

WAYLAND CONSERVATION COMMISSION

Minutes Thursday, December 1, 2011 7:32 – 10:28pm

Location: Senior Center, Town Building, 41 Cochituate Road, Wayland, MA

Present: Commissioners: Roger Backman, Markey Burke, Barbara Howell, Chairman: Andy Irwin, Larry Kiernan, John Sullivan (8:45), Conservation Administrator: Brian Monahan

Minutes: Andrea Upham

Not present: Ted Harding

A.Irwin opened the meeting at 7:32PM noting a quorum was present.

1. **7:32 pm – Presentation of the Ken Moon Award – Hank Norwood**

B.Howell presented the Ken Moon Award to Henry “Hank” Norwood posthumously. The commemorative plaque to hang in the Wayland Town Hall was presented to Mrs. Peggy Norwood. The award is bestowed upon a Wayland resident who best exemplifies the ethic of conservation work through action. The honor is given to a citizen who has worked tirelessly to protect Wayland’s open spaces and water resources and/or maintain their legacy. Hank Norwood’s many long hours in the preservation of Conservation Areas was noted, along with his leadership in the Concord Christmas Bird Count, which he coordinated for 51 years. His love of bird watching was shared with people of all ages and his deep caring for the natural world was always shown through his kind deeds.

2. **Citizens Time**

Linda Segal, Aqueduct Road, raised a procedural matter with the scheduled agenda item for 8:15pm regarding the Notice of Intent for the replacement of the existing water supply wells. Ms. Segal shared with the Commission that she wasn’t aware of the agenda item until she saw the agenda on the Conservation Commission website. She reported that she had brought to B.Monahan’s attention earlier in the day that no legal notice had in fact been published in the Wayland Town Crier for this particular item, though she was aware that B.Monahan had sent a request to the publisher as shown by the copy of the submission in the Commission’s file which she reviewed earlier in the day. She gave the Commission a letter she prepared summarizing the above.

Anette Lewis, Claypit Hill Road, expressed that the Ken Moon award is one of the best things the Conservation Commission does and encouraged that future plans to acknowledge recipients be advertised in advance in the newspapers so the community is aware and can be present.

3. **7:40 pm – Continued Public Hearing, Northbridge Communities, LLC, (James Coughlin),**

Applicant, 134 Boston Post Road, DEP File No. 322-759: Notice of Intent filed by Northbridge Communities, LLC, (James Coughlin) pursuant to the Wetlands Protection Act, G.L. ch. 131 s. 40 and the application filed pursuant to Wayland’s Wetlands and Water Resources Bylaw, Chapter 194. The applicant is proposing an assisted living facility with associated grading, drainage, and utilities at 134 Boston Post Road, Wayland. Work is proposed within the 100-foot buffer zone to bordering vegetated wetlands and within riverfront area. The property is shown on Wayland’s Assessors Map 29, Parcel 048.

Jon Stephenson, of Stephenson Design Group updated the Commission that they had exchanged revised plans with Lisa Eggleston, peer reviewer, and Lisa had emailed B.Monahan with

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recommended conditions. Mr. Stephenson added that the group was here tonight to answer any outstanding issues or concerns. The plan presented represents the most recent plan as revised (November 23, 2011 package). Mr. Stephenson shared that the majority of comments addressed since the last meeting had to do with drainage, invasive plant species removal and other technical matters, which could be addressed by Eric Gerade. Mr. Gerade explained that they had initially reduced the impact from 4% down to 3.2% and evolved the design into a new plan – the final design plan – with overall impact down to 3%. He reported that the building got a little smaller, the infiltration basin was tweaked a little bit and they addressed technical details with the drainage system, adding that Lisa Eggleston was content with all changes. J. Stephenson added that they had previously discussed moving the building as far south as they could, and they lowered the site to pull back the grading and modified grading along the property line to create a shelf there. They added a drip trench along the back of building to take runoff from the back side of the roof.

A. Irwin inquired about percentage of preservation of the riverfront area. J. Stephenson said that the Conservation Restriction represents the majority of the 200-foot riverfront area on the combined lots. In addition, there is a detailed process planned for invasive species removal (knotweed/bittersweet) involving hand cutting and herbicide application by a licensed applicator.

M. Burke asked for confirmation that the group is committed to helping with the beavers. Ray Mitrano explained that they will contribute monetarily to the fund. Mr. Mitrano added that an open issue is the Conservation Restriction language, which will be reviewed with B. Monahan. A. Irwin urged that having that in place early on is very important and submission of the Conservation Restriction to the State will be stipulated as a condition on the work proceeding.

Marji Ford, Lee Road, asked in what form and how much the Northbridge contribution to the beaver fund will be and if the dam will ever be breached to full flowing again. Mr. Mitrano confirmed a \$2K allocation to address the beavers. B. Monahan confirmed that he spoke to Beaver Solutions people and he has been given a ballpark idea of cost but it doesn't make sense to do that until spring. He has two names to call for trapping. Trapping now and breaching in fall would be coupled together through one emergency permit. Ms. Ford added that the \$2K needs to be put toward a solution. B. Monahan explained that it would be waste of money and effort to breach the dam without addressing the beavers now. Ms. Ford expressed concern with the size of the building being constructed having a negative effect on the growing beaver problem and asked if the Commission is committed to putting in the breach, further commenting that it was to be the largest building in Wayland. A. Irwin explained that we have to get funding and pursue the matter in terms of cost and then go to Town Meeting to get funding. B. Monahan added that the Commission may have to address this as a continuing line item to be followed. A. Irwin confirmed that the Commission is not reluctant to address the matter as needed. Alice McLean asked if the Town could get funding for additional beaver control between trapping in December and planned breach work in the spring and felt that Hayward Brook should be flowing before this construction project starts. A. Irwin commented that beavers normally are not migratory this time of year; in the winter they normally stay in place and then migrate in spring so further actions are not anticipated.

The discussion turned to flooding and Lisa Eggleston added that the standard the Commission held this development to results in no increase in peak runoff or volume for the 100 year storm so it

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should not exacerbate the problem. Mr. Mitrano responded to Ms. Ford's comment that the assisted living facility is not the largest building in Wayland.

Lisa Eggleston brought to the Commission's attention that there is now a forebay in the bioretention area, and that the last submittal also includes a landscaping plan with plantings in the riverfront designed to create screening and restoration. Rebecca Bachand, Ulrich Bachand Landscape Architecture, reviewed the plan which will keep the farm feel of the existing site with meadow plantings. She reported that anything in the riverfront area that is disturbed will be replaced with low-maintenance plantings, such as blueberry, along with a seed mix of New England wetland mix that can be left to grow over time. The area around the infiltration basin will be lawn, and behind the building will be pines, spruces and evergreens. A.Irwin raised the need to protect certain large trees from beavers. Ms. Bachand stated there will be plans for a short fence around certain trees and they will have an arborist address those and prune them. She further reported that she has previously worked with the Beaver Solutions people and they will properly sequence fencing and removal.

Lisa Eggleston added that there is a fence shown on the berm, which the developers would like to have as either an open-wire farm fence or post-and-rail fence to allow necessary wildlife clearance. Mr. Mitrano commented that it is necessary to have a sense of boundary around the building.

A.Irwin acknowledged the value that Lisa Eggleston brought to the process in working with the design team and expressed that he would like her to take a look at the draft Order of Conditions when it is prepared.

Anette Lewis asked about the depression on the plan, and Lisa Eggleston confirmed that it is a rain garden. A.Lewis commented to the Commission that there is a Wayland herbicide bylaw to pay attention to moving forward.

Joy Viola asked if the Commission's conditions will restrict winter salt, and A.Irwin confirmed that they will, along with snow management, de-icing, and other such matters.

Motion to close the hearing under Wetlands Protection Act; Seconded 5-0

Motion to close the hearing under the Chapter 194 Bylaw; Seconded 5-0

Brief discussion ensued about recommended Performance Guarantee.

Motion to require Performance Guarantee of \$7500; Seconded 5-0

4. **8:15 pm – Public Hearing, Town of Wayland, DPW, Applicant, 266 Old Connecticut Path, DEP File No. 322-763:** Notice of Intent filed by Don Ouellette, P.E., Director of Public Works pursuant to the Wetlands Protection Act, G.L. ch. 131 s. 40 and the application filed pursuant to Wayland's Wetlands and Water Resources Bylaw, Chapter 194. The Town proposes to replace their existing water supply wells with three small-diameter wells. The existing wells are sited within the 100-year floodplain and experience seasonal flooding. The Town intends to relocate the wells and the chemical feed facility outside the floodplain. Approval to construct a new chemical feed facility

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will be sought under separate cover. The proposed work is at 266 Old Connecticut Path and shown on Wayland's Assessors Map 37, Parcels 032 and 033. THE HEARING NOTICE WAS NOT READ NOR WAS THE HEARING OPENED.

A.Irwin reported that it had been brought to the Commission's attention that though the legal notice on this topic had been submitted to the newspapers, the Town Crier did not print the submitted notice. The Commission will deal with that procedural issue later; however, the Commission now faces an issue of compliance with the requirement to hold a hearing within 21 days of receipt of an application. The Commission asked the Applicant for an extension to hold this hearing at our next meeting date with the newspaper posting notice. Stephanie Tarves of Tata & Howard granted the continuance on behalf of her client. A.Irwin stated the hearing will be planned for December 15, 2011 with required public notice. If there are any comments or concerns from anyone, the application is on file and folks can forward comments to the Conservation office.

A.Irwin shared that the Commission may want to sponsor an article at Town Meeting for a different way to address the matter of public notice required by current By-Laws. The Town Crier only publishes once a week, which puts great restraint and limitation on the Commission. In the meantime, B.Monahan will work with them on procedures to request getting a receipt for legal notices. L.Segal asked if this particular application were available electronically. M.Lowery expressed that all applications should be electronic and available on the town website. Ms. Tarves responded that filing an application electronically and providing an electronic version are two different things. M.Lowery added that all applications can be submitted electronically. Kurt Tramosch commented that the issue is file size and added that complicated graphics can become illegible and some maps are too large for file transfer.

5. 8:31 pm – Request for Certificate of Compliance, 208 Lakeshore - 322-394

Ted Doucette, Samiotes, was present with Rita Sweeney. Mr. Doucette reported that this file is an Order of Conditions dating back to 2005 which was never closed out. The owner is trying to sell the property and the applicant is the realtor, who is trying to close it out. This application was initiated by Roger Strang and ownership changed to Daniel Beck, who is the current owner. Mr. Doucette referenced the plan, stating that a gravel walkway and stairs were put in as well as stairs on the east side of the property. Daniel Beck is selling the house, and it is now under agreement. Sweeney and Shulz, the realtor, is applying for and paying for the Certificate of Compliance request. A.Irwin commented that there are a number of plans in the file which he had reviewed, commenting that the septic was to be grassed over on one plan. A.Irwin further stated that he would like to explore the timing of the brick driveway and patio, which doesn't show on the plan. T.Doucette commented that they were just out at the property today and he felt that there was no distinction in looking at those areas, so he felt the work immediately followed the septic project at the time. A.Irwin responded that there is work that wasn't included in the approved work and addressed the "final grading plan" on file, stating that there are two paths in sight, and one is to consider holding up the Certificate of Compliance because things don't match up. A.Irwin pointed out the brick patio and driveway areas to the Commissioners, stating that the area downslope was not to be impervious.

A.Irwin suggested that the Commission have a specific Request for Certificate of Compliance that addresses specifics and distinctions, deletions, grading changes, finishes, etc. T.Doucette

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commented that they don't have a specified surface treatment, which was likely done at the construction of the entire system. B.Monahan commented that it appears work went in without permit. A.Irwin added that the addition of impervious surface is not an insignificant change, adding that the S1 Plan didn't show the changes, and now there is a patio subject to after-the-fact filing. T.Doucette questioned whether it was just inadvertently left off the additional plan. A.Irwin stated that Plan C1.1 has significant differences from the As-Built Plan, adding that the grading proposed is not what we're looking at but is now a patio surface.

A.Irwin summarized that an after-the-fact filing is a way to address this additional work as they cannot issue a Certificate of Compliance until the replacement filing is in. If the Commission were to issue a Certificate of Compliance, it would reflect non-conformance with the work at that time and then would need a new filing for the other work. The differences in the work are things that have to be addressed. The As-Built Plan is the starting point for the new application, but additional changes would need to be addressed for mitigation, infiltration, etc. considering the close proximity to Dudley Pond. T.Doucette asked if they could table this and get decision on the brick patio being pervious/impervious and address the other areas. A. Irwin responded that a brick patio is considered impervious.

Motion for denial of Certificate of Compliance; Seconded 6-0

B.Monahan stated that the Commission would require a letter for the after-the-fact filing, which would result in an enforcement order if not received. A.Irwin confirmed a deadline of February 28, 2012 for the new filing or enforcement order would be pursued.

6. **9:15 pm – Continued Public Hearing, Town of Wayland/John Moynihan, Applicant, Route 20 and 400 Boston Post Road, Proposed Sewer Work, DEP File No. 322-762:** Notice of Intent filed by John Moynihan, Town of Wayland Public Building Director, pursuant to the Wetlands Protection Act, G.L. ch. 131 s. 40 and the application filed pursuant to Wayland's Wetlands and Water Resources Bylaw, Chapter 194. The applicant is proposing the construction, reconstruction, operation and maintenance of overhead and underground public utilities, including sewer south of Route 20 and 400 Boston Post Road, Wayland, MA. Portions of the work are in or within 100 feet of resource areas. The property is shown on Wayland's Assessors Map 22, Parcel 1 and Map 23, Parcel 52.

Dan Rokakoski and Ian Catlow, Tighe & Bond, were present for the discussion. Dan reported that since the meeting of November 16, National Heritage had no comments to add of concern. There were some Conservation Commission requests from the last meeting which were reviewed by item. The Commission had asked for alteration of plans in various areas – the revision of the silt fence so hay bales aren't trenched; demolition of the existing outfall – the Commission didn't want any artificial fill placed in the footprint of existing outfall so they put the grades back so that it created an inlet and the BVW can expand slightly; buffer zone will be loamed and seeded with mix specified, and they are planning live stakings in riprap area. Riprap will be removed by hand for placement of live stakings (Dogwood) which are best done during dormant season; they root quickly. The Commission wanted to see copies of construction dewatering, and those were highlighted and sent to B.Monahan addressing two sections. Dewatering water will be placed in frac tanks and into the ground or in ground with well infiltration. A.Irwin initiated a discussion about the implications of containing water. You cannot discharge groundwater exceeding GW1 without treating it; it needs to be below a GW1 reading. Dan Rokakoski stated that a URAM needs

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to be filed for this work. A.Irwin asked if they were operating under the RAM from Twenty Wayland, and Ian said that had not yet been determined. A.Irwin inquired if we know where the up gradient pit is located as it would need to be approved as per location. Ian Catlow said they will do that in concert with the LSP. Mr. Rokakoski added that the construction sequence was addressed as well, which concluded all issues that were raised in the previous meeting.

Mr. Catlow mentioned they had proposed removing stones to 18-inch diameter of stakings and confirmed that the plan is not to remove all bowling-ball sized stones. B.Monahan raised the issue of coming back in further at a lower elevation and mentioned this was the only project that didn't do the 1.5x. Mr. Catlow mentioned that they pulled grades back for no net fill after the pipe, but they could go deeper if desired. Mr. Rokakoski summarized that 60 square feet of property alteration and 90 feet of replacement results in wetland enhancement.

R.Backman asked if the pipe was concrete, and D.Rokakoski responded that it is corrugated metal. A.Irwin suggested leaving the riprap there and going behind it and cutting into existing slope. D.Rokakoski responded that they would have to cut into the bank and it would be a steep slope. D.Rokakoski added that enhancement is represented by the plantings going into the new discharge area as shrubs are of a higher quality than what is currently there as discussed with B.Monahan. Replication seemed it would do more harm than good, which is why they went to enhancement. A.Irwin asked if the enhancement was aimed at 1.5x. Mr. Rokakoski said he believes it is. A.Irwin asked Commission if they're comfortable with 1.5x in enhancement. J.Sullivan expressed caution with regard to setting precedent, adding that we don't want to be difficult but want to be careful about what we do. Discussion ensued, and Mr. Rokakoski agreed with 20 to 30 square feet of replication area at existing outfall location.

Anette Lewis inquired about the overhead sewer and the construction sequence, and Mr. Rokakoski responded that the wording was project category and proceeded to read the sequence to her. A.Lewis raised the issue of contamination under the old pipe and how to handle. A.Irwin mentioned that the PCB cleanup wasn't to zero so we don't want to get into issue of remediation waste. The removal of pipe doesn't involve excavation of soils but adding that piece gets into prior wetlands soil. D.Rokakoski confirmed that they are just removing large stones, not removing underlying soils. A.Lewis asked if they had a C91 license. D.Rokakoski responded that they are not working within the confines of the river and no dredging is involved or structure, so they are not subject. A.Lewis asked why the applicant for the project is John Moynihan and not Wastewater District Commission. Ian Catlow responded that John Moynihan is the point of contact for day-to-day business. A.Lewis expressed that she found it troubling that the Town will be on the hook and not the Wastewater Management Commission. B.Monahan noted that the paperwork was signed by Frank Dougherty and that the last ten feet is town land. A.Irwin expressed that the Wastewater District Commission should be spoken to, considering this application is on their behalf, and confirmed the need to get clear on who the contracting entity should be. A.Irwin requested permission for a continuance to allow time to speak to Town Counsel, John Moynihan, Anette Lewis, etc.

A.Lewis raised the issue of going under Route 20. Tom Sciacca offered that the Mass Highway right of way may be within 20 feet of pavement. Mike Lowery inquired whether John Moynihan is an authorized signer. Linda Segal asked when work will be done. Ian Catlow explained that the spec limits it to low water condition.

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A.Irwin requested a continuance to December 15 to address the issues raised, which was granted.

Motion for continuance to December 15 @8:30pm under the Wetlands Protection Act; Seconded 6-0
Motion for continuance to December 15 @8:30pm under the Chapter 194 Bylaw; Seconded 6-0

Outstanding issues were summarized by A.Irwin:

- Signatory authority for Town/Wastewater – who is doing work vs. who is applicant – Town of Wayland or Wastewater District Commission?
- Ownership of land at point of length of property – Identify each and obtain signatures for application.
- Rocks at existing outfall will be removed without the removal of underlying soils
- Necessity for treatment of wastewater from dewatering to be addressed by LSP
- Does John Moynihan being the applicant complicate who is responsible for construction?
- Mass Highway piece

A.Irwin stated that Fred Turkington can provide resources to make decisions on these issues.

Brief discussion ensued concerning the protocol for a monetary holdback for work within a resource area (in lieu of a bond) as a condition.

7. 10:10pm - Other

a. Meeting Schedule – Proposed meeting dates beginning January 26, 2011 forward were reviewed

b. 56 Orchard Lane

B.Monahan confirmed that a second letter was received addressed directly to the Conservation Commission this time, and a response will be worked on.

c. Comments on the DEP Proposed Streamlining

B.Howell looked through the MACC response and summarized points the Commission could submit to the DEP, which B.Monahan distributed. A.Irwin asked if the issue is that we feel we cannot cover with the Bylaw so we need them to stand firm and strong on something.

B.Howell explained the need to keep the current circuit riders in the western part of state, adding that the eastern part shouldn't be left without any. Discussion of "regional staff" ensued. A.Irwin indicated being inclined to leave comments at the bullet level and submit things that are important.

Motion to direct Chair to submit comments to DEP on proposed regulations; Seconded 6-0
Please provide A.Irwin with any issues or comments.

d. Heard Farm Walk Request

A.Irwin asked the Commission if they were inclined to issue permission for a night walk on December 10 at 5:30pm.

Motion to permit; Seconded 6-0

B.Monahan will communicate permission to Rabbi Allen.

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8. Compliance Updates

a. 55 Knollwood Lane

There was communication back to the property owner asking for more detail about alternate excavation approach and confirming that the delay is his, and have not heard back a response. A.Irwin suggests another communication setting a deadline for a response and confirming that we are consulting with Town Counsel about our recourse/remedy to get work completed.

b. 47 Country Corners Road

Received feedback from property owner that 4-inch on average removal of bottom of fence has been completed. A.Irwin will be writing letter to DEP reporting that this has been done.

9. Correspondence/Expenditures

10. Minutes – November 16, 2011

Motion to accept November 16 Minutes as edited; Seconded 6-0

11. Other cont'd

A.Irwin reported still waiting for a response on 44 Main Street.

B.Howell reported that there is drainage on Old Connecticut Path that has come through Pod Meadow down that steep slope and ripped everything out. The water is going into what was a vernal pool and now part of main pond.

Adjournment

Motion to adjourn at 10:28pm

The next Conservation Commission Meeting is scheduled for Thursday, December 15, 2011 in the Wayland Town Building.

Items without a specific time noted may be taken out of order at any time during the meeting.

NOTE: Per changes to the Open Meeting Law, notice of any meeting of a public body shall include "A listing of topics that the chair reasonably anticipates will be discussed at the meeting". AG's Office guidelines state that the list of topics shall have sufficient specificity to reasonably advise the public of the issue to be discussed. Please list those topics on the above agenda.

**TOWN OF WAYLAND
MASSACHUSETTS
CONSERVATION COMMISSION**

**LIST OF PUBLIC DOCUMENTS PROVIDED TO THE CONSERVATION COMMISSION
November 17, 2011 to December 1, 2011**

November 17, 2011

322-756 Notice of work commencing within 200-foot riverfront for Water Main Replacement Project
D-733 Letter from Cynthia & David Hill to ConCom regarding fence project at 56 Orchard Lane
322-701/744 Inspection Reports on Town Center from RJ O'Connell

November 22, 2011

322-762 Division of Fisheries and Wildlife response to Wastewater Treatment Plant Notice of Intent
322-755 Inspection Report on 7 Old Vineyard Way from GPR, Inc.
322-709 Packet from Landscapes Express for use of FilterMitt in place of hay bales/silt fence at 171 Concord Road

November 23, 2011

Notice of Intent from Goddard Consulting for Richard Flaherty; septic project at 21 Snake Brook Road
Notice of Intent from Goddard Consulting for Eric Knowlton; septic project at 11 Old Sudbury Road
322-759 Updated Plans and Report on Northbridge Facility from Stephenson Design Group

November 28, 2011

Board of Appeals Decisions; 18 Pemberton Road, 11 Fairfield Road
Board of Appeals 12/13/11Hearing Notice
322-665 Inspection Report on 137 Boston Post Road from Hayes Engineering
322-648 Inspection Report on Covered Bridge from Samiotes
322-752 Inspection Report on 430 Boston Post Road from Innovative Engineering Solutions, Inc.

November 30, 2011

322-701 Inspection Report on Town Center from RJ O'Connell

December 1, 2011

322-710 Inspection Report on Fieldstone Estates from H2O Engineering
322-624 Inspection Report on Wayland Commons from Sullivan, Connors
322-760 Notice to start work at 9 Barney Hill Road from Buildingform LLC
Letter from Alice McLean on behalf of Wayland residents re: Northbridge/Beavers

LIST OF EXPENDITURES

November 17, 2011 to December 1, 2011

November 28, 2011

Payment of \$111 to Cook's Automotive for gasoline/truck