



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

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REGULAR MEETING MINUTES DECEMBER 18, 2023

Members Present: Mark Coakley, Joe McGrath, Ron Aspero, Jeffrey Walsh, Lucas Rose

Members Absent: None

Others Present: See Attached Sign-In Sheet

Recorder: Melanie Rich

The meeting was opened at 7:00 p.m.

Mark Coakley made a motion to set January 22, 2024 as the next meeting date; Jeff Walsh seconded; all voted in favor; motion approved. Jeff Walsh made a motion to approve the November 20, 2023 Meeting Minutes as amended; Mark Coakley seconded; all voted in favor; motion approved.

Continued PUBLIC HEARING – 428 Green Street (Eric & Peggy-Anne Preusse) – Notice of Intent Application to bring the existing site work into compliance and to propose the construction of a single-family home on the lot. (DEP#115-449) and ratify the Enforcement Order.

Ron Aspero recused himself from the discussion. Chris Frattaroli (Goddard Consulting) and Kevin Aspero (Shrewsbury Homes) were present. Since the last meeting, additional information regarding the easement issue was provided by Attorney Shirley Sheridan dated 11/21/2023 stating that there are no rights to use the easement over the adjacent parcel. It's still shown on the plan because it does exist at the Registry, but it was not granted with this most recent sale. The planting restoration was submitted. Art Allen (EcoTec) provided a review dated 10/7/2023, revised 11/29/2023, which said that the planting areas should be specified on the plan and the location of the boulders that will be used to demarcate the 25' buffer zone should be shown on the plan; that has been done.

Mr. Walsh researched and found that the division of the lot occurred in 1992. There were originally three lots, with one being on one side of Green Street (lot 1) and lots 2 & 3 on the other side. There is a drainage easement that runs parallel to Green Street on the lots. There was a gravel road shown on the plan but is not the driveway for #430; it's on the forestry land that's by the access road. Lots 2 & 3 have always been held in common ownership. It's not known why the driveway easement was created in 1992 but it is evident that it was contemplated to access what is now #430 over #428. Because it was held in common ownership there was no need to grant an access. It wasn't until the Dicelies sold that there needed to be a recorded easement. It should have been recorded if they intended to have access to #430 by way of the private lot on #428. Mr. Walsh was concerned with ground water seepage breaking out from the stone along the embankment on the right side. There was a buildup of ice in the gutter just before the water runs off the road. He thought with the pile of hammered rock that's on the top of the hill they could hammer a trench and create a subdrain, pick up the water that originates at the base of the driveway and run it to a discharge point so it doesn't freeze on the road, but that would be an issue for the driveway permit. Mr. Walsh was comfortable with what was being proposed with the revegetation, the amount of rock is being limited, and didn't think we needed to belabor the driveway easement anymore but was frustrated because he believes the problem started when the Dicelies sold the property. He said Green Street basically separates the river from the work area which is being revegetated; it separates the driveway portion that's in the riverfront. He doesn't have any issues with

the riverfront disturbance. He wants the applicant's team to take the concern of ice formation water seepage onto Green Street very seriously and urged them to address it as the lot is being developed. Mr. Walsh stated for the record that he did miss the first hearing and has since read the minutes, watched the video, and submitted a Mullin Rule Affidavit for the file.

There was no public comment. Joe McGrath made a motion to close the public hearing; Jeff Walsh seconded; all voted in favor; motion approved. Joe McGrath made a motion to issue a standard Order of Conditions referencing the current plans; Jeff Walsh seconded; all voted in favor; motion approved.

PUBLIC HEARING – 18 & 20 Boulder Way (Michael Holyoak) – Notice of Intent Application for the construction of a detached garage. (DEP#115-450)

Mr. McGrath noted for the minutes that he was contacted by Mr. Holyoak's engineer and walked him through what the Commission was looking for with the changes to the NOI application/plan.

Michael Holyoak was present. The Commission was looking for performance standards as it relates to the bank and a revised NOI application. On the original application they checked the box that said it affected a resource area but they didn't describe it; the Commission was looking for the description and what they would do for mitigation. Mr. Holyoak said the NOI was resubmitted with that box unchecked. Haybales around the drywell were added to the plan. Mr. Walsh visited the site and said the area is stabilized and the water level was down to about where the bank was shown. The bank is outside the limit of work so there is no disturbance to the bank. There will be a 4' retaining wall. The Commission had no issues. There was no public comment. Joe McGrath made a motion to close the public hearing; Jeff Walsh seconded; all voted in favor; motion approved. Joe McGrath made a motion to issue a standard Order of Conditions; Jeff Walsh seconded; Coakley/McGrath/Aspero/Walsh voted in favor; Rose abstained; voted 4-0-1; motion approved.

COMMISSION BUSINESS

Consider issuing a Certificate of Compliance for 80 Pine Hill Drive, DEP#115-434 Amended and Stormwater Control Permit SCP#2021-4 (Matt Costa-Beals Associates) – Matt Costa (Beals Associates) was present. He summarized what has happened since May 2021. Art Allen's (EcoTec) final inspection report dated 11/4/2023 was submitted after doing final inspections on October 20 and November 3, 2023 specifying that the site was stabilized. Mr. McGrath explained that we are under new guidance from the EPA that any project under the Stormwater Control Permit now requires an annual certification that maintenance has been performed on any BMPs related to stormwater. We are in the process of approving a standard form and will email it to him. Mark Coakley made a motion to issue a Certificate of Compliance for 80 Pine Hill Drive, DEP#115-434, with Special Conditions (1) submittal of the NPDES Stormwater BMP status report annually, and (2) submit a replication area status report for the replication area on site for a period of two years. Joe McGrath seconded; all voted in favor; motion approved. The Commission said the job was well done.

Declaration of Covenants and Restrictions (Joslin property) – The Commission was not comfortable signing the document. Mr. McGrath explained that the Conservation Restriction has to be made out to the Town of Boylston, not to the Conservation Commission. The Commission can then be named custodians and a rider goes on the deed that states that. The Board of Selectmen should sign it. The Commission has never seen a plan. Jeff Walsh made a motion to allow Joe McGrath to act on the Commission's behalf in talking to the Town Administrator about it; Mark Coakley seconded; all voted in favor; motion approved.

Lake Phosphorus Control Plan for Newton Pond – Mr. McGrath said we had previously talked about obtaining, in the reports we receive from applicants who have a stormwater permit, more information about the maintenance they perform on their BMPs. He asked Tighe & Bond to review the existing regulations to see if additional information needed to be added to the regulations themselves and if they recommended what we needed to put into our reporting structure to make sure we get the information required for the future reporting requirements. Once we receive the certification reports we can take the values that the BMPs on the private properties provide, in terms of runoff control, and add them to the total amount of phosphorous removal. We need the enhanced reporting to be able to add their activities and their offsets to the total offset that we have to demonstrate to the EPA. We do not have to change our regulations. There is sufficient language that was added when the regulations were revised in 2022. Tighe & Bond has put together a new form which shows what we're looking for in the annual report. There are several entities in town that have to send an annual report (Phillips Precision, Fed-Ex, Frito-Lay). Mr. McGrath will work with Melanie on the list because the new warehouses will need to be added.

In addition to the form, we received language that we should be adding to our Stormwater Permit standard conditions to cover this requirement. Mr. McGrath was concerned with some of the language in terms of establishing a dedicated escrow account for maintenance of BMPs, especially since in a lot of private situations the maintenance of the BMPs passes on to the buyer. We have always been able to ask for a performance bond during construction and for larger subdevelopments, but to ask the owner to post a bond post-construction that we hold in perpetuity in case of BMP fails, he didn't know if we could do that from a legal standpoint. Mr. McGrath would like to get Town Counsel's opinion on the language and possibly come up with a simpler version of text that we can add to the standard conditions to cover it. Mr. Coakley said if we can't get a bond upfront, could we expand our ticket writing authority. Mr. McGrath said enforcement is another option. He liked the language that the O&M Plan be recorded at the Registry against the deed. Mr. Coakley wouldn't be opposed to providing this information to the Rocky Pond people and those that abut Cold Harbor Brook because at some point we're going to have to do this for Cold Harbor Brook as well. Steve Mero now has to sign the certification and produce his report every year. Maintenance of the town's BMPs is included in the general budget. Mr. McGrath will ask Tighe & Bond what the requirements for DCR are under this new federal requirement. Right now, phosphorous loading in the reservoir is not an issue that he's aware of. It's only for certain great ponds like Newton Pond. It needs more work and research before the Commission can consider adding it as a standard condition.

Mr. McGrath said Tighe & Bond recommended sending a letter to anyone who has reported in the last six months asking them to revise their annual BMP report to include the form; he's working on the language. We need someone in authority to sign it and take responsibility for maintenance of the BMPs. It's the only way we get to take the offset that the private BMP provides and add it to the total that the town can use in an effort to meet other standards. Mark Coakley made a motion to allow Joe McGrath to continue researching and bring it back to a future meeting; Jeff Walsh seconded; all voted in favor; motion approved.

Flooding-Lower Stiles Road Email – Mr. Coakley commented that even though the work that the Enforcement Order called for was done, it's evident from the videos and Mr. Aspero's site visit today that the problem isn't solved. Mr. Aspero said when he visited the problem before he had mentioned from the old stone house that minimal water was coming down; today all the water that wasn't in the culvert was coming down the middle of the road. The water is supposed to come down the discontinued portion of Stiles Road, fall to the left on the old Argento property and stay in the brook. Somehow, it's coming off the old, discontinued Stiles Road onto the paved portion of Stiles Road and that's the problem. Mr. Aspero said the road is just going to eat away; there's a significant gouge on the right-hand

side. The water is not coming off Longley Hill, it's coming down off Stiles. Mr. Coakley said the water starts at the top of the hill, not the subdivision. He asked if we should issue another Enforcement Order to Mr. Ansari telling him the work that was done is not sufficient so they can attend the next meeting. He asked if it was jurisdictional to the Commission. They did work in or about a resource area that caused this to happen. It's not a random event; it was fine for 40 years. Mr. Walsh was reluctant to take any action tonight until we know all the facts. If needed, an Enforcement Order can be issued at any time. Mr. Aspero will contact Mr. Mero tomorrow.

Gun Club – An email was received from an attorney regarding access to the gun club. The email asked if it was possible to make the 20' wide section crossing the right-of-way movable such that when a vehicle needs to pass through the fencing it can be moved out of the way and then replaced? The Commission agreed that it can be removeable but they will need to send us a plan showing what they are going to do. Mr. Coakley will respond. He also mentioned that there's currently a legal matter before the courts because the applicant's plans didn't show accurate conditions on the ground by not including all easements on the plan.

Central Street – Steve Mero contacted Mr. McGrath this morning to look at a runoff situation on Central Street. A certain portion of the driveway is in the town's right-of-way and the town has the right to do what is needed to fix it with the best possible solution.

Review FY25 Budget – The budget was reviewed. Joe McGrath made a motion to increase the Stormwater Management line item for FY25 to \$30,000. The proposal for Tighe & Bond is under \$25,000 but there is the potential for some additional mitigation work required around Newton Pond. Jeff Walsh seconded; all voted in favor; motion approved. Being custodians for several lots was discussed and not knowing what will be required of the Commission in the future, Mark Coakley made a motion to add a line item to the FY25 budget entitled "Conservation Custodial Account" and fund it with \$1,000; Joe McGrath seconded; all voted in favor; motion approved.

Annual Report (due January 15th) – The annual report was reviewed. Joe McGrath made a motion to revise the annual report as noted; Mark Coakley seconded; all voted in favor; motion approved.

Review FY25 Stormwater Program Assistance (Tighe & Bond) – Mr. McGrath has reviewed the proposal and made a motion that the Commission accept the proposal and forward it to the Town Administrator for signature; Jeff Walsh seconded; all voted in favor; motion approved.

Having no further business to discuss, Mark Coakley made a motion to adjourn; Joe McGrath seconded; all voted in favor; motion approved.

The meeting was adjourned at 8:28 p.m.