



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

SEPTEMBER 17, 2018

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

Members Absent: Joe McGrath

Others Present: See Attached Sign-In Sheet

Recorder: Melanie Rich

PUBLIC HEARING (continued) – 299 Sewall Street LLC (Map 7; Parcels 37, 38 & 39) – Notice of Intent Application and Stormwater Control Permit Application for the construction of 30 senior housing units, access driveways, stormwater management facilities and associated site work.

At the last meeting, the Commission requested documentation that the stream that flows adjacent to the main part of the site is intermittent. Mr. Grenier provided documentation based on the criteria outlined in 310 CMR 10.58(2)(a)l.a. through c. His office documented in the field with pictures of the stream channel on six specific dates in August of 2017 that the stream channel was dry and not flowing during a non-drought period, as well as documentation from MEMA that the time-period in which the photos were taken was not within a drought period.

Mr. Duffy asked about snow storage. Mr. Grenier said they shifted some of the landscaping for the snow storage and revised the plan; some trees have been moved closer to units, others relocated in different areas to keep the tree count the same. He did not provide a plan before the meeting and reported that he will provide an updated plan. They also shifted the limit of work for access to get around the units to work on them and moved the erosion controls to do grading. The erosion controls are at the limit of work/clearing line, but there will be no grade changes in the flood zone. Wetland markers will be placed north of the picnic area and south of Unit 27. Mr. Marro will monitor the wetland flags to make sure they remain refreshed during construction. Mr. Coakley commented that the Order of Conditions is to be issued against the set of plans with the current date on them, but the Commission does not have revised plans. Mr. Walsh said considering what needs to be changed, he would be comfortable referencing these plans and state that there is an expected revision. The revision is that the location of the plantings would be moved out of the snow storage area, wetland markers to be added, and trees will be distributed, including some between the dwelling units (which will be added to the plan). A bond will be provided for stormwater management (estimate to be prepared by Graves Engineering).

Mark Coakley made a motion to issue a finding that the perennial stream presumption has been overcome up to the edge of the property line; Chip Burkhardt seconded; Duffy/Coakley/Burkhardt/Ruggieri voted in favor; Walsh abstained; motion approved.

Chip Burkhardt made a motion to close the Public Hearing for the NOI application; Mike Ruggieri seconded; Duffy/Coakley/Burkhardt/Ruggieri voted in favor; Walsh abstained; motion approved. Chip Burkhardt made a motion to close the Public Hearing for the Stormwater Control Bylaw Permit

application; Mike Ruggieri seconded; Duffy/Coakley/Burkhardt/Ruggieri voted in favor; Walsh abstained; motion approved.

Jeff Walsh was unable to vote because he was not in attendance at the last meeting and suggested talking to the Town Administrator about adopting the Mullin Rule; Selectman May agreed.

Mark Coakley made a motion to issue a standard Order of Conditions adding Special Condition #34-applicant shall relocate all trees shown in the snow storage area with special attention to redistribution between Units 16-26 and rear of Units 27-30; and #35-applicant shall provide three wetland protection monuments, two (2) to the south of Unit 27, and one (1) to the north of the picnic area, all shall be placed at the limit of clearing. Chip Burkhardt seconded; Duffy/Coakley/Burkhardt/Ruggieri voted in favor; Walsh abstained; motion approved.

Chip Burkhardt made a motion to issue Stormwater Control Permit SCP-2018-2 adding Special Condition #22-applicant shall provide surety in a form and value suitable to Town Counsel and Town Engineer prior to the start of construction. Surety shall cover stormwater management and site stabilization in an amount suitable to the Town Engineer. Mark Coakley seconded; Duffy/Coakley/Burkhardt/Ruggieri voted in favor; Walsh abstained; motion approved.

PUBLIC HEARING (continued) – Compass Circle (Lots 24B, 45B & 46B Duplexes) – Amend Order of Conditions DEP #115-414. The buildings are 20' closer around the perimeter than what was approved, and tree clearing went beyond what was approved. Enforcement Order issued July 16, 2018.

Jeff Walsh recused himself from the matter. John Grenier, Matt Marro and Jim Haynes were present. Mr. Marro said at the last meeting the Commission requested he visit the site with Paul McManus (EcoTec) and review the planting scheme. Mr. McManus' recommendations per his September 10, 2018 letter were to have the area on the site plan be revised to clearly delineate the limits of the restoration area and stone wall (the stone wall has been added to the plan for demarcation); a minimum of 6" of topsoil from the site throughout the restoration area prior to the plantings; seed the restoration area after the plantings are in place; construct a dry stone wall (18" minimum height); and show the locations of wetland signs at recommended locations (northeast of Unit 43; Northwest of Unit 44 and West of Unit 4). There was discussion as to where additional signs would be placed. The members would like to see the wall extend for the length of the encroachment area. The area will eventually go back to natural vegetation. Mr. McManus' September 17, 2018 email said he had not seen any updated plans and said to verify that the proposed wall (limit of work) is consistent with the approved limit of work, or at a minimum that the Commission understands any difference.

Mark Nettleman (potential homeowner) asked if there was a timetable for planting. The process was explained to him. Gino Rida (19 Smallwood Circle) asked how can the Commission keep these types of things from occurring in the future. He said the builders all know the law, they know what they are supposed to do but they overstep their boundary and then comes in and apologize for cutting down trees 50 years old. Mr. Duffy said that was our concern and why the Commission issued a Cease and Desist. Unfortunately, we can't go back to that situation; all we can do is to make sure that we are as vigilant as we can be when we go out and make observations. The burden was on the applicant to demonstrate to us that what they came back with was equal to or less impact than what we approved. We engaged a consultant for the town to give us an opinion, and his opinion is that what we are seeing is less than or equal to the impact that was originally approved.

Gerry Quam (3 Smallwood Circle) asked what the infraction was. Mr. Duffy said the clearing went beyond what was approved in their Order of Conditions. The drawings submitted showed the foundations, specifically Lot 44, being 20-feet closer to the wetlands than what was originally approved. Mr. Quam asked if the Commission was happy with the explanation as to why it happened and was told no. Mr. Haynes said he made a mistake. Mr. Burkhardt told Mr. Quam that the Commission followed a process; we didn't see what we liked and issued an Enforcement Order; we stopped all work on the site. We engaged a consultant for the plantings because we didn't know if there was equal to or less impact than was what approved. The closeness is not what matters. The standard of care is if there is more or less impact to the resource area per the regulations. Mr. Rida asked about two different sets of plans going to two separate boards. Mr. Duffy said what is submitted to the Commission is permitted and if the applicant does something that is not permitted, we will take enforcement action. The applicant should be submitting consistent plans to all boards.

Chip Burkhardt made a motion to close the Public Hearing; Mark Coakley seconded; all voted in favor; motion approved. Mark Coakley made a motion to lift the Enforcement Order; Mr. Burkhardt seconded; all voted in favor; motion approved.

Chip Burkhardt made a motion to issue Amended Order of Conditions DEP#115-414 adding Special Conditions #37-the stone wall depicted is on plan dated August 22, 2017, revised 9/13/18. The wall shall be extended from the westernmost point shown on the plan, in a southerly direction to the property line between Lot 24D and Lot 45D, east of the white pine shown on the plan. Special Condition #38-proposed wetland sign on Lot 24D shall be moved to the edge of the proposed rock wall. A second sign shall be added behind Unit 44 at the edge of the rock wall. Mike Ruggieri had an issue with the size of the trees. Mr. Haynes agreed to plant 8'-10' tall white pines. Mr. Burkhardt proposed one additional Special Condition #39-applicant to replace 6'-8' tall white pine trees on planting schedule with 8'-10' tall white pine trees. Mark Coakley seconded; all voted in favor; motion approved.

COMMISSION BUSINESS

Consider Request for Certificate of Compliance for Scannell Properties (Fed-Ex) DEP#115-393 and SCP#2016-4 (220 & 290 Shrewsbury Street and 100 Pine Hill Drive) – Having addressed all of Art Allen's concerns regarding site stabilization in several areas, Mark Coakley made a motion to issue a Certificate of Compliance for **DEP#115-393**; Chip Burkhardt seconded; all voted in favor; motion approved. The Commission wanted to say thanks to Mr. Allen and all involved in the project; they all did a great job with this project. Jeff Walsh made a motion to issue a Certificate of Compliance for **SCP#2016-4** with an ongoing condition that annual stormwater maintenance reports are to be received each calendar year on or before March 1st; Mark Coakley seconded; all voted in favor; motion approved.

Consider Request for Certificates of Compliance for Scannell Properties, DEP#115-417 (Off-Site Improvements (Shrewsbury Street/Route 140) and Stormwater Control Permit SCP-2017-6) – Mark Coakley made a motion to issue a Certificate of Compliance for **DEP#115-417**; Jeff Walsh seconded; all voted in favor; motion approved. Mark Coakley made a motion to issue a Certificate of Compliance for **SCP#2017-6**; Jeff Walsh seconded; all voted in favor; motion approved.

Longley Hill Status (Geotechnical Solution for Stabilization of Lots 9 and 11) – Along with the usual status reports received, James Tetreault also forwarded a letter saying that the owner is having a septic system plan prepared and will integrate proposed lot stabilization into the plan. Chip Burkhardt let the members know that the Board of Health has serious concerns with the septic area and wall.

Open Space and Recreation Committee Volunteer – Mike Ruggieri volunteered to be on the Committee.

Work has begun at Worcester Sand and Gravel. Bruce Haskell will be doing the inspections and providing reports.

Vouchers were approved.

Correspondence/emails were reviewed.

Mark Coakley made a motion to approve the Meeting Minutes dated August 27, 2018; Chip Burkhardt seconded; Duffy/Coakley/Burkhardt/ Ruggieri voted in favor; Walsh abstained; motion approved.

October 15th was confirmed as the next meeting date.

Melanie will email the Town Administrator asking her to check the process to implement the Mullin Rule and also if the Board of Selectmen have received any interest from residents about becoming a member.

Mark Coakley made a motion to adjourn; Chip Burkhardt seconded; all voted in favor; motion approved. The meeting adjourned at 9:00 p.m.