



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

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REGULAR MEETING MINUTES

AUGUST 21, 2023

Members Present: Chip Burkhardt, Jeffrey Walsh, Joe McGrath, Ron Aspero, Lucas Rose

Members Absent: Mark Coakley

Others Present: See Attached Sign-In Sheet

Recorder: Melanie Rich

The meeting was opened at 7:00 p.m. Chip Burkhardt made a motion to schedule September 18, 2023 as the next meeting date; Joe McGrath seconded; all voted in favor; motion approved. Jeff Walsh made a motion to approve the July 17, 2023 Meeting Minutes; Joe McGrath seconded; all voted in favor; motion approved.

Continued PUBLIC HEARING – Lot 11 Longley Hill Road (Farooq Ansari, Central Street Boylston Realty Trust) – Request to Amend Order of Conditions DEP#115-442 to reflect plan revisions made by the applicant and contractor without Conservation approval.

Jeff Walsh recused himself from the discussion. James Tetreault (Azimuth Land Design) was present. Mr. Tetreault thought the issue remaining was the letter that was submitted in regard to walls and stability of conditions on site was not deemed adequate by the Commission. He met with Sanjay Kaul, P.E. of LALA Associates Engineering, LLC. A letter was sent to the Commission dated August 21, 2023; a revised letter was sent August 21, 2023 at 5:13 p.m. The letter says Mr. Kaul looked at three areas: the wall up top around the new septic system, the wall behind the house, and site conditions and stability of the slopes. Mr. Kaul doesn't believe there is any reason to think there's an unusual risk of erosion or instability in any of the areas. The letter does note that the stabilization and grading around the house has not been completed.

Mr. Ansari sent an email to the Commission on July 27th that said that the wall was designed by a structural engineer and was completed in 2012 and a letter from the structural guy will be forwarded to Mike Andrade. Mr. Burkhardt said Mr. Andrade's review doesn't reference any structural guy, nor has it been provided. Mr. Tetreault said it was LALA Associates Engineering that did the design for the wall and it referred to the wall behind the house. Mr. Burkhardt asked where the information was from 2012 that was the structural design. Mr. Tetreault said it was given to the Building Inspector in 2012. Mr. Burkhardt noted that Mr. Kaul is not a structural engineer and thought the language in the letter was vague and didn't have a lot of certainty, which the board was looking for. If this was the engineer that did the work in 2012, one would think it would be less vague because they'd have the knowledge of that retaining wall and would have documented it in the letter. Mr. Tetreault disagreed and didn't think the engineer, in consistency with engineering practices, could guarantee anything not knowing if there's an underlying condition that could be an issue in the future.

The letter that Mike Andrade reviewed was dated August 18th, yet another version of the same letter. Mr. Burkhardt was frustrated because Mr. Ansari is not providing what he has been asked to provide numerous times. The Commission has been very clear in what they want, and we still don't have it. Mr. Andrade's email of Friday, August 18, 2023 states in part that it was prepared and stamped by a Civil Engineer, it addresses the older sloped retaining wall and not the newer wall associated with the septic system; the language falls short of a certification. The concern has always been for the sloped wall that

there was no design nor controlled construction (they have no evidence of either), and the letter does not address any review of design drawings or inspection reports for the wall's construction; he found the letter to be vague. Mr. Tetreault didn't think anyone could give the Commission the certainty that they are looking for. Mr. Burkhardt said there are no photos or observations referencing the newest construction. It would have been more acceptable if Mr. Kaul included references from 2012. The Commission has been talking about this wall since the project started and set expectations for what we wanted to see at this point; we are closer but not quite there. The Commission is nervous about Mr. Ansari leaving the wall behind and it becoming the homeowner's responsibility should something happen to it. Until it is satisfied, the Commission in good conscience can't approve anything. Mr. Burkhardt explained that something was constructed at the top of the hill, but it wasn't approved by the Commission. It was not part of the approved plans that came in front of the Commission. The mounded septic system at the top of the hill was not part of the approval; the ground level septic system was.

Mr. Tetreault said there was a mounded septic system on the July 17, 2022 plan as well as a retaining wall. He explained the wall that was moved approximately 6' to accommodate the grades because they were not where they were thought to be which is why they moved it back.

Mr. McGrath asked if there was a structural engineer review of the planned activity at the top of the wall and retaining wall when it was initially designed. Mr. Tetreault said there was no engineering review. There was a review by Graves Engineering and Paul McManus of EcoTec but no one asked for a structural engineer or PE's review of the wall. Mr. McGrath didn't recall it that way and will clarify it. He thought we had reservations about the excavation behind the house and requested a structural engineer review the stabilization because it was so steep. Mr. Burkhardt said what was confusing is that if Mr. Ansari has something from 2012, where is it. It was never submitted to us and we don't have it. Mr. Tetreault said LALA Engineering sent a statement just about the wall and its history and how it had gone to the Building Department and Mike Andrade said it was okay and it was signed off on. Mr. Burkhardt said we are not getting comprehensive submittals; we are getting things piecemeal and getting stuff the day of the meeting. Mr. Ansari sent an email to Mike Andrade stating that "he was providing the wall info to Mike Andrade per his comment. That wall was designed by a structural engineer and was completed in 2012. A letter from the structural guy will be forwarded to Mike Andrade." If Mr. Ansari would provide that letter about the wall or any documentation, it would help to address it and resolve the issue. We are looking for the submittal to the Building Inspector, a report, or any other supporting documentation from the engineer review in 2012.

The potential owners of the house were present and said trees in front of the house were recently removed and asked if it was safe because there is a slope and wanted to know the plans. Mr. Tetreault said the slope is not finished. The steps will be removed and it will be loamed, seeded, an erosion control mat put down, and ground creeping plants planted, not grass, because it would be almost impossible to mow the slope. The owners can discuss a fence with Mr. Ansari. Mr. Burkhardt said the Commission will want to see the slope stabilized by the September meeting.

Mr. Tetreault requested a continuance to the next meeting. Chip Burkhardt made a motion to accept the request to continue to the September 18, 2023 meeting at 7:05 p.m.; Ron Aspero seconded; all voted in favor; motion approved.

COMMISSION BUSINESS

Ratify Enforcement Order for Pond View on Main (313 Main Street) DEP#115-432, Mike May – Mike May was present. The purpose is to discuss the plan on how to remediate some of the sediment that's gone into the wetlands. Mr. May said he has been on the site almost every day since work started. Three

years ago they installed erosion controls around the entire site; there were no issues in 2021/2022. A drill rig was brought in as well as a blasting company to evaluate how much material on site needed to be blasted. Adam Dexter contacted Mr. May about Art Allen doing a site visit at the Commission's request. Mr. Dexter cleared some of the edges to open up the area. He left the vegetated material in the front end 30'-50' out from the erosion controls. S&S Farms doubled up on the erosion controls around the problem areas; and Mr. Dexter did a better detention area.

He contacted the Town Planner after his vacation and was told he needed to file with the Earth Removal Board. Baystate Blasting agreed to do an assessment and, as part of that, used a drone to document the size of every pile; he said the Town Planner has a copy of the documentation. As part of the process, they needed to move the loam down, over, and away so they could start on the blasting plan. The only area where they removed loam was in the front side of the property. The only reason they agreed to move the loam out is because of the need to complete the evaluation. He met with John Grenier and Jim Smith and are reworking the overall plan for the site. The goal is to clear enough gravel area in the front; they have determined where the limit of the ledge is. Matt Marro will do regular inspections and provide reports to the Commission. When Mr. Marro prepares and provides the remediation plan, Mr. May will submit it to the Commission.

Mr. May commented that Art Allen's report references that fill is what ran over and down in the back of the wetland area. He said it was water that ran over the catchment area; some of the loaming material rolled off the back and into the wetland. He said they need to remove the last loam pile; everything else will stay on the site. The Enforcement Order states that no more loam is to come off the site. He would like the Commission to allow him to be able to clear the rest of the front loam pile. When the project is complete, it will have storage plus offices in smaller buildings around the edges of the property, whereas the original plan was to have only a storage facility.

Mr. Burkhardt acknowledged that he had valid permits, but the issue was the overflow into one of the wetlands. Mr. McGrath said what got into the wetlands was not a major disturbance because it's not destroying any resource area at this point and thought the Commission could work to address it. Mr. McGrath asked if #1 of Art Allen's August 1st letter has been addressed. Mr. May said it was but a rolling swale is needed at the bottom of the hill and put deeper back up the hill. Mr. McGrath said to be careful where they route the water because there have been situations where it makes matters worse. #2 is all set. What the Commission can do is when he finishes that work, let us know and we will have Art Allen do another inspection. As far as #3, which is the restoration plan, the Commission was comfortable with Matt Marro identifying the impact and providing a restoration plan.

With regard to Mr. May saying there is no record of a letter about soil testing that was referenced in the Order, Mr. Walsh said it's Special Condition #21 and was given a copy. Mr. May said Sean Pepper is the General Contractor and wants Yankee Engineering to do some of the testing. Mr. Walsh commented that they are acceptable Geotechs, but not sure they have a soil evaluator on site and suggested he talk to Matt Marro and John Grenier. He said they are taking off piles of topsoil, but will they have topsoil remaining on site that they can redistribute? Mr. May said yes, approximately 5,000-6,000 yards. Mr. Walsh was disappointed that since the erosion controls were installed approximately three years ago, they were doing work and never walking the site. He told him to be careful with respect to creating temporary settling basins whether it's concentrating flow or decentralizing the flow; he may want to make a riprap check dam.

Mr. McGrath asked if he needed to get the Earth Removal permit before taking out the front loam. Mr. May said he will talk with them. Mr. McGrath recommended that the Commission ratify the Enforcement Order and include that if the Earth Removal Board approves removal of the front loam pile,

that the Commission allow it under the Enforcement Order. As soon as we receive the remediation plan from Matt Marro and the other conditions are met, he thinks we can lift the Enforcement Order. The Enforcement Order will be left in place until we get the plan. Mr. Walsh was fine with removing the wording to “cease and desist....”. the rest of the wording will remain. The date for receipt of the restoration plan will be extended.

Joe McGrath made a motion to revise the Enforcement Order to remove the first item in “Section C-Order” and delete the line “all other activity on the site including trucking material off site, should cease immediately until the ESC controls are repaired and a plan for restoration and mitigation is approved by the Commission” and ratify the Enforcement Order; Jeff Walsh seconded; all voted in favor; motion approved.

Consider issuing a Certificate of Compliance for DEP #115-198, Youssef Chehade, off Cross Street (the Order had lapsed). Current Order of Conditions DEP #115-373 was issued May 19, 2014 and remains in effect. – Jeff Walsh recused himself from the discussion. No work took place under DEP#115-198. Joe McGrath made a motion to issue a Certificate of Compliance for DEP#115-198 referencing reason #5, the above referenced Order of Conditions has lapsed and therefore no longer valid and the work regulated by it was never started; Ron Aspero seconded; all voted in favor; motion approved.

Consider issuing Extension Permits for DEP#115-373 and Stormwater Control Permit SCP#2014-1 (Barnard Hill Estates) – Jeff Walsh recused himself from the discussion. Rich Chehade was present with James Tetreault (Azimuth Land Design). Mr. Chehade gave an update on the status of the Barnard Hill subdivision. Mr. Tetreault believes this will be the last extension needed. Joe McGrath made a motion to grant a two-year extension to 8/21/2025 for DEP#115-373; Lucas Rose seconded; all voted in favor; motion approved. Joe McGrath made a motion to issue a two-year extension to 8/21/2025 for Stormwater Control Permit #SCP-2014-1; Chip Burkhardt seconded; all voted in favor; motion approved.

Stiles Road Update (certified letter sent to Mr. Ansari requesting restoration plan & timeline for this meeting) – Mr. Tetreault said three things remained to be done at the south end of Longley Hill Road and the lower part of Stiles Road. (1) the stone blockage in the stream channel has been fixed. (2) a stone swale at the end of Stiles Road to capture any runoff that comes down the unpaved section of the road has been created. (3) the pavement on the westerly side of Stiles Road where it was damaged has not be repaired yet. Mr. Ansari said he wants to do it at the same time as the topcoat pavement is being put down on the Lot 11 Longley Hill driveway; it’s expected to be done before the next meeting. Mr. McGrath commented that Mr. Ansari does not need to wait to do the paving. Mr. Walsh asked when he last saw the work associated with pulling rocks out of stream up the hill and the riprap area. Mr. Tetreault said he thought he saw the work done approximately six weeks ago. Mr. Walsh asked if the rework of the riprap at the edge of the pavement was done in the last 1-2 months and was told yes. Mr. Walsh will visit the site before the next meeting and compare it to the plans that came in with the Enforcement Order a few years ago to see if there was any other work associated with it. The abutter should be contacted and invited to a meeting. Mr. Tetreault will let us know before when the driveway is being paved.

Update on email from Carolyn MacDonald (Berlin CC Chair) for Boylston CC to attend a meeting to discuss a possible CR owned by the Rainville family property in both towns – Mr. McGrath attended the meeting and updated the Commission by email. He will attend all future meetings.

Correspondence and emails were reviewed. There was a request from the USGS service about the FEMA maps. It will be sent to the BOH, Town Planner and Assessors for their review.

Information was received from Weston & Sampson dated August 2023 regarding the Northborough Reservoir Dam Partial Removal Project. It's not the town's project but part of it is in Boylston. Mr. McGrath will follow up and ask them to cc us on any correspondence from the agencies.

Having no further business to discuss, Jeff Walsh made a motion to adjourn; Chip Burkhardt seconded; all voted in favor; motion approved.

The meeting was adjourned at 8:45 p.m.