



Town of Boylston Conservation Commission conservation@boylston-ma.gov

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REGULAR MEETING MINUTES JANUARY 19, 2021

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

Members Absent: Chip Burkhardt

Others Participating Remotely: Nicole Hayes (Goddard Consulting); Paul McManus (EcoTec); Steve Sears (David E. Ross Associates), Anna Chase and Matt Ladewig (ESS Group); Peter Collins (Lake Quinsigamond Commission); James Tetreault (Thompson-Liston); Mark Richardson (Worcester Horticultural Society); Vito Colonna (Connorstone Engineering)

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) with any questions which will be answered during the meeting; they can dial in as well.

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

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 requested a continuance to February. Jeff Walsh made a motion to accept the request for continuance to Tuesday, February 16, 2021 at 7:05 p.m.; Dan Duffy seconded; roll call vote: Duffy-aye; Walsh-aye; Coakley-aye; McGrath-aye; motion approved.

PUBLIC HEARING (continued) – 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#115-428)

A revised filing was received. Nicole Hayes (Goddard Consulting) said they were asking for the Commission to confirm that the onsite stream was intermittent. Because the Commission could not confirm that, the applicant withdrew the riverfront area and updated the application and plans. Paul McManus (EcoTec) said the field delineations are representative of the regulations and commented that the Commission issue an ORAD explicit with respect to the riverfront, that there is a presumption that riverfront exists on the site and that the extent of riverfront is not included in this determination.

Mark Coakley asked how we show on the plan that there is riverfront because there is nothing on the plan that the river is presumed to be present. Mr. McManus said explicit language is needed in the ORAD and put on the plan itself and suggested not showing the riverfront because the Commission has not reviewed it. Ms. Hayes commented that there is a note that on the plan title block "1-4-2021 ADD

WFs A-12.1, GC-40R, REMOVE RIVERFRONT DETERMINATION FROM ANRAD”. On the ORAD, B. Order of Delineation, a. 1 & 2 (ILSF) will be noted, and an additional note added that the Commission did not make a determination with respect to riverfront.

Mr. McGrath asked for public comment. Hearing none, Mark Coakley made a motion to close the public hearing; Jeff Walsh seconded; roll call vote: Duffy-aye; Walsh-aye; Coakley-aye; McGrath-aye; motion approved. Joe McGrath made a motion to issue an ORAD with information regarding the omission of the riverfront area from consideration and bank; Mark Coakley seconded; roll call vote: Duffy-aye; Walsh-aye; Coakley-aye; McGrath-aye; motion approved.

PUBLIC MEETING – 100 School Street (Roland & Janice Lizotte) – Request for Determination of Applicability Application to remove a full exotic invasive plant including the roots.

Glenn Krevosky requested a continuance. Jeff Walsh made a motion to accept the request for continuance to Tuesday, February 16, 2021 at 7:10 p.m.; Mark Coakley seconded; roll call vote: Duffy-aye; Walsh-aye; Coakley-aye; McGrath-aye; motion approved.

PUBLIC MEETING – 750 Main Street (Keith Lewis) – Request for Determination of Applicability Application to clear existing trees and brush, remove existing building and construct new building.

Mr. Lewis sent an email stating that he hired an environmental consultant and will be filing a Notice of Intent application at a later date. Mark Coakley made a motion to close the public meeting without prejudice; Jeff Walsh seconded; roll call vote: Duffy-aye; Walsh-aye; Coakley-aye; McGrath-aye; motion approved.

PUBLIC MEETING – 7 Underwood Avenue (Estate of Suzanne Pauquet) – Request for Determination of Applicability Application to replace a failing cesspool. The proposed replacement system is designed 122-feet from the wetland; the water-tight septic tank is designed approximately 175-feet from Malagasco Brook; the proposed leach field is designed approximately 210-feet from Malagasco Brook; no vegetation to be removed for this system.

Steve Sears (David E. Ross Associates) participated. It is an existing three-bedroom house, no proposed increase, wants to replace the cesspool which is 65-feet from the edge of the wetlands. The proposed leach field is 122-feet from the wetlands and 210-feet from Malagasco Brook. The septic tank and sewer pipe is 175-feet off the Brook. Except for the water-tight tank and sewer connection, most of the work is not in the buffer zone. No vegetation will be removed; the Board of Health approved the plan on December 21, 2020; it has been submitted to DCR, but he has not yet received a response. Erosion controls will be placed around the cesspool; nothing was proposed around the leach field; Mr. Sears will have wattles put on the uphill side from the house out to the street. It was not known if the row of pines would be removed; Mr. Sears will check with the new owner. Jeff Walsh was concerned with work in the riverfront and said the work proposed is in the riverfront; his opinion was that the RDA is not the right application, an NOI is required. Patrick Healy commented that in CMR 10.58 (6)(c) for the riverfront areas there is an exemption for the upgrade of existing systems that preexist the Rivers Act; it appears this would fall under the exemption. Mark Coakley said the work is exempt but not sure the review was. Mr. Walsh understood it to mean the replacement of an existing septic system is an activity in the area which is grandfathered or exempted from the requirements of the riverfront. If that is the case, it removes 10.58 altogether and does not see the need for an NOI; he was comfortable voting on the RDA application. Mr. Duffy said it should be noted on the Determination in the event there were any concerns by DEP or others that may think the Commission has set a precedence. Mark Coakley made a

motion to close the public meeting; Jeff Walsh seconded; roll call vote: Duffy-aye; Walsh-aye; Coakley-aye; McGrath-aye; motion approved. Mr. Walsh made a motion to issue a Negative Determination of Applicability with the understanding that the replacement of the septic system is exempt from the riverfront provisions under 310 CMR 10.58 (6)(c); Dan Duffy seconded; roll call vote: Duffy-aye; Walsh-aye; Coakley-aye; McGrath-aye; motion approved.

PUBLIC HEARING – Newton Pond (Shrewsbury/Boylston) – Notice of Intent Application to implement a long-term vegetation management plan at Newton Pond to manage dense growths of invasive and nuisance aquatic plants. Aquatic plant management actions may include herbicide and algaecide treatments, harvesting, and bottom sealing. (DEP#115-xxx)

Anna Chase, ESS Group explained that Newton Pond is an approximately 59-acre water body on the border of Boylston and Shrewsbury; entirely in the Lake Quinsigamond Watershed; relatively shallow but does have a public access on the southern end. ESS conducted an assessment in 2019; there were extensive growths of three species of aquatic invasive plants. They are looking for approval for a variety of different management actions to address the invasive plants while minimizing impact to non-target species. The management actions include chemical controls and physical controls. An herbicide treatment (systemic and contact) would be done first. The plan also includes algaecides if needed; harvesting (hand and dash); and bottom sealing. Which action to use will be based on monitoring. Because it is long term nature of the project they are asking for a five-year Order of Conditions.

The Shrewsbury filing has been continued because DEP has not issued a file number yet. Mr. McGrath asked the timing of the treatment. Ms. Chase said a full lake systemic herbicide sonar treatment would be done first, which is most effective during peak growing season, but could be applied as early as April. Once sonar is completed and a post-treatment assessment done, they will see what other actions are feasible. The plan is to start in 2021. Mr. McGrath asked the name of the pesticide application (it was not listed in the application) and asked if ESS was going to do the pesticide application and have the appropriate licenses or would it be subcontracted. She said it would be subcontracted; it has not been sent out to bid because they don't have permits yet. They have used SOLitude Lake Management in the past. Mr. McGrath commented that the application mentioned a potential treatment method for the lake would be a drawdown and asked about it. She said drawdown was suggested after the 2019 assessment, but they are not looking for permission to do that at this time; more data is needed. Mr. McGrath commented that the report says the phosphorus levels are slightly above normal and said we are required to have a Lake Phosphorus Control Plan for Newton Pond. He asked were there any plans to address the phosphorus pollutant control in the pond at this point. She said it was not specifically addressed in their plan; the goal was to reduce the invasive species which will have a positive impact on the water quality. Peter Collins said they will be going after the issues that are attacking the lake, with phosphorus being a large part, which is coming from the abutters. They are developing educational plans for the residents; they are also developing test protocols to develop what is coming in the lake and from where. The abutters are very active and have taken steps to educate themselves. Mr. McGrath said the Commission is talking with Brad Stone and the Town Planner in Shrewsbury about the LPC plan and what that means. Even though the plan is still required by state law, there was another piece of legislature that removed the pond from one list, but it still remains on another.

Dan Duffy shared the feedback from Paul McManus who attended the Shrewsbury meeting. It was suggested it would be good for us to understand how the neighbors will receive notice of the work when it happens; what type of notification will they be given. Mr. Collins said they will do notice around the pond at all access points; post on telephone poles, Lake Quinsigamond website, Lake Quinsigamond Watershed Association Facebook page and website as well. They take all the precautions. Mr. Duffy

asked if they considered giving notice to those that live on the lake that may not see the postings. Mr. Collins said they are not opposed to that. Mr. Duffy said an individual at the Shrewsbury Engineering Department indicated that he thought the Town of Shrewsbury owned it; Mr. Collins said correct. Mr. Duffy asked even in Boylston? Mr. Collins thought the individual was talking about underneath the pond. It is land in Boylston, but believes Shrewsbury owns the land under the pond. Matt Ladewig (ESS) said he doesn't think the parcel in Boylston is listed as being a parcel, so they were not able to determine the owner on the Boylston side. Ms. Chase said the assessor had to physically draw the outline of the pond because it was not a defined parcel. Mr. Duffy said we would need to understand that better because the property owner needs to sign the application. Mr. Collins said they are working on that also with Shrewsbury. Mr. Ladewig said typically they would assume the applicant is the caretaker on behalf of that parcel for the project. Mark Coakley asked if they did an assessment of Sewall Pond. Ms. Chase said the assessment in 2019 focused on Newton Pond. Mr. McGrath said as far as issuing a five-year Order of Conditions, the Commission does not typically do that. Ms. Chase said earlier that after the initial treatment they would do an impact study and would then determine the next steps. Mr. McGrath asked what if the next steps were not covered in the NOI? Did she feel the NOI was comprehensive enough to cover what they may consider the next step, or would they be willing to come back to the Commission as a condition of the Order and give us the results of the impact study? She said the current management plan was written to be inclusive of all management approaches that they deemed likely to be used to cover it. Mr. Duffy asked if it would be a three- or five-year project or will it be a continuing issue. Ms. Chase said it will be an ongoing process with monitoring and assessments. Mr. Ladewig believes they put together a comprehensive management plan, but science and practices change. The Commission does want to give blanket permission for them to change details of the management plan without notifying us.

Mr. McGrath asked for public comments. Hearing none, Ms. Chase requested a continuance. Mr. Coakley asked if we needed a third-party review; he is not comfortable not knowing what the best management practices are. Mr. Duffy said we should contact Shrewsbury. Mr. McGrath will ask Paul McManus for recommendations on who can peer review the plan. Mark Coakley made a motion to accept the request for continuance to Tuesday, February 16, 2021 at 7:15 p.m.; Jeff Walsh seconded; roll call vote: Duffy-aye; Walsh-aye; Coakley-aye; McGrath-aye; motion approved.

PUBLIC HEARING – 178 Main Street (Bill Manter) – Notice of Intent Application to construct a duplex within the buffer zone associated with the bank of an intermittent stream. No alteration of resource areas is proposed. (DEP#115-xxx)

James Tetreault (Thompson-Liston) participated. It is a 37,000± square foot lot. They propose to demolish the existing barn and construct a duplex served by a septic system in front and dry well behind it for roof runoff; to the south side is the bank. All soil tests resulted in sand textured soil which is why what is flagged for the wetland resource beside the intermittent stream is the bank, but not beyond that. The reason there is not wetland beyond that is because there is such a sandy soil. They propose to use the existing driveway. No wetland resource alterations are proposed. The soil conditions were consistent with the somewhat unusual circumstance of not getting BVW outside of the bank.

Jeff Walsh asked about lot 1 and what they were going to do for a driveway when the second lot is created. Mr. Tetreault said they will create an easement so they can use the existing driveway. Dan Duffy asked about the wall on the plan. Mr. Tetreault said they tried to keep it under 4-feet and proposing it to be a 2-feet thick large block wall; he did not have details on the construction, but it can be included since no DEP number has been issued and the hearing will be continued. Mr. Duffy asked if the erosion control barrier was the limit of work. Mr. Tetreault said it is the limit of work; at the nearest

point (GC8) it is 6-feet off the bank; it is close by the street (GC1 & GC2). Removal of scrub vegetation is proposed but no significant grading. Mr. Duffy said the Commission prefers to keep 25-feet away and asked what they could do to meet that setback. Mr. Tetreault did not think it could be 25-feet off the wetlands and meet the other setbacks. The septic system must be in a very specific location to stay 100-feet off the wetland. He is not sure it can be done. Mark Coakley said if the dimensions of the house were reversed, they would still have the duplex and be 10-feet further away. Mr. Tetreault said they would have to figure out how to make the garage work. Mr. McGrath would like to see on the plan where the proposed driveway and garage entrances will be. Mr. Tetreault said there is a note and shows the pavement going to the outside edge of both units. Mr. Coakley's preference would be to move the house the other way around. He didn't see any encumbrances going farther east west. Mr. Tetreault said there is the issue of required separation from the leaching trenches. Mr. Duffy said we haven't permitted something this close to the wetlands in recent history. He asked about the surface treatments on the 2:1 slopes. Mr. Tetreault said an erosion control mat. Mr. Walsh felt there was some merit in investigating rotating the house and gaining more setback from the wetlands; he thought there is some room to work with. Administratively, Mr. Coakley noted that the form is checked off as a single-family home; Mr. Walsh doesn't see it as a single-family home. Mr. Tetreault said they will have an ANR plan at some point.

Mr. McGrath asked for public comment. Hearing none, Mr. Tetreault requested a continuance. Joe McGrath made a motion to accept the request for continuance to 7:20 p.m. on Tuesday, February 16, 2020; Mark Coakley seconded; roll call vote: Duffy-aye; Walsh-aye; Coakley-aye; McGrath-aye; motion approved.

PUBLIC MEETING – 11 French Drive (Worcester County Horticultural Society) – Request for Determination of Applicability Application to install a perimeter fence to enclose the majority of the contiguous property (formal gardens, built structures, parking areas, agricultural land, woodlands, and meadows).

Mark Richardson participated. They are interested in installing a perimeter fence on the majority of the property (approximately 171 acres) due to people entering without permission; unauthorized deer stands and unauthorized hunting activity; they also want to protect the living plant collections and upcoming plantings. They plan to work with River Valley Fencing. The fence is approximately three miles. There are at least three locations where they want to cross the resource areas directly. There are three different methods for installing fence posts. In dry upland areas, a hydraulic post counter mounted bobcat on rubber tracks will be used. Where there is exposed bedrock and resource areas, they will attach the fence posts to existing trees. The last alternative is galvanized steel T-posts.

Jeff Walsh commented that there will be work in the resource areas and thought an NOI may be appropriate it (there are at least four places where it goes into resource areas). Mr. Richardson said they are limiting the areas where they are crossing the resource areas directly and hoped the Commission will consider that there will be no soil disturbance, no equipment used, they will be attaching the fence to the trees in the buffer zone. On Linden Street they are working on an old logging road, it is not a resource area; the new parcel they acquired has a lot of ATV activity and they would like to protect that. He is preparing a MESA filing. He said putting the fence in is the way to protect the resource areas and hopes the Commission will consider any of the crossing minimal and soil distribution would be in the buffer zone, not in the wetland resource area.

Dan Duffy commented, not as a Commissioner, that he had some philosophical difference issues with fencing off the entire property with an 8-foot-high fence and thought there were other measures they

could take to protect the plants that are not as invasive as a fencing off the entire area. As a Commissioner he said there are some options to avoid the wetland crossings and keep the fence on the interior side of the resource areas. Mark Coakley commented if the fencing is going through the resource area an RDA is not appropriate; Mr. McGrath agreed; an NOI would be needed.

Mr. McGrath asked for public comment; there was none. With the Commission leaning towards issuing a negative determination and requesting an NOI be filed, Mr. Richardson asked to withdraw the RDA filing without prejudice. Mr. Walsh made a motion to accept the withdrawal of the RDA filing without prejudice; Mr. McGrath seconded; roll call vote: Duffy-aye; Walsh-aye; Coakley-aye; McGrath-aye; motion approved. Mr. Richardson will provide the determinations from DCR for the Watershed Protection Act and Natural Heritage MESA filing when he receives them. Mr. McGrath made a motion to close the public meeting; Mark Coakley seconded; roll call vote: Duffy-aye; Walsh-aye; Coakley-aye; McGrath-aye; motion approved.

COMMISSION BUSINESS

Correspondence and Emails – Emails were received regarding activity on Stiles Road as well as a complaint and on Compass Pointe. Additional correspondence included the maintenance plan from National Grid, and the Stormwater Report from Phillips Precision.

Kim Ames Donation of Land Update – Jeff Walsh made a motion to pass over the item until the February meeting so the members can review the information received from Town Counsel; Mark Coakley seconded; roll call vote: Duffy-aye; Walsh-aye; Coakley-aye; McGrath-aye; motion approved.

Compass Pointe Update – Jeff Walsh recused himself from the matter. Attorney Watsky sent an email today with information from Matt Marro; neither were able to attend tonight. An email with photos was also received from Bart Langanelli (8A Cheryl's Way). The riprap has been installed. Mark Anttila asked if it was where the Commission wanted it installed and was told the photos were just received today; members have not visited the site.

Consider issuing a Certificate of Compliance for Longley Hill (DEP#115-342) and Stormwater Control Permit SCP#2009-2 – Joe McGrath said there are a number of outstanding issues relating to drainage structures that need to be addressed before the Commission can issue a Certificate of Compliance and asked for a motion to pass over the item until the matters are resolved. Mark Coakley made a motion that we have insufficient information to issue a Certificate of Compliance; Dan Duffy seconded; roll call vote: Duffy-aye; Coakley-aye; McGrath-aye; motion approved (Walsh abstained).

Accept Lilymere reduced Bond (\$94,740.00) – Jeff Walsh recused himself from the matter. The bond was reviewed by Town Counsel and is acceptable to the Commission.

Mark Coakley made a motion to approve the Meeting Minutes dated December 21, 2020; Jeff Walsh seconded; roll call vote: Duffy-aye; Walsh-aye; Coakley-aye; McGrath-aye; motion approved.

Joe McGrath made a motion to set February 16th as the next meeting date; Mark Coakley seconded; roll call vote: roll call vote: Duffy-aye; Walsh-aye; Coakley-aye; McGrath-aye; motion approved.

Stiles Road Complaint (Paul Labelle) – Mark Coakley will visit the site tomorrow and follow up with Mr. Labelle.

Avery Way Modified Subdivision Plans – Vito Colonna (Connorstone Engineering) submitted a revised plan for the subdivision. It was originally a two-lot subdivision on Mill Road; one lot had a wetland resource area on it. The Commission issued an Order of Conditions in 2018 and a Stormwater Permit in 2017. The builder (Shrewsbury Homes) has acquired another piece of land adjacent to what was going to be the subdivision road; it will now be four lots. The two new lots that have been added (lot 3 & lot 4) are not in a resource wetland area; they don't impact anything from the wetland protection aspect, but it does represent a change to the Stormwater Control Permit. After a review of the permit and conditions, Mr. McGrath did not think it impacts the conditions on the Permit (we will have the modified plan to go with the existing permit). He asked the Commission's preference as to whether to have the applicant file for a new permit, file for an amended permit, or accept the amended plan and leave the permit in place. Mr. Walsh did not think it is appropriate to leave the existing permit in place where they are adding two more lots and creating more lawn and more impervious area; he thought they should amend the permit. Melanie will contact Ron Aspero and Vito Colonna to let them know.

8 Gulf Street (Informational) – The town now has a Town Planner who has been very good at letting Joe McGrath know about filings coming before the Planning Board. The project is a senior residential 55+ housing. There is a significant amount of resource areas at the bottom and other large wetlands throughout the site. We have not received a filing yet.

Joe McGrath made a motion to send the Annual Report to the BOS Administrative Assistant; Mark Coakley seconded; roll call vote: Duffy-aye; Walsh-aye; Coakley-aye; McGrath-aye; motion approved.

Filming on Route 140 – Joe McGrath will attend in a meeting with the Board of Selectmen tomorrow morning. The production company plans to film an episode of a TV series on Route 140 between Route 70 and the West Boylston line. They will stage a car crash in the vicinity of the reservoir. Mr. McGrath has spoken with the representative of the film company and with the Town Administrator. DCR has issued a special permit to allow it. It will be a single car crash and the car will have very little gas (about one ounce). The Fire and Police Departments are ok with it. If there were multiple crashes or multiple days of filming the Commission would want, if not a filing, some type of erosion controls in place to protect the resource areas, but it appears it will be safe. Fire and Police will be on site. Fencing will come down; they will be 78-feet away from the water at the closest point. The Commission will neither endorse nor block it. Mr. McGrath requested a copy of the DCR permit for our files; if they are ok with it, the Commission has no concerns. Mr. McGrath will pass along the comments tomorrow.

Having no further business to discuss, Mark Coakley made a motion to adjourn; Dan Duffy seconded; roll call vote: Duffy-aye; Walsh-aye; Coakley-aye; McGrath-aye; motion approved.

The meeting adjourned at 9:28 p.m.