

# WAYLAND CONSERVATION COMMISSION

Minutes Thursday, November 3, 2011 7:30 – 9:46PM

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

**Present:** Commissioners: Roger Backman, Markey Burke, Ted Harding (7:42), Barbara Howell,  
Chairman: Andy Irwin, John Sullivan (8:00), Conservation Administrator: Brian Monahan

**Not present:** Larry Kiernan

**Minutes:** Andrea Upham

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

1. **7:32 pm** - Citizens Time/Public Comment: Items not scheduled on a Conservation Commission agenda.

**Joy Viola**, Glover Road, informed the Commission that thirty people signed a letter regarding the condition of Hayward Brook and asked A.Irwin for update on the beaver situation. A.Irwin reported that B.Monahan has put a call into Beaver Solutions to explore options for alternatives and costs. Once that information is received, the Commission will coordinate expenditures from the Town.

**Stan Robinson**, Wheelock Road, inquired if Northbridge has been advised that the 200-foot measurement may be wrong in light of the beaver pond situation. A.Irwin deferred the discussion to the 7:40PM time slot already scheduled for the Northbridge discussion.

2. **7:35 pm - Compliance Updates**

- a. 55 Knollwood Lane

B.Monahan reported that he spoke to M.Lanza about pursuing legal assistance for enforcement on the cleanup of the property. A.Irwin expressed the need to check hay bales and silt fence as minimizing impact is a priority.

- b. 44 Main Street

B.Monahan sent a letter to the property owner with results of Conservation Commission meeting; no response has been received at this point.

3. Minutes – October 20, 2011

**Motion to approve the October 20, 2011 Minutes as edited; Seconded 4-0**

4. **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.

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A.Irwin updated all in attendance that Lisa Eggleston had been tasked to review the project from prior presentations. A new option was developed and some additional comments were shared with the Northbridge team, and those will be reviewed tonight.

**Eric Gerade, Stephenson Design Group**, passed out newest proposal to the Commissioners and citizens to share during the discussion.

**Jon Stephenson, Stephenson Design Group, and Chris Lucas, Lucas Environmental**, explained that the modified plan had been tweaked since the last Conservation Meeting with modified layout/drainage to reduce riverfront to 3.2%. The CR area is the majority of the 200-foot riverfront area. The tweaking was done to reduce impact and push as far south and west as possible with new, low-impact features added. The team would now like to move forward with full engineering drawings on this new plan and submit them to L.Eggleston for comment.

**L.Eggleston, Eggleston Environmental**, commented that she felt there was good progress on the design and that the applicants have demonstrated that this is as good as we can get given the issues of the contamination plume and the expectations for development of the Lee's Farm Stand parcel. L.Eggleston outlined the Conservation Restriction on the majority of the riverfront, which will be protected in perpetuity. They have reduced riverfront impact to 3.2%. Issues surrounding invasive species removal have been covered, and plantings will enhance the riverfront. They have also provided for monetary contribution to the beaver control problem in the area. With respect to the alternatives analysis, L.Eggleston commented that they cannot move things forward on the lot due to farm stand development and added that perhaps a "building envelope" can be established.

J.Stephenson explained that this plan was requested by the Planning Board and shows conceptual potential redevelopment of the farm stand site – the existing area with a potential expansion area to a more usable size, including a parking area. L.Eggleston explained that it is being shown because it is the reason they are asking for the riverfront impacts. A.Irwin commented that the plan needs to be firm and lasting. Ray Mitrano, Northbridge Properties, explained that this was submitted with the concept being generic at this point and that they would go back through the site approval process. A.Irwin commented that an envelope would show that is the area where development would be.

Tony Buongiorno commented that he would see the front parcel being subject to the Zoning Board but did not feel that the Conservation Commission should govern in that area. A.Irwin explained that showing that parcel and the development of the farm stand as a constraint and the reason why they are encroaching on riverfront is why the Conservation Commission is governing here. A.Irwin said the Commission will give it more thought, but that is why the Commission wanted that degree of control. B.Monahan offered that he will explore state/subdivisions provisions in Conservation Restrictions previously touched on with Mr. Mitrano.

Mr. Buongiorno reiterated that he felt they should not be restricted down the road by the Conservation Commission on use or development of the front parcel. Future permits would be through Zoning and Planning with the Conservation Commission involved only if necessary.

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T.Harding responded to Mr. Buongiorno clarifying what A.Irwin had said. The Conservation Commission is granting an exception based on the premise that this project cannot go more toward the street based on the farm stand parcel.

Mr. Buongiorno expressed the objective of the project – to satisfy the Town of Wayland along with creating a viable assisted-living facility. Discussion ensued about the condition of the farm stand structure. Mr. Buongiorno commented that ultimately they may even decide to tear it down.

L.Eggleston gave comment that once this current process is done, the Conservation Commission will not have jurisdiction. The next phase will be with the Planning Board.

Mr. Mitrano commented on the need to take into account all of the constraints on the project, not just the push toward Lee's Farm Stand parcel.

Stan Robinson inquired as to how the edge of Hayward Brook was determined. A.Irwin explained that the ORAD was a separate decision by the Conservation Commission and that appropriate methodology was used and that the decision fell in a period of time where additional extensions were granted for all projects. Mr. Robinson asked if it were possible that the riverfront has now changed. A.Irwin responded that while there are situations where the wetland resource areas can change over time, but for this application the resource areas are fixed by the Commission's ORAD decision.

Marji Ford, Lee Road, asked for clarification of the point from which the 200-foot mark is measured. A.Irwin explained that it is from the bank of the river and that they look to areas of mean annual high water.

Rod McLean, Wheelock Rd, asked if the 3.2% impact area is based on the riverfront of the 9.6 acre lot. A.Irwin confirmed that it is, and Mr. McLean commented on splitting the two parcels and expressed concern that the second parcel seems to be being brushed aside and felt it was a big concern. A.Irwin explained that we will be getting a Conservation Restriction for full 200-foot riverfront area on front parcel which would not allow development in that footprint at all, and all development will be outside of the riverfront. This is a commitment by the property owners resulting in permanent protection. R.Backman asked what the 3.2% translates to in square feet. J.Stephenson said it is just under 6,000 square feet. Mr. McLean further commented that he felt the agricultural use seems to be a gray area. A.Irwin explained that the Conservation Commission doesn't have jurisdiction for that land use except with respect to the stormwater Bylaw regulations on that that front parcel.

Marji Ford asked how many mature trees will be taken down. J.Stephenson reviewed the plan layout, showing the affected areas and explained that mostly groundcover/native species will be affected, as opposed to mature trees.

R.Backman recommended plantings be considered with respect to the beaver problem. Mr. Mitrano said this is a new concept but that they are exploring ways to contribute to landscape architecture, recommended fencing, perhaps plant collars, etc. A.Irwin said details will come from the landscaping plan.

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A.Irwin and R.Mitrano discussed that the Conservation Restriction is to be secured as first step before the construction phases.

Bill Sterling, Morse Rd, inquired about the basin design and asked what the assumed rainfall rate was that was used to design capacity. E.Gerade commented that they used seven inches of rainfall over a 24-hour period. Mr. Sterling expressed concerned about overflow based on recent extreme weather conditions. L.Eggleston responded that while we have been experiencing more extremes in recent times, we have not had the “100-year event.” She added that there is no question extremes are heightened, but design standards in Wayland require seven inches over a 24-hour period to detain and bleed out water, and this design will have a full foot of freeboard beyond that to provide additional safeguarding. L.Eggleston further noted that the plan is already based on the regulations, and this development is not adding water other than through the septic system.

A.Irwin summarized that we have this new concept in front of us and need to allow time for the next stage of engineering on the plan and requested the applicant’s approval for continuance of the hearing, which was granted. B.Monahan suggested the December 1, 2011 meeting.

**Motion to continue the Hearing to December 1, 2011 at 7:40pm under the Wetlands Protection Act; Seconded 6-0**

**Motion to continue the Hearing to December 1, 2011 at 7:40pm under the Bylaw; Seconded; 6-0**

5. **8:25 pm – 47 Country Corners**

A.Irwin began the discussion explaining that this conversation was taking place as a response to complaint from a neighbor concerning this file. A site visit was conducted to measure dimensions of fence from the property corner, revealing that the stockade section was longer than it was approved to be. After review of the file, it was noted that there was a difference between the two decisions (state/bylaw). One decision stated that the portion of the fence from 250-290 feet shall be split rail, and the other stated that the portion of the fence from 240-290 feet shall be split rail. A.Irwin shared that the end of the stockade fence was 255 feet from the corner bound as measured at the time of the site visit. He also noted that the Permit had required four inches on average open at the bottom of a portion of the remaining stockade fence to allow for the passage of wildlife and that the Commission will further investigate the dimension of the Commission’s jurisdiction on the stockade fence based upon BVW related to the stream and measure off 100 feet from that delineation to define where adjustment is necessary to comply with the Permit requirements. B.Monahan, A.Irwin and M.Burke were present at site visit.

Val Carey, property owner at 47 Country Corners shared that he had removed an extra five feet of fencing and sent the pictures to B.Monahan.

Susan Michalczyk, 51 Barney Hill Road, told the Commission that she had asked for a review of this in 2006 and was told it would be taken care of. She further said that Fred Turkington wrote in March that an enforcement order would be done and inquired as to why the Commission did not enforce what they said they would. A.Irwin suggested that rather than reviewing previous correspondence, they are trying to resolve the matter and focus on coming to a resolution and closure. Mrs. Michalczyk again referenced a previous letter from B.Monahan. A.Irwin explained

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that he was not on the property to measure at that time but was on site recently as noted. John Michalczyk recommended that the Commission be more alert.

A.Irwin returned the discussion to the decisions and the measurements, noting that the fence is too long. It sits at 250 feet, so an additional ten feet of stockade will need to come out.

S.Michalczyk expressed unhappiness with B.Monahan's handling of the situation since it began. J.Sullivan expressed his unhappiness with how Mrs. Michalczyk addressed the discussion and the Commission members. Discussion ensued resulting in A.Irwin reminding Mr. and Mrs. Michalczyk that this is a discussion and public meeting, not a Hearing, and the Commission had given them more time and freedom than the agenda item allowed, adding that the Commission is moving forward so that the fence meets the necessary requirements. A.Irwin stated that the Commission will measure the stream and related BVW to arrive at distance along the fence to determine Conservation Commission jurisdiction, which stops at 100 feet from the BVW, and final determination will be made as to which portion of the fence needs to have the bottom few inches be cut off.

S.Michalczyk expressed confusion about the measurements. A.Irwin drew a free-hand sketch to attempt to show the portions of the fence needing to be split rail and stockade, explaining that they will determine where the 100 feet intersects. He further explained that the decision clarification here is what portion of stockade fence needs to have the bottom removed. J.Michalczyk commented that the initial point where you begin to measure is important, and A.Irwin responded that measurement is made from eastern corner bound, and if it is found to be within the 100-foot buffer, then the bottom will not need to come off. Measuring will be to the shortest distance.

Mr. Carey asked if the measurement of 250 feet vs. 240 feet was an oversight, which A.Irwin confirmed, adding that Mr. Carey should remove the additional ten feet of fence and then it will be determined over what length of the remaining fence the bottom needs to be cut.

Mr. and Mrs. Michalscyk expressed their opinion that the fence wasn't precisely "split rail" definition. A.Irwin explained that the Commission doesn't dictate aesthetics and are only concerned that there are posts and widely spaced rails and that the stockade fence portion will now be further away from the wetlands.

Mr. Carey said that he will remove the additional ten feet of stockade fencing and send pictures as he had previously. A.Irwin explained that the area of fence is perpendicular to the stream. Working from measurements that were made, we are taking a combined 15.5 feet. There may be an additional portion requiring the bottom of the fence to be cut, but it will be best for the Conservation Commission to make another measurement and put a marker out for that.

S.Michalszyk submitted letters from neighbors to the Commission. A.Irwin said a letter of update will be sent to the DEP with a carbon copy to the Michalszyks.

6. **8:10 pm Request for Certificate of Compliance [310 CMR 10.05 (9)]**
  - a. 97 Concord Road – File D 772

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- Motion to issue Partial Certificate of Compliance with continuing conditions under the Bylaw; Seconded 6-0**
- b. 148 Woodridge Road – DEP File No. 322-731
- Motion to issue Partial Certificate of Compliance with continuing conditions under the Wetlands Protection Act; Seconded 6-0**
- Motion to issue Partial Certificate of Compliance with continuing conditions under the Bylaw; Seconded 6-0**
- c. 81 Riverview D-771
- B.Monahan suggested decision be deferred until he can clarify edges. He will send a letter about his concerns to the engineer.
- d. 14 Quincy Road DEP File No. 322-729
- Motion to issue Partial Certificate of Compliance with continuing conditions under the Wetlands Protection Act; Seconded 6-0**
- Motion to issue Partial Certificate of Compliance with continuing conditions under the Bylaw; Seconded 6-0**
- e. 231 Boston Post Road; DEP File No. 322-750 (COC and request for performance guarantee)
- Motion to issue Partial Certificate of Compliance with continuing conditions under the Wetlands Protection Act; Seconded 6-0**
- Motion to issue Partial Certificate of Compliance with continuing conditions under the Bylaw; Seconded 6-0**
- Motion to release the \$2,000 Performance Guarantee; Seconded 6-0**
- f. 367 Commonwealth Road; DEP File 322-673
- B.Monahan suggested the item be deferred until the November 16 meeting to allow further file review.

**7. 8:35 pm – Update on 15 Sylvan Way; DEP File 322-659**

B.Monahan reported that Goddard Consulting is doing new work on the property and hoped to roll the outstanding file projects as a package to be addressed/closed prior to septic project. A.Irwin stated that the issue of the fence in wetlands needs to be looked at, and B.Monahan said he had discussed that with Mr. Goddard.

**8. Other**

- a. Beavers: B.Monahan will ask consultants how they would solve the problems we're facing in Wayland.
- b. Meeting Schedule: Upcoming meetings are **Wednesday**, November 16, Thursday, December 1, Thursday, December 15, and Thursday, January 12. A.Irwin stressed the need to get the calendar going for next year.

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- c. 14 Squirrel Hill Road – B.Monahan reported that all work involved is beyond Conservation Commission jurisdiction – the house was laid out incorrectly, torn down and started over. Drainage will still work. A.Irwin requested that we acknowledge and appreciate communication and confirm we are taking no action.
- d. Capital Budget Summary: Discussion of additional money requested for equipment and for dam.
- e. FY 2013 Budget: B.Monahan will have draft at the next meeting to address issues.

**9. Issuance of Order of Conditions/Chapter 194 Permit**

236 Commonwealth Road; DEP File 322-761

B.Monahan recommended a \$1000 Performance Guarantee for the project.

**Motion to require a \$1000 Performance Guarantee; Seconded 6-0**

**Motion to issue Order of Conditions under the Wetlands Protection Act; Seconded 6-0**

**Motion to issue Permit under the Chapter 194 Bylaw; Seconded 6-0**

**10. Miscellaneous**

- a. Agreement was reached to add weekly expenditures to the bottom of the “List of Documents Received” given to the Commissioners at each meeting.
- b. Discussion ensued of properties on the 1995 open space plan and whether funding from CPC needs town approval. Possible approach was discussed to lump identified parcels together and get approval for one dollar figure. \$1.5M is set aside for acquisition and was already approved at Town Meeting but not for specific parcels; Commission would need to go to Town Meeting to identify specific parcels. B.Monahan will get Plain Road on the warrant. A.Irwin recommended creating a priority list.
- c. A.Irwin made mention of the water project on Main Street, reporting that he was driving by late at night and saw water running down Main Street toward Snake Brook. He stopped and spoke with the workers who said they were flushing lines and disinfecting. He asked if they were using chlorine, and they confirmed they were (10 parts per million). A.Irwin said that 20 parts per billion is standard and that normally a de-chlorinating chemical is used. The workers acknowledged to A.Irwin that they forgot to de-chlorinate. A.Irwin recommended that a ticket be issued to the contractor based on our need to apply standards and penalties evenly.
- d. J.Sullivan reported that the Community Preservation Committee had recently credited approximately \$25,000 back to the open space account from the Nike site project.

**Adjournment**

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**Motion to adjourn at 9:46pm; Seconded 6-0**

The next Conservation Commission Meeting is scheduled for **Wednesday, November 16, 2011** in the Wayland Town Building.

***Please note:***

***Agenda 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.

Revised Meeting Notice/June 23, 2010