

Draft MINUTES
CONSERVATION COMMISSION

OCTOBER 14, 2020
7:00 PM

Approved 10-28-2020

The meeting was conducted through Zoom a live virtually accessible video to the public through login and password numbers as provided. In accordance with Governor Baker's March 10, 2020 Order titled

"Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, § 20" and recorded and will be available on walpolemedia.tv Youtube.

Present via Roll Call:

Jack Wiley (Chair), Al Goetz (Vice), Betsey Dyer, Emidio DiVirgillio, Doug Burchesky and Bailey Ziemba

Also present: Conservation Agent, Landis Hershey.

Wiley opened the meeting at 7:00 PM with a quorum of four Commissioners.

PUBLIC HEARINGS

Stormwater & Erosion Control Bylaw Regs and Wetland Protection Bylaw Regulations

Motion by Dyer to continue to January 13, 2021 at 7:00 pm, second by Goetz

Roll call vote: 6-0-0

Request for Determination Susan and Jon Ragland, 3 Pettees Pond

Covered open shed within 100 feet of wetland resource area under the Wetland Protection Act and Wetland Protection Bylaw. Jon and Susan Ragland, owners of 3 Pettee's Pond present.

Jon Ragland described the project.. Contacted the Willet Pond Neighborhood Association and met with Tom Palmer regarding the proposal and they had no concerns with the proposal.

No change in topography. About 60-feet from water's edge of Pettee's Pond.

Hershey described the footings set in concrete and asked for more description of the project.

Jon Ragland, Applicant- described footings and construction of the structure.

Hershey- stated that she did not see the construction as impacting the resource areas.

Goetz -asked if fuel would be stored at the site.

Jon Ragland answered no fuels will be stored except in the boat. The fuel tank on the boat is sealed.

Goetz Motion to close hearing second Dyer – 5-0-1 Burchesky abstained.

Goetz made a motion to, second Dyer to Issue neg #3 Determination Roll call: 5-0-1 Burchesky abstained

**NOI Scott Mathews, 12 Bubbling Brook,
Requested continuance to December 9 at 7PM
Goetz motion to continue seconded Betsey, Roll Call Vote 6-0-0**

Continued NOI Burns Ave, Residences at Burns Ave. Wallstreet Development, DEP #315-1233

Wiley read the advertisement

Wiley – entered into the record 10-12-2020 letter from Cathy Campbell with supporting plans and documents addressing the access issue from Burns Ave.. The Campbells state that the Applicant does not have permission to access property through the Campbell property.

Wiley stated that the issues of access should be resolved and this will be conditioned in the Order of Conditions.

Dyer asked if a part of Burns Ave. is owned by the Campbells?

Wiley- referred to the plan submitted by the Campbells.

Dyer Do we know when there will be a resolution to the access issue?

Wiley- This was brought to the attention of the ZBA but it is unknown when it will be resolved. The Applicant is aware of the issue.

Dyer- Is there a similar question on Brook Lane?

Wiley – This is a different question that they have to resolve with the town.

Wiley- received a letter from Eco Tec 10-06-2020 from Paul McManus.

McManus- is presented.

Wiley -can you address this letter?

McManus- addressed the proposed regulations that the project is filed under 10.58(5)(a-e) address work within the RFA 13,614 s.f. of degraded riverfront area and 4,997 s.f. of non-degraded RFA under 10.58(5)g with mitigation of invasive species consisting of 32,102 s.f..

McManus- discussed the Alternative Analysis in the 10-06-2020 letter.

The preferred plan is the connection to Brook Lane plan.

Hershey- discussed the email from Carl Baldof Town Engineer on the stormwater management.

Hershey- discussed that the 10-06-2020 letter discussed that the letter stated McManus did not believe that alternatives analysis was required under 10.58(5) redevelopment within a previously developed area.

McManus- discussed the provisions of 10.58(5) redevelopment of previously developed areas which are “not withstanding” the requirements for an alternatives analysis. However it is reasonable to discuss alternatives.

hershey -so it is reasonable to show alternatives with the “least adverse effects” on the interests of the act.

McManus -yes it is always a good thing to review less impacts.

Hershey- stated the alteration under the 10.58(5) redevelopment is 13,614 s.f. You are adding an additional 4,997 s.f alteration under 10.58(5) e. It is hard for the Commission to review that without a plan showing just the 13,614 s.f. alteration as an alternative,

Hershey- states that there is a plan submitted to DEP showing the roadway connecting to Brook Lane with no activity within the non-degraded RFA. I recommend that the Commission asks for a plan that shows no activity within the non-degraded RFA.

McManus- states he did not include the plan however he did include a narrative 4B No development in the non-degraded RFA for dwellings; this would result in losing four units.

Wiley- that is an alternative plan that the Commission would like to see.

Ziemba- No comment

Burchesky- No comment

DiVirgilio – would like to see a plan.

Dyer- too many variables. She would like to see the alternative analysis going out to Brook Lane and not Union Street. This complicates this.

McManus – The Union Street alternative is an approved plan. So it is an alternative.

Dyer -pointed out that she would like to see not working within the non-degraded RFA .

Goetz- Agrees that he would like to see the alternative with no work within the non-degraded river front area.

Wiley – Stated that this issue needs to be resolved.

Hershey – Stated that the Applicant needs to present to the Commission why the plan presented to DEP is no longer a viable alternative since it was presented to DEP for acceptance.

Petrozzi, Wallstreet Development- Would like to remind the Commission that they do have an approved plan for this project. Disturbed that we have addressed concerns brought up by the Commission and now you want more. This comes with an expense. I am not going to present alternatives. If the Conservation Commission does not want to approve the plan as proposed then let the Commission deny the project and we will go another way. Again he has an approved permit and can start tomorrow and is ready to move on. Will not resolve this issue it is not going to happen. We will review the comments sent in by the engineer on stormwater. Avoiding Pickerel Brook will take a cost and 4 additional units. I would like to hear from Rob Truax on the stormwater issues.

Hershey – I think that Petrozzi has made himself clear that he does not want the Commission to discuss the alternative plans any further and he said he will not submit additional information. He is ready to close. I think that the Commission should make a decision. Lets not waist any more time.

Wiley -what does the stormwater issues have on the effects of the proposed plan?

Hershey-I can read the email from the town engineer.

Hershey- read the email from the Town Engineer describing the stormwater issues discussed at a staff meeting with Rob Truax, Town Engineer Carl Balduf and Lou Petrozzi.

Petrozzi- I would like to hear Rob Truax discuss the stormwater issues that were discussed by the town Engineer.

Truax- understood the issues of draining everything through the infiltration system. First flush could go into the infiltration system while installing a bypass to allow for over flow to go directly into the basin. This way large storms will not go directly into the infiltration system. We thought it was best to get all the stormwater into the infiltration system. We talked about putting an additional infiltration system between units 35-36 to get an additional infiltration here. The other issue was to remove the pavement at the Brook Lane cul-d-sac.

Wiley- asked if there were additional revisions to the plan.

Truax- stated that he would like to be clear that Kerry Snyder from NRWSA is ok with the changes.

Hershey- Asked if the additional infiltration was above ground or below ground. She was concerned with any spills that may occur in the road and how they would be prevented from being discharged directly into the ground.

Ziemba- No comment

Burchesky- No comment

DiVirgilio- how would the overflow be triggered?

Truax – Yes the level of flow would control the bypass depending of the storm event

Dyer- Commented on the ability to work well on the stormwater issues. Brought up some concerns about procedures and wanted to know what we are doing here. Should this be continued to resolve things with town engineer?

Wiley- Yes we should see the revisions to the drainage system first.

Dyer- was wondering if Petrozzi wanted to continue.

Petrozzi yes.

Goetz- Agree that the town engineer solutions were a good idea.

Petrozzi -is concerned with all the drainage from Burns Ave going into the wetlands that nobody is concerned with now all the drainage from Burns Ave. will be put into his infiltration system for the project. He does not want stormwater from Burns ave going into his stormwater infiltration system. He will ask Truax to minimize flows from Burns ave going into his system.

Wiley- you will be making changes to the stormwater system. You decide what you want to do.

Petrozzi – yes I am willing to continuing the hearing for those that purpose.

K.Snyder NRW- Respond to Truax question regarding the drainage. Concerned with the swale directing stormwater into the wetlands. They are of the opinion that swales do not do a lot.

Carl Balduf Town Engineer- Does not have any concerns with the discussion. All of Burns Ave. is not going to Petrozzi- site. Believes that this can be achieved.

Wiley- is there anyone else in the audience who wished to speak.
Hershey- if there is anyone in the audience wishing to speak please unmute yourself and make comment.
Hershey- You are requesting revisions to stormwater management plan on this plan presented.
Wiley- yes and its up to the applicant to decide what revisions on the river front area h wants to make. Its important to have the drainage issues adjusted on the plan. Its in the applicant's court to make any adjustments.
Hershey- I thought that the Applicant made it very clear what he wanted to do in the riverfront area.
As long as the applicant understands that.
Petrozzi -I would rather go to DEP.
Wiley- discussed available meeting time with RTruax.
Dyer – I think that Petrozzi wanted to say more. Petrozzi did you want to say more.
Petrozzi -stated that he is concerned that the Commission is not thanking him for the changes rather than penalizing him. He is willing to continue the public hearing and have the Commission make a decision on the mitigation. Then he will appeal if need be.
Wiley- if we get the plan by the end of next week will there be enough time to review the information
Schedule continuance to November 4.
Hershey- stated that w have hearings on November 4 through 7:45PM
Wiley- need a motion to continue to November 4 at 7:45PM
Goetz motion to continue hearing to November 4 at 7:45PM, Betsey seconded
Roll Call vote 6-0-0

NOI Gristmill Lane, 28 (lot 17) Kim Whitecross-DEP #315-1236

To construct an in-ground pool, patio and retaining wall.

Rob Truax, GLM Engineering presenting application. Existing single family house with a drainage basin located at the rear of the house. Silt fence runs along the easement. 16 X 36 pool with a patio. Retaining wall is needed because of the drainage basin. Proposed shed at back right corner.

Hershey- The plan for the wall “or approved equal” needs to be taken out. Material of the wall needs to be specified. If there is a change you can always come back. Where are the bounds now will they be visible after the wall goes in. The condition should include putting the plaques on the wall so that they can be seen. The wall will not prevent access to the basin.

Truax – The plaques will need to be replaced to the top of the wall.

Ziemba- No comments

Burchesky- Is there enough room to get around to excavate?

Truax – yes in will be tight.

Burchesky where will the chemicals be stored?

Kim Whitehouse (owner/Applicant) stated that the chemical can be stored away from the wetlands.

Divirgilio – will there be storage of materials.

Truax- We will be bringing in some fill.

Goetz- What is the elevation of the ground water?

Truax- elevation of the basin is below where the pools is going.

Goetz is concerned with potential dewatering and ground water during excavation.

Goetz Motion to close hearing second Dyer. Roll call vote 6-0-0

Goetz Motion to issue Order of Conditions second Dyer. Roll call vote 6-0-0

Pool water

Plaques on the wall

Dewatering

Allen Dam Proposed upgrades update by Town Engineer:

Carl Balduf discussed the early phase of design alternatives by NRCS for Allan Pond Dam reconstruction. The idea is to get the dam rehabbed for flood purposes for the next 50 years. This will be the 2023 construction season. W1 alternative is the preferred option with changes to the overflow spillway and the earthen dam.

There will be a public information session in November.

Hershey I did send everyone the options. Reviewing the options with Carl W1 minimizes alterations to the wetlands. One of the options was to lower the elevation of the pond which had more impacts to the wetlands. Both Carl and I wanted to make you aware that the process was occurring early on.

Ziemba- No comment

Burchesky- No comment

Dyer- No comment

Goetz- questions area that looked like a parking lot.

Balduf- discussed the changes a little more.

Wiley- When is the public hearing?

Balduf – November 17 NRCS will send out invitations when we get closer

Burchesky What is the design storm? 100-year? 500 year storm?

Balduf- Designed to hold 100-year. Maximum probable flood. Will clarify later in an email to the board.

GENERAL BUSINESS/OLD BUSINESS/NEW BUSINESS

Minor Modification request- 100 Rustic Road- DEP #315-1220

Requested changes to existing plan to include a slightly different driveway configuration that includes a half circle for turn around. Slight more impervious service in an area that was already going to be cleared.

Wiley asked if L Hershey was ok with the plan.

Hershey- Yes

Goetz agreed it was needed because of traffic concerns.

Goetz Motion to approve minor modification. Roll Call 6-0-0

Minutes 8/12/2020, 9/9/2020, 9/23/2020 held

Pinnacle Point ANRAD appeal by Applicant briefly discussed.

Enforcement Orders:

Hershey- discussed Enforcement Orders issued to John Hasenjaeger and Lou Petrozzi for activity at Pinnacle Drive lot 9 without a valid Order of Conditions or decision from the Conservation Commission. Enforcement Orders were issued under the Wetlands Protection Act and under the Walpole Wetlands Protection Bylaw. A Cease and Desist was placed on the lot and erosion controls were required for certain areas where erosion and sedimentation could occur.

Goetz- Motion to issue Enforcement Order dated Oct 7, 2020 to Lou Petrozzi, Wallstreet Development (violation) under the Wetlands Protection Act and Walpole Wetlands Bylaw- second Dyer

Roll call vote 6-0-0

Goetz- Motion to issue Enforcement Order to John Hasenjaeger (owner) under the Wetlands Protection Act and Walpole Wetlands Bylaw - Dyer. Roll call vote: 6-0-0

Wiley- put forward a discussion regarding fines of \$300 per day per violation

Bailey- asked how severe was the alteration?

Wiley -can you explain how much was disturbed.

Hershey- the entire site was not cleared but a significant amount of vegetation was removed in the area of the trail and other areas were opened up. Activity occurred during the appeal period of the ORAD which is a violation and without a permit from the Conservation Commission under the Bylaw that explicitly states no removal of vegetation within the Bylaws jurisdiction without Conservation Commission approval. Petrozzi when asked stated that he was removing vegetation for the neighbors and that he was removing invasive species. Perhaps LPetrozzi can explain to the Commission what he was doing.

Wiley- do you want to comment?

Petrozzi -was asked by the neighbors to clean up areas. They have brush clearing equipment where there are foundations. This is an area where there was a parking lot and buildings remnants from the Bird company. Cleared invasive species and vines to mark out areas where existing developed areas existed. We did not clear any areas that were not previously degraded. Removed vegetation so that they can identify areas. Landis asked for erosion controls which we did immediately.

Hershey- stated that it was not the right time to have a public hearing on the filing that was just submitted today and that the discussion should focus on the enforcement.

Hershey -stated that the enforcement was issued because of the work that was done during the appeal of the ORAD and work done without a determination under the Bylaw. If LPetrozzi wants the Commission to rule on his Determination of Applicability request he needs to wait.

Petrozzi- continued to give testimony regarding the mill complex which is the determination which was just submitted to the conservation commission office the day before.

Hershey- asked the chair to prevent LPetrozzi from making testimony on an application that was not yet part of the discussion.

Wiley- Do you have anything more to add about the clearing.

Petrozzi- states it's an exempt activity under the regulations.

Wiley-- stated that the activity was not allowed under the appeal.

Hershey stated that the activity is not exempt under the Bylaw.

Ziemba-No comment

Burchesky –No comment

DiVirgilio – No comment

Dyer – No comment

Goetz- Was not sure how to read the photos. It looked like the vegetation was cut and distributed around the site.

Petrozzi- yes the vegetation was cut and left in place.

Goetz- yes this was altering based on the cutting. It looks like it's stable at this point. Not as bad as it could be.

Wiley- violation of the Act, the Bylaw and the Appeal. Is that correct?

Wiley it is clear that no work should be done without Order of Conditions and the ORAD was appealed by the applicant.

Wiley made a motion to fine Petrozzi \$300.00 for the violations that occurred. A total of \$300 each .
Second Dyer, Roll call 6-0-0

Wiley made a motion to fine Hasenjaeger \$300.00 for the violations that occurred. A total of \$300
second Dyer. Roll call 6-0-0

3 and 4 Palmer Lane Enforcement Order – Lhershey has not heard anything from Palmer Lane.

Wiley send email to all parties for an update

Brookside Village Enforcement Order – The parties are still hashing out the wall and how to address the differences,

1900 Main street- JWiley wants to talk to the Town Administrator regarding what the town is doing.

Dyer Motion to adjourn 9:08 PM DiVirgilio seconded

Roll call vote 6-0-0