



**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**

### **DECEMBER 19, 2016**

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

Members Absent: None

Others Present: See Attached Sign-In Sheet

Recorder: Melanie Rich

**PUBLIC HEARING – RICCIARDI BROTHERS continued (280 Shrewsbury Street) – Stormwater Control Permit Application** to screen and crush construction materials including loam, concrete and asphalt.

Jeffrey Walsh, Joe McGrath and Dan Duffy met with Mr. Ricciardi to conduct a site visit of the subject property on November 26<sup>th</sup>. Overall, the site was neat and tidy. The Commission members suggested that Mr. Ricciardi develop a plan to control dust at the site during the drier periods when he may be operating. Some of the stockpile area had reclaimed asphalt as the driving surface; it was recommended that more of this material be placed, maintained, and water used as necessary when dust is a concern. The Commission members also made several suggestions concerning additional stormwater control measures they would like to see, and asked for a plan to limit encroachment on the northern end of the site where wetlands associated with Route 140 stormwater runoff are present. Mr. Ricciardi said the topographic plan was not ready for this meeting. He requested a continuance. Mark Coakley made a motion to accept the request for continuance; Chip Burkhardt seconded; all voted in favor; motion approved. The hearing was continued to January 23, 2017 at 7:00 p.m.

**PUBLIC HEARING – TOM BEALS, BALL HILL PROPERTY MANAGEMENT (Lot 7A Gulf Street) (continued) – Notice of Intent Application** to construct a two-family building to include water service extension along Gulf Street, driveway access off Gulf Street, utility connections, septic system landscaping, and associated site work.

Chip Burkhardt recused himself from the matter. Tom Beals was present. Abutter notifications and ad fees were received. Mr. Beals wanted to add the limit of work to the plan rather than redo them. Dan Duffy thought the reason the hearing was continued was so that the details would be added to the plan. The applicant asked that it be added to the special conditions. After further discussions, the Commission marked up and signed the plan. Hearing no audience comments, Joe McGrath made a motion to close the Public Hearing; Jeff Walsh seconded; all voted in favor; motion approved. Mark Coakley made a motion to issue a standard Order of Conditions adding Special Conditions #34-debris removal at flags B20-B22 shall be restored with natural vegetation and pre-disturbed topography; #35-limit of work is as noted on signed and marked up plan "Proposed Sewage Disposal System, 7 Gulf Street" dated 8/19/16 and shall be delineated with Boylston Conservation Commission wetland signs on 4x4 permanent posts or 400 pound+ boulders; and #36-removal of debris in between flags B20-B22 shall be conducted in the dry season. Rebecca Longvall seconded; all voted in favor; motion approved.

**PUBLIC HEARING – TOM BEALS, BALL HILL PROPERTY MANAGEMENT (Lot 7B Gulf Street) (continued)** – Notice of Intent Application to construct a two-family building to include drain line service extension along Gulf Street, driveway access off Gulf Street, utility connections, septic system landscaping, and associated site work.

Chip Burkhardt recused himself from the matter. Jeff Walsh made a motion to close the Public Hearing; Joe McGrath seconded; all voted in favor; motion approved. Mark Coakley made a motion to issue a standard Order of Conditions adding Special Condition #34-limit of work is as noted on signed and marked up plan “Proposed Sewage Disposal System, Lot 7B Gulf & Sewall Street” dated 8/19/16. Limit of work shall be delineated by Boylston Conservation Commission wetland signs on 4x4 permanent posts or 400 pound+ boulders. Jeff Walsh seconded; all voted in favor; motion approved.

**PUBLIC HEARING – SCANNELL PROPERTIES (220 and 290 Shrewsbury Street) (continued)** – Notice of Intent Application and Stormwater Control Application to construct a distribution center, associated loading area, trailer parking, employee parking, access road, utilities, site grading, and stormwater management systems on a site of approximately 106 acres on the westerly side of Shrewsbury Street (Route 140) with access through #290 Shrewsbury Street.

Patrick Healy (Thompson-Liston Associates), Jill Marcotte (Scannell Properties), Mark Donahue (Fletcher-Tilton), and Scott Heim (Northeast Ecological Services) were present. Mr. Healy provided a response letter, updates from the Planning Board approval, and revised plans and calculations to address the Conservation comments. One comment outstanding from EcoTec (they not prepared the wetland replication planting plan), has since been provided. They increased the replication area to account for the proposed discretionary fill; they have a total of 8,800 square feet of replication. Another item of concern was the low flow from the proposed infiltration system under the parking lot. To be sure they were sustaining the flows to the downstream vernal pool, they added a small outlet to the bottom of the infiltration system so there will be sustaining low flows through all storms. They consulted with a geotechnical consultant on the retaining wall and rip-rap slope design. Mr. Healy provided photos showing the design information. On the rip-rap slope details, the geotechnical consultant recommended that they put down a layer of non-woven fabric and a layer of crushed stone underneath. For the retaining wall design, notes were added to the plan requiring a global stability analysis which looks at the retaining wall plus the geofabrics going back into the slope to be sure that it goes deep enough into the fill so it can't pull out. After the initial review, Mr. Allen from EcoTec had asked that they delineate additional wetlands on the frontage lot of the D&P property (290 Shrewsbury Street). Additional buffer zones were identified and added to the plan. Notes were added prohibiting stockpiles and vehicle maintenance activity on the ESC plan. Details of the culvert, materials and reconstruction of the banks were provided. There was a question raised on whether the stream area of the proposed crossing #2 was a perennial stream since it is shown as such on the USGS map. Mr. Healy thought this issue was solved with the RDA in July, and that the perennial stream starts from the beaver pond downstream. They are looking upstream of the beaver pond. When EcoTec reviewed it, it was agreed that the perennial stream started below the applicant's property. Mr. Healy provided evidence to support that conclusion. Mark Coakley talked about the landscaping property (SAC Realty) at 200 Shrewsbury Street which was a similar situation and said that the applicant submitted information showing that they overcame the presumption of a perennial stream based on the USGS map. The Commission found that the river, in fact, started downstream of the 200 Shrewsbury Street property.

The DEP file number notice questioned the pre-and post-construction flows from a 2-year storm event, and why the post construction flows were higher. Mr. Healy explained and provided evidence of the watershed that was studied and the pre- and post- development times of concentration.

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Some items to be considered for special conditions from the Graves Engineering Comment Letter dated December 19, 2016 and the EcoTec Peer Review Report dated December 16, 2016 are to submit a SWPPP prior to work starting on the site; monitoring of the wetland replication area and a separate Certificate of Compliance for the replication area; Lot 1 and Parcel D, loam and seeding all disturbed or unvegetated areas within the buffer zone; and providing more detail of the water line crossing and culvert replacement, and more detail of the replication area elevations. Mr. Healy said another item was the maintenance agreement for the detention basin. They expect to sign an agreement with the town for the maintenance of the detention basin. Mr. Duffy said there were some questions on some of the elevations on one of the outlet structures that indicated a construction detail. Mark Coakley would like to have post-construction monitoring in place for a few years.

Audience comments were taken. Attorney Bill Squires (Hinckley Allen) stated that he represents the abutter on Route 140 (RW LLC). He is continuing to review supplemental information received and requested the Commission continue the hearing. Briscoe Lane (Pare Corporation) represented Rand Whitney stated that they do not oppose the project; they want to understand everything. He submitted a letter dated December 19, 2016 and commented on his concerns outlined in the letter and asked the Commission to consider them in the deliberations. Mark Bodanza (Attorney for Secured Financial) asked that the Commission take the time to address the concerns. He was told that the Commission has to review the project as it was submitted.

Mr. Healy said the applicant has been open and honest with the Commission on the various alternative access points considered since July or earlier. The project before the Commission is the project the buyers and sellers could come to an agreement on in order to reach an access. Joe McGrath made a motion to close the Public Hearing; Mark Coakley seconded; all voted in favor; motion approved. Joe McGrath made a motion issue a standard Order of Conditions adding the following Special Conditions as previously read: #34-prior to start of project, the Commission must receive and approve the SWPPP and the O&M Plan, including any relative agreements for continued maintenance; #35-the Commission will receive copies of all reports generated as part of the SWPPP and O&M Plan during and after construction; #36-any disturbed areas in Lot 1 and Parcel D need to be stabilized with loam and seeding; #37-the applicant shall present a protocol for all work related to the replacement of the culverts along the water main route at least one month prior to culvert construction. The protocol will indicate that all work will be done during the low-flow periods, as determined by the Conservation Commission's wetlands monitor; #38-the applicant will fund a wetland scientist, to be hired by the Conservation Commission, to monitor all work during the project. The wetlands scientist will continue to monitor wetland replication activities for a period of two years post project completion; #39-the average sub and finish grades within the replication area must be similar to those in the adjacent wetland areas, and will be determined in conjunction with the Commission's wetland scientist; #40-the applicant will provide additional detail on stream bank and land under water preservation and restoration at least one month prior to construction in those areas; #41-the Commission may, at its discretion, appoint a construction monitor who will visit the site as required to monitor stormwater control and erosion control activities and provide regular reports to the Commission; #42-the applicant will submit a complete set of final plans prior to the start of the project; and #43-the Commission will receive notice of all pre-construction meetings in addition to the regular notice required. Jeff Walsh seconded; all voted in favor; motion approved.

Joe McGrath made a motion to issue Stormwater Control Permit #2016-4 to include Special Conditions as noted in the Order of Conditions; Mark Coakley seconded; all voted in favor; motion approved.

Selectman Michael May thanked and appreciated the Commission's time and energy they put forth on this project as well as the Planning Board. The Board of Selectmen fully supports both boards.

**PUBLIC HEARING – KREG, LLC (Lot 9A Compass Circle) – Notice of Intent Application** to construct a duplex and associated site work.

Jeff Walsh recused himself from the matter. John Grenier and Jim Haynes were present. Mr. Grenier said it is the back loop of Compass Circle before Cheryl's Way. There is a BVW to the west of the property on the back portion of Lot 9A of the unit. It is an over 55 duplex unit. A portion of the grading is within the 100' BVW. They are outside the riverfront area. There is a 2:1 slope; jute netting will be used for stabilization. Silt fencing and erosion controls will be at the limit of work. It will be serviced by a common septic system. Mr. Grenier said straw wattles will be used at the limit of grading. Joe McGrath made a motion to close the Public Hearing; Chip Burkhardt seconded; all voted in favor; motion approved. Mark Coakley made a motion to issue a standard Order of Conditions with Special Conditions #21-#33; Chip Burkhardt seconded; all voted in favor; motion approved.

**PUBLIC HEARING – KREG, LLC (Lot 9B Compass Circle) – Notice of Intent Application** to construct a duplex and associated site work.

Jeff Walsh recused himself. Lot 9B is the other side of the duplex unit. Mark Coakley made a motion to close the Public Hearing; Joe McGrath seconded; all voted in favor; motion approved. Chip Burkhardt made a motion to issue a standard Order of Conditions with Special Conditions #21-#33; Joe McGrath seconded; all voted in favor; motion approved.

Addressing Lot 17B Anonymous Complaint – Mike Andrade (Graves Engineering) visited the site and his observations were provided to the Commission in a report dated December 8, 2016. John Grenier and Jim Haynes met with Mr. Andrade. They discussed going through the forebay and the detention basin; they will install enough small pipes to equal the design capacity. Mr. Haynes is proposing to install a guardrail on both sides. When the utilities were installed it did not make the forebay smaller. They will put a fence around the detention basin and forebay and Mr. Haynes asked if the Commission would consider a 4' fence vs. a 6' fence around the detention basin and forebay. Dan Duffy asked how the 12" pipes would impact the forebay. Mr. Grenier said he will calculate it to get the volume. Mr. Duffy would like him to go back to the original stormwater package, determine what the volume was, and have an as-built survey. The Commission received a verbal variance request from the applicant and approved a 4' fence in lieu of the 6' fence that is required. The type of filing needed was discussed. An as-built is needed because the lot lines have changed. Joe McGrath said we should require an amended NOI because it is work within the buffer zone for a wetland area, or at least a Request for Determination of Applicability. They are only modifying the basins. We need pre- vs. post- calculations as well as the plan.

Mr. Haynes asked the Commission to sign off for Lots 9 & 9A. Graves Engineering prepared a Site Stabilization Estimate dated December 16, 2016 of what was bonded and what was available for him to be exchanged. After discussions, Joe McGrath made a motion that the Commission received letters from Graves Engineering dated November 28, 2016 and December 16, 2016, and agree with Graves' recommendations that Lots 6B, 7B, 9A, 44A, 47B, and 48B be released for construction; Chip Burkhardt seconded; all voted in favor; motion approved.

### **COMMISSION BUSINESS**

Potential Enforcement Action (Borgatti property, Shrewsbury Street) concerning observations made by EcoTec in their review of the Scannell Properties project – Gravel is being pushed into the wetland on the Ducat Wood lot. Mark Coakley made a motion to issue an Enforcement Order that an NOI filing is needed to restore the resource area; Rebecca Longvall seconded; all voted in favor; motion approved.

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Consider proposed changes to Order of Conditions DEP#115-374 and Stormwater Control Permit #2014-3 (The Haven Country Club) – The proposed reduced scope of work was determined to be minor, does not require an amendment to the Order, and can be validated on the as-built plan. Joe McGrath made a motion to approve the modifications; Jeff Walsh seconded; all voted in favor; motion approved.

Longley Hill Update – Mr. Ansari was present for the meeting to provide an update. Chip Burkhardt said what is still concerning is that there is a lot of erosion on the hill side on the left (Stiles Road side); it is not stable. The back yard of one of the houses has a steep slope; it is not stable. The retaining wall is not stable. It is very frustrating. Mr. Ansari has been told for many months that this is absolutely not acceptable. There is still sediment going down the street, to the detention basin, and into the wetlands. The Commission has been very lenient with Mr. Ansari, but he is not doing the work he is supposed to be doing; it is clearly not safe. In one of the photos the silt barrier is breached, sediment is flowing underneath the silt fence. Dan Duffy said that Mr. Ansari's responsibility is to make sure the site is stable whether he is actively working in that area or not. It is not stable; it is not safe. Jeff Walsh said the channel going under the silt fence is clearly eroded on the first lot on the right. The second constructed house on the right, soil material in the area is sluffing; the septic is down low on the last lot on the right (closet to Stiles Road) and soils are sluffing. On the left side, the water was coming down the street. At the entrance, the water was going under the silt fence. Mr. Walsh is frustrated with the lack of erosion control practices. The Commission expects Mr. Ansari to make good progress in the spring or will issue an Enforcement Order. The site is less stabilized now than it was two years ago. Mr. Ansari said he plans to do work on Lot 6 very shortly. He will address the issues before the spring. Mr. Duffy told Mr. Ansari not to do any work before the area is stabilized and the outstanding issues are taken care of. The Commission will not sign any Building Permits and may issue an Enforcement Order. He needs to address the issues that Chip and Jeff identified to stabilize it over the winter. Joe McGrath said Mr. Ansari is not in good standing with the Stormwater Control regulations and the Commission could fine him \$100 every day until the work is compliant. Mr. Burkhardt said Mr. Ansari is operating without the expertise of an engineer, and doesn't know how to do it. The work that EcoTec noted was not done. The Commission's concerns have been relayed to Mr. Ansari. Mr. Duffy said if additional areas are opened and disturbed and causing erosion to the wetlands, the Commission will take enforcement action.

Worcester Sand & Gravel – Marc Richards (Tighe & Bond) and Michael Trotto attended to show the proposed grading plan and the progress being made. Mr. Richards said they plan to formally submit the plan with a narrative in the spring. The plan has not yet been presented to the abutter. Thompson-Liston will provide the cuts and fills. The plan will include 4" top soil and vegetation, planting plan, and construction sequence. They will need to bring in additional fill.

Consider issuing Partial Certificate of Compliance to Stormwater Control Permit #2014-1 (Lot 9 Perry Road) – The applicant did not supply any information from an engineer. The Commission will require an engineering review before signing any release. The Stormwater Permit applies to the whole project; the Order of Conditions applies only to jurisdictional areas to the Commission. EcoTec will be contacted to do a review.

Withdraw Amended Order of Conditions DEP#115-388 (Mastrototaro) due to improper notification of abutters – Chip Burkhardt made a motion to withdraw Amended Order of Conditions, DEP#115-388 as voted on November 21, 2016, due to improper notification to abutters; Rebecca Longvall seconded; all voted in favor; motion approved.

FY18 Budget – The budget was reviewed and will be sent to the Town Administrator. Joe McGrath will contact Emily Scerbo for information on the NPDES Permit.

Compass Pointe (Graves Engineering response to anonymous complaint) – Addressed earlier.

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Bill Manter (to discuss MACC draft letter regarding the pipeline) – Mr. Manter, representing himself and the Stop the Pipeline in Boylston organization, asked the Commission to endorse a joint letter from the MACC to Governor Baker before the end of the year to support the fighting of the pipeline. He explained the route of the pipeline. Sensitive areas that would be affected are Spruce Pond, Hall Pond and Newton Pond. Mr. Walsh read the letter and though he appreciates Mr. Manter's position, he said as a Commission member and representative of town government, he would be reluctant to sign because it puts him in a position that if and when an application comes before the Commission, and he has already voted to protest the pipeline, he would not be seen in an objective light. If he voted and the applicant was not happy with the vote, he would expect an appeal on the grounds that he was already in the negative before the public hearing. Mark Coakley thought the letter went too far from a statutory standpoint. If we sign it, we are pre-judging the applicant.

Vouchers were approved.

Review Correspondence/Emails – A compliant was received from Laurie Miles regarding Ken Rondeau (114 Nicholas Avenue). Chip Burkhardt will contact her and she will be invited to attend the January 23, 2017 meeting.

Jeff Walsh made a motion to approve the Meeting Minutes dated November 21, 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 (280 Shrewsbury Street) dated November 26, 2016; Mark Coakley seconded; all voted in favor; motion approved.

January 23, 2017 was confirmed as the next meeting date.

Joe McGrath gave an update on the conservation land. Town Counsel has drafted an Agreement for the Intra-Departmental Transfer of Real Property between the Board of Selectmen and the Conservation Commission. The Selectmen have not reviewed it yet. Mr. McGrath will contact Steve Madaus with his revisions.

Jeff Walsh made a motion to adjourn; Joe McGrath seconded; all voted in favor; motion approved. The meeting was adjourned by unanimous vote at 10:45 p.m.