

**CONSERVATION  
COMMISSION**

**Town Hall**  
Room 212  
135 School Street  
Walpole, MA 02081  
Phone (508) 660-7268  
Fax (508) 668-2071

**Town of Walpole**  
Commonwealth of Massachusetts

**MINUTES**  
**Approved on 10/12/2022**



**CONSERVATION COMMISSION**  
**SEPTEMBER 28, 2022**  
**7:00 PM**

**This meeting was taped and will be available on walpolemedia.tv**

Commissioners Present: Jack Wiley (Chair), Al Goetz (Vice Chair), Betsy Dyer, Emidio DiVirgilio, Doug Burchesky, Dean Bebis, Landis Hershey, Conservation Agent

Absent: Bailey Ziemba

The Conservation Agent Report dated September 28, 2022 was given to members.

Wiley opened the meeting at 7 PM.

**GENERAL BUSINESS/OLD BUSINESS/NEW BUSINESS**

***Minutes – 9/14/2022***

**Motion to approve 9/14/2022 minutes was made by Dyer, seconded by DiVirgilio. Motion carries 4-0-0 (Wiley, Goetz, Dyer, Burchesky).**

DiVirgilio joined the meeting at 7:05PM, bringing the number of present members to 5.

**Correspondence**

***Request for Amended Superseding Order of Conditions – DEP# 315-1233***

The Commission discussed a request to amend a superseding order from the applicant.

**Request for Certificate of Compliance**

***28 Gristmill Lane***

**Motion to grant a Certificate of Compliance for 28 Gristmill Lane – DEP# 315-1099 was made by Dyer, seconded by Goetz. Motion carries 5-0-0 (Wiley, Goetz, Dyer, DiVirgilio, Burchesky)**

***323 & 327 Summer Street***

Hershey explained that the commission still has not received the documentation it needs and intends to keep this item on the agenda.

### **GENERAL BUSINESS/OLD BUSINESS/NEW BUSINESS**

#### ***Stormwater and Erosion Control Bylaw and Regulations***

Hershey explained that Town Counsel is still reviewing the revisions and it should be prepared for the October 26<sup>th</sup> meeting.

#### **Enforcement Orders**

##### ***1900 Main Street, DEP#315-1043***

Hershey explained that there was no update.

##### ***Pinnacle Historic Mill Complex***

Hershey explained that there was no update.

At 7:11PM, Bebis joined the meeting, bringing the number of present members to 6.

##### ***Burns Ave – Wall Street Development***

Hershey explained that she is waiting on Town Counsel.

#### ***Master Plan Update***

Bebis explained that there was no update, but that he would follow up.

Dyer asked where the draft goes once it is completed, and Bebis explained that it would have a public forum or hearing.

### **PUBLIC HEARINGS AND DISCUSSIONS**

#### ***NOI – 144 School Street/Memorial Pond – Town of Walpole – DEP# 315-1271***

Wiley read the Notice of Public Hearing.

Glen Maffei presented the project to the Commission, explaining that there had previously been a dock at Memorial Pond, but it was removed during the dredging process a few years ago. He would like to see the dock replaced, and located in the same spot the previous dock was in. He suggested that the dock would be installed using helical piers.

Bebis asked how many sections to the dock, and Maffei explained that it would likely be one four-foot section.

Bebis asked if any sediment would be disturbed, and Maffei explained that he did not anticipate.

Bebis asked if there are any issues regarding ice buildup around the dock, and Maffei explained that there are no issues with the similar dock installed at Jarvis Farm.

Burchesky asked who would be responsible for the maintenance of the dock when the ice come in, and Maffei explained that he assumed the Town would maintain.

Dyer added that she is in favor of the project.

Wiley discussed with the Commission if the dock should be a floating dock or installed with helical piers.

Burchesky suggested that if it is a floating dock, it would be removed when the ice forms.

Bebis asked if there is still a silt sock in place from when the dredging was done, and Maffei explained that it is still there and was left intentionally, but intends to remove it once the project is complete.

Wiley asked if it would be handicap accessible, and Maffei explained that there would be a railing installed on the dock.

**Motion to close the Public Hearing for the 144 School Street/Memorial Pond – Town of Walpole – DEP# 315-1271 was made by Goetz, seconded by Dyer. Motion carries 6-0-0. (Wiley, Goetz, Dyer, DiVirgilio, Burchesky, Bebis).**

Hershey and Wiley discussed the conditions.

**Motion to issue the Order of Conditions for the 144 School Street/Memorial Pond – Town of Walpole – DEP# 315-1271 was made by Goetz, seconded by Dyer. Motion carries 6-0-0. (Wiley, Goetz, Dyer, DiVirgilio, Burchesky, Bebis).**

***ANRAD – 397 Elm Street – DiPlacido Development Corp. – DEP# 315-1269***

Wiley read the notice of public hearing into the record.

Diana Waldron, BSC Group, represented the applicant. She explained that the site was flagged in June 2022. The property currently has an existing single-family residence with a tennis court and it abuts Turner Pond. The inland bank was flagged and BVW was located at the bank of the pond, in pockets. A perennial stream crosses Elm Street into Turner Pond. FEMA features are also included on the map. The 100-foot buffer zone was established based off the FEMA flood line. Hershey explained that she had walked the resource area. The 100-foot buffer zone off the bank of the Pond and wetlands on the edge of the pond were observed. She would like to see the 100-foot buffer zone from the bank of the pond and that the delineation on the map needs clarification whether it is under town bylaw or WPA.

Waldron suggested that they add a WPA line and a bylaw line and clearly mark the two on a revised plan.

Laura Garrity, Elmcrest Drive, shared her concerns with Turner's Lodge, stating that she does not want to see Turner's Pond skating impacted by this project.

**Motion to close the Public Hearing for the ANRAD – 397 Elm Street – DiPlacido Development Corp. – DEP# 315-1269 was made by Goetz, seconded by Dyer. Motion carries 6-0-0. (Wiley, Goetz, Dyer, DiVirgilio, Burchesky, Bebis).**

Hershey pointed out that a revised plan will be needed.

**Motion to issue the ORAD for the ANRAD – 397 Elm Street – DiPlacido Development Corp. – DEP# 315-1269 was made by Goetz, seconded by Dyer. Motion carries 6-0-0. (Wiley, Goetz, Dyer, DiVirgilio, Burchesky, Bebis).**

***Notice of Noncompliance – 100 Rustic Road – DEP# 315-1220***

Wiley opened the discussion on 100 Rustic Rd. explaining that the revisions to the plan were being presented.

Rich Leslie, BCG, explained that a preconstruction and post-construction plan have been added along with the pool schematic. He explained that there is encroachment on the 25 foot no alteration zone with the fence on the south side of the lot, but it has been discussed with Hershey. There will be 1158 ft.<sup>2</sup> of restoration outside of the 25 foot no alteration zone. He also explained that all of the plaques will be in accordance with the town standards. He explained that there has been no siltation and that the pre and post-construction contours have not changed.

Hershey explained that she worked with Leslie on the suggested additional revisions and signage.

DiVirgilio is happy with the revisions and the explanation provided by Leslie.

Dyer added that pre-and post-construction look accurate.

Goetz was satisfied with the pool schematic.

Bill Haferd, an abutter, explained that he is uncomfortable with the final landscaping and went into detail regarding his concerns.

Bebis asked Haferd if there's any difference with his property, and he replied that there is water pooling at his fireplace but he has added a log to divert the water.

Dyer asked what the net change was on the property and Leslie explained that there was no indication of silt moving and that once the property is stabilized, runoff would be minimal.

Dyer suggested the property owner work with the neighbor on fencing so that it is aesthetically pleasing, but that this is out of the Commission's purview.

Hershey added that rain roof infiltrators on the new home capture rain water in the ground which prevents rain from traveling over land.

Haferd is concerned with hydrostatic pressure.

Wiley is satisfied with the revisions.

DiVirgilio asked if the rip rap strip was part of the original plan and Leslie explained that it was not, but it was added.

Hershey explained that the commission would accept the minor modification from plans dated 9/23/2022 presented to the commission that evening.

### **Enforcement Orders**

#### ***1342 Main Street – Norfolk County Vet. Services – Violation***

Hershey explained that a Notice of noncompliance was issued for violating the continuing conditions for DEP# 315-905, And additional alterations of the 25-foot buffer zone and the Riverfront area. She added that in 2007 the owner of the site was issued an order of conditions for an addition to the existing building. The plan submitted showed six parking spots along the driveway. The rear of the building is River front area buffer zone and wetlands. The order of condition specified that the area between the limit of work and the wetlands should be stabilized with grass and shrubs. In March 2010 complete development Corp. sent a letter to inform the commission that the construction was beginning and the property owner was also provided a copy of this letter. In June 2010 a limited site plan review decision was issued to the property owner this decision stated that there are six existing parking spaces that will remain and that no new parking spaces would be added. These six spaces are located to the front and the side of the building. In November 2010 a certificate of compliance was issued with continuing conditions. Those conditions included that 20 indigenous shrubs shall be planted between the proposed hay bale line and wetland line to enhance both the Riverfront area and the 25 foot no alteration portion of the buffer zone and the remaining area of the buffer zone and riverfront area between the hay bale line and the wetlands shall remain natural after the shrubs are planted.

Phil Macci, Counsel, represented the property owner, adding that they admit the self-inflicted wound and would like the opportunity to review the site and fix the situation. He explained that they have temporary parking agreements with neighbors but they need to find a long-term solution.

Dr. Christina Poor, property owner, explained that the building is 100 years old and that the veterinarian practice has been there for 40 years. Parking on the property has always been "that way" and she was ignorant upon purchase. She has continued to grow her business and called the conservation commission for advice regarding tree removal.

Hershey understands the situation, but corrected Dr. Poor, explaining that the 2010 addition that was built had a site plan review and that the 16 x 24 addition included six existing parking with no new spaces added. The site plan allows two spots in the front and four on the side and that this document was agreed upon by Dr. Poor.

Dyer visited the site and explained that there are no lines to designate any parking. She was concerned with how any of the clients know where to park. Poor admitted that lines were painted in the past, but that she did not keep up with line painting.

Dyer suggested a zoning review and see how additional parking can be added.

Hershey explained that they are required to uphold the State regulations regarding riverfront areas.

Macci would like to work to find a solution for everyone and asked that they return on October 26, 2022 to discuss further.

### ***965 West Street – Violation***

Hershey explained that she had issued a notice of noncompliance for the installation of two boardwalks within the wetlands between the location of the house and the area where the proposed landscape business is being constructed. One boardwalk is approximately 4' x 200' and has an additional cleared area adjacent to the boardwalk the second boardwalk is shorter in length and approximately 4' x 70' and it crosses an intermittent stream which flows from a culvert under the railroad. Originally when the owner asked if he could create a running path through the wetlands she said it would be OK thinking that it would be minor impact. She believes that what was constructed is being used for more than a running path and has greater impact to the wetlands. On a previous visit she noticed tracks that a vehicle was using on the boardwalk. She admits there was miscommunication with what could be built without a permit. Once she realized this she asked the property owner to file and let them know that she would be issuing a notice of noncompliance. Henderson submitted revised plans shortly before the meeting.

Scott Henderson represented the property owner and agrees to Hershey's explanation. He revised plans, indicating where crushed stone and the boardwalk were installed. He explained that no earth work was done and there was no runoff from the site. He added that no trees have been removed. He is unclear if boardwalks are permissible and would like to assess these questions. He will also provide a planting plan.

DiVirgilio asked how familiar the property owner is with the WPA, the consequences of altering within a wetland, and requirements of a wetland restoration, to which Freiburger replied that he is not familiar.

Dyer asked if he had ever done a wetland replication or restoration, to which Freiburger replied no.

The commission then discussed various ideas as to what they thought would be acceptable boardwalks within a wetland.

Henderson asked that he be allowed to review options and discuss with his client.

**Motion to issue an Enforcement Order for 965 West Street was made by Goetz, seconded by Dyer. Motion carries 6-0-0 (Wiley, Goetz, DiVirgilio, Burchesky, Bebis)**

**Motion to adjourn the September 28, 2022 Conservation Commission meeting was made by Goetz, seconded by Bebis. Motion carries 6-0-0. (Wiley, Goetz, Dyer, DiVirgilio, Burchesky, Bebis).**

### **Documents referenced:**

**9/28/2022 Agenda**

**144 School Street/Memorial Pond – Web Packet**

**397 Elm Street ANRAD - Web Packet**

**Draft Minutes – 9/14/2022**

**Comment Letter to Dan Gilmore - MA DEP on Burns Ave**

**Conservation Agent Report (dated 9/28/2022)**