



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

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REGULAR MEETING MINUTES

JUNE 20, 2023

Members Present: Mark Coakley, Chip Burkhardt, Jeffrey Walsh, Ron Aspero, Joe McGrath, Lucas Rose

Members Absent: None

Others Present: See Attached Sign-In Sheet

Recorder: Melanie Rich

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

Lucas Rose was welcomed as the newest member of the Commission. July 17, 2023 was confirmed as the next meeting date. Mark Coakley made a motion to approve the May 15, 2023 Meeting Minutes; Jeff Walsh seconded; Coakley/Burkhardt/Walsh/Aspero voted in favor; McGrath abstained; voted 4-0-1; 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) was present. At the last meeting the Commission was looking for a revised plan showing the wetland replication area and the dry well. There is a small replication area (200 square feet). A construction sequence was provided at the last meeting. Mr. Coakley suggested adding a special condition for monitoring. Mr. Heim said DEP will not be issuing a 401 Water Quality Certification because it is no longer needed.

The Chair asked for public comment; there was none. Joe McGrath made a motion to close the public hearing; Jeff Walsh seconded; all voted in favor; motion approved. Joe McGrath made a motion to issue a standard Order of Conditions with Special Condition #35-the applicant will provide an annual report on the status of the replication area for a minimum of two growing seasons per DEP Wetlands Restoration Guide; Mark Coakley seconded; all voted in favor; motion approved. The plan referenced on the Order is Site Plan of Land, 260 Shrewsbury Street, dated June 19, 2023.

PUBLIC MEETING (continued) – 150 Shrewsbury Street (Fuller RV) – Request for Determination of Applicability Application to place a layer of crushed stone on the rear of Plot C to control mud to prevent sinking when parking on the lot.

Sheri and Robert Fuller and Kyle Merkosky (Route 140 RW LLC) were in attendance. Ms. Fuller showed the easement Route 140 RW LLC bought and revised her numbers. Mr. Burkhardt said the area of concern was that the additional fill was on parcel C1, not C2. Mr. Merkosky agreed and said one of the concerns they had was that parcel C2 is still within the 100-foot buffer and there was some disturbance within C2. From their perspective, they will be fine with whatever decision is made as long as everything

is documented properly and that Route 140 RW LLC is not and will not be responsible. Mr. Merkosky confirmed that the plan they are referring to tonight is the correct plan.

Mr. Walsh said last month there was a question of whether runoff from the driveway still goes over the apron and onto the Fuller property. Mr. Fuller said the two drains in the driveway are doing a great job. He did say that from the entry of the easement road with the recent rainfall there is a slight issue; the water from 140 is going into the easement road and overflows the drain towards Verizon; when it can't handle it, it goes to the one closest to them. Mr. Merkosky said when it was built they went as close as they could to Route 140; there was a small existing hump/curb on Route 140 on the entrance; they were not allowed to go any further into Route 140. Mr. Merkosky said water that is flowing down Route 140 from the top of the hill is not their water to manage and not their financial responsibility to fix. Mr. Walsh agreed it is not their water but said any driveway that connects to the road has to be paved in such a way as not to receive road runoff. Mr. Merkosky said it was replaced exactly as it was. Mr. Fuller said there is one spot with no berm. Mr. Merkosky said he would take a look at it, but not knowing the extent of the problem, can't commit to anything.

Chip Burkhardt made a motion to close the public meeting; Ron Aspero seconded; all voted in favor; motion approved. Chip Burkhardt made a motion to issue a Negative Determination by Reason #3 and added a condition that work is to be completed on parcel C1 only per plan dated 6/20/23, and stake locations depict upper area to which stone is to be applied; Jeff Walsh seconded; all voted in favor; motion approved. Mr. Burkhardt made it clear that the Commission will not hold the current owner responsible for any alterations that were done on parcel C2.

COMMISSION BUSINESS

Informal Discussion – Scott Steeves re 211 Mile Hill Road (Summer Star Wildlife Sanctuary) – Jeff Youngquist (Outback Engineering) and Scott Steeves were present. This is Phase 2; Summer Star Meadow; 55 acres. The parking lot and trail are in. The existing house is next to the road; they will be tearing it down. Part of the original house was built in the 1700s. In the 1860s they moved the house; they built the first floor and took the original house and set it on the second floor. The second floor is 200-year-old wood; they will take it apart and store it. They will be creating a replica farmhouse. The barn will have new materials which will be used for viewing the meadow. He was looking for feedback before filing. An NOI was discussed. A crane is needed to dismantle the building; three trees are in the way; they will need to create a small landing to bring in a trailer. Erosion controls were put in before they started on the interior work. An RDA was recommended for the demolition work.

Informal Discussion – Amaresh Pani re questions about placement of home on new lot (430 Green Street) divided from 428 Green Street Lot 2 – Mr. Pani emailed that the lot is off the market; no need to attend.

Consider issuing a Certificate of Compliance for 160 Shrewsbury Street, DEP#115-438 (Route 140 RW LLC) and SCP#2021-5 – Lauren Gluck (Pare Corp) and Kyle Merkosky (Route 140 RW LLC) were present. Art Allen (EcoTec) submitted his final report dated May 31, 2023 stating that the site appears to have been constructed in substantial conformance with the approved plans as documented in the as-built plans dated April 27, 2023. An engineer's letter was provided by VHB which also stated that the project was constructed in accordance with the plans and the amended Order of Conditions.

Mr. Walsh visited the site today and it said looks great except for a grassy area by the water tank that didn't come in well. Mr. Merkosky said they will respray it with additional hydroseed. Mr. Walsh said the Route 140 drainage doesn't have a bearing on the NOI; it's maintenance of the pavement surfaces. Last

month Mr. Fuller mentioned a concern about whether or not the water was going over the curb. Mr. Walsh said on the very lowest end it's higher on the finished side of the driveway than it is on the apron; water can fall off on the lowest few feet of the apron. He would like to see the berm raised; Mr. Merkosky said they will take care of it. Annual reporting for the project will be required. Joe McGrath made a motion to issue a Certificate of Compliance for DEP#115-438 and Stormwater Control Permit SCP#2021-5; Jeff Walsh seconded; all voted in favor; motion approved.

Mr. McGrath complimented the Pare Corporation and Route 140 LLC for the way they've worked with us. He said it's been a pleasure to have people work with us the way they have because we have so many issues with other projects in town; the Commission also appreciated the way they have worked with our consultant; the members all agreed.

Consider issuing a Certificate of Compliance for 26 Boulder Way, DEP#115-439, Ken Sydow – Ken Sydow and Brandon Ducharme (David E. Ross Associates) were in attendance. There were minor deviations to the plan; the house was rotated back and is now further away from Rocky Pond. Joe McGrath made a motion to issue a Certificate of Compliance for DEP#115-439; Jeff Walsh seconded; all voted in favor; motion approved.

Consider signing an Occupancy Permit for Lot 11 Longley Hill Road (DEP#115-442 and Stormwater Control Permit SCP#2022-2 *(No Certificate of Compliance has been requested or issued for the Order of Conditions and Stormwater Control Permit yet)* - Mr. Walsh recused himself from the discussion. Farooq Ansari was present. Mr. Burkhardt said we did receive an email from James Tetreault (Azimuth Land Design) but as Mr. Ansari was told at the last meeting, the problem is that the septic system was constructed but he didn't come back to the Commission for approval. All of the plans we approved depict the septic system as it was supposed to be installed, not as it was installed. We have nothing from Mr. Ansari; he has corresponded with Dennis Costello (Board of Health), but not with the Commission. He should have filed for an amendment to the Order of Conditions. Mr. Burkhardt said the biggest concern of the Commission is slope stability; the slope stability calculations we have don't include thousands of pounds of retaining wall and block and filter sand on top of the existing slope. If he is asking for approval, we would have to deny it since it's not built according to the approved plan. What Mr. Tetreault sent was a justification for why they did what they did; it's not a request. Mr. Ansari was also told many times on this project that he has to manage the project and the approvals; it's his responsibility to come back to the Commission and ask for a change, but he didn't do that.

Mr. Ansari said there was no formal request; he was depending on his engineer to do that and guide him through the process. He said his engineer told him that he did contact someone on the Commission before he made the changes and they said to come in front of the Commission but he did not. Mr. Ansari said his engineer should have thought of that. Mr. Ansari did take the blame and said if he had known, he would have come to the Commission. He wanted the Commission to sign off on an Occupancy Permit and in the meantime he would make a request to change the plan and said the Commission would have everything at the next meeting. Mr. Burkhardt said if we sign the Occupancy Permit, it becomes the owner's responsibility to complete the items in the Order. Mr. Ansari said he is working on it every day. A blank Certificate of Occupancy was dropped off at the office. The Commission cannot sign it tonight because we still have concerns; the same concerns about the stability of the slope long term. There are more concerns now that there is a raised bed system at the top of the slope; he has point loaded the slope; there are now different forces acting on it and the water is being loaded at a higher elevation with the septic system; he is point loading that part of the slope differently than he would have if it was at original grade; that changes the slump profile and the potential failure plane on that slope. The structural evaluation we have for that slope is now invalid; all the changes have to be evaluated. The Commission does not want to transfer that burden on someone else by approving an

Occupancy Permit. Mr. Coakley said the way we dealt with it in the original filing was that they had the septic system and retaining wall design reviewed by a third-party technical engineer. He thought it would be appropriate to look for that if they file an amendment. Mr. Burkhardt said we are looking for an amendment to show that what he did in the evaluation is going to be safe going forward in the future.

Mr. Ansari asked the Commission not to delay him because the people want to move in. Mr. Burkhardt said we do understand that but we can't do that because it unties the developer's hands. If the house sells and the property transfers, legally they own the problems that go with it. At the last meeting he was told about the concerns we had with the slope and the septic system, that structural stability was the number one concern and told him there was nothing in the file about the request for changing the septic system. Mr. Ansari said at the last meeting he was told that he never submitted a plan that was different than the one the Commission approved and said his engineer submitted the plan showing both of them. Mr. Burkhardt said we have a plan, but the plan is not the request to amend the Order. Mr. Burkhardt read from last month's meeting minutes. Mr. Ansari was told we are looking for him to follow the process that's outlined in the Wetlands Protection Act. We will not go back and forth having the Commission tell him what he needs to submit; he needs to review his Order of Conditions and provide a proper submittal. He is well aware of the Commission's concerns; the stability of the slope needs to be addressed. Mr. Ansari commented that there is a bond on the project if he doesn't complete the job. Mr. McGrath said this is a safety issue; it's not a cosmetic issue. Until a geotechnical engineer certifies that the changes to the slope do not impact the stability, he would not be willing to sign off on an Occupancy Permit or any paperwork.

Jeff Walsh (35 Glazier Street) said if the concern of the Commission is slope stability, the proper consultant needs to be engaged; a Geotech engineer would be needed, not Azimuth Land Design. The Commission should not peer review something that hasn't been put forward to the Commission. He said Mr. Ansari should have his Geotech provide an opinion and the Commission can decide whether or not they accept it or whether they need peer review. Should the slope fail, monetarily damages could be in six digits. The bond held by the Commission would only cover using what is there to stabilize it if the proponent walks away. This is a problematic lot that was left to the end and one the Commission had concerns with all along.

Correspondence reviewed: (1) Frito-Lay Annual Report; (2) EcoTec 6/7/23 memo regarding Art Allen's inspection at 100 Shrewsbury Street (Trailside Apartments) and the need for them to reconfigure the pipe to its approved location and the siltation barriers reset. Melanie will contact them. Invoices were approved.

Reorganize the Commission – Mr. Burkhardt will be stepping down in September to attend school. Briefly discussed was Mark Coakley being the Chair, Jeff Walsh being Vice Chair; Joe McGrath will fill in as needed. Mark Coakley will remain as the representative on the Earth Removal Board and Joe McGrath will remain on the Stormwater Committee with Lucas Rose joining. The roles will be voted on at the July meeting.

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

The meeting was adjourned at 9:00 p.m.