



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

221 Main Street, Boylston MA 01505 \*\* Telephone (508) 869-6127 \*\* Fax (508) 869-6210

## REGULAR MEETING MINUTES SEPTEMBER 19, 2016

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

Members Absent: Rebecca Longvall

Others Present: See Attached Sign-In Sheet

Recorder: Melanie Rich

**PUBLIC HEARING – LEO MASTROTOTORO (240 Shrewsbury Street) – Notice of Intent Application** to remove wood chips from 9,000 sf of slope leading into the wetland area and buffer zone. No other material (soil/fill) will be removed or added.

Mr. Mastrototoro said the existing wood chips will be removed by backhoe and hand dug where necessary to minimize disruption of the underlying soil/grade. A wood chip berm 6' wide by 2' high will be constructed along the 150' length of the area of work to avoid any erosion into the resource area. The commission wants to be notified as the work progresses. There was also discussion of boulders being placed marking the boundary. Having no other issues, Joe McGrath made a motion to close the Public Hearing; Jeff Walsh seconded; all voted in favor. Joe McGrath made a motion to issue a standard Order of Conditions; Jeff Walsh seconded. Further discussion included adding Special Condition #34 that boulders are to be placed 50' from the edge of the wetland resource upon completion of work. Joe McGrath amended his motion to include Special Condition #34; Jeff Walsh seconded; all voted in favor; motion approved.

**PUBLIC MEETING – CHRIS & TRICIA ECK (495 Cross Street) – Request for Determination of Applicability Application** to remove and replace the existing driveway.

The Eck's said the driveway has been eroding and they would like to replace it. Mr. Eck presented a plan and explained the design and layout they propose to follow. There will be some stump removal, but the entrance will remain the same. The closest wetland is across the street. They will place boulders for the retaining wall. Having no further concerns, Mark Coakley made a motion to issue a Negative Determination by reason #2; Chip Burkhardt seconded; all voted in favor; motion approved.

**PUBLIC HEARING – KENNETH SYDOW (Unit #28 Boulder Way) – Notice of Intent Application** to demolish existing 2-bedroom cottage and construct a new 2-bedroom single family house.

Neil Gorman (David E. Ross Associates) and Ken Sydow were present. Mr. Gorman gave an overview of the site. The proposed building will be as approved by the ZBA. It will be will a 2-bedroom house with a driveway and deck. The site slopes to the pond. There will be a boulder retaining wall (3'-4' high) to minimize the cuts and fills. They will connect to an existing sewer line that goes to an existing shared septic system. Cultec chamber systems will be used for roof runoff; three are proposed. Joe McGrath asked if the existing cottage has a dock going to the pond. Mr. Sydow said it is gone. Filter socks and silt fencing will be installed prior to construction. The utilities will be underground. A few trees will need to be removed. Mark Coakley would like a condition to require that the 15' wide access to the pond remain native soils. Joe McGrath made a motion to close the Public Hearing; Chip Burkhardt seconded; all voted

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in favor; motion approved. Joe McGrath made a motion to issue a standard Order of Conditions adding Special Condition #34 that the area designated as 15' wide access to the edge of the pond shall remain in its natural state using native soils and plantings. Additional work will require review by the Commission. Jeff Walsh seconded; all voted in favor; motion approved.

**PUBLIC HEARING – KENNETH SYDOW (Unit #32 Boulder Way) – Notice of Intent Application**  
to demolish existing 2-bedroom cottage and construct a new 2-bedroom single family house.

The parcel is 21,102 square feet and is similar to Unit #28 Boulder Way. There is a 15' wide utility easement. There will be a walk-out basement on the pond side with a deck above. The driveway does have some fill; a wood guardrail is proposed. As with Unit #28, it will connect to the shared septic system from the sewer line to the foundation. Cultec chamber systems will be used for roof runoff; three are proposed. Filter socks and silt fencing will be installed prior to construction. The utilities will be underground. The dock will stay. Joe McGrath said we should have a revised plan given the sensitivity to the pond. Mark Coakley asked about the impervious driveway. They propose some fill and grading. An infiltration trench will be incorporated along the edge of the driveway (crushed stone with filter fabric). Needed on the plan are the gravel driveway, infiltration basin, relocation of the dock, and access to the deck. The Commission felt it should be continued. Joe McGrath made a motion to close the Public Hearing; Chip Burkhardt seconded; all voted in favor; motion approved. Mark Coakley made a motion, pending review and approval of the Commission, to issue a standard Order of Conditions adding Special Conditions #34 that the area designated as 15' wide access to the edge of the pond shall remain in its natural state using native soils and plantings; #35 new site plan required showing relocated dock access and dock location; and #36 infiltration of driveway runoff will be shown on the new site plan along with upper and lower driveway surface materials. Additional work will require review by the Commission. Joe McGrath made a motion to approve the Order of Conditions as amended; Mark Coakley seconded; all voted in favor; motion approved.

## **COMMISSION BUSINESS**

Worcester Sand & Gravel – Marc Richards (Tighe & Bond), Laura Bugay (Langdon Environmental LLC) and Michael Trotto were present. Mr. Richards provided a Slope Restoration Evaluation Report which summarized the results and recommendations of an environmental and geotechnical evaluation. The primary focus was to look at stability issues. They had a team on site to excavate a series of test pits and to collect geotechnical information on the soil quality (in-place density testing). The information was sent to the laboratory. The figure for slope on the TLA documents that sits there today is pre-excavation. They excavated test pits within the material that was placed and their geotechnical conclusion is that the fill materials that are there right now are stable. What is not stable is the natural vertical slope that is cut. The remedy would be to minimize the slope by bringing in additional fill or removing the vertical slope. Worcester Sand & Gravel has an agreement in place with the abutting property owner to cut approximately 7-9 feet of soil off the back of their lot which lowers the grade and eliminates a big portion of the slope. A final survey will need to be done for the cut/fill analysis. Worcester Sand & Gravel is ready to implement this immediately.

Dan Duffy asked him to discuss the quality of the material that was put in there, the source of it, and other environmental issues. Mr. Richards said during the excavation of the test pits, in addition to having their geotechnical engineer on site, they had an environmental scientist on site to observe the soil conditions on the material. The memo provided a series of test pit logs which describes the material which is similar to what Langdon Environmental encountered (sand and gravel with varying concentrations of processed asphalt, brick, and concrete); it is a recycled fill product. There were also incidental amounts of metal, glass and plastic located throughout the material as well as indications on the incidental side of some material being larger than 6" of some brick and concrete. 6" is an important measurement in terms of MA DEP. MA DEP considers asphalt, brick and concrete, when processed to less than 6", no longer

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regulated. The majority of all the test pits they excavated had materials that were less than 6" in size. There were cases where incidental amounts of material greater than 6" was encountered, but said from the test pit logs and photos from Langdon's report and Tighe & Bond's photos and report, you don't see a large concentration of large material at all in any of the test pits; it is a very well processed recycled product which is completely appropriate. Tighe & Bond's position is that environmentally the material is fine; he doesn't see the material needing to be removed.

Mr. Duffy asked what the source of the material is; where did it come from; Mr. Richards did not know; Mr. Trotto said very little came from the Shrewsbury Library. Chip Burkhardt said he is looking at the material as to what is taken out, and what is remaining is native material free of debris; the Permit written gave the approval that it was to be material of a similar nature to be brought in; no debris. Bricks, concrete and asphalt don't belong; it is not what was asked for or what was approved or agreed to when this was started. Mr. Richards felt that after looking at the bylaw definitions it is an area of interpretation. He said environmentally what is there is very inert, stable and not causing a risk for anyone. Mr. Burkhardt is concerned that we don't know where the material came from and there is no analytical data anywhere to back this up. The material is being placed adjacent to a resource area and residences and is concerned about the materials being placed there. The materials there are not what we agreed to be put in there and do not believe it should stay. Mr. Richards said the intent is to have materials that are safe. He said when finished there will be no exposure, no runoff concern, the resource areas will be protected, there is no risk to human health or the environment. Mr. Burkhardt said if the intent all along was to use material that meets the recycling criteria, why was there not a discussion on that when we were issuing the permit. They agreed to material clean of debris.

Jeff Walsh said the intent was only to remove excess and stabilize the site, not over-excavate and have to fill in the more than 30K cubic yards. He wants to find what is best to expedite it and get it done but it is unlikely it will be stabilized this growing season. Joe McGrath is pleased that there is some activity going forward and that there are professional engineers working on it, but agrees with Mr. Walsh that we want our consultant to review the report. Given that it is an open gravel pit, and has been consistently for years, if we can at least complete the top work and install the safety fence at the top of the slope this year, he is not too concerned that the slope is not stabilized until the next growing season as long as we can get some sort of relief in terms of the safety issue and some of the sharpness of that slope. Mark Coakley agreed and said the mitigation plan that was prepared by TLA is no longer operative; we need a new mitigation plan.

Ms. Bugay thinks the extent of the fills still need stabilization. Mr. McGrath would like to see a construction plan for the grading that will be done at the top of the hill and where it is in relation to the homeowner's boundary, and exactly what siltation controls will be used. Mr. Duffy is still concerned about the debris; our Permit was clear; there was no discussion of this type of material being brought in. If we had further definition of exactly where the material came from, and testing data to show there was analytical testing, he thinks we could be more confident saying that there wasn't any risk. We know there are large pieces; we have gone out and excavated test pits and taken photographs of the materials removed from the test pits. The material that has been placed there is in an area that it shouldn't be placed in, and sufficient work beforehand to demonstrate that it was safe was not done. There was no amendment to the Permit before the work was done. Mr. Coakley said they had ample time to hire someone; we pleaded with him for months to hire someone before all this happened, before the fill was brought in.

Ms. Bugay did have a chance to look at the report today. She said the test pit investigations are very similar in nature; the only difference was the visual quantification of the debris material, whereas Tighe & Bond's descriptions were trace which is equivalent to zero to 10%; hers were described as little which is 10%-20%; it's agreed that throughout the fill material there is debris, asphalt, brick concrete, plastic, clay pipes and wires. In regards to whether it is at a quantity at which would be considered solid waste, the

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Stormwater Permit indicated no debris. Massachusetts Contingency Plan has a definition of debris, which in her opinion the material there contains debris. The other question is because it does contain debris and we don't know the source, we don't know what that environmental quality is. It may not come from a regulated site. We don't have any confidence of its environmental quality not knowing the source. Mr. Richards said he is trying to look at the value of the product being produced by screening out the smaller amounts of wire and plastic; it would be no better than what is there today. Mr. Coakley disagreed because we still have the unknown chemically where the material came from. Mr. Duffy agreed and said it should be removed. The Commission has inherited land in the past that we know were filled. To reduce the risk, groundwater monitoring was established to catch any potential problems before they become major problems in the future. Mr. Burkhardt is concerned about the safety of the slope and wants to make sure it is done right. Based on what he heard tonight, he would not approve it; it goes back to the permit.

Ms. Bugay said in regards to the ABC process, it is her understanding of the Site Assignment Regulations and the policy that ABC rubble becomes a reusable and recyclable product when it is separated and crushed, just those three materials, not blended in and just happen to be 6" in diameter. Mr. Richards said it doesn't matter how you generate the end product; as long as the end use product contains materials that is less than 6", it is unregulated. Further discussion is needed. Mr. Duffy reminded Mr. Trotto that if they do anything on the site to let our consultant know so we are not questioning what was done and also have the opportunity to be present. We were disappointed that we did not know he was doing something until it was already done. Mr. Richards said he will pass along a proposed remedy to Ms. Bugay and she will forward it to the Commission. Mr. McGrath said we need a new detailed site mitigation plan to revise the Enforcement Order. We also need to do a revised Stormwater Permit to reflect the plan. For the next meeting the Commission would like some volume calculations based upon what gets pulled out of the property, how that would impact the needed fill remaining to stabilize the slope and a revised restoration plan. Mr. Richards said it would show the proposed grading, proposed end slopes and a description of the volume of soils. Mr. Duffy said what we issued is pretty clear, no debris. We need further evidence to assess the risk of the soil to give us a better understanding of the origin of the soil.

Longley Hill Inspection – Paul McManus (EcoTec) provided his inspection report; some things look better; some remain the same. The Commission wants to make sure things are buttoned up before the fall rains and winter conditions occur. Mr. Ansari said the vegetation is pretty well established. Lot 7 was built but just sold last Friday. He is starting work on Lots 5 and Lot 6; the issues will be gone once they start. He is hoping to start the foundations in another week. He has not done any construction work in a year other than maintain the erosion controls, adding loam and hydroseeding. On Lots 5 and Lot 6 where it slopes down into the pond, he said he has protected it with silt fencing. Dan Duffy said some of the items Paul McManus identified are relatively unstable, and as we are getting into the fall conditions they need to be taken care of (cleaning out some of the basins that are filled and clogged up). South of Lot 7 needs to be maintained. The small sediment trap below Lot 5 is filled with sediment and continues to remain a source of solids below. Mr. Ansari said they will clean it out; he said he had all the catch basins cleaned out. He will address one item at a time. He wants to get it all stabilized within the next few weeks. If he can't get any work done before the winter weather he will not open up the areas by the slope and will protect them even more. Mr. Duffy said we need the maintenance items taken care of before building houses; sediment will continue to go towards these temporary traps. Jeff Walsh said the site should have been better addressed after EcoTec's June report; he wants to see good solid progress Mr. Ansari will be back on October 17<sup>th</sup> with an update.

Compass Pointe (Bond Discussion) – Jeff Walsh recused himself from the matter. Graves Engineering sent a revised Site Stabilization Estimate today (\$300,606). Mr. Haynes' attorney will be working with Town Counsel to prepare a third-party agreement. He was told to be sure to include all lots he plans to open up.

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Consider issuing a Certificate of Compliance for DEP#115-281 (702 Linden Street) – Joe McGrath made a motion to issue a Certificate of Compliance for DEP#115-381; Chip Burkhardt seconded; all voted in favor; motion approved.

Jackson Danis (Eagle Scout Project) – Mr. Danis said he will be replacing the bridge on Flagg Pond. The bridge was previously maintained by the snowmobile club but has since deteriorated. It currently has two sections with a center abutment; he will replace it with one section. The Highway Department may offer some assistance removing it. He will put gravel at the edge of the banks for drainage (3/4" stone). The wood of the bridge (span) will be telephone poles. The decking will be 2x10 pressure treated. Joe McGrath asked what his cost would be; zero. Mr. Danis is soliciting and receiving donations. If needed, the Commission has a fund that could help with costs. Joe McGrath made a motion that the Commission has reviewed the proposed project and finds that it qualifies as a minor activity under the Wetland Protection Act and it is exempt from further review; Jeff Walsh seconded; all voted in favor; motion approved.

Vouchers were approved.

Correspondence/emails were reviewed.

Jeff Walsh made a motion to approve the Meeting Minutes dated August 15, 2016 with changes noted; Joe McGrath seconded; all voted in favor; motion approved.

Jeff Walsh made a motion to approve the Site Visit Meeting Minutes dated August 23, 2016; Mark Coakley seconded; all voted in favor.

October 17<sup>th</sup> was confirmed as the next meeting date

Jeff Walsh made a motion to adjourn; Mark Coakley seconded; all voted in favor; motion approved. The meeting was adjourned by unanimous vote at 9:30 p.m.