



Town of Boylston Conservation Commission conservation@boylston-ma.gov
221 Main Street, Boylston MA 01505 ** Telephone (508) 869-6127 ** Fax (508) 869-6210

**REGULAR MEETING MINUTES
APRIL 25, 2022**

Members Present: Chip Burkhardt, Joe McGrath, Ron Aspero

Members Absent: Mark Coakley, Jeffrey Walsh

Others Present: See Attached Sign-In Sheet

Recorder: Melanie Rich

The Chair opened the meeting at 7:00 p.m. May 16, 2022 was confirmed as the next meeting date. Joe McGrath made a motion to approve the March 21, 2022 meeting minutes; Ron Aspero seconded; all voted in favor; motion approved.

Review Stormwater Regulations with Cassandra LaRochelle (Tighe & Bond) – Ms. LaRochelle explained that since the adoption of the Rules & Regulation in 2007 and the Stormwater Handbook in 2008, the reissued Small MS4 General Permit created more stringent design standards that required Boylston to update the Rules and Regulations. The proposed changes are (1) Section 6-Permit Procedures and Requirements; (2) Sections 6, 7, and 11 for consistency with the MA Stormwater Handbook & General Permit requirements; and (3) Sections 6.I. and 12-Project Completion/Certificate of Compliance. The goal is to have these passed before June 30th. The Commission will hold a public hearing on May 16th.

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. Chip Burkhardt made a motion to accept the request for continuance to May 16, 2022 at 7:05 p.m.; Joe McGrath seconded; all voted in favor; motion approved.

PUBLIC HEARING (continued) – 750 Main Street (Keith Lewis) – Notice of Intent Application and Stormwater Control Application to replace the existing building and parking lot with a new building, parking lot and drainage system. (DEP#115-440) Stormwater Control Permit SCP#2021-7

Keith Lewis requested that his applications be withdrawn via email. Joe McGrath made a motion to close the public hearing; Chip Burkhardt seconded; all voted in favor; motion approved. Chip Burkhardt made a motion to accept the request to withdraw the NOI and Stormwater Control Permit applications; Joe McGrath seconded; all voted in favor; motion approved.

PUBLIC HEARING – Lot 11 Longley Hill Road (Farooq Ansari) – Stormwater Control Bylaw Permit Application to construct a single-family home on Lot 11 Longley Hill. Stormwater Control Permit SCP#2022-2

The hearing notice was read into record. James Tetreault (Azimuth Land Design) was in attendance. It's the last lot of the Longley Hill subdivision. Some of the work was done years ago. The road runs uphill; the septic system will be on the top of the lot at the high point. They propose to stabilize the 1:1 slope behind the house with rip rap. Separately they propose to stabilize the slope in front of the house, which is covered with wood chips, with erosion control matting and plantings. Because there is a proposed interceptor trench at the toe of the slope behind the house, they presume the interceptor trench will capture the runoff; therefore, not much of a worry on the 1:1 slope in front of the house. Mr. Tetreault pointed out that there are two retaining walls above the beginning of the lot's frontage; they want to leave them in place as is. He explained where they will start and rework. They propose to make the tilted over block retaining wall a low retaining wall. The septic plan has been approved by the Board of Health. Mr. Tetreault provided photos to show the easement to access to the area for the system construction. The road drainage structure that is buried needs to be made accessible in order to receive runoff from half of the interceptor trench; the other half goes to another structure. An erosion control barrier will be installed at the limit of work; there is a construction sequence; there are separate sequences for the slopes.

Joe McGrath said this lot was initially part of the original NOI for Wetlands Protection Act and asked if he would be filing a new NOI for this lot under the WPA. Mr. Tetreault thought there may be a jurisdictional area on the corner of the lot, but not where any work is proposed. Mr. McGrath asked about the fact that the interceptor drain is contributing additional runoff to the road drainage structures since they are under the old Order, and the detention basins they go to are under the old Order. Mr. Tetreault was not sure where the line was. Mr. Burkhardt believes the lot is jurisdictional under the Wetlands Protection Act because of the issues that happened with the sediment going into Cold Harbor Brook and believes there needs to be a valid NOI in place for the work to proceed on this lot.

Mr. Tetreault said the applicant is trying to get the previous Order signed off and have lots released from the original Order of Conditions (which has expired). Mr. Burkhardt said the Commission was very adamant that the slope be dealt with before the Commission would entertain signing off on any permits. Mr. McGrath said we would also request, because of that slope and because of the experience with runoff in the past, a submittal from a structural engineer, not just a wetlands scientist or surveyor, but a structural engineer that tells exactly how that slope is going to be permanently stabilized. In places on the slope, it appears to be less than 1:1; it appears to be almost straight. Mr. Tetreault agreed. Mr. Burkhardt said to include more details for the stabilization of the 1:1 slope behind the proposed house, i.e., how they are going to put the fabric down, place the rock, etc. Mr. McGrath said we also need the appropriate calculations that the interceptor drain is large enough to handle runoff from the slope. There was no public comment. Mr. Tetreault requested a continuance. Joe McGrath made a motion to accept the request for continuance to May 16, 2022 at 7:10 p.m.; Ron Aspero seconded; all voted in favor; motion approved.

PUBLIC HEARING – Lots 7 & 8 Sewall Street (S.A. Boylston, LLC) – Stormwater Control Bylaw Permit Application to remove soil and construct two duplexes with associated septic systems and driveways. Stormwater Control Permit SCP#2022-3

The hearing notice was read into record. James Tetreault (Azimuth Land Design) was in attendance. When they filed with the Earth Removal Board, Commissioner Coakley questioned whether they were 200' from the stream and suggested they come before the Commission. He was right; they were not 200' away; the grading was pulled back to stay out of the riverfront area; Sewall Pond was added to the plan; the wetlands were flagged by Matt Marro; soil testing was done and had gravel and sand. The applicant proposes to remove 25K cubic yards of material when grading the lots for the duplexes. The septic is proposed in the back but they have not been able to test it because of the depth involved. They

will have to do testing in the future for the septic system. A site entrance mat is proposed; a loam stockpile area is proposed; an erosion control barrier at the limit of work. Each unit will have its own septic system in the back; each unit has their own septic tank but will share a common leach field; there is a homeowners' agreement.

The Chair asked for public comment. Tom LaRoche (Cook Street) Officer at the Worcester Pistol & Rifle Club said it was pointed out on a drawing where their driveway is. He said there is a second easement along the property line. Peter Blanchard (3 Morgan Circle) commented that along the Lilymere condos there is a water runoff problem and asked how it would affect them. Mr. Tetreault said it would improve their situation because with the proposed change in grade, runoff will not go to Lilymere. Elaine Jones (250 Sewall Street) asked if the driveways were sloped and was told they were. She had a concern for water running into the road. Mr. Tetreault said they are proposing the gutters and downspouts direct flow to inground infiltration system structures.

Ron Aspero asked where the settling basin was and was told there is not one proposed; the notes state that the one should be installed as necessary. Mr. McGrath asked the applicant to provide revised plans showing the easement discussed by the Rifle Club and the potential locations for any settling basins that may be needed on the site during construction. Joe McGrath made a motion to close the public hearing; Ron Aspero seconded; all voted in favor; motion approved. Joe McGrath made a motion to issue Stormwater Control Permit SCP#2022-3 with standard conditions and to hold the permit until revised plans are received; Ron Aspero seconded; all voted in favor; motion approved.

PUBLIC HEARING – Lots 1-5 Sewall Street (S.A. Boylston, LLC) – Stormwater Control Bylaw Permit Application to construct two duplexes with associated septic systems and driveways. Stormwater Control Permit SCP#2022-4

The hearing notice was read into record. James Tetreault (Azimuth Land Design) was in attendance. No work is proposed in the riverfront area. The five duplex lots will each have their own septic system in the back; each unit has their own septic tank but share a common leach field. Soil tests were done; average soil on lots 1 and in front of lots 2 and 3. Roof runoff from lots 4 and 5 will go to an infiltration structure; one is not proposed on lots 1, 2, and 3. The abandoned underground Shell oil pipeline goes through lot 3. Lot 3 will have erosion control barriers at the limit of work; a site entrance mat is proposed for each lot. Mr. McGrath asked why roof runoffs for lots 1, 2, and 3 don't require drywells. Mr. Tetreault said it was because there are shallow ledge conditions. One could be done for lot 2. Mr. McGrath asked where the water would go for the other two and was told backwards towards the Rifle Club property and Sewall Brook and to Sewall Street. He said they could take the downspouts that would discharge in the front and have them go through approximately 100-feet of woods in the back and could infiltrate naturally. Mr. McGrath suggested that rather than have water go onto Sewall Street. Mr. Burkhardt said when digging for basements, if they find a spot to put in an infiltration structure they should. Mr. McGrath suggested adding a condition for the roof runoff.

The Chair asked for public comment. Jay Levitan (Worcester Pistol & Rifle Club) said there were other wetlands on the property and thought they were within the 100-foot buffer. Mr. Burkhardt explained that the resource is the brook, and only one buffer zone to that resource. He and Mr. Aspero walked the site and felt what was on the plan was properly represented.

Joe McGrath made a motion to close the public hearing; Ron Aspero seconded; all voted in favor; motion approved. Joe McGrath made a motion to issue Stormwater Control Permit SCP#2022-4 with standard conditions and Special Condition #23-applicant shall divert rooftop runoff for all lots away from

Sewall Street and abutters using swales, drywells, and/or other structures or means as available; Ron Aspero seconded; all voted in favor; motion approved.

PUBLIC HEARING – 320 Sewall Street, Pine Street Extension (The Greater Worcester Land Trust) – Amend Order of Conditions DEP#115-408 and Stormwater Control Permit SCP#2017-1 to allow the eastern and western sections of the slope on the southern property line to remain as the stable composted wood chips. The submitted plan seeks to delineate the slope to be graded, loamed, seeded, and matted.

The hearing notice was read into record. Colin Novick (The Greater Worcester Land Trust) was in attendance. Stumps and debris will be removed from the site and the dirt will be leveled out. The central slope on the southern side (approximately 12K square feet) is not at a 2:1 grade; the bottom will be brought out 10'-15' to get it to grade, it will be loamed and seeded and have a mat. They are asking for an amendment to the Order to leave the east and west slopes (approximately 14K square feet) which have been covered with wood chips for 4.5 years, have composted and started vegetating, as is. They have remained stable during significant rain events. The grant the town applied for requires the work to be done before June 30th. The long-term plan according to the Parks and Rec is to have the site revegetated naturally and have walking paths along the outside edge. Seeing that this was discussed at a previous meeting and a plan received, the members had no issues.

The Chair asked for public comment. Rick Weiner (12 Pine Street) said when the Land Trust purchased the property, they knew they would have to make the repairs, including the grading and seeding. Mr. Novick said when they were looking at it, they knew the central area needed to be flattened out, loamed and seeded. The Land Trust is committed to providing the money to do the seeding. In terms of the slope off to the left, he was not fully aware of the intricacies that were involved with that slope and the grades and its long history. Mr. Weiner said the project was put in place, the Land Trust purchased it, and now trying to change it. He felt is more of a cost situation as opposed to an aesthetic situation and concerned that it will be left in a condition and be an eyesore. Parks and Rec wanting walking trails does not seem aesthetic in value and thinks the board should be requiring him to adhere to all the conditions that was set in place when the Land Trust purchased it, whether he knew about it or not.

Mr. Burkhardt agrees. He said there was a plan in place and a stabilization plan for the entire slope. The original slope talked about loam, seed, some stabilization matting. He said there is a process they are following tonight that allows them to request a change. Mr. Weiner felt strongly that that they knew ahead of time it had to be done and it seemed like they are trying to skirt some of the items they were required to do; he didn't think it was fair for the people who have to look at it. Mr. Novick assured Mr. Weiner that the material there is adequate to the function for what they are trying to achieve. Mr. Weiner asked if the Land Trust is solely responsible for the cost or are there other parties involved and was told they are working with several parties including the original owners. Mr. Novick said it will be an improvement to the quality of the area and the runoff that will come off it. Mark Anttila asked about an as-built plan was told it will be received when they file for a Certificate of Compliance. Mr. Burkhardt said that at town meeting the money was appropriated for the Selectmen to make a decision and purchase this piece of property. This property has not been purchased yet. The final decision is up to the Board of Selectmen to decide.

Joe McGrath said the applicant had come to the Commission previously to discuss it. The general consensus of the Commission was that we did not feel that a new Notice of Intent was needed to be filed and that a letter and the appropriate plans would be sufficient to establish filing a request to the Order of Conditions. Joe McGrath made a motion to close the public hearing; Ron Aspero seconded; all voted in favor; motion approved. Joe McGrath made a motion to issue an Amended Order of Conditions

DEP#115-408 with previous conditions 1-34 and Special Conditions 35-this Amended Order of Conditions refers to DEP File Number 115-408 issued on May 24, 2017 to Pine St Boylston Realty, LLC and recorded in Book 57262, Page 29 at the Worcester District Registry of Deeds. All previous conditions shall remain in effect. The modification is to allow the eastern and western sections of the slope on the southern property line to remain as the stable composted wood chips. Ron Aspero seconded; all voted in favor; motion approved. Joe McGrath amended his motion to include Amended Stormwater Control Permit SCP#2017-1 with previous conditions 1-22 and Special Condition #23-this Amended Stormwater Control Permit refers to SCP#2017-1 issued on May 24, 2017 to Pine St Boylston Realty, LLC and recorded in Book 57262, Page 43 at the Worcester District Registry of Deeds. All previous conditions shall remain in effect. The modification is to allow the eastern and western sections of the slope on the southern property line to remain as the stable composted wood chips. Chip Burkhardt seconded; all voted in favor; motion approved.

COMMISSION BUSINESS

80 Pine Hill Drive – Discussion regarding Work/EcoTec Inspection Reports – Matthew Costa (Beals & Associates) and Art Allen (EcoTec) attended. Mr. Allen has been doing periodic inspections and providing reports to the Commission throughout the construction period and had concerns about the work limits of the site being modified. They first modified the wetland crossing itself, which he noted after-the-fact that they had moved the siltation barriers out away from the walls to give themselves room to work. They placed additional fill outside the walls. He noted it in on one of his reports months ago and asked for justification and restoration protocols for the excess work. Some of the barriers were removed but not all the fill is taken out; they haven't done the restoration yet. Most recently documented in his April 2nd report, he noted on the FedEx side of the site they had moved erosion controls several hundred feet out toward the wetland beyond the limits that were shown on the original plan and approved by the Commission, as much as 8-feet in some locations; again his understanding was that it was to allow them room to work on the wall. He had been approached on one of his visits about the issue of not having enough room and needing to move the work limits. Mr. Allen told the Arco people that he couldn't approve that and that they would have to present to the Commission that the expansion of the work limit is getting closer to the wetlands. When he went out in preparation of the April 2nd inspection report he noticed they had moved the limits, taken out some temporary mulch berms, and had runoff ponding against the siltation barriers penetrating under the barriers and siltation turbid water out into the wetlands; he saw this on two different occasions in that area where they expanded the work limits.

Beals & Associates submitted a letter dated April 22, 2022 describing the situation, proposing restoration, and responses to Mr. Allen's comments. A plan was also provided documenting the locations where the barriers were removed, including the wetland crossing and the build out retaining walls around the site. The walls associated with the wetland crossing have been constructed, the build out walls around the stie are under construction using the new work limits. They are here tonight after-the-fact to ask the Commission for permission to continue construction on those walls and then to do the restoration. Mr. Allen is in general agreement with the restoration plan, but it's up to the Commission how they want to look at the expansion and the need for the expansion relevant to the work that is being done. It is his understanding that the walls are being constructed within the limits that were approved by the Commission, it's just that they needed extra room between the walls and the wetlands to do the work. Why that wasn't anticipated or why they need to do that is for someone else to present. Mr. Burkhardt said that was his question because we did have an approved limit of work. Presumably we knew we had to construct the wall within that limit of work and we agreed to the sedimentation and control barriers at the limit of that work. He is disappointed that they are coming to us now and asking for permission for something that they did wrong rather than telling us upfront; it could have been an email or a call a month ago. He was glad we have an approved restoration plan, but

the reality is this is enforceable. It could be an Enforcement Order; we could shut down construction because they didn't work to the plan or notify us. He doesn't want to shut down construction; this should not have happened and should not happen again. There should be no other work on the site that they come to the Commission a month later and say they changed their limit of work and no big deal. Mr. McGrath couldn't understand why when they realized the limit of work needed to be changed why they couldn't have contacted us at that point and asked to revise the plan or accept the revised plan. It bothers him to think that there is so little respect for our town that they would simply go ahead and do this and assume the Commission would okay it. It also impacts their permit with the Planning Board.

Mr. Costa said the walls remain in the limits of the approved work; it was just the extension of the silt fence to allow more room for construction. He said the Commission is right, this should have been brought to the Commission ahead of time; they realize it now and are here to amend and do what needs to be done in order to mitigate it. Mr. Costa said he will keep a closer eye on them to make sure this doesn't happen again. It was not done in any disrespect to the town. Mr. McGrath didn't think there would have been any serious issue with them changing the limits of work as long as the resource areas were protected, but to come after-the-fact is really the problem. If Mr. Allen hadn't been out there to notice it, would they have done it and came back to us with the as-built plan and showed everything had changed. If it happens again, the Commission will issue an Enforcement Order. Mr. Allen said it should be done under an Enforcement Order or for them to file for an amended Order of Conditions. It was the consensus of the Commission to have them file for an amendment to the Order of Conditions. Mr. Burkhardt does not want to see progress stop or extended any longer but know that the Commission is serious. This is a non-issue that has become an issue. Paperwork needs to be received by May 3rd for the May 16th meeting. If it is not received, an Enforcement Order will be issued. The Commission also requested \$5,000 be deposited into the 53G account.

The Chair asked for public comment. Jerry Quam asked how it was noticed originally. Mr. Burkhardt explained that Mr. Allen is the consultant for the Commission and does periodic inspections for the Commission; he our eyes and ears.

Sewall Street Lots Building Permit Sign-Off – Alex Richov (SA Boylston LLC) – The Building Permits for Lots 1 & 2 will be signed.

176 & 179 Stiles Road (Farooq Ansari) Update – Mr. Burkhardt explained that in order for the work to go forward, Wayne Belec was in the process of securing signatures from the property owners. Mr. Ansari believes he has gotten them and will file the Notice of Intent for the May meeting.

Mr. Ansari asked the Commission if he could receive a Certificate of Compliance for Longley Hill because he has a plan. Mr. Burkhardt said there is no correspondence addressing all the issues identified by Graves Engineering in 2020. Mr. Ansari was told this numerous times. Mr. Ansari said he responded to Graves months ago. The Commission has nothing saying the issues have been addressed; and has nothing to move forward with. Mr. McGrath said the Commission would need acknowledgement from the Planning Board and the responses from Graves in order to move forward. The Planning Board will be reviewing it on April 28th. The drainage on Lot 11 needs to be addressed before the Commission can sign off on the subdivision.

Consider issuing a Certificate of Compliance for 85 Sewall Street, DEP#115-420 and Stormwater Permit #SCP-2018-3 – The only outstanding issue is confirmation that the hoods on the catch basins are installed; the applicant will be informed.

Consider issuing a Certificate of Compliance for 5&7 Gulf Street (Lot 7A), DEP#115-391 for Great Gulf, LLC – Chip Burkhardt made a motion to issue a Certificate of Compliance for 5&7 Gulf Street (Lot 7A), DEP#115-391; Ron Aspero seconded; all voted in favor; motion approved.

Compass Pointe Update – Mr. McGrath spoke with the Town Planner, Paul Dell’Aquila, who recently had a meeting with Mr. Haynes regarding the status of Compass Pointe with the Planning Board. Mr. Haynes had promised the Planning Board that he would deliver as-built plans for all lots in the site but has not done so yet. Mr. Dell’Aquila and Mr. McGrath are jointly drafting a letter to Mr. Haynes that will be reviewed by Town Counsel before sending. There will be a deadline for Mr. Haynes to complete the work and note the status of the current Orders. Mr. McGrath hopes to have it ready for the next meeting. Also discussed was the possibility of the town not plowing the roads in Compass Pointe any longer, but it was decided it was a public safety issue and will continue. Points to be addressed with Town Counsel are (1) how much more time can he be given since it has gone on for so long; (2) when can the bonds be pulled; (3) how do we start the process; (4) what kind of notification do we need to give him if we go that route; (5) we expect to see John Grenier and Matt Marro at the meeting to tell us what’s going on. Mr. McGrath said we received notification that they are planning to do additional erosion and sediment control on the site but we have no details on it or the timing.

Mark Anttila commented on Boylston CP, LLC assets/land. Mr. McGrath said Mr. Haynes informed the Planning Board that the Commission refused to take any of the land Mr. Anttila mentioned, i.e., Spruce Pond abutting land and land around the parcel that was deeded to the Water District. There is no record of that conversation ever taking place. If they want to deed those to the town, the Commission would be willing to be the custodian to preserve them as open space. Onni Wirtanen asked about the status of the Orders of Conditions. Mr. Burkhardt said Attorney Watsky did send a table listing the Orders; the extension dates were not included. He also requested a member to walk the site. Paul McManus will be asked to visit the site.

25-Foot No Disturb Policy Update – Tabled to a future meeting.

Office Hours – There was discussion about allowing the admin to work from home one-day/week or every other week for economic reasons, but because of the limited town hall hours, closed on Fridays, and no one being in the office, in-person presence is needed.

Correspondence/Emails were reviewed.

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

The meeting was adjourned at 9:20 p.m.