



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

MARCH 19, 2018

Members Present: Dan Duffy, Mark Coakley, Jeffrey Walsh, Michael Ruggieri

Members Absent: Joe McGrath, Rebecca Longvall, Chip Burkhardt

Others Present: See Attached Sign-In Sheet

Recorder: Melanie Rich

PUBLIC HEARING – 85 Sewall LLC (85 Sewall Street) – Notice of Intent Application and Stormwater Control Permit Application for the construction of two apartment buildings with associated septic area, parking lot and grading.

James Tetreault (Thompson-Liston Associates) requested a continuance to the next scheduled meeting. Mark Coakley made a motion to accept the request for continuance; Michael Ruggieri seconded; all voted in favor; motion approved. It was continued to April 23rd at 7PM.

PUBLIC HEARING – Sylvan Realty Trust (190 & 194 Stiles Road) – Notice of Intent Application and Stormwater Control Permit Application for the construction of two residential houses with two wells, two driveways and one shared soil absorption system, including on-site mitigation systems with associated grading and stabilization of the work limits. The project includes a Conservation Restriction on approximately 7.5 acres of riverfront area.

Peter Bemis (Engineering Design Consultants) and Khalid Naseem were present. Mr. Bemis showed and explained Septic Alternative 1 and 2. He said EcoTec delineated the wetlands; B&R Survey located them. He showed the location of the perennial stream and the 100' riparian and 200' outer riparian zone. He showed the 100-year floodplain (no work is proposed). There is no connection between Flags C4 and B1.

Alternative 1 showed both dwellings as 8-bedrooms close to Stiles Road with a shared septic system for both. This alternative does not meet the setback alternatives of the Board of Health. Alternative 2 showed one dwelling close to Stiles Road with the septic system in close proximity and the second dwelling on the other side of the perennial stream with the septic system next to it. He indicated that septic Alternative 2 is not preferred by DEP and said Alternative 1 is a better project environmentally.

The proposed plan is more similar (but not the same) as Alternative 1. It shows where the wells are proposed, the leaching area, and meets all the setbacks to the abutters with a shared system for two 4-bedroom houses. There is a stormwater management plan for the construction. Erosion control barriers will be at the perimeter of the site (silt fence with straw wattles). There is a construction apron for both driveways; filter strips will be located on the

sides of the driveway. Roof runoff is collected and infiltrated to filter chambers. They propose to develop the front portion of the site (3.7 acres) and set aside 7.5± acres of the rear portion for a Conservation Restriction.

Dan Duffy said the Commission had a previous concern that the wetlands limits be re-delineated. Mr. Bemis said EcoTec reflagged the wetland resource areas. Mr. Duffy asked the date. Mr. Bemis did not know the date but said it was in 2017. There was a question as to the limits of work in relation to the wetlands lines. Mr. Bemis said they established and maintained a 20' no-work zone. Mr. Duffy would like to see that made clearer on the plan. Another concern raised was the condition of the former foundation and what might have been dumped in that area. The Commission was looking for some discussion as to when the area is excavated what inspections need to be made, and notifications of waste that was found. Mr. Bemis agreed and said if something is found there will be notifications. Mr. Duffy said we would be requiring a professional to be on site during excavation; Mr. Bemis agreed. He said they did a test pit near that area and did not find any waste materials at that time. Originally they were going to alter approximately 8 acres of the site; it is now going to be 1.5 acres. Mr. Duffy said the Commission would like the culvert within the perennial stream removed because it was part of an enforcement action that was never followed through.

Mark Coakley questioned the alternative analysis with the second larger house. One of the criteria for the alternative analysis is that it can be permitted, and it seems like it is a limited project. He said in order to consider the original, it has to be proposed as a legitimate limited project; it has to be a valid buildable project. Mr. Duffy said the alternative with the two houses in the front needs to demonstrate to the Board of Health that it can be constructed or there is an alternative that can be constructed in order allow that because of the shared system and not being able to meet the setbacks with the two individual systems. He asked Mr. Bemis if he was saying that the only way the Board of Health will permit the two houses up front is if Conservation will permit the one house in the back and the one up front. Mr. Bemis said he is not pursuing that option; it was part of a permit that was approved and lapsed; they proposed putting the leaching area in the back, not the house.

Mr. Coakley said the project needs to be economically sound and viable and is not convinced it is a legitimate alternative analysis. Mr. Bemis said he does not have to do an alternative analysis for a project that is going to be all outside of the riverfront area. Mr. Duffy said his understanding is that he could not necessarily put the separate systems on the front under the BOH regulations, and in order for them to permit a shared system, he has to demonstrate that he can build on each individual lot a system that will meet the requirements. The option has to be permissible under Conservation requirements in order for the BOH to say he can share a system on the front of the lots. Mr. Coakley said he is not sure an in-depth analysis has been done and that it is permissible; he has not seen enough information. Because it has been a contentious project, he wants to be thorough. Mr. Duffy said Septic Alternative 1 shows an 8-bedroom home with an 8-bedroom Title 5 compliant system and a 7-bedroom home with a 7-bedroom compliant system. Mr. Bemis indicated earlier that both houses are going to be 4-bedroom and was asked if he could meet the setback requirements with a 4-bedroom. Mr.

Bemis said it does if it has a shared system. He would not be requiring a variance; he believes it would be a permission.

Mr. Walsh they are not proposing work in the riverfront; no alternative analysis is required; they are proposing work strictly in the front of the site. Mr. Bemis said the proposal is for no work in the riverfront area and adding a Conservation Restriction on the remaining portion of the site. Mr. Duffy asked why he presented all the alternatives to the Commission. Mr. Bemis said because the Commission needs to see the progression of the whole project and what it stands to be. Mr. Walsh said the Board of Health will want to know that the applicant can get an Order of Conditions for the work activity he is proposing. Mr. Coakley said he does not want to see all the alternatives on the plans. Mr. Walsh would like one complete set of plans. Mr. Coakley said the way the NOI is filled out, it is for buffer zone work only; no alterations. Mr. Walsh said we can discuss it more after the site visit, but we need to be clear what the applicant's intent is, whether they want to pursue X or Y and he doesn't see why the Commission can't make the Order of Conditions specific to approving only one of them. Mr. Duffy asked if there was information from EcoTec; Mr. Bemis said no but will provide EcoTec's report. Mr. Duffy would also like to see on the plan information as to who did the wetlands flagging and when it was done. The members will do a site visit on April 7th at 9AM. Mr. Duffy said he would like the culvert removed and it be included on the plan, and explain how he proposes to do that at the next meeting. Mr. Bemis said the cuts and fills are addressed on the SWPPP; activities will be kept at the top of the slope; the slopes will be hydroseeded; the maximum slope is 3:1. Mr. Duffy said we would like to see at least a 25' setback where possible rather than a 20' setback.

Ron Ressigue was concerned that the houses will be built on top of a dump. Mr. Duffy said there would be a condition added to the Order of Conditions that an LSP or PE would be required to monitor the activity regarding the solid waste. Mr. Bemis requested a continuance. Mark Coakley made a motion to accept the request for continuance; Michael Ruggieri seconded; all voted in favor; motion approved. It is scheduled for April 23rd at 7:15 p.m.

PUBLIC MEETING – Michael Ruggieri (188 Cross Street) – Request for Determination of Applicability to remove the existing concrete decking around a pool and remove the existing in-ground pool.

Mr. Ruggieri excused himself as a member and presented his Request for a Determination of Applicability. He explained that the 100' buffer line runs through the middle of the existing pool which he wants to remove. The pool is being filled in and the surrounding concrete decking will be removed. An existing retaining wall will remain as it is associated with the adjacent septic system. Erosion controls will be placed around the perimeter of the existing fence line; the concrete decking and steel pool sides will be removed and taken off site; the pool area filled in with clean fill, and the area will be loamed and seeded when the work is completed. He would be required to notify DCR if the Commission conditioned the Determination with other than placement of ESC barriers. Jeff Walsh made a motion to issue a Negative Determination by reason #3 with the condition that erosion and sediment control barriers be placed on the down gradient side of work; Mark Coakley seconded; all voted in favor; motion approved.

COMMISSION BUSINESS

Compass Pointe Bonding Update (Jim Haynes) – Mark Coakley would like another inspection by Graves Engineering and an updated Site Stabilization Bond Map. Dan Duffy said there were some lots that were covered under the bond that were stabilized but not constructed, but some have been disturbed to construct houses and the Commission was not sure which ones they were. At the last meeting, the Commission agreed to allow Mr. Haynes to provide a letter of credit from his bank for the additional bond funds. He said we would receive the updated bond within a few days to a week from the February 26th meeting, but we still have not received it.

Worcester Sand & Gravel (act on Cease & Desist, Violation Notice and Stormwater Permit) – Mr. Duffy said it was his understanding that Tighe & Bond and Langdon Environmental have agreed on everything that was submitted (but we are still waiting on a formal submittal with the agreed-upon documents) short of the actual soil testing results for the material. Langdon communicated that they understand WS&G cannot find information from ET&L to demonstrate that the material on WS&G's property came from the area that had testing done on the site in Marlborough where the soils came from. The site was not listed by DEP, but it was a former orchard and there were some samples that exceeded acceptable levels for arsenic and similar materials (generally the first couple of feet). Based on the lack of existing results, Tighe & Bond will prepare a sampling plan, present it to Bruce Haskell and Langdon to review and approve, and together they will collect the samples.

The Stormwater Permit expired during the enforcement action. There was discussion as to whether to consider the enforcement a stay of the other permits and ask them to request an extension or tell them the permit expired and they need to reapply. Jeff Walsh thought enforcement stopped the clock on the permits. Mark Coakley suggested asking them to request an extension and we can act on it then. Mr. Trotto will be asked to request a one-year extension for the next meeting.

Request for Certificate of Compliance (DEP#115-268) William Weir, 247 Mile Hill Road – Tabled to the next meeting.

247 Mile Hill Road Stormwater Waiver Request, William Weir (continued) – Tabled to the next meeting.

Request for Certificate of Compliance (DEP#115-390) for Ken Sydow, Unit #28 Boulder Way – After a review of the file, Jeff Walsh made a motion to issue a Certificate of Compliance for DEP#115-390; Mark Coakley seconded; all voted in favor; motion approved.

Longley Hill Status Update – Mr. Ansari was present to give an update and ask the Commission to sign off on Certificates of Occupancy for Lot 5 and Lot 6. He said he has been maintaining the site and added more erosion controls. As soon as the weather permits and the septic systems are complete, Lots 5 and 6 will be seeded and stabilized. The front part of those lots have already been seeded and stabilized. Mr. Duffy said they were seeded but are not stable

yet. Mr. Ansari said the septic on Lot 6 is done; it only needs to be loamed and seeded. The septic on Lot 5 is not done but he will be working on it. He will also be working on Lot 11 to loam, seed and riprap to stabilize it. He was unsuccessful in obtaining a piece of land from the abutter to put a septic system on. Lot 9 needs work and he will address that. Mr. Duffy said on Lot 9 just below the septic system, the erosion control fabric failed; soil had slid down the slope; it needs to be addressed.

Mr. Ansari respectfully asked that the Commission not hold up the closings. Mr. Duffy reminded him that he had an agreement that the Commission would not sign any Occupancy Permits until all the work was complete. Mr. Walsh said some of the work we are talking about now was from last June; it was very clear at that time that the Commission would not sign the Occupancy Permits until all the site stabilization was complete. He was told to see how much work he can get done before the closings. Mr. Walsh said he will look for productivity and achieving stabilization. Mr. Ansari was told not to do the work if it is muddy just to get the work done. The Commission is disappointed that the work was not completed last year, and would consider a bond for protection to cover the work. Mr. Ansari was told to have his engineer (Thompson-Liston Associates) prepare an estimate and to break it down lot by lot; the Commission will review it to determine if it is sufficient. Mr. Walsh said there are two things that come into play for the steepest slopes like Lot 11. One is stabilization and erosion control (on the surface); the other would be stability of the slope. A geotechnical engineer could evaluate the slope and make recommendations.

Timberbrook – Judd Goodnow (representing Timberbrook HOA) came in to let the Commission know that they are planning to clean up all the branches and limbs at Timberbrook. They will not be removing any stumps. They will be chipped; they can either take them offsite or put them in the woods. He was told not to put them near the resource areas. The Commission had no concerns and appreciated Mr. Goodnow coming in before doing any work. He was told not to go 20' beyond the edge of pavement towards the woods.

Tighe & Bond Stormwater Assistance Proposal (2018 Annual Report & Record Keeping) – Jeff Walsh made a motion that pending agreement from Mr. McGrath and/or Mr. Burkhardt, the Commission will recommend that the BOS move forward with the proposal; Michael Ruggieri seconded; all voted in favor; motion approved.

There were no vouchers for approval tonight.

Correspondence and emails were reviewed. The Town Administrator received an email from Nathan Morries (FedEx) who would like to schedule a meeting Tuesday to discuss closeout and Certificate of Occupancy procedures with the town to assure that the process flows as smoothly as possible. Dan Duffy will forward a response to the Town Administrator.

Mark Coakley made a motion to approve Meeting Minutes dated January 22, 2018; Michael Ruggieri seconded; all voted in favor; motion approved. Mark Coakley made a motion to approve Meeting Minutes dated February 26, 2018; Jeff Walsh seconded; all voted in favor; motion approved.

March 19, 2018 Conservation Meeting Minutes

April 23rd was confirmed as the next meeting date.

Mark Coakley made a motion to adjourn; Jeff Walsh seconded; all voted in favor; motion approved.

The meeting was adjourned by unanimous vote at 8:55 p.m.