



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

### **JUNE 21, 2021**

Members Present: Joe McGrath, Jeffrey Walsh, Dan Duffy, Chip Burkhardt

Members via Remote: Mark Coakley

Members Absent: None

Others Present: See Attached Sign-In Sheet

Recorder: Melanie Rich

The Chair opened the meeting at 7:00 p.m. and announced that this would be the last meeting to participate remotely.

Commissioner Roll Call: Joe McGrath, Chip Burkhardt, Dan Duffy, Jeffrey Walsh, Mark Coakley (remote).

Jeff Walsh made a motion to confirm July 19<sup>th</sup> as the next meeting date; Chip Burkhardt seconded; all voted in favor; motion approved.

Dan Duffy made a motion to approve the May 17, 2021 Meeting Minutes; Jeff Walsh seconded; 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) requested a continuance via email. Jeff Walsh made a motion to accept the request for continuance to July 19, 2021 at 7:05 p.m.; Dan Duffy seconded; all voted in favor; motion approved.

**PUBLIC HEARING (continued) – 11 French Drive (Worcester County Horticultural Society) – Notice of Intent Application** to install a perimeter fence to enclose the majority of the contiguous property. (DEP#115-431)

The applicant requested a continuance. Chip Burkhardt made a motion to accept the request for continuance to July 19, 2021 at 7:10 p.m.; Jeff Walsh seconded; all voted in favor; motion approved.

**PUBLIC HEARING (continued) – 8 Gulf Street (Boylston CP, LLC) – Notice of Intent Application and Stormwater Control Permit Application** to construct 20 senior housing units, access driveway, stormwater management facilities and associated site work. (DEP#115-~~xxx~~) Stormwater Control Permit SCP#2021-1

Chip Burkhardt recused himself from the matter. The applicant requested a continuance. Jeff Walsh made a motion to accept the request for continuance to July 19, 2021 at 7:15 p.m.; Dan Duffy seconded; roll call vote: Burkhardt-recused; Duffy-aye; Walsh-aye; McGrath-aye; Coakley-abstained; motion approved.

**PUBLIC HEARING – 313 Main Street (Pond View on Main) – Notice of Intent Application** to construct a 94,000 square foot warehouse/storage building, driveways, parking areas, stormwater management facilities and associated site work. (DEP#115-432).

The notice was read into record. John Grenier and Mike May were present. Mr. Grenier explained the overall parcel is approximately 15 acres; access is on Main Street and shares the common drive with Frito-Lay. They will extend the driveway to gain access; there is a substantial cut and a fill to create a pad for the building which would be primarily storage and trucking of products for other businesses. They received comments from Graves Engineering and addressed most of them. The Commission requested they reestablish the wetland line; Mr. Grenier said it was reflagged. Joe McGrath noted that the Commission has a copy of Graves information dated June 9, 2021 and a report from Art Allen (Ecotec) regarding the wetland flagging. Mr. Grenier said Mr. Allen was in agreement with the wetland line as flagged in the field; the surveyor will be at the site soon to locate the flags.

He said it shows the stream as a perennial stream that flows southerly into the site. There have been other filings associated with the site; he found documentation that shows the stream channel flowing into site is an intermittent stream. The 2:1 slope on the westerly side of the site will be armored with stone. The easterly side 3:1 slope will be loamed and seeded. They will place subsurface recharge infiltration chambers under the parking on the easterly side of the building. Revised plans will be provided.

Mr. Duffy commented relating to the intermittent stream and said on another site DEP said they couldn't rely on determinations made for another site that has been closed or where the permits expired. Mr. Grenier said the determination was made for this specific site. Mr. Coakley said if the documentation included photographs, he suggested they resubmit them because it would still meet the threshold to overcome the presumption. Mr. Grenier will copy and resubmit them with his filing. In response from DEP, they specifically mentioned that the stream that empties into Ross Pond was mapped as perennial and advised the applicant to either determine that the project lies outside the riverfront area or to show it on the plan. DEP believed it was perennial. Mr. Grenier said because it was on the USGS map, the assumption is that it is perennial unless you can demonstrate otherwise. Mr. Grenier will refile it with the DEP as well.

Mr. Burkhardt said one of the things we expect as part of the plan is an O&M plan on the plan. The guidelines referenced on the plan is not an O&M plan. Mr. Grenier said there is an O&M plan as part of the drainage report. He will put in on the revised plans. Mr. McGrath said Graves' review indicated that the Mass GIS indicated a presence of is a priority habitat area. Mr. Grenier said they will be filing with Natural Heritage. Mr. Walsh asked if there would be any storage of outside materials. Mr. May said possibly a dumpster.

Mr. McGrath asked for public comment. Hearing none, the applicant requested a continuance. Dan Duffy made a motion to continue the public hearing for the NOI and Stormwater Permit to 7:20 p.m. July 19, 2021; Jeff Walsh seconded. Mr. McGrath noted that the discussion was relevant for the Stormwater Permit SCP#2021-3 as well as opening the public hearing for the NOI. All voted in favor; motion approved.

**PUBLIC HEARING – Pine Hill Drive Lot 2A (Owen Hall, NBPIII Boylston, LLC) – Notice of Intent Application and Stormwater Control Permit Application** to construct a 396,375 square foot industrial building for warehouse distribution. (DEP#115-~~xxx~~) Stormwater Control Permit SCP#2021-4

Matt Costa and Todd Morey (Beals & Associates), and Owen Hall (Northbridge) were in attendance. Mr. Costa said they received two comment letters from Graves Engineering for peer review through the Planning Board. The second letter (the Commission did not have a copy) references the plans presented tonight which they will be addressing. He gave a synopsis of the project from the last meeting. He explained the two primary resource areas as well as the vernal pool. The wetlands were originally delineated by Scott Heim (Northeast Ecological Services). EcoTec will be asked to review the wetlands once the \$3,000 53G funds are received. It is a 400,000± square foot distribution facility with loading on either side, trailer parking in the middle, associate parking front and sides. Retaining walls will be used where they cannot use a natural grade to avoid the wetlands; they are staying outside the 25-foot buffer. Wetland impact is under 4,000 square feet; there are permeable pavers throughout. All utilities are underground. The septic may be located behind the building. There will be three large stormwater underground infiltration systems. There are many low impact design measures. There will be an open bottom wetland crossing (same as Fed-Ex). Impact is 3,360 square feet; replication 8,570 square feet (2.3:1 ratio). Graves asked for hydrology calculations to confirm that it works. Regarding earth work, they are going to be a fill site (approximately 7,500 years of cubic fill); they will not be proceeding with an earthwork permit. He did not have the total cut and fill. Mr. Duffy asked about the rock retaining wall. Mr. Costa said it is one of the large cut areas. It will be an open exposed face of rock. Mr. Duffy asked if it was proposed to be 2:1 at the end and was told it would be more 1:4. He said if it is at grade now and they are not disturbing the bottom, how do they establish a 1:4 slope. Mr. Morey explained it is fill and not cut. Mr. Duffy asked how snow storage is being addressed. Mr. Costa said there are areas located throughout the site. The peer reviewer commented that some were misplaced; they will be relocated. Any excess will be removed offsite. If the septic is located outside the buffer, details will be needed for the stormwater permit (stabilization); they will work with Health Agent. Mr. Duffy said EcoTec will look at the delineation and we will also ask that he look at the replication plans. He thought it is important to be on the plan what the bottom of the stream culvert will be and what materials they will be using. Mr. Morey said it would be the same as it is today; Mr. Costa said where it flows through will not be disturbed. The construction will be similar to Fed-Ex. Mr. Duffy said we will want in the Order to flag the clearing limits before they start. He would also like to know how they will control stormwater and erosion during construction. It is critical they have a good O&M Plan that specifies exactly what will be done and reporting requirements going forward. The town has never seen tree wells, and they will use turrets to the inlets into the rain garden. Mr. Coakley will want to see some hydrological modeling and pre vs. post development. He asked if it was a bedrock base to the vernal pool or clay because there have been issues with blasting adjacent to vernal pools where the blasting cut the bedrock and drained the vernal pool. Mr. Costa said the blasting will be 300-feet away from the vernal pool. He will get the information as to what the base is.

Hearing no public comment, the applicant requested a continuance. Jeff Walsh made a motion to accept the request for continuance to July 19, 2021 at 7:25 p.m.; Joe McGrath seconded; all voted in favor; motion approved.

### **COMMISSION BUSINESS**

Compass Pointe Update – Jeff Walsh recused himself. A letter was received from Matt Marro that read in part...(1) There has been ongoing efforts with respect to the detention basins. The trees have been removed and continued maintenance of such will be ongoing. (2) Soils samples along the slope have been tested for evaluation of different stabilization methods and we are awaiting results of such. (3) Tree plantings will continue over the next several weeks with the goal for completion of all required tree plantings. (4) The monitoring of erosion controls and stabilization are ongoing. Mr. McGrath suggested members visit the site before the next meeting. The Commission wants a survey to compare the pre and post regarding the toe of slope to the wetlands. Some areas need more erosion controls and/or armoring as opposed to hydroseed and mulch. Mr. Duffy will email Mr. Marro and ask for an update from the site visit. Mark Anttila said there was progress made on the detention basin on Compass Circle. If the Orders have expired after the COVID restriction was lifted, extensions are needed. The

applicant is required to request an extension 30 days prior to expiration. Mr. Anttila said his Order was extended to 6/21/21; it expires today.

Mr. McGrath asked for public comment. Peter Garry (3B Cheryl's Way) commented on a stabilization plan dated 11/18/19 submitted by Matt Marro. Nothing changes; when will it end. Mr. Burkhardt said the final Order of Conditions will not be closed and or a Certificate of Compliance issued. There is no time limit to complete the project; it is the time limit that the permit is in place. As of tomorrow, Mr. Haynes will not have a valid permit. Mr. Anttila questioned if there was enough money to do the work. Graves cannot provide an accurate estimate without surveyor's plans and engineer's plans and the applicant refuses to do that. The 53G account has \$824. Mr. Anttila said the Town Planner noted at a Planning Board meeting that since 2014 there has been no extension for the subdivision. Mr. McGrath will speak with the Town Planner and possibly decide together how to pursue it.

Informal Discussion with Greg Gustafson, Goddard Consulting, re: Bob Frem, Cyprian Keyes Golf Club about developing a single-family lot within a mapped NHESP Priority Habitat area – Tim McGuire, Wildlife Biologist (Goddard Consulting). He is asking if the Commission would be amenable to accepting land as mitigation for impacts to land that is within priority habitat for marbled salamanders. The property is approximately 8.82 acres; there are wetlands associated with a vernal pool. They propose to subdivide the lot into approximately an acre to build a 4-bedroom single-family house. There will be about ½ of disturbance of habitat. They plan to deed 7.8 acres to the town. They have filed a MESA checklist for Natural Heritage. They confirmed the project would be a take so they would have to file a Conservation Management Permit. They received confirmation that deeding that lot to the town would act as sufficient mitigation as long as they had the town's consent. If the project is accepted, they would not have to go before the Commission because they are keeping the limit of work 150-feet from the wetlands and the vernal pool.

Mr. McGrath said even though lot 1, the almost acre lot they are planning to build on is away from the wetland area, given the sensitivity of it and adjacent to a vernal pool, he should file a Request for a Determination of Applicability so he would have record that the Commission reviewed it. As far as lot 2, as long as there is no tax lien or any other type of lien on the land, there is a process where the owner could deed the land to the town; the town would have to accept it at a town meeting. The Commission would have to go before town meeting and ask to put the lot into Conservation status before we could guarantee that the lot would be preserved as an offset for the habitat area. Conservation cannot accept ownership of the land. All we can do, if the town accepts it, is become the trustees of the lot and put it into Conservation status so that it can't be built on. It will have to go through a series of two town meetings. He assumed that Natural Heritage would want some guarantee that this is going to be preserved as an offset. Mr. McGuire said not only is it partially covered in wetlands, the entirety of the parcel falls with the mapped priority habitat as well. Even if it was given to the town, they would have to go before Natural Heritage in order to develop it.

Mr. Coakley said if they were to put a CR on the property trying to give the land to the town, that could cover it. Mr. McGrath said there are two other options: (1) the landowner himself can put the land in a CR rather than deed it to the town, or (2) the landowner can approach a trust such as Sudbury Valley Trustees or Worcester Greater Land Trust and see if they would purchase the land and put it in a Conservation trust. That would put it into Conservation immediately which would secure the land as far as natural habitat is concerned. Mr. McGuire will look into those options. Mr. McGrath said there is no guarantee that if we take it to the Board of Selectmen that (1) they would accept the lot, and (2) that they would agree with us that it needs to be turned into Conservation land. Because it has to go through two town meetings, the earliest anything could happen would be a year from now. Mr. Walsh said he sees three possibilities: (1) deed it to the town; (2) the owner keeps it and puts it into a CR; or (3) deed it to a trust. Mr. McGrath said the legalities are not known, but Mr. Frem also owns the golf course adjacent to the property; he could possibly sell it to the golf course and have the golf course put the restriction on it. Mr. McGuire will discuss all options with the applicant.

Consider Request to Extend Permits for Pine Street Extension Order of Conditions (DEP#115-408) and Stormwater Control Permit (SCP#2017-1) by Colin Novick, The Greater Worcester Land Trust – Jeff Walsh made a motion to extended Order of Conditions DEP#115-408 and Stormwater Control Permit SCP#2017-1 for a one-year period to June 20, 2022; Chip Burkhardt seconded; all voted in favor; motion approved.

Consider issuing Certificates of Compliance for Pine Street Boylston Realty: DEP#115-405 (Lot 1 Pine Street); 115-406 (Lot 2 Pine Street); 115-407 (Lot 3 Pine Street) – Jimmy Ricciardi said he provided certified plot plans showing the grading for all the houses. He said only lots 2&4 had changes to the compensatory storage. Mr. Burkhardt said three of the lots are ANR lots; the other three are part of the subdivision. He only saw the filing for the three ANR lots. Mr. Ricciardi said there were three ANR lots and one for the subdivision and three individual lots for the subdivision. Mr. Ricciardi said three lots were in the subdivision and one was for the extension of the road. 405-406-407 are the ANR lots. He said there were two more; one for the subdivision and one for the other side. The drawings did not have a survey date. Mr. Duffy would like to see the pre-construction grades and post-construction grades on the plans. He said with the flood storage capacity it is critical to match the elevations and the areas. Mr. Walsh said we need information pertaining to the Orders of Conditions and stabilization. Mr. McGrath said the certified plot plans are marked by units and not the lots. The DEP Orders are by lot. Mr. Walsh said the lots need to match/reference the Orders of Conditions.

Correspondence/Emails – Frito-Lay submitted their annual report Stormwater Management Report dated May 24, 2021; there were no significant spills. Joe McGrath noted that, with regard to Tower Hill, we received a letter from Parker Environmental Corporation concerning a soil study that was done by Tighe & Bond. The applicant wanted to share the information because the Commission had questioned the arsenic levels.

Joe McGrath asked Cassandra and Emily from Tighe & Bond to review the Stormwater Permit Regulations and to revise them based on changes to the Federal Permit; we should have a draft in about a month.

Reorganize the Commission – The Commission was reorganized as follows: Jeff Walsh made a motion that Chip Burkhardt become the Chairman with Joe McGrath being Vice Chairman, Mark Coakley will remain as the representative on the Earth Removal Board, Joe McGrath and Chip Burkhardt will remain on the Stormwater Management Committee, and Jeff Walsh is on the Master Plan Steering Committee; Dan Duffy seconded; all voted in favor; motion approved.

Mr. Duffy asked about the correspondence received not allowing boards, due to legal matters, to talk to the applicant about anything related to the Lilymere site. Mr. McGrath said there had been no update. Mr. Duffy would like clarification as to whether the Commission can ask for updates as far as stabilization, etc., since the Commission has received no guidance. Mr. McGrath will follow up with the Town Administrator and Town Attorney.

Mr. McGrath said we received correspondence from Scott Heim regarding the wetland replication on Longley Hill and asked if we wanted Paul McManus (EcoTec) to visit the site.

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

The meeting adjourned at 9:00 p.m.