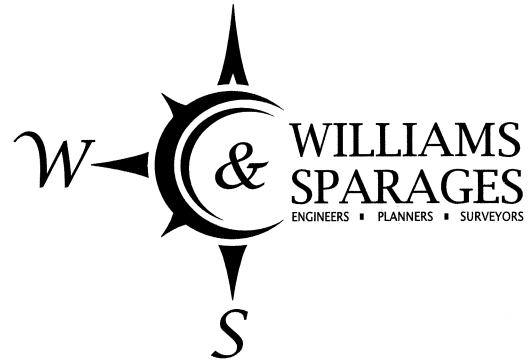


January 19, 2015



Conservation Commission  
Attn: Ross Povenmire  
Director of Conservation  
7A Spofford Road  
Boxford, MA 01921

Re: Revised NOI Plan  
DEP File Number: 114-1197 – 10 Maple Avenue, Boxford, MA

Dear Commission Members:

As you know, our office filed a Notice of Intent application on behalf of Derek & Leigh Repucci to construct an addition within jurisdictional areas of the Boxford Wetlands Protection Bylaw and Massachusetts Wetlands Protection Act. We have had one public hearing to date and a site visit with your Commission.

One of the items discussed was the wetland resource area “black out” period. In the past we have scheduled site visits with the Director prior to December 1 in situations when we knew that a permit application would be submitted after the December 1 seasonal shutdown. This was done so we could inform the Commission that we were able to have the wetland boundary reviewed prior to the discretionary shutdown. We have been doing this for many years and most of the time it would allow a project to move forward with the permitting process and not have to wait until April 1 of the following year. We are in agreement that certain sites and certain situations may require waiting until the following spring to insure an accurate resource area delineation.

For this project we had a site visit with the Director in early November in anticipation of a December Notice of Intent filing. During the site visit we added a wetland flag, WF A-19A, between wetland flag A-19 and A-20. This wetland flag is shown on the attached permit site plan and the applicable No Disturb, No Build and Wetland Buffer Zone have been modified as well.

During our site visit we informed the Commission that we would discuss the “black out period” with our clients and see if they would be willing to keep the hearing open until April 1, 2015.

After discussing the issue with our clients they understand and are willing to keep the public hearing open until your Commission’s first public hearing in April.

During the last public hearing, and our site visit, we explained to the Commission that we would be proposing planting areas that will serve as mitigation for the work proposed within the No Build Zone.

According to the Boxford Wetlands Protection Regulations, Additions are required to be located at least 75 feet from the wetlands on this property. Most of the existing dwelling is located within the 75 foot no build zone from the adjacent Bordering Vegetated Wetlands, (BVW). The section of the dwelling that could be added onto that is outside of the No Build Zone is already at the minimum setback distance to the property line as well as the minimum setback to the septic tank and leaching facility.

In addition, the major part of the renovation involves the construction of a new garage with great room above. Moving the garage to the other side of the house would require a new driveway to be constructed and would not work with the current layout of the structure.

With the exception of a small area of the proposed addition that is located above wetland flag A-21, the majority of the addition is proposed over existing impervious surfaces.

The Boxford Conservation Commission presumes that alterations listed in the minimum setback distance chart and closer than the stated setbacks, will result in alteration of the wetland resource area.

According to Section 375-98.B.(2), the presumption is rebuttable and may be overcome only for the conversion of lawn or other significantly altered land to a structure requiring a building permit when said structure is accessory to an existing single-family dwelling legally in existence as of May 19, 1994, or when a wetlands permit application was filed for said single-family dwelling on or before May 19, 1994, by finding by the Commission, supported by a preponderance of the credible evidence, showing that the work proposed within the buffer zone, closer than the tabulated minimum setback distances, will not result in the alteration of any wetlands resource area.

According to the Boxford Assessors Office the existing dwelling was constructed in 1981. As mentioned above, most of the proposed additions are proposed over existing impervious surfaces. Much of the property is maintained up to the resource areas and with the exception of the area behind the pool, the no disturb zone does not exist. It is, and has been actively maintained over the years.

There is a wetland in the north east corner of the property that was delineated as the B-Series wetland that is currently maintained as a lawn. During the site visit several Commission members identified this area as a good candidate for some mitigation.

The revised plan attached proposes to allow the area to grow in naturally and to be maintained as a wet meadow with cutting no more than twice a year after proper notification to the Conservation office. This amounts to approximately 4,500 S.F. of mitigation in that area. In

addition our clients are proposing a five foot strip of native plantings on both sides of the intermittent stream to the west of the existing driveway crossing. The total square footage amounts to approximately 700 S.F. Berry producing shrubs are proposed to help provide food for wildlife and the root systems of the shrubs will help hold the banks in place during storm events. Right now maintenance is occurring up to the edge of the stream on both sides so this will be a major enhancement to the buffer zone in this area.

The total amount of addition, pavement and paver walkways that are proposed within the No Build Zone, over non impervious surfaces, amounts to approximately 960 S.F. The total amount of mitigation proposed amounts to 5,200 S.F. +/- which equates to a ratio of 5.4:1.

In addition to the planting areas our clients are proposing an infiltration trench along the edge of the existing paved driveway turnout and the edge of the new paved surface.

The project with the proposed mitigation should provide a more biodiverse landscape and result in an overall improvement in the areas ability to protect the interests and values detailed in M.G.L. c. 131 § 40 and the Boxford Wetlands Protection Bylaw and Regulations.

At the last public hearing the Commission asked the Director to research the file for the property to see if any other filings were done on the property, more specifically, to see if a Notice of Intent was filed for the pool project. After researching the file Mr. Povenmire sent the following information:

I have researched the permitting history relating to the Repucci Property at 10 Maple Ave:

- File #114-38: An OOC for the septic leach pits was issued 10-2-1979. Plan is attached. A COC was issued 4-16-1981.
- File #114-234: An Enforcement Order was issued for filling activity related to pool construction 12-14-1987. An NOI was filed 10-19-1987 for mulch and vegetation removal only. Hearing closed 4-14-1988. OOC issued end of April (file copy of OOC incomplete). COC issued 11-29-1990.
- File #114-249: NOI filed 3-31-1988 for restoration of wetland disturbed by pool construction (note, no permit actually issued for pool construction). Hearing closed 4-14-1988 (note same date as File #114-234). OOC issued 4-21-1988. COC issued 11-1-1988, "Duplicate" COC issued 11-29-1990.
- RDA 10-18: DOA issued 11-22-2010 for gas line trench
- File #114-1149: NOI filed 7-5-2012 for new culvert under driveway. OOC issued 8-20-2012. COC issued 10-22-2012.

From the information provided it appears that the previous owners of the property began the construction of a swimming pool in 1987 without proper permitting through your Commission. An Enforcement Order, (EO), was issued for "filling activity related to pool construction". Following the EO a NOI application was filed for mulch and vegetation removal. An Order of Conditions, (OOC), was issued followed by a Certificate of Compliance, (COC). It is important to note that the swimming pool was mentioned in the EO.

In 1988 another NOI was filed for restoration of wetland disturbed by pool construction. An OOC was issued followed by a COC. Again the swimming pool was mentioned.

Even though it is not clear if a permit application was specifically filed for the construction of the swimming pool one could assume that the Commission was aware of its existence as evidence by the EO and two OOC's that mention the swimming pool. Our clients purchased the property in 2009 and were not involved with any of the work involved with the construction of the swimming pool or the violations that occurred.

Our clients recently received an Order of Conditions for the construction of a culvert under their driveway in 2012. The culvert was installed and a COC was issued in October of 2012.

We look forward to presenting this information at your next scheduled public hearing. If you should have any questions regarding this information please do not hesitate to contact our office.

Sincerely,

WILLIAMS & SPARGES



Greg J. Hochmuth, RS, CWS, PWS  
Project Manager

cc: Walker Development  
DEP NERO