



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

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REGULAR MEETING MINUTES JANUARY 23, 2023

Members Present: Joe McGrath, Ron Aspero, Jeffrey Walsh, Mark Coakley

Members Absent: Chip Burkhardt

Others Present: See Attached Sign-In Sheet

Recorder: Melanie Rich

The Chair opened the meeting at 7:00 p.m.

February 13, 2023 was confirmed as the next meeting date. Mark Coakley made a motion to approve the December 19, 2022 meeting minutes as amended; Ron Aspero 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. Ron Aspero made a motion to accept the request for continuance to February 13, 2023 at 7:05 p.m.; Mark Coakley seconded; all voted in favor; motion approved.

PUBLIC HEARING (continued) – 100 Shrewsbury Street (Trailside Apartments, Steven Venincasa) – Notice of Intent Application to construct a residential apartment building and small commercial building on the 19.24-acre site located on the southeast corner of Shrewsbury Street and Sewall Street. (DEP#115-447)

Jeff Walsh recused himself from this hearing. Patrick Healy (Thompson-Liston) was present. Graves Engineering submitted a Stormwater Review #2 letter dated January 16, 2023; Thompson-Liston provided responses to the outstanding items dated January 23, 2023 and a revised plan dated January 20, 2023. Mr. Healy said they were minor revisions and felt they were adequately addressed.

Mr. McGrath asked if DEP's comment that the size and calculations needed to be provided for all flared end aprons had been done. Mr. Healy said it had been with a letter addressing DEP comments and has been added to the plan; it was also sent to the DEP. There was a question about a Stormwater Permit. Mr. McGrath thought it was exempt from the Stormwater Permit because it is a 40B project. Mr. Healy said they were not exempt; they do need a Stormwater Permit for the commercial part of the project. Jeff Walsh (35 Glazier Street) commented with respect to the 40B, that any local permits at the town level would be handled under the Comprehensive Permit. Mr. Healy said the ZBA did issue, on behalf of the Commission, in lieu of the Commission's activity because it is a local bylaw, approval under the Stormwater Control Bylaw.

Mr. Healy said the Order of Conditions would apply for the full site development, but did not expect the Commission to issue a Stormwater Permit. It will be a Special Condition along with conditions for a pre-

construction meeting, marking the limit of work before any trees are cut, and our consultant will do site inspections. A 53G account needs to be established for site inspections.

The Chair asked for public comment; there was none. Ron Aspero made a motion to close the public hearing; Mark Coakley seconded; all voted in favor; motion approved. Joe McGrath made a motion to issue a standard Order of Conditions with #21-34 and Special Conditions #35-construction of the commercial section of the project will require a Stormwater Control Permit required by the Town's Stormwater Control Bylaw; #36-the applicant will schedule a pre-construction meeting with the Commission once the limit of work has been flagged and prior to any tree removal, grading, or any other site disturbance; #37-the applicant will establish and maintain a 53G account with the Commission for the purpose of funding a construction site monitor to be selected by the Commission. Mark Coakley seconded; all voted in favor; motion approved.

COMMISSION BUSINESS

Consider issuing a Certificate of Compliance for 85 Sewall Street, DEP#115-420 – Matt Marro was unable to attend tonight. Joe McGrath made a motion to pass over this item; Mark Coakley seconded; McGrath/Coakley/Aspero voted in favor; Walsh abstained; motion approved.

Consider issuing a Certificate of Compliance for 21 Woodland Drive, SCP#2020-3 – Joe McGrath made a motion to pass over this time since he and Mr. Aspero will need to recuse themselves leaving no quorum to vote; Mark Coakley seconded; all voted in favor; motion approved.

Craig Silvio (28 Sewall Street) to discuss Commission sign-off for a Building Permit – Mr. Silvio is tearing down the old house and building a new single-family house. Mr. Coakley said it's a single-family home on a pre-existing lot; he is asking the Commission to sign off on a building permit. There are plans from David E. Ross with a note that the wetlands were delineated by others; with takeoffs from the center line of the stream, it's a tough area. He has no doubts about the standard of work or the standards being the best applicable because of the way the site is, but his suspicion is that the mean annual high-water mark is much higher than what's shown and wanted to discuss it before the Commission signed off on it. Mr. McGrath noted that there was a DCR Request for Watershed Determination of Applicability but didn't see a response about the Determination. Mr. Coakley thought they took 200 feet from the brook; the BVWs are marked high-water marks; he had a problem with accepting the delineation as marked. Mr. Walsh said there are two different delineations; the mean annual high-water mark that determines the riverfront area, and the edge of BVW. There are no problems with the performance standards because it's a pre-dated lot. The DCR request was filed on March 20, 2021; there was no reply; no requirement for approval. Mr. Silvio said he received a call from DCR and was told there were no issues. Joe McGrath made a motion that the Commission has no objection to the issuance of a Building Permit for the creation of a single-family home as proposed by Mr. Silvio, Map 22, Lot 4; Jeff Walsh seconded; all voted in favor; motion approved.

Stacy Plunkett (21 Adams Street) to discuss possible stormwater issues in the drainage easement – Stacy and Joseph Plunkett were present. Mr. Plunkett explained that there are two lots. Ms. Plunkett said Jarvis did a survey and provided an as-built for the layout of the house. They are looking to build a pool; the challenge is that there are two drainage easements and explained where they were. Mr. Coakley asked if the survey included the as-builts for the drainage structures. Ms. Plunkett said the new survey has the as-builts for the drainage structure that is next to their house, but not the one that is further away. The Commission does not know where the pipes are or how they are setting. Mr. Plunkett said they want to put a pool on the side outside of the wetlands which is marked and flagged and want to know what they can do with the current easement and/or drainage. Is it feasible or possible to move

part of the easement and join it with the other one that runs into the basin or relocate it to clear the easements?

Mr. McGrath asked who owns the easement. Ms. Plunkett said when it was written, the easement was owned by the builder and that expired so she doesn't know who owns it now. Mr. Walsh thought since Adams Street is now a public way, it's owned by the Town of Boylston. The land on which the easement is on is on the Plunkett's property and they have the right to use it for certain things so long as it doesn't impose on the use of the easements. If there is an easement there, the use of their land cannot impede on the grantee's use of the easement; whoever has the benefit of the easement has the ability to work within that easement. The larger easement is the wetlands; Ms. Plunkett said there is also a detention basin. Mr. Walsh said the Commission doesn't have the authority of what happens within the easement. The question is who has that responsibility. When the road and right-of-way were conveyed to the town, it could have been possible that the drainage easements, which support the use of the road, may have been conveyed to the town. There may be a Homeowners Association. Mr. Plunkett said there was one Mount Pleasant Estates which has expired. There was a Declaration of Protective Covenants Restrictions and Easements at Mount Pleasant Estates that had to be renewed after 20 years and was not. Mr. Plunkett said only two of the lots get voting rights on it. Ms. Plunkett said they don't know who it goes to because it is expired.

Mr. Walsh said if they want the ability to work within one of the easements, that's the entity they have to get permission from. They should check for information with the Board of Selectmen, the DPW or the Town Clerk's office. Mr. McGrath suggested checking with the Board of Assessors as well to see if they have ownership records. Mr. Coakley said if they come up with a plan that doesn't change the function of it, then whoever owns the easement can probably get a pool built. Mr. Walsh said they can't put anything in that's going to infringe on the ability to replace/maintain the drainpipe. If they want to put the pool in an easement, they probably won't be able to do it. Mr. Plunkett said they could move the D-box and replace the concrete. Mr. Walsh said it wouldn't be that easy, they have to look at the impact of how much water is going down there and whether it can handle it. Mr. Walsh said the easements were not together for a reason. Mr. McGrath said they should start with a professional engineer who can assess the situation and make recommendations and tell them the cost. He also said the concern of a pool is not only to stay out of the wetlands but where the drainage water from the pool goes. The Commission would like to see the plan and comment on it.

Michael Holyoak (20 Boulder Way) to discuss regrading and positioning of garage within 100 feet of a wetland – Mr. Holyoak provided a partial plan that had the original house when it was built and what he recently purchased. He said the difference between his property and all the others is that there is a 10-foot right-of-way that goes through the property, where the other is a private road. He marked where he could put a garage and although it would fit, it would mean that when he opened the doors to the garage it would be on the right-of-way. He asked the Building Inspector if he needed a 20-foot setback and was told because he owns both sides of the right-of-way, he didn't think so but to check with the town attorney. Mr. McGrath asked if his concern was not being able to push the garage back because of the buffer zone. Mr. Holyoak didn't know if he could move the building 5 feet into the strip of area he owns. Mr. Walsh understood the public safety issue and liked the idea of the building being pushed back, but on the other hand he sees where a building used to be and was concerned with protection of Rocky Pond. He wouldn't have a problem finding a happy medium to meet the Commission's goal of a 25-foot buffer zone. Mr. McGrath said if he came back 5 feet towards the water, it would have a stipulation that he cannot have a floor drain in the garage and should put up gutters that would bring the water from the roof of the garage away from the pond. If he is planning to take part of the stone wall and side down, he should include it in the filing since it is an activity near the pond.

Mr. Coakley said it's a non-conforming lot so he will need a variance from the ZBA. They can't issue a Building Permit because it's a non-conforming lot. Mr. Holyoak said the town requires an apartment on top if you build a garage on a separate piece of land; the Commission has never heard of that. Mr. Coakley said the two lots can be combined but it's still a non-conforming; he may still need the ZBA. He said there are a lot of issues building on the pond because the square footage of the renovations vs. what was there. Mr. Walsh's recommendation was to make every effort to make the 25-foot but knowing he needs room to open the doors and get out safely. He had no issue with Mr. Holyoak having to come some distance back as long as the back foundation isn't in the pond; no part of the building can be in the resource area, and preferably be 25-feet away. Mr. Coakley still felt it would be an existing non-conforming lot. He also said with ponds and runoff from the roofs, the Commission will ask for infiltration mechanisms. Mr. Holyoak asked about exemptions for minor activities and commented that it says you can put a wall in but didn't know if that applied to the buffer area or not. Mr. Walsh read the minor activities that are exempt from local Conservation Commission review as long as they are located in the riverfront area or buffer zone, but not within any other resource area. He said certain activities may be exempt, but he is not convinced that any stone wall in a buffer zone is exempt.

Compass Pointe to discuss EcoTec's 7/27/2022 report and Commission's recommendations – Jeff Walsh recused himself from this discussion. Onni Wirtenan (5B Cheryl's Way) and Mark Anttila (46B Compass Circle) were present. This item was requested by Mr. Wirtenan. He asked if the Commission had any thoughts on moving forward with stabilization this year and was told yes. Mr. McGrath said due to various activities of the Commission, they didn't have time before the end of the year to verify everything on the report; a stabilization inspection is needed as well as review the as-built, but no progress has been made on that. Mr. Wirtenan asked if the Commission could write a letter to Attorney Watsky for an update on the 2019 proposed plan that Matt Marro provided regarding reseeding. He would like any reseeding to take place in April because there is a window of opportunity for germination. Mr. McGrath will draft a reminder letter to the responsible parties asking them to outline their plan for the Commission for this year and remind them of the growing season.

Review Correspondence/Emails/Additional Items: (1) The annual report for Philips Precision was received. (2) An email was received from Art Allen (EcoTec) regarding 160 Shrewsbury Street–Response to EcoTec Site Inspection Memo. (3) Request for a sign-off for a Building Permit for a family room for 100 Natures View Way–The Commission needs a plot plan before either approving or disapproving the permit.

Mr. Walsh mentioned that at 8PM the staff leaves and the inside doors shut and lock. Our staff member who has the key was not present tonight. There's no protocol to get in the building once the staff leaves; the town needs to provide access.

Having no further business to discuss, Mark Coakley made a motion to adjourn; Jeff Walsh seconded; all voted in favor; motion approved.

The meeting was adjourned at 8:35 p.m.