



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

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## REGULAR MEETING MINUTES

SEPTEMBER 18, 2017

Members Present: Dan Duffy, Mark Coakley, Jeffrey Walsh, Rebecca Longvall, Chip Burkhardt, Michael Ruggieri

Members Absent: Joe McGrath

Others Present: See Attached Sign-In Sheet

Recorder: Melanie Rich

**PUBLIC HEARING (continued) – KHALID NASEEM, SYLVAN REALTY TRUST (Stiles Road, Map 20/Parcels 3&4) – Notice of Intent Application and Stormwater Control Permit Application** for the construction of two single-family homes. Septic systems will be located on the side of the perennial stream; no wetlands will be altered; riverfront alteration will be less than 10%. Total land alteration will be 1.25 acres.

The applicant (by email today) requested a continuance to the October 16<sup>th</sup> meeting. Jeff Walsh made a motion to accept the request for continuance; Rebecca Longvall seconded; all voted in favor; motion approved. Time to be determined later.

**PUBLIC HEARING – BOYLSTON CP, LLC (Lots 24B, 45B & 46B)** – Notice of Intent Application to construct three duplexes and associated site work.

Jeff Walsh recused himself from the matter. The notice was read into record. John Grenier attended. Mr. Grenier said they are three separate filings with work in the buffer zone. The lots are located on the northwesterly portion of the site. There is an existing infiltration basin. They will be over 55 duplexes accessed by a common driveway; a long driveway from Compass Circle. There will be some construction within the buffer zone of some of the units; they will try to make up the grade by having a long driveway. There is material on site; there are no issues with runoff. Silt fencing and hay bales will be installed down gradient to the edge of the basin on the northeast side. There will be a common septic which will be on Lot 24. Mr. Grenier explained the 100' buffer zone on the plan. Dan Duffy asked about the proposed tree line. Mr. Grenier said he was trying to maintain the 25' buffer while providing a garden area for the residents. Conservation signage will be needed. The common driveway will be approximately 550' long. Mr. Duffy asked if there should be provisions for drainage. Mr. Grenier said no; he said the filings are the same as for three single-family homes. He can recharge the roof runoff. He said the driveway may not be sanded and salted in the winter because it is a common driveway, not a subdivision, and will not be accepted by the town. Mr. Duffy thinks the association will have someone sand and salt and we would want some controls. Mr. Grenier said he can pitch it so it is not crowned; there are no catch basins; he could break it up a bit as well. He can direct the first half towards the stormwater basin constructed as part of the subdivision road and create a basin for pretreatment for the second half. Mark Coakley said there are other low impact solutions beside basins he could consider. Mr. Duffy would also like to see the tree line pulled back if the cleared area will not be useful for a garden.

An audience member thought there was not enough frontage; it was explained to her that there is. She also asked about the dam and was told there was an analysis/report done approximately 6-8 years ago. Another audience member asked if they were condos or duplexes. Mr. Grenier explained that if you live in one of the units you are sharing common areas; there is an association and an umbrella association for the condo.

The applicant requested a continuance. Mark Coakley made a motion to accept the request for continuance; Mike Ruggieri seconded; all voted in favor; motion approved. It was continued to October 16<sup>th</sup> at 7PM.

**PUBLIC HEARING – J&M Batista Family Limited Partnership (280 Shrewsbury Street)** – Notice of Intent Application to redevelop the site for a retail use with a 9,600 square-foot building as well as associated parking and a drainage system. The building will be partly within the 100' buffer zone. No alteration of wetland resource areas is proposed.

The hearing notices for both the NOI and Stormwater Permit application were read into record.

Mr. Duffy first addressed the open previous Order of Conditions (DEP#115-385) and Stormwater Control Permit SCP-2016-2 for 270 Shrewsbury Street. Art Allen (EcoTec) visited the site relative to the restoration work proposed as part of the previous Order (which was a result of unpermitted wetland alterations/filling). The restoration work was mostly done; however, the two proposed trees (which were approved to be red maples but ornamental trees were planted instead) were dead and the wetland shrub species were not in the appropriate locations. In addition, Mr. Allen's inspection and Commission members' visits identified additional activities at the site which were not part of the prior filing. With regard to the proposed work contained in the new NOI, Mr. Allen identified that they are proposing work close to the existing wetlands. He recommended buffer plantings between the wetlands and the limit of work.

Most of the site is open and being worked on. Mr. Duffy said the work is completely unpermitted and a violation of the Wetlands Protection Act. When it was approved it, it was understood to be cleaning out the remnants of the prior tenant; it is clearly more than that. Piles of topsoil have been moved and screened; debris piles are there. He asked Mr. Branca (J&M Batista) why he did not come to the Commission. Mr. Branca said the site has been in violation for years; they are trying to keep things on site. As it was described to the Commission during the previous filing, the work he was doing was either cleaning up what was there and/or outside of the buffer zone. He went beyond what he told the Commission he was going to do and what the regulations allow. Mr. Branca said it is his intent to bring it into compliance. There are materials and areas that are unstable. Mr. Branca said they are trying to get it off site. Mr. Burkhardt's concern is that they are working on a site that is in violation and we could issue fines. What does he propose to bring the site into compliance? Mr. Tetreault said they have barriers and woodchip mulch for temporary stabilization. Mr. Duffy wants to see the stockpiles out of the buffer zone. Ms. Longvall said they are still in violation, don't have a permit to do the work, and creating more of a violation. Mr. Tetreault said they are trying to get it out of the area; they were trying to separate the mulch.

Mr. Duffy said the applicant responded to an email several weeks ago that they were going to take the loam stockpile off site. Since then they have screened all the material on site and did a lot of operational work within the buffer zone; they created a new stockpile. We asked what they were doing, they told us, and ignored their own response and did what they wanted to do and knew they were in violation. Mr. Duffy wants the site brought back into compliance before we entertain a new application. Ms. Longvall agreed and would like to see the issues with the restoration area solved; they are reasonably easy to

resolve, just time consuming. Mr. Coakley said we could issue an Enforcement Order and require the filing of an NOI with restoration to bring it into compliance. There is insufficient information to act on the new application because there is no narrative to tell us how they plan to bring it into compliance. Mr. Coakley wants to see that as part of a submittal. Mr. Tetreault asked if they could continue the hearing and have the applicant immediately put stabilization down on the areas that are exposed now, and as part of the revised notice address the removal of the stockpiles and the temporary stabilization on the site which were mostly open. Mr. Coakley was amenable since there are hay bales in place and it is contained. Mr. Walsh wants all issues noted in EcoTec's letters dated September 12, 2017 addressed. He wants to see the work as part of a NOI. Mr. Allen said there was a lack of oversight; they needed a wetland scientist. Going forward they need a wetland scientist and inform the Commission who is going to do it. Mr. Tetreault requested a continuance. Mark Coakley made a motion to accept the request for continuance; Mike Ruggieri seconded; all voted in favor; motion approved. It was continued to October 16<sup>th</sup> at 7:30 PM.

270 Shrewsbury Street – Mr. Allen conducted an inspection of this site and identified several concerns, including a lack of erosion control, filling of wetland areas adjacent to the wetland crossing, excessive use of riprap that was not part of the approved plans and concern that the replication area was either not constructed as approved, or additional work in the buffer zone was done next to the replication area. Mr. Allen reported that they immediately put in the erosion controls appropriate to the site condition. There is an ongoing issue of excess riprap, the replication location, and elevation concerns. Mr. Duffy said where the excessive riprap is noted on Mr. Allen's inspection report it appears there was a retaining wall proposed on the drawing. Mr. Tetreault said there was, and the wing-wall as part of the culvert installation. Mr. Duffy said it is more than a wing-wall and the rest of the retaining wall was not completed. Mr. Allen said the wetland area at the inlet and outlet has riprap and it appears that riprap slopes were constructed instead of the retaining wall. There needs to be a restoration plan since this filling constitutes a violation. In addition, the Order requires that the restoration be overseen by a wetland scientist which does not appear to have occurred. Mr. Allen said the restoration area appears to start at the base of the slope where the approved plans show it further from the toe of the slope. Mr. Tetreault said the slope is further out. Mr. Duffy said they have filled slopes and wetlands beyond what was approved by the Commission. Mr. Burkhardt said the work done does not meet the plan. We need a restoration plan for the filling of wetlands. Mr. Allen does not know how they will get to restoration at this point since it is at the base of a long rock slope. Mr. Tetreault said that is not an issue; they can get access through the Scannell property. Mr. Coakley wants to see it in compliance with the original plan. Mr. Allen said there is excess buffer disturbance; they were permitted to demo an area to dig it up to create the replication; it diminishes the value of the strip of land between the replication and the slope. Mr. Coakley said we are trying to get a 2:1 replication within the plan profile. As long as they meet the 2:1 replication ratio he would consider it, but we need a plan. We want to see the original intent of the plan, but it necessarily doesn't have to be in the same footprint. A revised plan is needed if they plan on not fixing it like it was proposed. Mr. Allen said the riprap right now is stabilizing the area and it should probably be done in the spring. Mr. Walsh noted there was soil in the resource area as well. An amended Order of Conditions is required for DEP#115-385 and Stormwater Control Permit SCP-2016-2.

#### **COMMISSION BUSINESS**

Fed-Ex Stream Culvert Discussion (Patrick Healy & Art Allen) – Mr. Healy provided a letter dated September 18, 2017 along with a sketch which explained the issue. Based on measurements provided by John Fontana from ARCO, it was concluded that the open area at the discharge end of the culvert will be slightly smaller than the openness ratio shown on the design section. The measurements showed the channel elevation to be slightly higher at the outlet end and the culvert elevation being set lower than the design elevation. The result being that the open area at the discharge end of the culvert at Crossing

#1 is smaller than the proposed cross sections that were presented to and approved by the Commission, and smaller than the minimum area recommended in the DEP Guidance Document for Stream Crossings.

Mr. Healy is requesting the Commission's consent to maintain the culvert in its current position. As approved, the culvert was required to provide a minimum area of 92 sq.ft. In its current as-built condition, the upstream end will provide a clear height of 5'9" and the downstream end will provide a clear height of 5'5" yielding cross sectional areas of approximately 92 sq.ft. and 86.7 sq. ft. for an average area through the culvert of approximately 89.3 sq.ft.

Mr. Allen said at installation it was very difficult to see where the streambed was on the downstream end of the culvert. When Mike Andrade was on site, he saw a debris dam in the streambed in the downstream end. When Mr. Allen showed him where the actual hard-bedded stream was, they cleaned it out and realized it was only a 4" discrepancy. Mr. Allen thought it could be reflected on the as-built plan, but it was less than what the Commission approved. They have the full width, height on the high end and 4" short on the low end. His opinion was that it is diminimus especially given the resource; it is barely a regulated resource area. He didn't think it was justified to pull out the culvert and reset it for a 4" discrepancy. The Commission had no concerns or issues. Ms. Longvall felt it was sufficient to do an infiel amendment and include it on the as-built plan. Jeff Walsh made a motion that we recognize the information presented tonight in the September 18, 2017 Thompson-Liston letter, that there is a 4" discrepancy on the interior height of the culvert at the downstream, and find that it is an inconsequential deviation from the plans; the construction complies with the plans and the Order of Conditions, no further action is needed by the Commission and the information will need to be noted on the as-built plan; Rebecca Longvall seconded; all voted in favor; motion approved.

Flagg Street Extension Discussion (Graves Engineering 9/7/17 Letter) – Mr. Grenier visited the site. Mr. Duffy said the applicant was in at the last meeting and one of the things we asked him to do is to have his consultant certify the construction of the impermeable core. Mr. Grenier said they are working with Mike Andrade on that. Mr. Duffy asked if they filled it without building the core. Mr. Grenier said they brought in material to bring it to the top of where the basin is and then excavated out basin. He said it looks good right now; the contractor has contacted Graves to look at it and Mr. Grenier will be present as well. Mr. Duffy said the Commission will want him to certify that the impermeable core was constructed down to the original grades per the design. He doesn't know how deep it is and not sure how Mr. Grenier is going to certify it. Mr. Grenier will talk to Mike Andrade about it. He said Mr. Andrade also talked about installing a 40-mil plastic barrier a few feet below the bottom of the basin that would extend on the slope side of the berm to 2' below where water would go. Mr. Duffy said it was going to be his design; if that is what they are proposing they will have to come back before us for a modification of what was approved; we did not approve that. Mr. Grenier will talk to the site contractor to see how he brought the slope up. He again said we told the applicant we want it certified by an engineer that the core was constructed in accordance with the design and that the fill was placed properly and not just dumped there. Mr. Grenier said they may need compaction testing done which is difficult to do because it is already built. It looks good but they need to make sure it is structurally sound. The Commission needs to rely on the applicant and their consultants more than Graves because Graves is not the designer of record. It is going to be up to Mr. Grenier or whoever the applicant hires to say to that it is going to work and put his stamp on it and certify that it was constructed as approved. There are some trees on the right-hand side, at the toe of the slope, that will have to be dug out and removed. Mr. Duffy said when they are taken out, they can't just dump backfill; we will want it certified that the fill was placed and properly compacted. The Commission was clear at the last few meetings and the applicant went forward. Mr. Grenier said all that was relayed to him was about the material; he was not apprised of the berm. Mr. Duffy said the letter we received from him didn't address it. He asked can he certify that it was placed and compacted, it's an engineered slope, and not just dumped fill. In

addition, the Commission has two concerns about the granite that was dumped: (1) is that a material that can be placed to certain engineered properties, and (2) is it by definition a waste that needs to be managed as such. If it is granite boulders, it would not be a waste, but if it is granite countertops and other scraps, under DEP regulations, it is a waste material and should not be placed as they were placing them.

Consider issuing Extension Permit for DEP File #115-350 (Robert Fuller, Shrewsbury Street; Map 9, Parcel 14) – Mark Coakley said more than 100 cubic yards of material has been filled in and questioned if a Stormwater Permit is required because there is more than one acre of disturbance; he would like to see a full set of plans and an as-built plan of the current conditions. Jeff Walsh thought the 100 yards had to do with the rocks. Mr. Coakley said there is much more filling than we approved. Mr. Walsh thought there were engineering plans that included grades and erosion controls. Mr. Coakley said if we can't locate the plans we should deny the extension because we don't have enough information. Mr. Walsh suggested a six-month extension. Mr. Coakley said they should be requesting a Certificate of Compliance because the work is done. He would agree to a six-month extension but not allowing them to bring in more fill. Mr. Walsh would like to start with the set of plans he believes was the basis for the Order of Conditions; there are none referenced on the Order. We will need to see engineered plans of the existing conditions, how much area is disturbed and stabilized, if it is out of compliance with the Stormwater Control Bylaw and/or what the intent was with the Order of Conditions, we may or may not issue an extension. Jeff Walsh made a motion to table the matter to the October 16<sup>th</sup> meeting to allow more time to research and do a site visit; Rebecca Longvall seconded; Walsh/Burkhardt/Duffy/Ruggieri/Longvall voted in favor; Coakley abstained; motion approved

Worcester Sand & Gravel – Mike Trotto attended and said Thompson-Liston has not yet completed the survey. Tighe & Bond cannot move forward without it. This matter has been ongoing for many months. The Commission will consider enforcement action if no plans are received by the October 16<sup>th</sup> meeting.

Longley Hill – Mike Ruggieri has been following the progress. He asked if there is a maintenance plan for the area with the detention basin. They knocked over the riser to the low inlet in the back of the basin so it doesn't hold any water. They also did not do a good job grubbing. There are still stumps in the area. The backside is not grubbed; the roots are still there. He didn't carry the side slope riprap toward the houses all the way to the top, much like he didn't carry it behind the houses, and now there is an issue of it running; it will wash out. It needs to be brought all the way up. Same with the other two detention basins out back. There should be on the O&M plan with the NOI; they should be mowed at least once a year. He noted that towards the end of the road, Mr. Ansari stopped the erosion controls near the second home; the road is a mess. Mr. Duffy will contact Paul McManus and have him visit the site. There are still some unstable stockpiles; it appears that the applicant is moving the same piles every few weeks instead of stabilizing them. Mr. Duffy had concerns with Lots 9 and 11 as well. We did indicate that would not sign off on Occupancy Permits for the houses, but not sure if he would be given a temporary CO. It has improved from where we were six months ago, but we need to know what his plans are for the winter if the work is not completed. Mr. Ansari will be invited to the next meeting.

Paul McManus will be asked to visit the Pine Street site. The applicant will be requested to deposit \$1,500 to the 53G account.

Chip Burkhardt said someone approached him about the 40B project. The person thought the property owner was doing work there with heavy equipment. Mr. Burkhardt drove around the property and did not see where they could access to bring heavy equipment in. There was no evidence of any tracking.

Vouchers were approved.

**September 18, 2017 Conservation Meeting Minutes**

Correspondence/emails were reviewed.

Mark Coakley made a motion to approve the Meeting Minutes dated August 21, 2017; Rebecca Longvall seconded; all voted in favor; motion approved.

October 16<sup>th</sup> was confirmed as the next meeting date.

Mark Coakley made a motion to adjourn; Rebecca Longvall seconded; all voted in favor; motion approved. The meeting was adjourned by unanimous vote at 9:32 p.m.