



# Town of Boylston Conservation Commission [conservation@boylston-ma.gov](mailto:conservation@boylston-ma.gov)

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## REGULAR MEETING MINUTES NOVEMBER 20, 2023

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

Members Absent: Lucas Rose

Others Present: See Attached Sign-In Sheet

Recorder: Melanie Rich

The meeting was opened at 7:00 p.m.

Joe McGrath made a motion to set December 18, 2023 as the next meeting date; Ron Aspero seconded; all voted in favor; motion approved. Jeff Walsh made a motion to approve the October 16, 2023 Meeting Minutes; Joe McGrath seconded; McGrath/Aspero/Walsh voted in favor; Coakley abstained; motion approved.

**Continued 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#115-449) **AND** ratify the Enforcement Order.

Ron Aspero recused himself from the discussion. Mr. McGrath said we received an update from Art Allen (EcoTec) that the conditions specified in the Enforcement Order which were issued to address the sediment and erosion control measures were satisfactorily addressed. Joe McGrath made a motion to lift the Enforcement Order; Jeff Walsh seconded; all voted in favor; motion approved.

Mr. Coakley said DEP has issued a file number. Chris Frattaroli (Goddard Consulting) and Kevin Aspero (Shrewsbury Homes) were present. Mr. Frattaroli said DEP raised issues with the use of the driveway easement on the adjacent property and as shown on the plan would enable complete restoration of the strip of the riverfront area. After doing research at the Registry of Deeds it was found that the easement was not granted to the current owners; they do not have access to use that easement. Mr. Frattaroli did not have a copy of the deed with him. Mr. Coakley said it's a recent lot that had an easement but it doesn't have one now. Mr. Frattaroli said it was subdivided and the divided lot was sold to a new owner; the easement was not granted with the sale. Mr. McGrath said we would need a letter from the Board of Assessors and a copy of the deed saying that the driveway easement has been deleted from the deed or it is not accessible to the extent we would need to create an alternate path into the property. There's nothing to say that the purchaser of the lower half of the lot couldn't go back to the seller of the top half of the lot and try to get the easement re-added to the deed or amend the deed to show the easement. Ron Aspero said the lot was developed originally by the owner of the lot with the intent of building his own home; the easement was for their use. He said his client has no access to the easement. Mr. Coakley asked how long the driveway was and was told approximately 300'. He asked if a waiver was needed from the Planning Board and was told not if it was under 300'; it is more than 300'. 17,482 square feet of disturbance on the site is proposed; proposed alteration of riverfront area is 7,744 square feet. Mr. Frattaroli said that was not taking into account the restoration planting areas and that they will be under the threshold. He said it was not strictly a 2:1 restoration but was sized so they could get under

the threshold of under 5,000 square feet or 10%. Mr. Frattaroli said the previous sitework took place before the property changed hands. There was a small area of BVW, 120 square feet, and a portion of the 25' buffer zone was cleared; it is proposed to be replanted. The riprap slope along the driveway will stay the way it is.

Mr. Coakley said there are some peer review notes on the restoration of the outer riparian zone. Mr. Frattaroli said they did submit a revised restoration planting plan. The Commission did not see the revised copy. The Commission will want peer review on it. Mr. Frattaroli said the substance of Mr. Allen's comments were that it's not a good planting medium and made recommendations about specifying over dig and supplementing the soils with more nutrient rich soils. Mr. Frattaroli said they had no issue and included it in the revised plan. Mr. Allen also called out the additional pile in the back that was not shown on the initial survey plan; it has since been located and revised to include planting in that area. Mr. Coakley said his biggest concern was with the runoff coming into the street. Kevin Aspero said they asked for the Enforcement Order to fix that. He said the photos show everything stabilized for the first 225'. All filter strips, retention area, 2% slope from one side to the other; there is virtually no runoff currently coming off the site. Mr. McGrath said DEP comments need to be addressed and could be done by getting proof from the Board of Assessors or a deed attorney that the easement no longer exists and is no longer accessible. That would address the alternative analysis portion of DEP comments. DEP also recommended a shared driveway between the two lots, but if the easement doesn't exist anymore, and they are two separate ANR lots, they probably couldn't come to an agreement on the shared driveway. Kevin Aspero said it would be virtually impossible to do that because if the house is changing hands, the new people buying the house are not going to grant another easement through their private property. Mr. Coakley sees the predicament but a lot of it is a self-imposed problem. They developed the property without filing any paperwork or plans. Mr. McGrath said a shared driveway would only be pertinent if a developer was developing both lots together and included access to a shared driveway as part of the sale for each lot. Mr. Coakley said they could have carried the easement through when they sold the property. Mr. McGrath thought the new owners didn't know there was an easement. He said we are trying to avoid not satisfactorily addressing DEP comments because they could cancel any Order we may issue and issue a Superseding Order which could make the creation of or use of the existing driveway illegal from that perspective. The applicant will have to provide information to address the DEP comments. We will need something in writing from a legal authority that says the easement no longer exists. Mr. Walsh asked if there was ever a permit issued for a common driveway. Kevin Aspero doubted it. Mr. Walsh said the previous lot owner owned the lot in question plus the lot to the north; it was one large lot. At some point they created an easement to allow them access to the subplot. He wondered if the easement on the northern lot was a bona fide common driveway easement but didn't have enough documentation to understand it. As far as the restoration, Mr. Walsh appreciated them taking care of the erosion and sediment deposition onto Green Street. It's different from runoff; runoff is stormwater and there will be runoff. For the next meeting we will need a legal document that the easement is no longer accessible, the revised plans and a response from EcoTec. The applicant requested a continuance. Joe McGrath made a motion to accept the request for continuance to December 18, 2023 at 7:05 p.m.; Mark Coakley seconded; all voted in favor; motion approved.

**PUBLIC HEARING – 18 & 20 Boulder Way (Michael Holyoak) – Notice of Intent Application for the construction of a detached garage. (DEP#115-450)**

The hearing notice was read into the record. Michael Holyoak was present. DEP has issued a file number. Their first comment regarding DEP#-115-335, is that a Certificate of Compliance has been issued and completed to specification. Mr. Holyoak will need to address their second comment about demonstrating how work this close to resource areas could be performed while still providing protection

to the resource areas in perpetuity and may want to consider conditioning additional plantings, setbacks, etc.

Mr. Holyoak explained that he owns 18 Boulder Way and purchased 20 Boulder Way. The buffer zone setback was changed from 10' to 25'; to construct a garage he has to encroach in the 25' buffer zone. At an informal meeting in the past, he was told he needed to show that the stone wall was being removed and there was drainage for the rainwater off the garage roof. The lot is currently vacant. The intent is to build a 500 square foot double garage with a gravel driveway. The plan was briefly reviewed.

Mr. McGrath had a question about Section B of the NOI application filled out by Connorstone. He thought it was a buffer zone only project because they are not doing any work near the bank of the pond, but Connorstone checked off that an inland resource area will be impacted but didn't provide any detail in the rest of the NOI as to what that is. They need to provide a measurement of how big the impact is and demonstrate performance standards for the resource area. Mr. Coakley said a plan will be needed to improve the bank to the extent possible. The bank is from the mean high water to the mean low water. We need to know what state it will be left in. Mr. Holyoak said it is currently grass and will be left that way. The alteration proposed is to the bank; he will be reworking the area. He asked if there was any issue about the location of the garage; there was not. Mr. Coakley said we would like to see how the project meets the performance standards. Mr. Walsh said if it's stable and supporting wildlife, he would have no issues. Additional information is needed on the NOI form. The applicant requested a continuance. Joe McGrath made a motion to accept the request for continuance to December 18, 2023 at 7:10 p.m.; Jeff Walsh seconded; all voted in favor; motion approved.

**Continued PUBLIC HEARING – 211 Mile Hill Road (Summer Star Meadow, LLC) – Notice of Intent Application** to construct a new replica historic farmhouse and modify an existing structure for educational purposes. The two structures, parking, portion of the new septic field and associated grading are within 100' of the BVW. (DEP#115-451)

Jim Pavlick (Outback Engineering) and Scott Steeves (GRT) were present. Comments were received from EcoTec and Graves Engineering; revised plans were submitted tonight. Graves comments included adding a snow storage area to the plan as well as ADA accessible parking details. EcoTec comments had to do with following the DEP stormwater management regulations for redevelopment projects. Stone trenches along the roof drip line of the new building and a small sediment trap along the corner of the driveway were added to capture runoff from the driveway. Mr. McGrath noted that Graves comments validated that the project is exempt from the local Stormwater Control Bylaw. EcoTec was in agreement with the wetland flagging. Additional notes were added on the erosion control specifying that due to the closeness to the buffer zone to require timeframes for stabilizing the area rather than leaving it unstable for long periods. Invasive species were removed during the clearing of the overgrown vegetation. Ms. Liu would like to continue with that as needed. Mark Coakley 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 Conditions #35-Owner to notify the Commission two (2) weeks prior to performing invasive species mitigation on the site, as desired by the applicant and the Commission; #36-Owner will add suitable boundary markers to identify the limit of resource areas in locations to be agreed to by the Commission. Mark Coakley seconded; all voted in favor; motion approved.

## **COMMISSION BUSINESS**

Lake Phosphorus Control Plan for Newton Pond – Tabled to December in order to review the information received from Tighe & Bond.

Consider issuing a Partial Certificate of Compliance for DEP#115-373 (60 Barnard Hill Road) Santimaw Contracting, Inc. – Jeff Walsh abstained from the discussion. Mark Coakley made a motion to issue a Partial Certificate of Compliance, Joe McGrath seconded; Coakley/McGrath/Aspero voted in favor; Walsh abstained; motion approved.

Stiles Road Update – No action taken.

Review Correspondence/Emails/Additional Items: Sign LAND Grant Project Agreement – Paul Dell'Aquila (Town Planner) was present to discuss the land grant the town applied for earlier this year. He said at this time we are not authorized to make any press announcements but the town did receive the grant they applied for which is worth half a million dollars to offset the cost of the parcel between School and North Sewall Streets. By signing the agreement, the Commission agrees to be the stewards of this piece of land going forward. The State requires the paperwork by December 1<sup>st</sup>. Mr. McGrath asked if we would need to file a Conservation Restriction (CR) on the property once the title has passed and was told yes. He asked who would do that. Mr. Dell'Aquila believes there is a template to follow and will help put together a document. In condition #3, it states that project signs will be posted, and asked who will be responsible for that, e.g., the DPW or the Commission. Mr. Dell'Aquila spoke informally with the DPW and didn't think the Commission would be responsible for the signage. Mr. McGrath said the Board of Selectmen required the Commission to put management regulations in place on previous CRs and we should revisit them to see if there are any special conditions. One condition required in this agreement is that we open it to non-residents. We would want to tighten up the regulations and add mechanisms so the land is not abused in any way. The Board of Selectmen will be asked if they'll want the Commission to treat this the same way as we do with other town land that we provide stewardship for. If so, Mr. McGrath will review the regulations and work with the Town Planner. Jeff Walsh made a motion that the Conservation Commission sign the document entitled "Local Acquisitions for Natural Diversity Land Program Project Agreement" between the Town of Boylston and the Commonwealth of MA for 30± acres, Assessors Map 23; Parcel 25 and the Commissioners affix their signatures on page 4; Joe McGrath seconded; all voted in favor; motion approved.

### **Town Planner (Paul Dell'Aquila) Updates:**

- They are looking to apply for a grant to do the Master Plan for the Hillside property. A grant was applied for last year, but the town did not receive it.
- They are under way with the MVP (Municipal Vulnerability Planning) plan update. Mr. McGrath attended the kickoff meeting. It will be a 6-9 month process. The MVP is a state program aimed at gearing communities' responses and preparation due to the impact of climate change. Parallel to that the town is undertaking a hazard mitigation planning process (FEMA); there is overlapping with the MVP program. They are working with CMRPC.
- They applied for a grant for the Planning Board to get help with incorporating Low Impact Design standards into the subdivision and zoning regulations as appropriate. He would like to make sure that whatever the Planning Board comes up with, the Commission's regulations are taken into consideration as well. One of the topics in the Master Plan process is making sure that in the future the Commission has more of a role in looking at ANR plans before the Planning Board acts upon them.
- CMRPC is holding a Climate Pollution workshop on Thursday, November 30<sup>th</sup> in Shrewsbury from 6PM-9PM.

Mr. McGrath asked if Mr. Dell'Aquila had received any Compass Pointe as-built plans. Mr. Dell'Aquila said he had and informed them that in order to go through due process with the Planning Board and other boards, they need to submit something to the Planning Board at this time of the year to allow for peer review, hearings, and getting on the warrant; it's a 6-month process. He said they have not received the peer review funds yet to release them to Graves for their review. They are road acceptance plans. They cover the roadway and any pertinent drainage structures that were part of the subdivision approvals. Mr. McGrath said the Commission's primary objection to accepting Compass Pointe roadways at this point is that there are a series of detention basins that were never completed to stormwater standards because we never received requests for Certificate of Compliance which would require an as-built. He asked Mr. Dell'Aquila to remind them that the Commission will object to any road acceptance unless these matters are cleared up with us as well. Mr. Dell'Aquila asked if there was any other information that would be helpful to the Commission at this point in addition to the as-built plans. Mr. McGrath said in addition to an as-built we would need a narrative from a professional engineer stating that the drainage structures for the roadway were completed to specification as permitted; we would submit that to peer review. The request for a Certificate of Compliance is also needed. Mr. McGrath is referring to the main Order that we have on the roadway, not the other lots. Mr. Dell'Aquila said they would like any outstanding business with other boards, including the Commission, to be addressed to the greatest extent possible before the Planning Board would vote on it. There are a lot of interconnected issues. Mr. McGrath will draft a letter.

Mr. Coakley, as the representative on the Earth Removal Board, gave an update of what's been happening. The Earth Removal Permit for 219 Sewall Street which abuts the Worcester Pistol & Rifle Club has expired. They applied for a new permit and the Worcester Pistol & Rifle Club said the plan, as submitted, does not represent accurately the conditions on the ground. There is a dispute over the right-of-way. Formerly there was a gate; the gate is now gone and the position of the applicant is that there is no right-of-way on the lot. The position of the Worcester Pistol & Rifle Club is that there is an existing right-of-way on the lot and wants to be able to exercise that use at some point if necessary or be compensated and get rid of it. The ERB did not issue a permit and continued the meeting. Mr. Dell'Aquila said there is a tentative date certain but not sure if the Worcester Pistol & Gun Club would have an alternative or their own version of the plan showing the right-of-way. The deed language clearly states that there are two rights-of-way or easements on the property that the Worcester Pistol & Gun Club can use, but there is only one shown on the original plans that were submitted by the applicant and it happens to be in the middle of their house lot.

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

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