some fence posts going up. Those were areas that under the P&S where slopes were steeper at the edge of the backyard, he would put up fences. Mr. Duffy has concerns on lots 10 and 11, the slopes are extremely steep; much steeper than was permitted. We talked about, and thought agreed to, was to get the as-built for the

assessment (this is his opinion) and if it was constructed steeper than what we approved, will need a modification as to what the applicant will provide in order for us to review and accept what was approved already. We don't know the steepness of that slope. If the applicant does not want to provide an as-built plan, he would not vote for a Certificate of Compliance because of the steepness of the slope. The as-built plan was not meant just for a cost estimate.

Mr. McGrath told Attorney Watsky that the Commission wants to be notified when the erosion controls are repaired so they can be inspected and also when the loam is being brought in and spread on the slope. Mr. Duffy said as agreed to by the applicant we get the as built for lots 41 and 42 Compass Circle or we have our engineer go out. The toe of slope was at the level of water at Spruce Pond when they walked the site. The applicant suggested it was recent beaver activity but agreed to give us an as-built drawing compared to what we permitted. Attorney Watsky was not familiar with that conversation and will talk to Mr. Haynes. Mr. McGrath there are two concerns the Commission currently has. We are not sure the current bond in place of \$151,000 is the right amount for the remaining work to be done. Without that assurance and more information from their engineer as to what the conditions of the site were and what was approved and currently be sought as they work towards the as-built, he is not inclined to release the two additional bonds 3042 for \$51,597 and 3078 for \$16,200. It appears the \$16,200 amount was reduced without the Commission's approval. His thoughts were that we still have to hold Mr. Haynes to the original conditions when the original Order was issued. We have not received anything about what the specific alternatives will be. Without understanding the alternatives and where we are in the process, we don't want to risk reducing the bonds. His request would be that they allow their engineer to work with our engineer to get a better understanding of what the finished state of the project will be, what the variation is between that and what was filed and approved, and the cost to get to that point.

Mr. McGrath asked for public comment. Mark Anttila (46B Compass Circle) did not know of any of the hills being loam and seeded; his has no loam, it is mulched. He thinks there is an unknown about the actual cost. He asked what happens to the bales of hay? Mr. Duffy explained that when the project is complete and we are satisfied that it is stabilized, the applicant will remove them. He asked if there are rules about fencing and how they are installed. Mr. Burkhardt said they are part of the stormwater regulations. Mr. McGrath said the only town regulation we have relates to drainage around detention basins and retention areas. Mr. Duffy did not believe any fencing was proposed as part of the NOI we reviewed and approved. As-built information would be helpful in determining how close the fences are to resource areas. Onni Wirtanen (5B Cheryl's Way) said there is no loam on the south side; on the north side only 4A & 4B received some, but it gullied out with the rain.

Mr. McGrath asked Attorney Watsky to ask Mr. Haynes on the Commission's behalf to consider his engineer to work with our engineer to get the cost estimate to get the work done on the site. Attorney Watsky will pass along the request. Peter Garry (3B Cheryl's Way) asked Mr. Marro to provide a list of lots that will be seeded and a timeline. Attorney Watsky said Mr. Marro will provide the Commission with notice of when the loam will come in and prepare status reports. The Commission has not received any reports. Mr. Marro said he sent them to his client. Mr. Anttila asked how much loam is going down on the slopes. Mr. McGrath asked Mr. Marro to update the plan and provide status reports and details of what is being done with the loam and seed as soon as possible. Mr. Wirtanen commented that the ground up material was supposed to be removed before the loam was to be put down. Attorney Watsky said that Mr. Marro previously reported that a small amount would be raked out and the rest was suitable to be left.

Mr. McGrath asked if the members thought it was appropriate for our engineer to go out and review that the current work being done is appropriate; all members agreed. Mr. Duffy said we have asked Attorney Watsky to follow up with his client in regard to our request for the as-built plan. He suggested to the members that if the applicant does not agree to do the as-built plans specifically related to lots 41 & 42 Compass Circle, we get an as-built condition of the toe of the slope (it was brought up during the site walk). The toe of slope was significantly set back from the water and when it was viewed at the site walk, the water level was at the toe of the slope. He suggested if the applicant is not willing to do it, then we have our engineer to do it and fund it from the 53G account; all members agreed. Paul McManus (EcoTec) will be asked to visit the site and to specifically observe the places that are being seeded and loamed.

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) – Discussed earlier.

Lilymere Estates (Revised Site Stabilization & Drainage/Stormwater Estimate) – Jeff Walsh recused himself from the matter. Graves Engineering prepared a revised estimated in the amount of \$94,740.00. The members have no objections to change the bond and method of surety, but will need a formal written request to the Commission with details of the bond (the financial institution, how it will be reduced and that it will remain in effect); it will then have to go to Town Counsel for review. Mr. Duffy also wants Graves Engineering to confirm that they have viewed the site and there is an adequate quantity of topsoil on site to spread on the square yardage of the stie remaining. He will contact Graves.

Request for Certificate of Compliance for DEP#115-389 (32 Boulder Way) Ken Sydow – Information was received and reviewed by members. Mark Coakley reviewed the MA DEP Stormwater Handbook regarding roof runoff and found best management practices relating to drywells. It included a method for inspection and overflow features. The applicant's engineer said it was an option. Cultec defers to local building codes and regulations. He has no doubt it is not effective short term, but not sure it was installed according to local regulations and is optional. Jeff Walsh made a motion to issue a Certificate of Compliance for DEP #115-389 (32 Boulder Way); Chip Burkhardt seconded; roll call vote: all voted in favor; motion approved.

Request for Certificate of Compliance for DEP#115-315 (387 Central Street) Dan Buddenhagen – Chip Burkhardt visited the site; the as-built plan reflects that the work that has been completed as proposed. Joe McGrath made a motion to issue a Certificate of Compliance for DEP #115-315 (387 Central Street); Chip Burkhardt seconded; roll call vote: all voted in favor; motion approved.

Brittanie Derr (Paul Massad Landscaping) – Informal Discussion (34 Boulder Way) – There is an existing boulder retaining wall along the back of the property. The homeowners want to push the curved area out 6-feet to place a patio there. It was suggested she refer to the original scope in the NOI. If they plan to move the wall 6-feet more into the resource area they will need to file an NOI. She will contact and the office and Melanie will provide her with the information from the original NOI.

Kim Ames (Donation of Land) – The parcel is 4-47 at the end of Roy Street; it abuts Sewall Pond; it is a paper street; there is no public access. It is not sure if she wants to donate it or put it in a CR. She will be invited to the October meeting to discuss the different options.

Correspondence and emails were reviewed.

**Conservation Meeting Minutes – September 21, 2020**

Mark Coakley made a motion to approve the Meeting Minutes dated August 17, 2020; Dan Duffy seconded; voted 4-0-1; motion approved (Mr. McGrath abstained).

October 19<sup>th</sup> was confirmed as the next meeting date.

Having no further business to discuss, Dan Duffy made a motion to adjourn; Jeff Walsh seconded; roll call vote: all voted in favor; motion approved. The meeting adjourned at 9:13 p.m.