

**CONSERVATION
COMMISSION**

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Town of Walpole
Commonwealth of Massachusetts
MINUTES



CONSERVATION COMMISSION
SEPTEMBER 8, 2021
7:00 PM

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

Commissioners Present: Jack Wiley (Chairman), Al Goetz (Vice Chair), Betsey Dyer, Emidio DiVirgilio, and Doug Burchesky.

Also present: Landis Hershey, Conservation Agent, Board Secretary, Allary Braitsch

Guests: Dan Merrikin, Lou Petrozzi.

The Conservation Agent Report dated September 8, 2021 was given to members.

Wiley opened the meeting at 7 PM

PUBLIC HEARINGS AND DISCUSSIONS (vote required for action)

7:00 PM – Notice of Intent – 272-274 South Street, Hash Brown Holdings, LLC.

Wiley read the legal ad into the record. Rob Truax presented the project for the Applicant. Truax explained that the site is currently developed and the wetland in the southeastern corner of the site, which is associated with the boundary of the Neponset River. There is a 200-foot Riverfront Area associated with the boundary of the River. The existing building will remain and a new 60x25 foot building will be constructed for commercial landscape use. This space would allow for some of the outdoor storage of materials currently stored outdoors to migrate into the indoor space. There is proposed paving within the outer Riverfront Area. The project also includes a stormwater management system to handle the runoff from new impervious surfaces.

Commission Comments:

Landis stated that DEP hasn't issued the file number for the project yet, so the Commission cannot close the hearing. She went on to state that 10.58 (a) through (h) needs to be addressed point by point and submitted to the Commission. She also stated that the degraded Riverfront Area needs to be assessed, described and staked out in the field. She also would like justification for

working within non-degraded Riverfront Area vs. relocating portions of the project out of the unaltered areas. She also asked that test pits be conducted in the area of the stormwater basins and Truax replied that

DiVirgilio echoed Landis's comments.

Dyer asked if they could have a site visit once the boundaries are flagged in the field. Truax replied that he can have it staked out by Wednesday of next week.

Site visit was set for Wednesday, September 15 at 5PM.

No public comments.

Motion to continue the hearing to September 22 at 8PM by Dyer, second by DiVirgilio. Motion carries 5-0-0. (Wiley, Goetz, Dyer, DiVirgilio, Bebis)

7:15 PM – Notice of Intent – 533 Lincoln Road (Lot 3 & 4), Walsh Brothers Construction, Inc. Wiley read the legal ad into the record.

Truax presented the project on behalf of the applicant, Walsh Brothers Construction.

Landis explained that the applicant has also filed a Land Disturbance Permit, which is on the agenda for September 22nd. This hearing was not advertised correctly and if it goes forward tonight it will only cover portions of the project that apply to the Wetlands Protection Act and the Walpole Wetlands Bylaw and Regulations.

Hearing will be readvertised in a local paper and will include the NOI and the Land Disturbance Permit.

7:30 PM – Cont. RDA Pinnacle Point Historic Mill Complex

Wiley read the legal ad into the record.

Lou Petrozzi presented the project and Paul McMannus also attended the meeting.

Wiley read a letter from Dennis Moran into the record. Petrozzi asked for a copy of the letter, Landis replied that the letter is on the website.

Landis summarized the opinion from town counsel on whether the site qualifies as a historic mill complex.

- 1) Footprint of “so-called” historic mill complex has not been defined;
- 2) The Applicant has failed to prove existence of Historic Mill Complex structures as of 1996. Last building burned down in 1995;
- 3) Failed to prove that “mill” operations at the property existed in 1946. No prove that if buildings existed that they were associated with a mill;
- 4) Regulations and Statue must be read together. Regulations must support the statue.
- 5) The site does not meet the characteristics of the statutory exemption: Old mill structures in existence after 1946 along rivers used as mills still standing in 1996 such as in Holyoke, Fitchburg, Haverhill, Methuen and Medford.
- 6) Exemption is not applied to the entire site only to “foot print of the area that is or was occupied by interrelated buildings”
- 7) The Applicant has not proven that structures (not just remnants of a foundation or retaining wall) related to a Historic Mill Complex were in existence in 1996 on the site.

Commission comments:

DiVirgilio - stated that the letter from KP speaks for itself and he is in agreement with the points made.

Dyer - feels the letter clarifies the confusion surrounding the legalese. After reading it she does not feel that the remaining concrete and portions of foundations do not fall into the historic mill complex.

Goetz - referred to Landis's comment #7 in her report where she asks for proof of standing mill buildings and not just remnants of buildings. He doesn't feel that this site falls into the historic mill complex and any future development should be filed as a redevelopment of Riverfront Area.

Wiley - stated that the confusion over whether it could be a foundation or an old building has been clarified by town counsel's letter. He does not feel it qualifies as an exemption under the WPA.

Bebis - asked if there is a process to have a property designated as a historic mill. Petrozzi replied that he's not aware of one.

McMannus - commented on the town counsel letter - the definition includes other aspects of the mill complex like parking areas and driveways, not just buildings. He went on to state that retaining walls, fountains, etc. are always considered structures.

Public comment:

Dennis Moran - 19 Pinnacle Drive - he agrees with the opinion of KP Law. He feels that it's the burden of the applicant to prove that the site fits into the criteria of the exemption and he hasn't done that yet.

Landis stated that this filing has been going on since October of 2020 and she doesn't believe another continuance is warranted.

Petrozzi stated that they're confident that their case is strong and would be happy to take this case to DEP.

Motion to close the hearing by Goetz, second by DiVirgilio. Motion carries 4-0-1. (Wiley, Goetz, Dyer, DiVirgilio). Bebis abstained.

Motion to issue a Determination of Applicability as a positive 1 by Goetz, second by DiVirgilio. Motion carries 4-0-1. (Wiley, Goetz, Dyer, DiVirgilio). Bebis abstained.

7:45 PM – Abbreviated Notice of Resource Area Delineation –DEP #315-1248

315 and 319 Summer Street, and 16 Boyden Lane – Wall Street Development

Wiley read the legal ad into the record. The Applicant has asked for a continuance to the September 22nd meeting.

Motion to continue the hearing to the September 22nd at 8:15P by Dyer, second by DiVirgilio. Motion carries 5-0-0. (Wiley, Goetz, Dyer, DiVirgilio, Bebis)

Request for Certificate of Compliance

58 Emerald Way (formerly 71 Kilronan Park), DEP #315-1162

Landis explained that this property meets the Order of Conditions and recommended to issue the Certificate of Compliance.

Motion to issue a Certificate of Compliance for 58 Emerald Way by Dyer, second by Bebis. (Wiley, Goetz, Dyer, DiVirgilio, Bebis)

53 Kilronan Park (formerly 55 Kilronan Park), DEP #315-1167

Landis explained that both of these properties meet the terms of their Orders of Conditions.

Motion to issue a COC by Dyer, second by Bebis. Motion carries 5-0-0. (Wiley, Goetz, Dyer, DiVirgilio, Bebis)

1034 East Street, Liberty Station Apartments, DEP #315-1126

Landis explained that there is outstanding conditions that need to be addressed prior to the Commission issuing a Certificate of Compliance.

16 New Fisher Lane, DEP #315-1222

Motion to issue a Certificate of Compliance by Dyer, second by DiVirgilio. Motion carries 5-0-0. (Wiley, Goetz, Dyer, DiVirgilio, Bebis)

8:00 PM - Stormwater and Erosion Control Bylaw Regulations

Landis explained she was planning to review the document for final cleanup but hasn't had a chance.

Motion to continue the hearing to the October 13th meeting by Dyer, second DiVirgilio. Motion carries 5-0-0. (Wiley, Goetz, Dyer, DiVirgilio, Bebis)

GENERAL BUSINESS/OLD BUSINESS/NEW BUSINESS

Conservation Agents Report

Minutes – (vote required for action) -9/8/21

Motion by Dyer, second by DiVirgilio. Motion carries 4-0-1. (Wiley, Goetz, Dyer, DiVirgilio) Bebis abstained.

Master Plan committee appointment

Wiley explained that it is his and Landis's opinion that someone from Conservation should be a part of the master plan committee. Planning Board will decide if this is appropriate. Bebis asked what the commitment is. Bebis stated he is interested being the Conservation representative.

Motion to propose Dean Bebis for a position with the Master Plan Committee by Wiley, second by Dyer. Motion carries 4-0-1. (Wiley, Goetz, Dyer, DiVirgilio) Bebis abstained.

Estoppel Certificate for Hilltop Land LLC

Landis explained that the owner of the property would like to sell their land and there's a conservation restriction on the parcel behind theirs. Landis reviewed the property via aerials and believes the property remains the same.

Motion for Jack Wiley to sign the Estoppel document by Dyer, second by DiVirgilio. Motion carries 5-0-0. (Wiley, Goetz, Dyer, DiVirgilio, Bebis)

Wiley signed the document.

North Street NEFF PS and deed

Wiley directed the Commission to the language contained on page 3 of Landis's report.

Motion to, pursuant to the provisions of G.L. c. 40, §8C, to purchase from New England Forestry Foundation, Inc., for consideration of \$10,000 and for conservation, passive recreation and open space purposes, a parcel of land on North Street, identified on Assessor's Map 9 as Lot 18-1, and shown as Lot 1B on a plan recorded with Norfolk County Registry of

Deeds in Plan Book 442, Plan 600, and to execute, and to authorize Jack Wiley to execute, on behalf of the Conservation Commission, the purchase and sale agreement, acceptance of deed, and any and all other documents necessary or appropriate to accomplish said acquisition by Dyer, second DiVirgilio. Motion carries 4-0-1. (Wiley, Goetz, Dyer, DiVirgilio) Bebis abstained.

Landis circulated the document for the purchase of the property for Commissioners to sign.

Pinnacle Point Trail

A letter should go to Mr. Hassenjaeger with a cc to planning board outlining the requirements for the trail contained in the Order of Conditions. Wiley asked that the letter contain the requirement of proof of recording needs to be submitted to the Commission.

Dyer asked if the Commission should send the letter to town counsel before sending the letter to try and get an opinion.

Enforcement Orders/ Notice of Noncompliance – On Agenda until resolved

Notice of Noncompliance – Wallstreet Development - Boyden Estates Drainage –on-going
Wiley asked Petrozzi for the letter from the owner of Lot 6 for the proposed work to address the stormwater issues.

Main St. #1900, DEP #315-1043 - on-going

Prospective buyers have been asking questions on the property and Landis has been advising them that there is an open Enforcement Order and an ongoing stormwater management requirement.

Notice of Noncompliance Brookside Village, DEP #315-1093– On-going

The parties met with Landis at town hall and she outlined the outstanding items that needs to be addressed.

Palmer Lane, 3 and 4 – On-going

Appeals –On Agenda until resolved

SORAD DEP 315-1217 Pinnacle

Nothing new

Board Comments

Planning Board- 272-274 South Street

ZBA – 324 East Street

40 Coolidge Street

1062 North Street

The ZBA upheld the decision of the building inspector's determination that the solar field isn't appropriate to be filed under the Dover Act.

Correspondences

National Grid – Notification of Utility Maintenance Activities

Ramboll – Semi-annual Groundwater Monitoring at Bird Landfill (spring 2021) - there has been no significant change.

Dennis Moran Letter

Wiley asked Landis to look into a granite cutting operation that may still be discharging untreated water directly to the adjacent stream channel.

Motion to adjourn by Goetz, second Dyer. Motion carries 5-0-0. (Wiley, Goetz, Dyer, Di-Virgilio, Bebis).

Meeting adjourned at 9:13PM