



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

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REGULAR MEETING MINUTES SEPTEMBER 18, 2023

Members Present: Mark Coakley, Joe McGrath, Ron Aspero, Lucas Rose

Members Absent: Jeffrey Walsh

Others Present: See Attached Sign-In Sheet

Recorder: Melanie Rich

The meeting was opened at 7:00 p.m. October 16, 2023 was confirmed as the next meeting date. Joe McGrath made a motion to approve the August 21, 2023 Meeting Minutes; Ron Aspero seconded; McGrath/Aspero/Rose voted in favor; Coakley abstained; motion approved.

Continued PUBLIC HEARING – Lot 11 Longley Hill Road (Farooq Ansari, Central Street Boylston Realty Trust) – Request to Amend Order of Conditions DEP#115-442 to reflect plan revisions made by the applicant and contractor without Conservation approval.

James Tetreault (Azimuth Land Design) and Farooq Ansari were present. Mr. McGrath read the email sent by Michael Andrade (Graves Engineering) on 9/15/23 that stated “On 9/14/23, we received the attached as-built plan. In our opinion, this structural engineer stamped plan serves as a suitable certification of the “wall” in question. Please let me know if the Commission has any questions or requires anything further on this issue.” The Commission is also in receipt of previous letters certifying that the work was done according to the plan. Once the Commission approves the Amended Order and signs the Certificate of Occupancy, the Building Inspector will require a document to be submitted at completion of construction by a registered design professional in order for him to issue the Certificate of Occupancy.

Joe McGrath made a motion to close the public hearing for Lot 11 Longley Hill Road for an Amended Order of Conditions, DEP#115-442; Lucas Rose seconded; all voted in favor; motion approved. Joe McGrath made a motion to issue an Amended Order of Conditions referencing plans dated June 28, 2023. The Occupancy Permit will be signed when it’s received.

PUBLIC HEARING – 428 Green Street (Eric & Peggy-Anne Preusse) – Notice of Intent Application to bring the existing site work into compliance and to propose the construction of a single-family home on the lot. (DEP#115-~~xxx~~)

Ron Aspero recused himself from the discussion. The hearing notice was read into record. Chris Frattaroli (Goddard Consulting) was present. Certificates of mailing were received. DEP has not yet issued a file number. The proposed project is for 428/430 Green Street. The parcel was divided; the existing house is #428; the new house will be #430. When Mr. Frattaroli became part of the team, substantial work had already been completed; a large amount of tree clearing had been done before a permit was issued. They are hoping to restore some of the problem areas that have been cleared as well as put forward a proposal for a single-family house on the lot. Approximately 120 square feet was cut in the BVW as well as the adjacent area in the 25-foot no disturb zone; a perennial stream crosses under the road to the other side; work is entirely in the 100’-200’ riverfront area.

Mr. Frattaroli talked about the areas that were impacted before a permit was issued. He showed the BVW area and the 25' that was cut. He pointed out the section of the riverfront area that was cleared and cut and the rip rap slope for stabilization which is the access into the property. Mr. Frattaroli said they are proposing restoration of those areas, and with those areas being restored, they are now a buffer zone; only single-family home construction. Because there is new development in the riverfront area, you're allowed 10% of the total riverfront area or 5,000 square feet; they will be using 5,000 square feet. Mr. Coakley questioned the area impacts listed on WPA Form 3 under Section B, Buffer Zone Impact Areas, and asked why it was listed as a limited project since it's over 10% and 5,000 square feet; Mr. Frattaroli didn't have the answer. Mr. Coakley said it's either or, or a limited project. He didn't think the application was filled out properly. The Commission will want peer review.

Mr. Frattaroli said they are looking to construct a family house with a driveway, small detached barn, patio, and porch; buffer zone only, new development, riverfront area. Mr. Coakley visited the site and commented on the runoff coming off the long driveway. With all the rain we've had there are tear-outs and ponded water at the end of the driveway, and from the Rocky Pond Community Forest water was sheeting across the street. The Commission would like to see some mitigation to stop it in those sections so it doesn't end up back in the street. Mr. Frattaroli said it could be controlled short-term with erosion controls and he will work with the engineer for the long-term solution.

Mr. McGrath asked how all that work was done without any acknowledgement of the fact that there were several jurisdictional areas on the site. Who would arbitrarily cut a road through a riverfront area? Ron Aspero (Shrewsbury Homes), 4 Redwood Circle, said the Preusses' purchased the property after all the work was done. After a site visit, Mr. Aspero brought it to the Commission that there was a problem that needed to be addressed. He asked for permission to continue to work on the lowest section; he discovered it was riverfront and stopped work. The present owners bought it unbeknownst to them that the land and developmental work was in violation. Mr. Coakley asked who the contractor was that did the illegal work. Kevin Aspero said they don't know but was told it was a friend of the real estate broker.

Mr. McGrath requested the applicant set up a 53G account with \$3,000 for peer review by a wetland consultant. Verification of the flags and verification of the delineation of the riverfront area and the BVW is needed. Mr. Frattaroli requested a continuance. Mark Coakley made a motion to accept the request for continuance to October 16, 2023 at 7:05 p.m.; Joe McGrath seconded; all voted in favor; motion approved. Mr. Coakley said the Commission will get the delineation opinion and the propriety of the filing and whether or not it's filed the proper way. In the meantime, no more work is to take place on the site. Mr. Frattaroli was asked to put in some additional mitigation in the event there is more rain. Mr. McGrath noted for the minutes that Mr. Aspero did approach him and asked him to look at the plans. At that time, Mr. McGrath explained to him about the riverfront area and required setbacks. Mr. Coakley noted that Commission Member Aspero, before he took responsibility for the project, showed him the plan. Mr. Coakley looked at it and suspected it was riverfront area. Mr. McGrath will contact EcoTec to do the peer review.

COMMISSION BUSINESS

299 Sewall Street Homeowners (regarding hazard trees) – Alfred & Mary Dantas were present. They stopped by the office last week with questions about trees that are hazard that they believe are on conservation land. After doing some research, it was found that the property is jurisdictional under the Massachusetts Wetland Protection Act but is owned by the Homeowners Association. We have no jurisdiction over it until we receive a plan of what they're proposing to do. The Commission can then tell them if it's acceptable, or not, under the Wetlands Protection Act. The land is owned by Lilymere

Estates. They need to contact them because they're responsible for any work in jurisdictional areas. A letter will be sent to the Dantas explaining that.

Thompson-Liston Associates – Consider Request to Waive Boylston Stormwater Control Bylaw for “WKS Subdivision” (a two-lot subdivision at 22 Diamond Hill Ave) – Patrick Healy was present. He said they've been before the Planning Board and offered two plans; a fully compliant plan to the subdivision rules and regs, and a waiver plan. The road will come into Diamond Hill Ave between two existing homes and there will be two new houses constructed in the rear. It is proposed as a Low Impact Development (LID) project. There is an erosion and sediment control plan. The waiver plan was approved by the Planning Board which is when he submitted a request from the Stormwater Control Bylaw. It will be constructed in three phases. The road will be built to the common driveway standards of the town. It is 18-feet wide and has reasonable slopes and grass swales on each side to an infiltration unit at the end; the overflow goes towards the large farm stonewall. They are leaving the steep slope and all of the resource areas untouched and felt it was appropriate to consider a waiver in this case due to the limited area that's involved and it's considered an LID project. They are infiltrating a great deal of the runoff including the roofs of the two homes. They have done a full stormwater report and engineering review on behalf of the Planning Board. The Graves review has been completed. Mr. Healy spoke with Bernadette DeBlender (DCR) today; she reviewed the plan and confirmed that it is not jurisdictional but would like to monitor it; it does not require a permit from DCR. Mr. Coakley said it triggers the Stormwater Control Bylaw because it's a subdivision; they are disturbing approximately 80,000 square feet in total but it's constructed in phases. Mr. Coakley said also hit the cumulative threshold for square footage disturbance. Mr. McGrath didn't see how it would qualify for a waiver since it doesn't matter if it's in stages, it's the project as a whole.

Wayne Sauer (17 Diamond Hill Ave) is a member of PGK Properties, LLC. He said if they need to reduce the size of the lots, they can consider that and leave it with the contiguous property. Mr. McGrath explained that if he was before the Commission with two separate applications for single family homes he would not be required to file under the Stormwater Bylaw, but by combining this into one project with a common road, we have to look at the total amount of activity, and it's the total amount of activity that exceeds the threshold for the permit. Mr. Coakley said it's not difficult for a plan submittal for stormwater; they need to show the erosion and sediment control plan and the staging. The Commission needs to have some oversight in the event something goes wrong.

Joe McGrath made a motion that we formally acknowledged the request to waive the Boylston Stormwater Control Bylaw requirement with a no; we do not waive the requirement; Mark Coakley seconded; all voted in favor; motion approved.

Consider issuing a Certificate of Compliance for MA Dept of Conservation & Recreation, DEP#115-379 (West Boylston Street/Route 140) – Bryan LaRochelle from the DCR was present. Mr. Coakley visited the site, it looks great, and there were no issues. Mark Coakley made a motion to issue a Certificate of Compliance for DEP#115-379; Joe McGrath seconded; all voted in favor; motion approved.

Bart Langanelli Email – Mr. Langanelli was looking for an update on Compass Pointe. Mr. Coakley said the Commission hasn't received any new documents for review. Mr. McGrath said we have been promised several times that we would receive as-built plans but haven't received them. We have sent letters to the builder and the builder's attorney with no response. The Commission is hesitant to call the bond; we would like to see the builder finish the work. If we pull the bond, a number of Orders would automatically be the homeowners' responsibility; we'd like to keep the builder responsible for all the work that needs to be done on the project. The Commission refused to approve town acceptance of the road because the builder hasn't completed the outstanding issues. Calling a bond usually doesn't result

in anyone's satisfaction. Mr. Langanelli asked how long the builder could drag it out and was told there is no state criteria on when to decide to close out a project. Mr. McGrath said once we invoke the bond, the builder walks away. It would be in the best interest for the builder to resolve the issues because the Commission can more strictly condition future projects. The homeowners can take civil action against the builder or it was suggested the HOA send the Commission a letter demanding we call the bond but noted that once a homeowner signed off on the deed and accepted the lots, the Orders became their responsibility. If we were to call the bonds, all the stabilization issues become their responsibility. Onni Wirtanen (5B Cheryl's Way) asked if the Town Planner has the list he initially started with action items before he left. Mr. McGrath wasn't aware of any progress. Mr. Wirtanen asked about communications with various departments/boards and was told it was much improved with the addition of a full-time Town Planner. The Commission will talk with the Planning Board about their status.

Stiles Road Update – Farooq Ansari sent photos of the paving that was completed. No action to be taken until he comes before the Commission. The Commission was going to contact the person at the other end of the road.

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

The meeting was adjourned at 8:30 p.m.