



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

JUNE 20, 2016

Members Present: Mark Coakley, Joe McGrath, Dan Duffy, Chip Burkhardt, Jeffrey Walsh, Rebecca Longvall

Members Absent: None

Others Present: See Attached Sign-In Sheet

Recorder: Melanie Rich

PUBLIC HEARING – WORCESTER DONUTS (270 Shrewsbury Street) – Notice of Intent Application and Stormwater Control Permit Application to reconstruct the existing gas station and convenience store as well as the creation of two garage/storage buildings in the rear of the site. Access to the rear of the site will require a wetland crossing with an alteration of 2,183 square feet. In compensation, a replication area of 3,591 square feet will be created.

James Tetreault said the issues with EcoTec regarding the wetland boundaries have been addressed, but they just received Graves Engineering's comment letter. Paul McManus reviewed the wetland line and recommended moving flag A-10 five feet forward and eliminating flag A9. He also asked for wording to be included as to how the replication will be done (both the process and the soils they used in the replication area). The reconstructed site will have two separate drainage systems. Numerous deep holes were done for the septic system. They came across unsuitable soils, moist soils, tires and debris. They were on the site last September when it was very dry; the actual native soil was still moist during this assumed dry time. Based on the existing system and the soils testing results, stormwater collected in the upper part will be run through a CDS unit that will use the existing stormwater discharge. On the lower part of the site the stormwater, they will be collected and run through a CDS unit and infiltrated. They are asking for the Commission's permission to do the direct discharge from the upper CDS unit. The soils are categorized as Hydro Soil Group C (based on the USDA book). It was a moist sandy loam. Mr. Tetreault said the regulations allow the Commission the discretion in an area of Hydro Soil Group C or D to say that infiltration would not be appropriate. As far as the site in general, the wetland is a result of the drainage. There will be 2,000± square feet of wetland alteration for the road crossing to the lower portion of the site; 3,500± square feet or replication with a 1.6:1 ratio proposed to be created. There will be five islands in the front and two islands in the back for trucks. Joe McGrath asked what they plan to do with the runoff from the southern part of the property; there is a steep hill that goes up to the wood lot next door. He said the pavement in that area is torn up every winter from the runoff. Mr. Tetreault said before the stormwater flows to the building it should get to the catch basin. Mr. McGrath said beyond that is a long flow path and suggested possibly putting in a swale, or bring the road cut in a bit with a berm and put a swale so runoff from the hill will flow to the back of the property. Mark Coakley said they could put a drain under the retaining wall. Mr. Tetreault said the height of the retaining wall varies. Dan Duffy mentioned the comment from Graves which says, "retaining walls with reveals of approximately twenty feet are proposed and will require structural engineered design drawings" and asked if that was part of the road. Mr. McGrath said unless they plan on going on Ducat's property, he does not see how they are going to put the retaining wall that close to the property line; if it is an engineered wall it will have to be excavated out behind it. He would like to know the construction of the wall, what the height of the wall will be, and what if any conditions are going to be made to keep the wall from busting out. Mr. Tetreault

June 20, 2016 Conservation Meeting Minutes

requested a continuance. Joe McGrath made a motion to accept the request for continuance; Jeff Walsh seconded; all voted in favor; motion approved. It will be on the July 18th agenda at 7PM.

PUBLIC MEETING continued – SCANNELL PROPERTIES (220 Shrewsbury Street) – Request for Determination of Applicability Application to request confirmation of boundaries and jurisdiction of wetland resource areas surrounding the proposed development area only; no work is proposed at this time.

Patrick Healy (Thompson-Liston) and Scott Heim (Northeast Ecological Services) were present. EcoTec reviewed the wetland boundaries and had revisions. Mr. Heim and Art Allen went to the site on June 17th and agreed on the boundaries. There are minor flag changes; the plans will be revised. Mr. Allen's final report will be provided after the revised plans are received. Mr. Healy showed the potential wetland crossings and hopes the direct impact will be limited to the crossing. Jeff Walsh made a motion to issue a Positive Determination which confirms the wetland resources, contingent upon EcoTec's confirmation that the plan yet to be revised by Thompson-Liston Associates is accurate to the discussions of June 17, 2016, and the wetland boundaries being confirmed are limited only to those shown on the plan; Mark Coakley seconded; all voted in favor; motion approved.

PUBLIC MEETING – MASTROTOTORO TRUST (240 Shrewsbury Street) – Request for Determination of Applicability Application to store wood chips and logs.

A site visit was conducted on May 24th. Mr. Mastrototoro stated that he was using the wood chips for dust and erosion control over the unvegetated soil areas of the site; however it appears that the wood chips were placed in greater thicknesses (beyond a thin cover for the stated purposes) around the perimeter of the wetlands areas and into the wetlands. He said he is pulling them back to the original grade. The RDA submitted did not include what is proposed or a narrative. Dan Duffy said at the site visit he was asked to develop a proposal to remove the wood chips from the wetlands and also a way to mark out the buffer zone to keep equipment away from the wetlands going forward. We need to know how he is going to prevent it in the future. It is obvious that he is filling in a wetland; it is work in a resource area. Issuing an Enforcement Order was considered but the members felt it was not necessary. Jeff Walsh made a motion to issue a Positive Determination #1 since the work contemplated is within a wetland resource area; Chip Burkhardt seconded; all voted in favor; motion approved. Mr. Mastrototoro will be required to file a Notice of Intent.

PUBLIC HEARING – BRIAN & ANGELA BARTLETT (9 Boulder Way) – Notice of Intent Application to remove the existing uninhabitable home and replace it with a new single-family home to include the repair/grade of existing driveway, proposed new well, removal of trees and placement of in-ground propane tank.

Mark and Angela Bartlett were present. They showed the existing house. They propose to tear it down along with two existing sheds. The existing house is off the property line by approximately one foot. They are going to square up the lot; they have received approval from the ZBA. It will be a single story, no basement house. They also propose to take down some trees for access to the house and solar, but keep the four maples trees. Steve Sears did the wetlands delineation. From the upland marker furthest away to the edge of the patio is 36'; it is another 10'-15' to the water. Jeff asked how close they plan to get to the upland marker. Mr. Bartlett said the silt fence would be 25' away. There is one pine between the silt fence and the pond. Mr. Bartlett would like to take down the tree and grind the stump. The patio will be gravel; the driveway will be stone as well; the tight tank will stay. There is an existing dock they plan to repair in the future. Joe McGrath said the plan they submitted is not an engineered plan (signed by a professional engineer) which the Commission requires. Finished grades need to be shown. It should also include the dock renovation as well. Regarding the knockdown, the Commission wants to see a narrative and sequencing (where is the matter is going and how long it will be on site). Mr. Bartlett said demolition would be completed in one day; he was told to put that on the plan. When drilling the well, he

June 20, 2016 Conservation Meeting Minutes

needs to tell us that the water and sediment pumped out will be on the backside of the house (not into the pond) while they are drilling. Regarding roof runoff, because they taking a lot of vegetation off the site, the preference would be to have it infiltrated and not discharged towards the pond. Mr. Bartlett said the grade to the water is 6' total. He will want to note on the plan the proposed driveway is not an impervious surface. Mr. Bartlett asked if he could remove the house before the next meeting. He was told that the Commission can't stop him legally, but he would have to go before the Building Inspector and he will require our signature. The quickest way to be allowed to take down the house is with an RDA. Mark Coakley said there is a lot of vegetation coming down for shade. Dan Duffy asked if he could limit the tree taking. Losing shading on the bank is not good; it will need to be addressed at the next meeting. The applicant asked for a continuance. Joe McGrath made a motion to accept the request for continuance; Mark Coakley seconded; all voted in favor; motion approved. It will be on the July 18th agenda at 7:30 p.m.

PUBLIC MEETING – SUSAN HUDSON (120 Nicholas Avenue) – Request for Determination of Applicability Application to cut/trim trees; no stump removal.

The Hudsons provided photos of the trees that need to be removed for safety reasons. They will leave the stumps. They are not on the shoreline of the pond. Chip Burkhardt made a motion to issue a Negative Determination #2; Joe McGrath seconded; all voted in favor; motion approved.

Mr. Duffy addressed an email received today from Mr. Rondeau who is concerned with large amounts of loose gravel being dumped directly into the water that he feels is more than maintenance. Mr. Hudson said they added stone on top of it approximately three weeks ago; they did not expand; only added to what was there on the existing area. Chip Burkhardt said that was a permitted activity.

PUBLIC MEETING – CHIP BURKHARDT (8 Gulf Street) – Request for Determination of Applicability Application and Stormwater Control Permit Application to remove trees & grub stumps to facilitate lot clearing for future construction of three single-family homes, and requests the Commission to review the information and find that the perennial stream (USGS) on the property is intermittent. A Notice of Intent will be filed for construction.

Chip Burkhardt recused himself as a Commissioner. John Verock, Colleen Burkhardt and Chip Burkhardt were present. Mark Coakley asked if we are allowed under an RDA to make a determination of a resource area, he believes it should be an Abbreviated ANRAD. Mr. Burkhardt explained that the land is family owned; his grandfather sold some of the frontage lots and this is what remains. They have a preliminary subdivision plan in front of the Planning Board. They are looking for permission to continue work in the limited area inside the buffer zone for what he has determined is an intermittent stream (but shown as perennial on the USGS). He showed the stream that is delineated on the property. He observed no flow conditions in September 2015 and documented it for four consecutive days in a non-drought condition. The property has been surveyed; EcoTec delineated the wetlands and provided a report. They are looking to do the tree removal outside the 100' buffer zone; it will be selective clearing. They do want to leave a buffer between the property boundaries. The RDA is for tree removal and grubbing of the stumps that would be in the buffer zone which would be a great deal of Lot 2; approximately four acres. He did submit a Stormwater Permit application because they are disturbing more than one acre. He fully understands that he will need to file a Notice of Intent for construction. They are trying to get the land opened to get the process moving. Mark Coakley asked how much tree clearing would be in the buffer zone; possibly ¼ acre. He had no objection to issue a Negative Determination for the tree clearing, but the wetlands delineation needs a Notice of Intent. Mr. Burkhardt said he was not necessarily asking for confirmation of wetland boundary, he was requesting to remove the riverfront area from the property (based on documentation of an intermittent stream), which is explained in the documentation he submitted. Joe McGrath said if we issue a Negative Determination based on the plan submitted, we are in essence saying that we agree with the wetland flagging as it has been done; typically, an RDA is to work

June 20, 2016 Conservation Meeting Minutes

in the buffer zone. Mr. Burkhardt submitted a package that included photos and a signed affidavit. CMR 10.58:1.d. states that “the issuing authority shall find that any stream is intermittent based upon a documented field observation that the stream is not flowing. A documented field observation shall be made by a competent source and shall be based upon an observation made at least once per day, over four days in any consecutive 12-month period, during a non-drought period on a stream not significantly affected by drawdown from withdrawals of water supply well, direct withdrawals, impoundments, or other human-made flow reductions or diversions. Field observations made after December 20, 2002 shall be documented by field notes and by dated photographs or video. All field observations shall be submitted to the issuing authority with a statement signed under the penalties of perjury attesting to the authenticity and veracity of the field notes photographs or video and other credible evidence. Department staff, Conservation Commissioners, and Conservation Commission staff are competent sources; issuing authorities may consider evidence from other sources that are determined to be competent.” Mr. Burkhardt said EcoTec was there in February and also observed no flow. It was determined that Mr. Burkhardt did meet the burden. The limits of tree clearing was discussed and the possibility of the tree clearing being done separate from the grubbing. Mr. Verock said most of it will be less than 50’ of the buffer zone. Jeff Walsh is more comfortable with the tree clearing and grubbing on part of the lot, but not in the buffer zone. Mr. Burkhardt said his intent was asking the Commission to review the riverfront area, not confirm the wetlands delineation. Almost all the clearing for Lot 1 can stay out of the buffer zone. Lot 2 will be in the buffer zone. Mr. McGrath said he doesn’t have a concern with Lot 1; they have talked about stream and feels he met the burden of that; he also doesn’t think the tree grubbing in that area, even if it was a perennial stream, would be that risky. His only area of concern is on Lot 3 where there is one corner below the proposed cul-de-sac where they are 20’ from the wetland flag and a slope. He asked if Mr. Burkhardt could pull the tree grubbing line away. Mr. Burkhardt said there is some room to change that around. Mr. McGrath is concerned about that one acre being so close to the wetland. Mr. Walsh said this is a critical area and suggested staying 75’ away from the resource area.

Mark Coakley made a motion to vote on whether they met the regulatory burden overcoming the riverfront area; Joe McGrath seconded; all voted in favor; motion approved. Joe McGrath made a motion that the applicant has met the criteria to show that the intermittent stream running from the northeast side of the property to the southwest side of the property north of the post-construction area is an intermittent stream and not perineal; Mark Coakley seconded; all voted in favor; motion approved. Jeff Walsh made a motion to issue a Negative Determination #3 adding that no tree clearing shall occur within 50’ of a wetland resource area and no grubbing shall occur within 75’ of a wetland resource area as delineated on the plan dated May 31, 2016 noting that the limits of the wetland resource areas have not been confirmed; Mark Coakley seconded; all voted in favor; motion approved. Joe McGrath made a motion to issue Stormwater Control Permit SCP#2016-3; Mark Coakley seconded; all voted in favor; motion approved.

COMMISSION BUSINESS

Worcester Sand & Gravel – Laura Bugay, P.E. (Langdon Environmental LLC) was retained to do site investigations at Worcester Sand & Gravel following a notice of violation. She conducted 7 test pits on June 7th throughout the area that was subject to the original Earth Removal Permit. She chose the test pit locations based on observations at what looked like imported fill, focusing on the northern and western slopes that were to be restored per the restoration plan. The surficial soils ranged from 3 to 8 feet in depth of a sandy, silty gravel that did contain brick, asphalt, concrete, glass, organics, pipe, and minimal volumes of metal plastic, wires/cables. Underneath that (on the northern and western slopes) there was a layer of clay. The clay appeared to be pure, not mixed with any other debris that would go in the sand and gravel. It is her conclusion that based the amount and the size of the debris that was observed regarding the gravel fill and the Stormwater Permit, that the material does not meet the requirements for the restoration fill based upon Condition #7 “fill used in connection with this project shall be clean fill containing no trash, refuse, rubbish or debris”. With regard to the clay fill and the geotechnical stability

June 20, 2016 Conservation Meeting Minutes

of that material, she doesn't see an issue with the stability of the soils as it is placed now, but would not recommend that more clay be brought in to restore the 2:1 slope.

Chip Burkhardt asked about the chemical suitability. Ms. Bugay did standard jar headspace screening which screens for organic volatile compounds. The results were relatively low; the highest detection was 0.7 ppm. Dan Duffy asked Mr. Trotto did he know the source of the material with the bricks, etc.; he did not. Because the soil was mixed with asphalt, brick and concrete, and there was some other waste and debris, that could have impacted the soil chemically. Mr. Trotto felt it was minimum debris and rubbish. Mr. Duffy said that from summarizing the report, any big pieces of asphalt or concrete are considered solid waste under the state solid waste regulations; it violates their regulations, and our Permit that says no debris can be in the fill material. Mr. Burkhardt said large pieces were distributed horizontally and vertically throughout the gravel fill, except for the clay; the clay appeared to be a cleaner material. Mr. Trotto agreed that anything larger than 6" is large but believes there is a very minimal amount there. Mr. Duffy said once that is mixed in with clean material, the clean material is no longer clean. Ms. Bugay said even if the sizes were less than 6", because it was considered unprocessed and it was mixed with the soil, there was still a significant amount of material with it. Jeff Walsh expressed his frustration with Mr. Trotto and said there is a 20' vertical drop nearest the property line with only an orange fence; there is a tree that is 24'-36" in diameter ready to fall back onto his property because half of the tree is undermined and told him that you don't keep digging out until the trees fall down. Mr. Walsh said the quality of the soil is secondary to the safety of the bluff that has been a mess for years. Mr. Burkhardt agreed that safety is the biggest part, but now we have in front of us soil that has been in place to mitigate the safety problem that doesn't meet the requirements of the permit that we issued. Mr. Duffy's opinion is that the fill needs to come out of there and the material that was agreed upon be brought in and get it done quickly so we can restore the slope that is open and restore the site to a safe condition. Mr. Trotto said he understands that large pieces contaminate the clean fill but he doesn't know the percentage. He was told that over 0% is too much; the permit says no debris within the fill material. Mr. Trotto said he is not against testing the soil for contamination. Ms. Bugay said you can't just test in the hopes that the material will meet standards because right now there is solid waste in it and it is illegal according to DEP. In order to test the soil to see if it remains, it needs to be excavated out, processed, and all the debris needs to be removed. It is time consuming and there is a safety issue with stabilizing the soil. She recommended to the Commission and to Mr. Trotto that the material leaves. Mr. Trotto's thought was to start at one end with a processing machine, remove the material 6" minus from each section, process it, and put it back. Mr. Burkhardt said because it is a waste material, in order for it to be reused, he would have to certify and prove to us that every bit of waste is out of that dirt. Mr. McGrath told Mr. Trotto the soil that is put in there is not acceptable and we have given him the reasons why. If he can figure out a way to make it acceptable, we would consider that. We have given him our concerns and it will take professional expertise to convince us that whatever he does to the soil makes it acceptable; it is up to him to do that. He also brought up the additional tree cutting that was done on his property. Mr. Trotto said they fell down so he pulled them out. Mr. Burkhardt said there was supposed to be a 40' buffer from the property boundary and now the fence is on the property boundary; until this work is done, it will continue to erode and mature trees will fall down. Mr. McGrath asked what the timeline is to repair the slope. Mr. Trotto said he can't give a definite time because he lost the availability of some material and has to find other sources to get the material. Mr. McGrath said the unacceptable soil has to be remediated or removed before he can start again and suggested possibly starting a civil enforcement process with a \$300/day fine; it's a public safety issue. Mr. Duffy said this was a situation that only he created; he needs to resolve it; the Commission is not going to tell him how to do it. Mr. Trotto agreed to work with the homeowner to get the fence resolved. Mr. McGrath said he has to come to us and tell us how he is going to solve this problem. He needs to submit a plan and a timeline that states that. It is a public safety issue that has been going on for a long time. Every time we talk to him, it gets worse; more trees fall, more of the slope comes down, and now he has illegal fill in there. Mr. Trotto again suggested processing the material there to satisfy the consultant, and then put the processed material back. Mr. Coakley said the findings of the report will make it extremely difficult for you to process that material and meet the requirements that it be

June 20, 2016 Conservation Meeting Minutes

clean fill; next to impossible. Mr. Trotto was reminded that Langdon Environmental works for the Commission; he will have to retain his own firm. Ms. Bugay said the processing will add time because not only do they have to dig it out and process it, you have to wait for the analytical to come back. A rush analysis is expensive but could be received in 3-4 days; otherwise it would take two weeks. If it comes back and it exceeds MCP standards, then that material puts him into a reportable condition and he has to report contamination on your property. Mr. Trotto believes this would be the fastest way because he has a processing machine and can do a section at a time. He was told he needs to engage in a professional and come back with a proposal. It has to include how he is going to manage the 4'-8' of material that has debris in it and it is expected by the next meeting on July 18th. He is to send a copy of the plan to the Earth Removal Board as well. Because Mr. Trotto is under a Cease and Desist, if he has to go out there for safety issues, he is to contact the office. Marie Phillips (5 Heywood Street) said could he check with her as well when he is going on the property.

Compass Pointe Civil Violation and Appeal – Joe McGrath sent a copy of the bylaws to the Town Administrator. No other information has been received yet.

Shrewsbury Street Activity – Secured Financial (possible wetlands violation) – James Ricciardi represented Secured Financial since he is the one utilizing the property. Mark Coakley visited the site and it appeared there was an obvious violation of the Stormwater Control Bylaw; there is more than one acre of land opened and the vegetation is stripped. Joe McGrath wanted to clarify that he is not clearing the land back to the cell towers. Mr. Ricciardi believes Secured Financial who owns the property filed a forest cutting plan. The gravel area behind the gas station before the cell tower is Mr. Ricciardi's, but the logging that is going on past that is somebody different. The Commission is concerned with dust leaving the site. Mr. Ricciardi said during the year he brought in asphalt from his jobsites and crushed it up onsite during the winter. He also brought loam from his jobsites and is screening it. He said he is not excavating or mining, only processing material, and plans to continue similar operations. The area is approximately 1-2 acres. Mr. Duffy told him that we are not saying that he can't do it, but over one acre of disturbance requires a Stormwater Control Permit which includes plans that address dust control, erosion, and making sure there is no sediment going into areas outside of where he is working. Mr. Ricciardi will file a Stormwater Permit.

240 Shrewsbury Street Site Visit – Discussed earlier (Mastrototero)

Consider issuing a Certificate of Compliance for DEP#115-274 (22 Sewall Street) – Joe McGrath made a motion to issue a Certificate of Compliance; Chip Burkhardt seconded; all voted in favor; motion approved.

Barnard Hill (Stormwater Bylaw) – A Stormwater Permit was issued for Barnard Hill in 2014; the site is being very well maintained.

Vouchers were approved.

Correspondence/emails were reviewed.

Mark Coakley made a motion to approve the Meeting Minutes dated May 16, 2016; Joe McGrath seconded; all voted in favor; motion approved. Jeff Walsh made a motion to approve the Site Visit Meeting Minutes (240 Shrewsbury Street) dated May 24, 2016; Mark Coakley seconded; all voted in favor; motion approved.

July 18th was confirmed as the next meeting date.

June 20, 2016 Conservation Meeting Minutes

Compass Point Building Permits Sign-Offs – Jeff Walsh recused himself. The Building Permits for Compass Pointe Lots 38A, 4B, 42, 43, 5B were signed.

Joe McGrath made a motion to adjourn; Chip Burkhardt seconded; all voted in favor; motion approved. The meeting was adjourned by unanimous vote at 11:00 p.m.