

**CONSERVATION
COMMISSION**

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Town of Walpole
Commonwealth of Massachusetts

MINUTES
CONSERVATION COMMISSION



DECEMBER 9, 2020
7:00 PM

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

Present: Jack Wiley (Chairman), Al Goetz, Betsy Dyer, Roger Emidio DiVirgilio, Doug Burchesky, Bailey Ziemba

Also present: Conservation Agent, Landis Hershey.

The Conservation Agent Report dated December 9, 2019 was given to members.

Wiley opened the meeting at 7 PM

7:00 PM:

Continued Notice of Intent, 12 Bubbling Brook, Scott Mathews

Wiley opened the public hearing and read legal notice into the record. Wiley stated that a continuance was requested by the applicant to the January 27th meeting. Doug made a motion to continue the hearing to January 27th meeting at 7PM, second by Betsy, the motion carried 6-0-0. (Wiley, Goetz, Dyer, Di Virgilio, Burchesky, Ziemba).

7:01 PM:

Continued Notice of Intent, 32 Starlight Drive, Shawqi A. Alsarabi Family Revoc. Tr.

Wiley opened the hearing and read the legal notice into the record. Convert driveway into a road. Applicant requested a continuance to the January 27th meeting.

Betsy – question to Landis regarding if the project will be moving ahead. Landis replied that the applicant is waiting for a decision from planning board in order to move ahead with conservation.

Doug made a motion to continue the hearing to January 27th at 7:01PM, second by Betsy, the motion carried 6-0-0. (Wiley, Goetz, Dyer, Di Virgilio, Burchesky, Ziemba).

7:11 Minutes – September 9, 2020

Motion to approve the minutes by Betsy, second Emedio, motion carries 6-0-0. (Wiley, Goetz, Dyer, Di Virgilio, Burchesky, Ziemba).

October 28, 2020

Motion to approve the minutes by Al, second Betsy, motion carries 6-0-0. (Wiley, Goetz, Dyer, Di Virgilio, Burchesky, Ziemba).

7:13 PM Enforcement Orders/Notice of Noncompliance

Landis provided updates on each of the properties listed below.

Main Street #1900, DEP 315-1043 –The property is up for auction, and there are no updates. Things are on hold due to activity with police department.

Brookside Village, DEP 315-1093 –The interested parties are working their difference regarding the wall out amongst themselves.

Palmer Lane, 3 and 4 – The interested parties are working on the restoration plan that is amenable to the property owners and the Palmer Lane parties.

Pinnacle Drive, Lot 9 – The fine has been paid and the erosion controls remain in place.

7:14 PM Town General Order of Conditions – extension

Landis recommended extending the Order of Conditions. Wiley asked how long the Commission should extend the Order for. Wiley suggested issuing an extension for 2 years. Doug made a motion to extend the Order of Conditions for two years, Betsy seconded, motion carries 6-0-0.

Request for Certificate of Compliance

All Kilronan requests to be continued to the January 13th meeting.

7:15 PM: Notice of Intent, 20 Lacivita Drive, John Kaselis

Wiley opened the hearing and read the legal notice into the record. Kris from GLM Engineering shared his screen to present plans of the proposed pool. Kris explained that there was a pool approved under an Order of Conditions previously for the property but the Order has since expired. Wetlands are located to the east of the property pool. There are existing wetland monuments along the 25 foot wetland buffer zone. Proposal includes an in-ground swimming pool, pool house, patio, fire pit, and landscaping. Restrictions on the property include a utility easement that runs along the east and north of the existing lawn area. Project access from driveway and erosion controls to be installed along utility easement and around to the corner of the home. The sloped area east of the pool will be stabilized via the application of hydroseed with a tackifier. All proposed work is within existing lawn, no further encroachment into the buffer zone.

Landis asked what the proposed grade of the slope to the east of the pool will be and if there are concerns about maintenance of the area via mowing. Kris replied that the slope is roughly 3:1 and though step should be able to be mowed going forward. – question about the area where gradient the slope. Asked the grade of the slope. Is it Doug asked if a fence is proposed around the pool? Kris identified the location of the pool on the plans and explained it will roughly follow the retaining wall and the erosion control barrier.

Al reiterated Landis's concerns over maintenance of the sloped area. This concern was addressed by the homeowners who stated they are currently mowing and weed whacking the slope and will continue this course of maintenance following construction.

Wiley asked if the utility easement line could be labeled on the plan to add clarity as if overlaps with other line types making it difficult to see. Landis reiterated this concern and Kris stated that a label will be added to the plan.

Al made a motion to close the public hearing, second by Betsy, motion carries 6-0-0. (Wiley, Goetz, Dyer, Di Virgilio, Burchesky, Ziemba).

Discussion: Wiley asked if there was a need for any additional special conditions to their standard conditions for pool installations. Al stated that following the owners clarification of the maintenance of the slope he didn't feel any were necessary. Wiley asked for clarification of the access route to the work area and Kris stated all access will be achieved from the existing driveway. Doug asked if excavated materials could be removed from the site. Landis stated that condition will be added.

Motion to approve the project with the conditions discussed by Al, second by Betsy, motion carries 6-0-0. (Wiley, Goetz, Dyer, Di Virgilio, Burchesky, Ziemba).

7:45 Request for Determination of Applicability, MASSDOT Vegetative Management Plan

Wiley read the legal notice into the record.

Mike Clements – MASSDOT, District 5 in Taunton, presented the spray, no-spray match for I-95 and Route 1 in the Town of Wapole and last time it was done was in 2012. Mr. Clements explained that the program is designed to maintain the road sides, which are becoming overgrown again and poses a hazard to the roadway. While the program does involve the use of herbicide applications, herbicides only account for 1% of the overall work and the majority of the work involves mowing and weed whacking roadside vegetation. The use of herbicides are used immediately adjacent to the roadways in order to limit the need to have workers on the roadsides, which poses a safety risk to the work crews. The program is regulated under the Department of Agricultural Resources, 333 CMR 11 and WPA, 310 CMR 10.00. In order to apply herbicides MASSDOT needs an approved plan, the submittal of which to obtain that plan requires the appropriate approvals from towns to be included in the submittal. Vegetation Management plan is good for 5 years and an annual operational plan is submitted. Each town where herbicides will be used are notified annually and have a chance to submit comments on the annual plans. Work is presumed to have no impact so long as setbacks as shown on the included plans as adhered to. A 10-day notification will be provided prior to the application of any herbicides. All chemical utilized have been approved by DEP and Dept. Cultural Resources and the list is available online. The contractor conducting the work chooses the chemical from the approved list to utilize in the application. Two application methods used include foliar applications and cut stump method, where the herbicide is applied directly to the cut stump of a woody species. Foliar applications are applied using a nozzle that sprays the chemical in a two foot radius. Chemicals aren't applied if there's a threat of rain or with wind greater than 20 mph. Materials submitted with the RDA include a scope of work and the locus maps for Route 1 and I-95 and the spray and no-spray maps. Mr. Clements walked through the spray and no-spray maps and verbally identified areas that will be excluded from chemical applications because of resource areas and their buffer zones. He also identified a Zone II, which limits applications to every other year. These areas are illustrated on the project plans.

Burchesky asked if the use of glyphosate could be avoided due to the associated potential health impacts that are widely documented. Mr. Clements stated that if the Commission were to condition that in the DOA approval the contractor would be bound to comply with that condition.

Dyer asked if there are towns that prohibit the use of any chemicals and Mr. Clements stated that there are towns that have denied the use of any chemicals in the past.

Goetz stated that it's safer to use chemical controls than having working along the roadside due to traffic and worker safety concerns.

Motion to close the hearing by Goetz, second by Dyer, motion carries 6-0-0. (Wiley, Goetz, Dyer, Di Virgilio, Burchesky, Ziemba)

Negative 3 with a condition to exclude glyphophate as an approved chemical for use.

Mr. Clements made the suggestion to add to the DOA that the contractor should touch base with the Agent prior to work so the condition is adhered to. Landis agrees and suggested notice be given a week prior to work.

Negative 3 with conditions to exclude glyphosate and to provide notice to the Conservation Agent one week prior to work. Motion to approve by Goetz, second by Dyer, motion carries 6-0-0.

(Wiley, Goetz, Dyer, Di Virgilio, Burchesky, Ziemba).

7:55 PM: Continued Request for Determination of Applicability, Pinnacle Drive, Wall Street Development – Historic Mill Complex Determination

Wiley reopened the continued hearing and read the legal notice into the record.

Wiley stated the applicant has requested a continuance to the January 13th meeting. Landis suggested to schedule the continuance for 7:30 PM. Motion by Goetz to continue the meeting to January 13th at 7:30PM, second by Betsy, motion carries 6-0-0. (Wiley, Goetz, Dyer, Di Virgilio, Burchesky, Ziemba).

7:55 PM: Discussion of Baker Hughes Site formally the Byrd Machine Factory

Wiley explained that Wood Massachusetts, Inc. out of Chelmsford submitted a summary report of the groundwater testing. Groundwater samples don't show drastic changes. There was a contract issue with the June

monitoring so that month was missed, they will continue to conduct monitoring per their contract going forward.

7:57 PM: Continued NOI 55 BH LLC/55Summer Street, Multi residential DEP #315-1227.

Multiuse Residential Development

Wiley reopened the public hearing and read the legal notice into the record.

Wiley stated that the applicant has asked for a continuance to the January 27th meeting. Wiley asked for clarification on the revised plans, Landis communicated that they haven't been received but the Applicant stated the plans will be submitted two weeks prior to their continued meeting. Wiley stated that they're waiting to see what the revised plans to determine if additional peer review is necessary.

Motion to continue the hearing to January 27, 2021 at 7:15 PM by AI, second Betsy, motion carries 6-0-0. (Wiley, Goetz, Dyer, Di Virgilio, Burchesky, Ziemba).

Enforcement Orders/ Notice of Noncompliance (Vote may be required)

Main St. #1900, DEP #315-1043 (deadline 5/1/18): A notice of violation for the amount of \$300 was delivered to Supa Sales and Service by constable on 11/8/19, and signed by Melissa Young. The fee was not paid by 11/28/19 and remains outstanding. Goetz made a motion to issue another \$300 fine for lack of response to the violation, and advise Town Counsel on suggestions, seconded by Dyer, the motion carried 6-0-0 (Wiley, Goetz, Dyer, Di Virgilio, Burchesky, Ziemba).

Boyden Estates – Summer Street DEP #315-1099 – Notice of Noncompliance 4/25: The fees for the Notice of Noncompliance were due on 11/18/19, and they remain outstanding. Hershey stated that Lot 5 appears to be completed except for the grading/fill issue and the lack of presence of no alteration signs. Hershey suggests that the Commission should require that an As-built plan be submitted by 1/20/21 to resolve the issue of the grading/fill and that no alteration signs be installed as required under the open Order of Conditions.

Diamond St. #81, Anthony Yebba- Illicit discharge: Hershey stated that Yebba was discharging processed water to Spring Brook. The pipe has been cut and discontinued, the Asst. Bldg. Insp. and the health director were also part of this enforcement.

General Business

Burns Ave, Wallstreet Development – DEP #315-1233 – Order of Conditions

The Commission reviewed the special conditions drafted by Landis for DEP #315-1233.

The additional alteration of 4,997 square feet of non-degraded Riverfront Area as proposed by the Applicant was the subject of one of the special conditions. Landis provided a summary to the Commissioners regarding this proposal as to why it does not meet the regulations and the Commissioners agreed with her summary.

Wiley, the Order will include special condition 1 as written. The remaining special conditions were reviewed in order, the commission agreed with conditions as presented. An additional special condition was included that the applicant will abide by all applicable federal, state and local permits.

Betsy asked for clarification regarding special condition 8 and 9, which refer to the COC. Can the Applicant begin renting and selling units prior to a COC being issued by conservation? Wiley responded that he believes a certificate of occupancy can be issued prior to a COC being issued from Conservation. Landis concurred that units can be sold prior to the issuance of a COC. Betsy asked if there was a way around that so the responsibility to finish the project including the restoration/mitigation measures are completed lays with the Applicant and not the homeowner's association. Wiley responded by stating that the attorney for the homeowners association would and should recognize the conditions within the Order. Landis added that the buffer zone restoration should be completed prior to the foundations being started. However, the road construction, and stormwater construction needs to be completed prior to occupancy, per DEP Order Conditions. Betsy asked if the Commission could also reiterate that in a special condition. Wiley asked if they could reference the condition from the WPA form in the special conditions to reiterate it. Landis agreed, that special condition will be added.

Landis provided clarification for the special conditions. Special condition #1 deals with the additional alteration of 4,997 square feet of Riverfront Area, which is not previously degraded. The proposed mitigation for this alteration is the management of invasive flora species within the unaltered Riverfront Area. Landis asked the Commission if they agreed with her opinion that invasive management is an enhancement but not mitigation for work in Riverfront Area. Landis outlined the standards contained in 310 CMR 10.58(5)g for Riverfront Area mitigation. Special Condition #1 denies the proposed alteration. So while the Order would approve the project the special condition would deny the Riverfront Area alteration. The Commission agrees with Landis's opinion. Motion to accept the project with the denial of the use of 4,997 square feet of Riverfront Area by AI, second by Betsy, motion passes 6-0-0. (Wiley, Goetz, Dyer, Di Virgilio, Burchesky, Ziemba)

Discussion: Landis added that the commission has asked the Applicant to provide the commission with a revised plan removing the building associated with the Riverfront Area alteration that was denied by the Order. Doug asked if the wording in special condition #3 could be revised to clarify that the plan revision only allows that the work can be removed from the Riverfront Area, but no other alterations are permitted under this Order. Kathy Campbell, 35 Burns Avenue – will the OOC be provided to the zoning board, because the Applicant is currently before the ZBA. Landis replied that ZBA will be provided a copy of the Order. Wiley confirmed.

Wiley, asked attendees of the meeting if they have any comments. None heard.

The meeting adjourned at 8:36 PM.