



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

**OCTOBER 16, 2017**

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

Members Absent: Joe McGrath, Rebecca Longvall

Others Present: See Attached Sign-In Sheet

Recorder: Melanie Rich

**PUBLIC HEARING continued – 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. John Grenier and Jim Haynes were present. Mr. Grenier talked to Gary Dulmaine at DEP. The lots were filed under one application because he is doing a common driveway to service all three lots. Because there an additional 500' of pavement, the Commission had asked if the runoff could be treated. Mr. Grenier said they will be capturing the runoff from the first half of the driveway and will treat it through the forebay at the existing basin. The balance of the runoff from the driveway will be pitched down to a settling basin. They are also capturing and infiltrating water from the roofs of the dwellings. They are meeting the two stormwater standards (water quality and recharge to ground water). Wetland signs were added and the clearing limits have been pulled back. Mark Coakley asked who is responsible for maintaining the settling basins from the driveway runoff if it is common property and who is responsible for maintaining the recharge chambers and gutters for the roof runoff. Mr. Haynes said each lot has its own Condominium Association for grass cutting, snow and trash. The houses are under a separate Homeowners Association which covers the detention basins; the Master Association would cover the common driveway. The Commission wants to make sure someone was responsible for maintaining the gutters and recharge chambers and felt there should be a special condition for that and a special condition stating who is responsible for the maintenance of the basin and swale. The overall subdivision includes an annual stormwater report which covers the entire development and will include these lots. An audience member commented that under the original subdivision approval, open space was to be conveyed to the town and be under the care of the Conservation Commission and was that still going to be done. Mr. Coakley said we can accept it, but cannot condition it; it is a Planning Board issue. Mr. Haynes said he is conveying 6.52 acres which will be deeded to the Water District. Having no further issues, Chip Burkhardt made a motion to close the Public Hearing; Mike Ruggieri seconded; all voted in favor; motion approved. Mark Coakley made a motion to issue a standard Order of Conditions adding Special Condition #34-maintenance of the recharge chambers on Lots 24B, 45B and 46B shall be the responsibility of the individual lot Homeowners Associations, and #35-maintenance of the stormwater structures and systems on Lots 24B, 45B and 46B shall be the responsibility of the Master Homeowners Association; Mike Ruggieri seconded; all voted in favor; motion approved.

**PUBLIC HEARING continued – J&M Batista Family Limited Partnership (280 Shrewsbury Street) – Notice of Intent Application and Stormwater Control Permit 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.

Robert Branca and Matthew Doyle were present along with James Tetreault (Thompson-Liston Associates). The focus of discussion at the last meeting was on what the applicant had done and the status of the site. Since the last meeting, the loam pile was moved offsite. Art Allen (EcoTec) asked Mr. Doyle to use woodchips towards the back of the property to filter the runoff; that was done. Mr. Tetreault explained the wetland on the property and where it extends to on 270 Shrewsbury Street; it is formed by runoff conditions and clay soils. They propose to create a 9,600-square foot building with parking for retail use. There is a sufficient driving isle with a drive-up window for an unknown use at this time. Mr. Tetreault explained the drainage and said they will remove the hill in the front. The catch basins will pick up the site's drainage, which will go through a drain manhole to an infiltration structure which will meet sediment removal standards for a 10-year storm. There will be twenty 8x8 precast concrete structures. On the north side a 1:1 slope is proposed which should be riprapped. Erosion control barriers are proposed between the development and the wetland. The site will be served by a water line; electricity off the pole on the corner, and sewer service will be connected to the system installed at 270 Shrewsbury Street with septic tanks and sewer manholes. No alteration is proposed on the wetlands except for temporary alterations to make the pipe connection.

Chip Burkhardt commented as a point of order that at the last meeting the Commission did not act on the application because we didn't have sufficient information to show that the site was going to be brought back into compliance. He asked by hearing this now, are we saying we believe the lot was brought back into compliance and can address that issue and move forward. He did observe woodchips spread out, hay bales, and the Building Inspector said he had seen progress and thought our concerns were addressed, but as a Commission, we have not addressed it. Robert Branca said immediately after the last hearing they began to act on the recommended actions discussed and it has all been done. Jeff Walsh visited the site as well as 270 Shrewsbury Street and was comfortable, at least as far as stabilization concerns, that items have been addressed. Mike Ruggieri felt the same way. Mark Coakley said it looks tidy at this point. Mr. Duffy wants more temporary stabilization measures taken, given the size of the lot, if work does not start this construction season. Matt Doyle said they were going to stabilize where the power was brought in to the rear of the building; there was a lot of shot rock from years ago. He was hoping to fill it back in to the 1:1 slope and remove all the shot rock and level it which may address the Commission's concerns. The goal was to level the fill pile and leave it until the spring. Mr. Duffy said it may be advantageous to spread woodchips on the rest of the lot. Mr. Coakley would like to see a description of how they are going to leave it. We would condition that there is temporary stabilization on the remainder of the parcel if it will remain undeveloped. Mr. Coakley said in lieu of an Enforcement Order we allowed them to do a filing. He would like to see an interim step specified to contain it so everyone agrees what that containment means. Mr. Coakley read the Graves Engineering report and said there were many comments relating to the stormwater prevention plan; Mr. Tetreault stated that they have not been addressed yet. They were told to prepare the narrative and submit it to the office indicating what they are doing in the meantime and we could authorize them to do that work.

Mr. Duffy noted DEPs comments that "all resource areas should be identified and impacts, whether temporary or permanent, should be quantified and accounted for on the NOI Form". Mr. Tetreault said they did not say specifically that they were going to return it to its previous condition. Mr. Duffy said the form has to include the quantities of the temporary impacts. Mr. Coakley's questions regarding the developmental lot itself were where is the water coming through Wetland U now, is it originating from

the site, is there pre- vs. post, and are they taking flow away from that area that would affect the viability of the wetlands in the long-term. He asked was there a water balance as part of the package that Graves reviewed that analyzes pre- vs. post? Mr. Tetreault did not detail specifically what is the surface runoff to that wetland area pre- and post. The Commission would like more discussion on that at the next meeting.

Mr. Coakley asked where they were going to put snow in proximity of the work to the wetland flags. Mr. Tetreault said there are some storage areas in the back and front corners and signage can be added. There is a flat area beyond where they are going to pave that will remain undeveloped. It will be within the buffer zone but still 100' away from the wetland. He was told to add the narrative to the SWPPP. Mr. Duffy said it would also be helpful to show the stabilization in those areas. He asked what the setback was to Wetland U; the closest is at U15. There is a guardrail shown on the plan; the Commission had approved a fence as part of the Order. Mr. Duffy would prefer to have at least a 10' buffer of natural area before the wetlands from development. Mr. Tetreault said they could get 10' with the guardrail. Mr. Walsh would be comfortable with a 6' buffer and fence and would like "no dumping of snow beyond this point" signs attached to it. The applicant requested a continuance. Jeff Walsh made a motion to accept the request for continuance; Mark Coakley seconded; all voted in favor; motion approved. It was continued to November 20<sup>th</sup> at 7PM.

**PUBLIC HEARING – J&M Batista Family Limited Partnership (270 Shrewsbury Street) – AMEND Order of Conditions DEP#115-385 and Stormwater Control Permit SCP-2016-2 to modify the work at the culvert crossing and the wetland replication area.**

The hearing notice was read into record. Mr. Tetreault gave the members a color-coded plan showing the original proposed alteration at the wetland crossing and what has been done on the ground. The primary difference is that there was not as much retaining wall installed as proposed on the plan. The other issue cited by Art Allen (EcoTec) is that the proposed replication area had slope to the edge of it and the elevations in the replication area were higher than designed. Mr. Allen noted the initial plantings were reasonably adherent to what was intended but not graded as proposed. He suggested the wetland replication area could be graded to the appropriate grade and replanted with the appropriate plantings and create it so it does constitute a wetland area of 3,054 square feet. Mr. Tetreault said they looked at enlarging the area, which he did not think was reasonable with the amount of stone that is already in place adjacent to it, or another replication area to try to get a mitigation value such that the wetland replication at least gets to the previous ratio actually approved. On Friday, while showing Mr. Allen the intended replication area B14-B17, Mr. Allen asked if they had thought of the west side area of the wetland on 280 Shrewsbury Street because it was already disturbed (as compared to the proposed area which is natural vegetation and trees). Mr. Tetreault has not had time to prepare and address it.

Mr. Duffy said since the last meeting, riprap and stones were pulled out from the channel and not the side slopes. Mr. Tetreault said Mr. Allen had pointed out that the installer who put the riprap on the slopes looked at the streambed, saw exposed soil and put in riprap. Mr. Tetreault said it was an alteration, although temporary. Mr. Duffy said we were clear at the last meeting that the Commission did not want them to touch the area until we had a restoration plan. He was disturbed that they pulled the rocks out and wondered if those were shown as altered what the number would be, would it be over 5,000 square feet which would be a DEP issue? What they have proposed is clearly beyond what we could consider as an amended Order. It is a larger impact than what was originally proposed, not a minor change. Mr. Walsh agreed. A retaining wall was approved to be built to minimize the amount of filling that occurred, but was not done. Mr. Duffy would like to see the retaining wall put in, pull all the

fill and riprap material out of the wetlands, and restore the area instead of creating a replication area somewhere else on site. Mr. Walsh would like to see the stabilization more in vegetation and less riprap. He would like to see the fill and riprap that encroached further that wasn't permitted be brought all the way back if it can be done. If it can't be and there has to be a replication, he is open to doing it at 280 Shrewsbury Street. Mr. Tetreault said if they were to do that, they could not go all the way back to exactly where the retaining wall was proposed before because there are some structures already in place (guardrails, utilities). He was reminded that they should not have filled wetlands that were not permitted; the Commission approved a set of drawings.

Mr. Tetreault said the applicant can bring the present number of 4,500 square feet to approximately 2,500 square feet and have a retaining wall without disrupting what is already in place. Mr. Duffy said if it was a little more he would consider it, but to say they are going to leave an extra 2,000-2,500 square feet of filling in place and do something elsewhere, it is not acceptable to him. Mr. Burkhardt wants to see them get as close as possible to that number. He asked what was the rationale for not installing the retaining wall; it should have been discussed when they made the decision not to put it in. Mr. Duffy said one of the conditions is to have a wetland scientist oversee the work. Mr. Doyle said they overlooked the wetland scientist. Mr. Duffy asked if they were proposing to re-excavate the replication area; yes. Mr. Tetreault explained where the riprap was originally proposed. If the toe of slope is 20' away from the replication area, and there is riprap, can the riprap be pulled back; yes. It is a workable spot to do replication.

Whether it could be considered an amendment or a new filing required was discussed. Mr. Duffy would like to see them do everything they can to adhere to what was originally approved. If they can keep as close to what was originally approved, the Commission can consider it an amendment. Mr. Burkhardt is not against replicating on another area, but they need to show as much as practicable that they can adhere to the original conditions approved. Mr. Branca is concerned that he may not be able to do that. Mr. Coakley summarized that if they want to file it as an amendment, they have to bring the alteration as close to the original plan as possible and mitigate any minor additional filling. If they want to go greater than a certain amount of additional fill in the road crossing area, they need to submit a new NOI. Statutorily we only have so much latitude to allow additional fill, and what they are asking for is more than we can grant under the existing Order of Conditions. The applicant requested a continuance. Mark Coakley made a motion to accept the request for continuance; Chip Burkhardt seconded; all voted in favor; motion approved. It was continued to November 20<sup>th</sup> at 7:30PM.

**PUBLIC MEETING – Linda Davis (109 Rocky Pond Road) – Request for Determination of Applicability** to replace an existing deck.

Robert Kneeland represented the applicant. He intends to move the deck 2' more away from the water and put in three elephant sonotubes and a beam under it. No equipment will be on the property; holes will be dug by hand. It is 27' to the water. Having no issues, Jeff Walsh made a motion to issue a Negative Determination by reason #3; Chip Burkhardt seconded; all voted in favor; motion approved.

**PUBLIC MEETING – Edward Kimball Trust (718 Main Street) – Request for Determination of Applicability** to replace an existing septic system; the existing leach field is located approximately 30 feet from the edge of the wetland.

Mike Sullivan (Cornerstone Engineering) represented the Trust. The concept is to maximize the separation between the wetland and the proposed system. The system will be put in the front. The tank is 70' from the wetland; the leaching field is 100' feet from the wetland. The wetlands were flagged by

MaryAnn Dipinto. It has been approved by the Board of Health with variances because of the limitations associated with the wetlands and the size of the lot. Jeff Walsh made a motion to issue a Negative Determination by reason #3; Mark Coakley seconded; all voted in favor; motion approved.

**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 November 20<sup>th</sup> meeting. Chip Burkhardt made a motion to accept the request for continuance; Jeff Walsh seconded; all voted in favor; motion approved. It was continued to November 20<sup>th</sup> at 8:30PM.

### **COMMISSION BUSINESS**

Barnard Hill (Perry Road) – EcoTec Site Inspection Report – James Tetreault, Rich Chehade and Mike Pham (Site Supervisor) were present. Mr. Tetreault said Integra Development has been replaced and Mr. Pham is the new Site Supervisor. Some of the issues in EcoTec's September 28, 2017 letter have been addressed; some are seasonal and will have to wait until spring. Wetland flagging needs to be refreshed. Mr. Tetreault said it is in the works but they haven't gotten to it yet. Mr. Duffy suggested as a follow up, he would like to see a table showing what action was taken, when it was or was not taken, and what their schedule is.

Erosion controls and riprap are missing on Station 2+25. The area should be finished and erosion controls installed ASAP. Mr. Tetreault said the riprap is now in place. The stored pipes are in the process of being removed at Station 5 +/-, but not complete. The box culvert floor at Station 15 was done by the previous contractors who left it at a uniform plateau and raked out the natural channel. They plan to put it back but have not done it yet. The earthwork on the upstream and downstream sides of the box culvert is unstable and not part of the original plan. Jeff Walsh had a concern with one of the wetland crossings. The catch basin on one side of the road is up high so the water is getting into it; on the other side of the road (south), the shoulder off the end of the asphalt is lower than the road and the water can come off the road and sediment can be carried into the channel. He would like to see the water from the road funneled and caught by the catch basin. Mr. Tetreault said there are some ways to do that, e.g., different weights of wattles. Regarding restoration of the installation on the upstream and downstream side of the sand box culvert, Mr. Walsh suggested stabilizing it with vegetation. Mr. Duffy said the issues raised for Parcel A Replication Areas do not look as though they need immediate action; we don't want to disturb the stable areas over the winter. It is mentioned that the construction access path is largely unvegetated bare ground on the Lot 5 Replication Areas. The applicant was told to put down some spray mulch to stabilize it over the winter and restore the vegetation in the spring. The lot status addressed the status of the wetland restoration areas relating to site stabilization. Lots 10 & 11 will be done this year; Lots 13 & 14 next year. Mr. Tetreault said they starting to loam basins 109 and 107 which were not well vegetated. Mr. Walsh recommended they maintain the basins until they are turned over to the town. He also recommended stabilizing the shoulders at the wetland crossings. Mr. Tetreault will forward a timeline and response to EcoTec's letter to the Commission.

Longley Hill Update – James Tetreault presented a photo showing that they have started placement of riprap behind Lot 9. Mr. Ansari is trying to contact the owner/abutter to Lot 11 to see if he can purchase a piece of land where he could put a septic. It is not possible to put a septic system behind Lot 11 because it was not graded to the original plan. Mark Coakley said we will need a stabilization plan. Dan

Duffy said it is not in compliance and the Commission has been very reasonable working with Mr. Ansari to bring it into compliance. We need to see a plan soon. Mr. Tetreault said Mr. Ansari will know soon whether or not he will have a deal with the abutter.

Mike Ruggieri said the detention basin in the back was still heavily vegetated. The low flow riser in the back basin is knocked over. Mr. Tetreault said there was a riser installed, but it is not a permanent feature. Jeff Walsh said if it is not needed, it needs to be removed; if it is needed, it needs to be made operational. Mr. Tetreault will inform Mr. Ansari. Mr. Duffy asked if Lots 5 and Lot 6 are stabilized; Mr. Tetreault said they are getting there; the framing is done, they will be putting septic systems on both lots and have put down a small amount of loam. Mr. Duffy reminded Mr. Tetreault that we are losing the growing season and to try to get it done within the next week or so. Mr. Ruggieri asked if the riprap will be brought up higher on Lot 6. Mr. Tetreault did not think Mr. Ansari was planning to. Jeff Walsh visited the site a week ago and said he wasn't impressed with the quality of erosion controls, but glad to see there was erosion controls. The lower end of the road was a dusty mess. They were careless with the erosion controls when digging the septic system for the last house on the left, but progress is being made.

Worcester Sand & Gravel – Mike Trotto and James Tetreault were present. The proposed grading plan was submitted. There is an agreement between Worcester Sand & Gravel and the Phillips to put fill in to grade it down and also to put in a 4' fence in on the Worcester Sand & Gravel side. As part of the agreement, they will take down the hill behind the house and give the Phillips a more flat yard area. Mr. Trotto said Tighe & Bond will have a final draft in the next 2-3 days and he will forward it to the Commission. The Commission needs a plan from Tighe & Bond that includes a written description of the work that is going to occur along with technical specifications. Our consultant also needs to review it. Mr. Duffy said there are high slopes (3:1) and it would be valuable to use erosion blankets/straw mats while loaming and seeding to minimize erosion while waiting for it to vegetate.

Extension Permit (continued for consideration) for DEP File #115-350 (Robert Fuller, Shrewsbury Street; Map 9, Parcel 14) – Sheri and Bobby Fuller were present. There were questions as to what was the original plan, what was originally proposed, what is there now, and what is going to happen going forward. The existing Order expired in September and the board voted last month to continue it to the next meeting. Mr. Fuller said what changed was that they purchased the property across the street from the Shell Station. He said there is a pile of stone which came from a 100' section of stone wall that was stockpiled. He said there is a lot of stone on the banking. There are two piles of gravel from digging on the ledge. All of the edges are higher than the center. There is no water going over any of the bankings. Mr. Duffy asked what the original work was and what was the purpose of it? Mr. Fuller talked about the culverts and how there was going to be riprap and pipe that was going to a clean out, but it is on hold for now. Chip Burkhardt said he was approved to place some amount of fill but it looks like more fill was placed than was allowed. Was the work in the buffer zone within our jurisdiction? The town has a Stormwater Control Bylaw for any disturbed area over one acre, which may not have been part of the original intent. Mr. Fuller said the main objective from day one was to meet Route 140 with School Street.

After reviewing the plans, Mark Coakley said the extent of the work has changed and we can't extend the permit. Mr. Duffy asked what they are doing now. Mr. Fuller said they are done filling and waiting to see what Scannell and the town wants them to do because of the road that might go through. Mr. Duffy said we would like to see some stabilization. Mr. Fuller said the erosion is under control. The only thing they haven't done is the pipe that ties into a stormwater drain on Route 140, which they could be wasting money on if the road does go through. Mr. Coakley said we should not extend the Order

because site conditions have changed. Mr. Duffy said any work they are proposing is different so they would have to come back with a new filing. The entire area that is now bare ground needs to be stabilized so there is not continual erosion. Mr. Coakley would like to see the stormwater management, the site stabilized, and a plan prepared that shows what the contour is with the fill as an as-built plan. Mark Coakley made a motion not to extend Order of Conditions DEP #115-350; Jeff Walsh seconded; all voted in favor; motion approved. Mark Coakley made a motion to request the applicant to stabilize the site, request a Certificate of Compliance and Stormwater Control Permit, and the Commission will accept an as-built plan; Jeff Walsh seconded; all voted in favor; motion approved.

Vouchers were approved.

Correspondence/emails were reviewed.

Mark Coakley made a motion to approve the Meeting Minutes dated September 18, 2017; Jeff Walsh seconded; all voted in favor; motion approved.

November 20<sup>th</sup> was confirmed as the next meeting date.

Jeff Walsh made a motion to adjourn; Mark Coakley seconded; all voted in favor; motion approved. The meeting was adjourned by unanimous vote at 9:48 p.m.