



CONSERVATION COMMISSION MEETING MINUTES – December 5, 2016

Present: Scott McIsaac- Chair, Bob Mosher, Paul Hall, Adrienne DuBois, Laurie Freeman, John Morrissey, Loni Fournier-Conservation Officer

Absent: Bob Hidell

The meeting was called to order at 7:05 PM.

Approval of Minutes

Motion: Commissioner Freeman motioned to approve the minutes from the November 21, 2016 Commission meeting.

Second: Commissioner Dubois **In Favor:** All **Opposed:** None

Certificates of Compliance

25 Lewis Court – DEP 034-1240

An Order of Conditions was issued in October 2015 for the construction of a single family home with a driveway and associated grading. Staff visited the site on 11/30/16. The as-built plans adhere to the final approved plans, with a few minor changes that will not impact the resource area. The applicant was required to submit a planting plan at least two weeks prior to the start of work, but a planting plan could not be found in the file. Staff requested a list of species that were planted on the property, but has yet to receive that list. The Order of Conditions also requires the plantings to survive two full growing seasons prior to the issuance of a Certificate of Compliance. Two full growing seasons have not yet passed, however the property is being sold. Staff recommends issuing a partial Certificate of Compliance upon receipt of the species list, with the only outstanding item being the 75% survival rate of the plantings in order to facilitate a closing. At the end of two full growing seasons, the new owners may file for a full Certificate of Compliance.

Applicant John Woodin stated that the plants were planted 3 weeks ago. The Conservation Officer explained that the Partial Certificate of Compliance will cover everything but the plant survival requirement. In 3 years if the office has not heard from them, a reminder letter will be sent to them.

Motion: Commissioner Hall motioned to issue a Partial Certificate of Compliance for 25 Lewis Court, DEP 034-1240.

Second: Commissioner Freeman **In Favor:** All **Opposed:** None

3 Sycamore Lane – DEP 034-1038, continued from 11/21/16

An Order of Conditions was issued in June 2010 for the construction of an addition. A partial Certificate of Compliance was issued in May 2014. The applicants were required to connect the roof drains on the addition to drywells, per condition #28. Staff visited the site on 10/5/16 and noticed that the roof drains on the addition were not connected to drywells. At the last meeting, the Commission and the applicant discussed the possible reasons for the required drywells as well as the current site conditions, and proposed a rocky swale as a substitute for the drywells. The applicant contacted staff on 12/1/16 and stated that they met with a contractor to discuss solutions and costs, etc. The applicant is hoping to propose a final plan at the next meeting on 12/19/16; the hearing was continued at the applicant's request.

Requests for Determination of Applicability

15 Ocean View Drive, continued to 3/13/2017

Applicant: Kristen Autio

Proposed: Leveling and grading the rear yard

The applicant needs more time to consider whether to go forward with this project or withdraw their request. The hearing was continued 3/13/17 at the applicant's request.

Commissioner Mclsaac read the Public Hearing Notice of Intent.

Notices of Intent

73 Abington Street – DEP 034-1275

Applicant: MDC Properties – Abington Street LLC

Representative: Gabe Crocker

Proposed: Day care facility

The applicant is proposing to construct a day care facility at 73/0 Abington Street. The facility will consist of a 10,000 sf building with a playground area, a parking lot, a main entrance driveway, and an emergency access driveway. The total impervious area that will be added to the site is 38,684 sf. The facility will be serviced by a new septic system, public water, propane or natural gas, electricity, and telecommunications. A number of stormwater BMPs have been proposed for the site.

A large portion of the project is outside of the Commission's jurisdiction. The following improvements are within the Commission's jurisdiction:

- A small portion of the building and playground area – proposed within the 100 foot buffer zone of a wetland.
- Main driveway – proposed to cross a wetland, impacting 800 sf, and continue to the proposed building within the 50 and 100 foot buffer zones, and the Outer Riparian Zone.
- A temporary sediment basin/permanent rain garden (stormwater management) – proposed within the 100 foot buffer zone of a wetland and adjacent to the main driveway.
- A 15 foot wide access path – proposed within the 100 foot buffer zone of a wetland and adjacent to the main driveway.
- Three rocky swales to handle stormwater (treated and emergency overflow) – proposed within the 100 foot buffer zone of a wetland.
- A small portion of the water line and several utility poles – proposed within the 100 foot buffer zone of a wetland.

Electric and telecommunication lines will cross "overhead" the wetland, without any disturbance. As mitigation for the main driveway crossing, the applicant has proposed a 3:1 wetland replication area (2,400 sf) adjacent to the existing wetland and proposed driveway.

The applicant is proposing a system of deep sump hooded catch basins, StormTech isolator rows, subsurface infiltration, infiltration trenches, a vegetated filter strip and a rain garden for stormwater management. The applicant has submitted a stormwater report and based on their calculations, meets the MassDEP Stormwater Management Regulation requirements. The applicant has also submitted an operations and maintenance (O&M) plan. Snow removal is discussed in the plan: snow will be stockpiled in the parking lot and sand will be used in the event that additional traction is needed on the main driveway or parking lot. In the event that icy conditions develop, a mixture of 90% sand and 10% salt (NaCl) will be used in these same areas. Neither the report nor the plan has been peer reviewed.

Staff visited the site on 11/30/16. A house and garage stand in disrepair on the western part of 73 Abington Street. The property associated with the house has several open/mowed areas. The rest of the site appears to consist of high brush/shrubs with occasional trees. The emergency access driveway will begin before the existing driveway, on what is currently lawn, and run along the edge of 73 Abington Street into 0 Abington Street, where the building, parking lot and main driveway are proposed. The area near the proposed main driveway is wet, and appears to connect to the certified vernal pool on site, likely during heavy rain or flooding. A large portion of the wetland along the road contains a lot of debris in the form of tires, bottles, and cans. The rest of the site appears to be forested.

Section 23.3 of the Wetland Regulations states: “No new lawns or driveways may be constructed within 50 feet of any Resource Area....” As an alternative plan, the applicant considered using the emergency access driveway as the main driveway. The applicant states that this plan was abandoned because the driveway will be over 700 ft long, which is not practical for a day care facility, and it will direct traffic behind existing homes.

Section 23.6 of the Wetland Regulations states: a) “No fill shall be placed in any Resource Area or any buffer zone so as to alter the flow of surface water in a way that the Conservation Commission feels will adversely affect the wetland values of the Resource Area(s).” c) “The Commission at its discretion may allow the filling of up to 2,500 square feet of Vegetated Wetland for a limited project, if satisfied that mitigation required in the Order of Conditions is sufficient to protect the Resource Area. ...” f) “The Commission is authorized to deny any filling of any Resource Area in order to protect the wetland values of the Resource Area.” It is not clear from the Notice of Intent whether the applicant proposes to fill the wetland for the driveway crossing or install a culvert to allow connectivity within the wetland once the driveway is in place.

Staff had the following questions for the applicant/representative (sent to the representative on 11/30/16):

1. Why isn't the facility proposed on the abutting parcel with the house (to the northeast)?
2. What will the surface of the playground area be?
3. Are the minimum amount of parking spaces proposed for the facility?
4. Will porous pavement be used for the main entrance driveway?
5. What is the purpose of the 15' wide access path?
6. Will a culvert be placed under the main entrance driveway to ensure there is connectivity between the wetland areas?
7. Can you estimate the number of trees greater than 6" DBH that will be removed within the Commission's jurisdiction?

Responses to all questions were emailed to the conservation office on 12/2/16 and forwarded on to the Commission.

Attorney Adam Brodsky gave an overview of the 15 acre site including specifics on what resource areas were involved, specifics of the emergency access/main drives and building location, and the reasons for placing them where they did. Mr. Brodsky noted that the main driveway was sited at the narrowest point of the wetland and would require filling approximately 800 sq. ft. They are proposing mitigation plantings at a ratio of 3:1. He indicated that there was a desire to keep the day care facility separate from the industrial properties.

Gabe Crocker, an engineer from CHA Companies, noted their effort to minimize the footprint and that the site lends itself to the purpose of the day care facility; they wanted to be in a peaceful wooded setting. He responded to one of the staff memo questions, explaining that the relocation of the access path to the rain garden reduces the proposed area of disturbance by 1300 sq. ft.

Mr. Crocker described the various utility connections. They will use propane until the moratorium on Abington Street is lifted and are working with the gas company toward that goal. A water main extension is needed; a segment would travel along the shoulder of Abington Street then turn on to the property at the access road (which also provides a means to access/maintain the water main). Electric and telecom would be routed on overhead wires then underground to the building.

Commissioner McIsaac asked for clarification of the stormwater drainage. Mr. Crocker explained that where they've located the building has good soils for drainage/septic systems and good depth to groundwater. He explained in detail the systems proposed for stormwater and noted the importance of not starving the wetlands of water and to maintain current flows. The roof area and parking lot runoff funnels through an underground chamber and stone system and meets the recharge requirement; the playground surface is designed to be vertically draining with a porous medium; a vegetated swale allows runoff into a rain garden; and two, 15-inch culverts under the main driveway provide hydrologic connection for the BVW system that feeds down to the perennial stream. Due to the contours of the site, water

currently drains down to the two neighboring residences and the proposed gravel drive provides an opportunity to install a stone and underdrain pipe system to help divert water to either side of property.

Commissioner Morrissey raised his concern regarding the proposed main driveway crossing the wetlands when an alternative exists. Mr. Crocker responded that they had originally considered locating the main driveway where the gravel access drive is proposed, but that various factors led them to site it elsewhere. Discussions with Captain Damstra and the day care facility raised concerns that the 700 ft. length of access driveway would delay emergency response time. They were also trying to avoid traffic near the neighboring residences. Were it to be the main driveway, it would be paved, increasing the impervious area and requiring formal stormwater systems in a high groundwater situation near the residences.

Commissioner Mosher asked if the emergency drive would exist were it not needed as a maintenance route for the water main. Mr. Crocker responded that it probably would not and that its purpose evolved when talking to Captain Damstra; the main drive as proposed is Captain Damstra's preferred access point. He suggested that the gravel drive could, depending on Aquarion's requirements, possibly be reduced to a mowed path. Commissioner Mosher asked if they are required to have an emergency drive. Mr. Crocker responded that he would consult with Captain Damstra again; they had not framed the question in that form in previous conversations. The width of the gravel drive would have to be 20 ft. according to new fire regulations. The gravel drive is set back almost 60 feet from the residences. The plan is to remove the existing derelict residence/garage/driveway on the western parcel.

Commissioner Freeman asked for the locations of the 100 trees greater than 6 inches in diameter proposed for removal. Jay Hall, Wetland Scientist with CHA Companies, responded that the tree removal is in the proposed replication area, in the buffer zone where the rain garden will be, in the riverfront buffer area, and an area at the back of the building. The Conservation Officer asked if the trees proposed to line the gravel drive were part of the mitigation plan for vegetation being removed. Mr. Crocker replied that they had not been in the mitigation calculations but were proposed in order to create a buffer for the neighbors.

The Conservation Officer asked what minimum natural wooded buffer area would the day care facility need to fulfill the desired natural feel surrounding it and would it be possible to locate the building/parking lot on the western side of the parcels, achieving that desired buffer between the day care facility and the industrial park. This would remove much of the project out of the Commission's jurisdiction and the intensive use of the day care facility could occur on the western parcel and perhaps a nature trail or smaller building could accomplish the desire for a wooded natural experience for the children. Mr. Crocker responded that they originally started in that location but the main reason they moved the facility away was the high groundwater table; the seasonal high groundwater is at 2 feet heading up the hill. As they worked on a layout for that location, the high groundwater was necessarily raising the elevation of the facility and therefore requiring it to be set back further becoming higher in height. This was not ideal for the day care facility and they chose to look at other places to locate it.

Commissioner Mclsaac asked if the fifty parking spots was a requirement. Mr. Crocker responded that it was a requirement for the Learning Center as they do not do a rolling drop-off/pick-up; parents park their car and physically walk their children in and sign them in/out. It is not necessarily full all day but is needed for the peak times. There are no extra spaces calculated in that; fifty is the minimum. They anticipate being licensed by the state for up to 170 students between the ages of 4 weeks to 4 years old, with staggered drop-off/pick-up times.

Commissioner Mclsaac opened the hearing to public comment. Hearing none, Commissioner Mclsaac closed the hearing to public comment.

Commissioner Morrissey commented that the commission needs to be very sensitive to creating exceptions in regards to new driveways in protected areas. Mr. Brodsky noted that regulations on Bordering Vegetative Wetlands are treated differently than other resource areas; for example, a salt marsh. They allow for a certain amount of fill partly because there has been success in replicating a BVW. Commissioner Freeman asked if any analysis could be done to be certain that there would be no cumulative or adverse effect on the wetlands. Mr. Brodsky stated that filling a BVW certainly has

an adverse effect on it, but that the regulations for BVW allows the Commission, at its discretion, to permit some amount of fill. The replicated BVW is then subject to extensive monitoring requirements. The applicant has submitted a detailed replication plan.

The Commission agreed that a peer review of the stormwater management standards and engineering techniques for the proposed 38,000 square feet of impervious surface was needed. The Conservation Officer stated that she could compile a list of special conditions to be considered December 19, 2016.

The Applicants anticipated that the hearing would be continued and in the meantime will contact Captain Damstra to clarify need in regards to the gravel emergency access driveway.

Motion: Commissioner Freeman motioned to continue the Notice of Intent hearing for 73 Abington Street, DEP 034-1275, to December 19, 2016.

Second: Commissioner Morrissey

In Favor: All

Opposed: None

15 Merrill Street – DEP 034-1276, continued from 10/17/16

Applicant: Kevin and Rita Gill

Representative: Carmen Hudson

Proposed: Terrace expansion

The applicant is proposing to expand an existing elevated terrace by 730 sf over existing lawn and landscaping. A separate section of existing terrace wall will also be raised and the existing pool will be modified to create an infinity edge. The expansion will be within the 50 foot buffer zone and the other work will be within the 100 foot buffer zone. The applicant is proposing 1,500 sf of mitigation plantings.

Staff visited the site on 11/30/16. The slope from the existing terrace down towards the vegetated bank is fairly steep. The mitigation area will replace a portion of the existing lawn adjacent to the vegetated bank. With appropriate erosion controls, staff does not believe the proposed improvements will negatively impact the resource area.

Carmen Hudson, of Cavanaro Consulting, explained that the resource area is a coastal bank (the first break in slope after the limit of the floodplain). During construction they propose using a silt sock at the edge where the lawn meets the vegetation. The Conservation Officer noted that the proposed mitigation plantings would benefit the coastal bank, eliminating lawn and widening the vegetated buffer between the house/patio/pool and the coastal bank.

Commissioner Dubois asked if the pool was remaining the same size and Ms. Hudson clarified that the pool would remain the same size, but a trough was being added for proper water circulation.

Commissioner Morrissey asked for clarification from the Conservation Officer on what determines the appropriate mitigation ratio. The Conservation Officer responded that from her perspective, it depends on the type of resource area, the level of disturbance, and how close it is to the resource area. The regulations require 3:1 ratio if the resource is a salt marsh; all other resource areas typically start at a 2:1 ratio.

Commissioner Freeman remarked that the terrace expansion extends in to the 50 ft. buffer zone, understands that it is currently lawn, and asked if the terrace surface would be pervious. Ms. Hudson replied that no, the terrace surface is impervious hence the 2:1 mitigation plantings. She noted that the Bylaw refers to previously disturbed resource areas as opposed to this situation, which is a previously disturbed buffer zone.

The Commission discussed the long term benefit and security of the increasing the vegetated buffer zone; it would be unlikely for the Commission to permit reduction of the new vegetated buffer in the future.

Commissioner Mclsaac opened the hearing to public comment. Hearing none, Commissioner Mclsaac closed the hearing to public comment.

Motion: Commissioner Mosher motioned to issue an Order of Conditions for the proposed work at 15 Merrill Street, as shown on the submitted plans, and adopt the findings of fact a and b, and special conditions 1 through 16 of the staff report.

Findings:

- a. The project meets the requirements for issuance of an Order of Conditions under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations.
- b. The work described is within an area subject to protection under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations, and will not alter or adversely affect the area subject to protection under the Act or the Regulations.

Special Conditions:

1. The applicant shall notify the Hingham Conservation Commission in writing of the name, address, and telephone number(s) of the project supervisor or contractor who shall be responsible for ensuring compliance with this Order and shall notify the Commission, by telephone or writing, at least 48 hours prior to commencement of work on the site.
2. This document shall be included in all construction contracts and subcontracts dealing with the work and shall supersede all other contract requirements.
3. The project supervisor or contractor in charge of the work shall have a copy of this Order available on the site at all times.
4. Prior to the start of any excavation or construction, erosion and sediment controls shall be installed, as shown on the final approved plan, and inspected by an agent of the Commission; straw wattles and/or hay bales will not be used as a form of erosion or sediment control.
5. Erosion and sediment controls shall remain in place until all disturbed or exposed areas have been stabilized with a final vegetative cover or the Commission has authorized their removal.
6. During all phases of construction, all disturbed or exposed areas shall be brought to a finished grade and either a) loamed and seeded for permanent stabilization, or b) stabilized in another way approved by the Commission.
7. Any debris, which falls into any resource area, shall be removed immediately by hand.
8. Any on site dumpsters shall not be located within 50 feet of any resource area.
9. There shall be no stockpiling of soil or other materials within 50 feet of any resource area.
10. Issuance of these conditions does not in any way imply or certify that the site or downstream areas will not be subject to flooding, storm damage, or any other form of damage due to wetness.
11. There shall be no discharge of any pool water within 100 feet of any resource area.
12. No vehicle, or other machinery, refueling, lubrication or maintenance shall take place within 100 feet of any resource area.
13. Before executing any change from the plan of record, the applicant must have the Commission's written approval. Any errors found in the plans or information submitted by the applicant shall be considered as changes. Approval from other Town Agents or Inspectors does not relieve the applicant from obtaining approval from the Commission.
14. The applicant shall apply for a Certificate of Compliance as soon as work has been completed and prior to the expiration of this Order. If work cannot be completed prior to the expiration of this Order, the applicant shall contact the Commission in writing to apply for an extension at least thirty days prior to the expiration date.
15. The applicant shall submit an "as built" plan to the Commission upon completion of this project. The plan shall be signed by the professional engineer of record, who shall certify that the work has been done in accordance with the approved plans and this Order. This plan must be submitted prior to the issuance of a Certificate of Compliance by the Commission.
16. Prior to the issuance of a Certificate of Compliance, the mitigation area plantings shall survive at least two full growing seasons with a minimum of 75% survival rate.

Second: Commissioner Morrissey

In Favor: All

Opposed: None

Other Business:

1. The Lehner Property

The Lehner Property LAND grant was not awarded. The LAND grant would have contributed \$400,000 to the project. The Conservation Officer confirmed with the state that there was nothing that could have improved the grant application's chances. Properties were ranked by many factors and despite the appeal of the Lehner Property, other properties came before it in the rankings. The LAND grant may be applied for again in regards to other properties, but not for the Lehner Property or any property that has already been closed on.

2. 190 North Street

The Conservation Officer explained that since May she's been working with 2 houses on North Street. One concerned neighbor has contacted the Conservation Officer multiple times about her neighbor's disposal of cinder blocks/debris in the floodplain of the Town Brook. The neighbor with the debris was notified 3 times, the first of which was in May to which he responded quickly and was apologetic; he did not realize it was an issue and assured the Conservation Officer that he would remove it given some time to come up with a means of transportation and location to bring it to. The 2nd and 3rd letters were sent in August and November, received no response, and there has been no movement of the debris. The Conservation Officer and the Commission discussed options and decided that an Enforcement Order should be issued.

3. MACC Letter to Governor

The Massachusetts Association of Conservation Commissions distributed a letter to all conservation commissions asking them to sign a letter to the Governor in protest of any proposed pipelines in the state. The Commission discussed the letter, the ramifications of signing it, the future of energy, and, with no unanimity, decided not to sign the letter.

4. Parcel Auction

The Conservation Officer explained to the Commission that the Town is auctioning off land of low value parcels. She evaluated each parcel for conservation value: the resource areas, the proximity to current conservation properties, and whether the parcel supports any other resource in town. If there are no bids on the parcels at auction, they default back to the Town and through a Town Meeting vote, any identified as having conservation value can be transferred to the Commission to manage. The Conservation Officer identified approximately 10 properties that would be of value to the Commission. Some of these have already been purchased by abutters, however, some will likely be able to be transferred to the Commission.

5. World's End

The Trustees spread gravel around the sculpture site to alleviate the previously discussed soil compaction and drainage issues. The Conservation Officer distributed a photo of the site, taken by the Trustees, and intends to inspect the site in person.

The meeting adjourned at 9:14 PM.

Submitted,

Sylvia Schuler, Administrative Secretary

Approved on December 19, 2016.