

WAYLAND CONSERVATION COMMISSION

Minutes Thursday, February 16, 2012 7:43 – 9:50pm

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

Present: Commissioners: Roger Backman, Barbara Howell, Chairman: Andy Irwin, Larry Kiernan, John Sullivan, Conservation Administrator: Brian Monahan

Minutes: Andrea Upham

Not present: Markey Burke, Ted Harding

A.Irwin opened the meeting at 7:43pm noting that a quorum was present.

1. **7:30 pm – Citizens Time**

Betty Salzberg shared with the Commission that she is hoping for allies of housing advocates for the proposed warrant article to eliminate the CPA fee. A.Irwin mentioned there will be a presentation at the March 8, 2012 Conservation Commission Meeting.

2. **7:45 pm – Continued Public Hearing, Eric Knowlton, Applicant, 11 Old Sudbury Road, DEP File No. 322-765:** Notice of Intent filed by Eric Knowlton 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 proposes to decommission the existing septic system and install a new septic system in the buffer zone to bank and bordering vegetated wetlands at 11 Old Sudbury Road, Wayland, MA. The proposed work is shown on Wayland's Assessors Map 23, Parcel 060.

Scott Goddard, Goddard Consulting, and applicant, Eric Knowlton, were present. Mr. Goddard reviewed that at the initial Conservation Commission meeting it was requested that the Notice of Intent be amended to include other items that were identified on the site walk. These were presented conceptually at the last meeting and time was allowed for the owner to review issues with the building inspector. Items that were noted as being added in recent years without an Order of Conditions included a fence, pool, deck, shed and hot tub, and Mr. Goddard expressed that they would like to integrate these items into the septic proposal. He added that the updated plan was to include a vegetated buffer inside the fence line with a 5-foot shrub boundary, commenting that this is a very tight sight, making 15 feet not practical. Mr. Goddard submitted a new plan at the meeting, reflecting the shed moving from point A to point B per request of the Building Inspector.

Mr. Knowlton commented that the shed/deck and pool/hot tub were grouped together and that all four were approved by the Board of Health and are now with the Building Inspector. Mr. Knowlton said he didn't think a hot tub permit was needed. He added that the pool has a fence on the top around it, and the entry point needs a locking ladder to close up in order to meet code. All were submitted to the Building Department for review earlier this week. A.Irwin inquired about the aquifer protection district and asked if the regulation for 15% residential impervious surface was brought up by anyone, adding that the Building Inspector may not be aware of the aquifer issue. A.Irwin shared that this is in the inner riparian zone under the Bylaw; the Plan says "intermittent stream."

A.Irwin commented that the issue at hand is if someone came to propose a pool on this particular site today, would the Commission allow that and the other structures. Mr. Goddard commented

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that the issue of the failed/leaking cesspool still remains. A.Irwin commented that it seems the pool's proximity to the wetlands is not appropriate and it perhaps should be removed before the septic goes in, and the deck/shed would then be an after-the-fact filing to include pervious surface under the deck. Mr. Goddard expressed that he would prefer to roll it all into one filing. Mr. Knowlton asked what is the impact and need for separating. A.Irwin responded that the extent of what was being added would require public notice, and the septic upgrade does not cover that but the filing of an additional application will satisfy that requirement. A.Irwin added that the pool should be out in any scenario based on adverse environmental impact. Mr. Knowlton shared that his wife suffers with rheumatoid arthritis, and that is why the pool and hot tub are important to them. Mr. Goddard commented that "accessory uses" are exempt as minor activities making this a permissible wetlands project with the issues being raised being more Bylaw issues. A.Irwin commented that the location of the pool is where there would normally be an undisturbed vegetated buffer. Mr. Goddard asked for the opportunity to do other mitigating for the site to allow for the pool and hot tub to remain, adding that infiltration of existing roof leaders could mitigate existing impervious surface.

R.Backman asked if the driveway is paved. Mr. Goddard responded that it is not and will not be paved after septic installation. S.Goddard added that the infiltration paired with the new cesspool can be a net to the site. A.Irwin responded that the feedback is that the Commission would not have allowed that. Mr. Goddard explored whether they could "renotify" the existing Notice of Intent noting the changes rather than re-file. Mr. Goddard shared his opinion that the additional benefit provided could be sufficient to mitigate the impact of the pool. L.Kiernan asked about the roof mitigation proposal, and Mr. Goddard responded that it will increase base flow to the stream. L.Kiernan suggested wording that would require the pool to be eliminated in the future when the house changes hands. At that point in the meeting, B.Monahan responded to Mr. Goddard about his comment that the "accessory uses" would be exempt as minor activities in the wetlands, citing an excerpt from the Wetlands Regulations confirming that, in fact, this would not be exempt. A.Irwin stated that removal of the pool is going to be necessary and the deck/shed/tub would be a separate filing or handled with an enforcement order. A.Irwin added that the pool is pivotal given the location, and B.Monahan pointed out that it is unpermitted work with DEP. A.Irwin suggested the Commission close the hearing so the failed septic system can move forward, adding that the septic is not mitigation for the deck and pool structure. The Jacuzzi/deck/shed would be the subject of a separate filing so we are not holding up work on the failed cesspool. If an after-the-fact filing were not received for those items mentioned, the Commission would need to issue an enforcement order. Discussion ensued and A.Irwin interjected that there is a need to either continue the hearing or close the hearing and take action.

Motion to close the hearing under the Wetlands Protect Act; Secoded 5-0
Motion to close the hearing under the Chapter 194 Bylaw; Secoded 5-0

B.Monahan made a recommendation for a performance guarantee of \$3000.00.

Motion to require a performance guarantee of \$3000.00; Secoded 4-1 (1 opposed)

3. **8:20 pm – Continued Public Hearing, Margot and Keith Johnson, Applicant, 14 Country Corners Road, DEP File No. 322-769:** Notice of Intent filed by Margot and Keith Johnson 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 applicants have filed an application to

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remove 19 trees around the existing house with replacement plantings. The site, 14 Country Corners Road, is entirely in the buffer zone and riparian zone. The proposed work is shown on Wayland's Assessors Map 044, Parcel 027.

Keith Johnson, property owner/applicant, was present. B.Monahan updated the group on updates since last meeting. The groundcover proposed at the last meeting ("liriopse") was found to not be native species and was changed to Virginia Creeper. Mr. Johnson informed that the planting plan was submitted by Jeff Plant. It was discussed that the project had finally received a DEP file number, which noted no technical comments. A.Irwin mentioned that the proposed limit of lawn will be a condition in the decision. Mr. Johnson raised the subject of the four snags to be left, and B.Monahan explained that one can be traded for another.

Motion to close the hearing under the Wetlands Protect Act;	Seconded	5-0
Motion to close the hearing under the Chapter 194 Bylaw;	Seconded	5-0
Motion for performance guarantee of \$2000.00;	Seconded	5-0
Motion to issue Permit under the Chapter 194 Bylaw;	Seconded	5-0
Motion to issue Order of Conditions under the Wetlands Protection Act;	Seconded	5-0

- 4. 8:30 pm – Continued Public Hearing, Sture Blom, Applicant, 23 Sylvan Way, DEP File No. 322-768:** Notice of Intent filed by Sture Blom 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 has filed an application to decommission an existing septic system and install a new septic system in the Buffer Zone at 23 Sylvan Way, Wayland. The proposed work is shown on Wayland's Assessors Map 025, Parcel 069.

Scott Goddard, Goddard Consulting, was present with Jeffrey Blom, property owner. Mr. Goddard shared that the plan was revised based on the Commission's feedback – the riverbank was delineated and shown with 100 and 200 foot riverfront area and trees have been flagged, with three oaks as well as a downed tree proposed for removal. Mr. Blom confirmed that the tree fell down in the October storm. Mr. Goddard commented that the property has a very tight back yard and the trees are large with some leaning toward the house. Mr. Goddard reviewed the planting plan for five 1-inch caliper red maples. Mr. Goddard summarized that the septic (primary) and trees (secondary) are all shown on the plan. B.Monahan explained to Mr. Goddard that the replacement ratio doesn't meet the Commission's policy of two replantings for every one tree removed. S.Goddard addressed leaving a snag, which was discussed at the last meeting. B.Monahan responded that if leaving one snag, he would need greater than a 1-inch caliper tree; a 2.5" would be required. A.Irwin offered that we can close the hearing conditional on receiving their planting plan.

Motion to close the hearing under the Wetlands Protect Act;	Seconded	5-0
Motion to close the hearing under the Chapter 194 Bylaw;	Seconded	5-0
Motion for performance guarantee of \$2000.00;	Seconded	5-0
Motion to issue Permit under the Chapter 194 Bylaw;	Seconded	5-0
Motion to issue Order of Conditions under the Wetlands Protection Act;	Seconded	5-0

- 5. 8:15 pm – Continued Public Meeting, Wayland Conservation, Applicant, Town-Wide Request for Generic Home Repair (roofing, siding, window replacements), File D-797:** Request for

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Determination of Applicability filed by the Conservation Commission 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 applicants are seeking to issue a general permit for routine house repairs within the buffer zone for sites throughout the Town of Wayland.

Motion to continue to the March 8, 2012 Meeting; Seconded 5-0

6. Request for Certificate of Compliance [310 CMR 10.05 (9)]

a. 208 Lakeshore Drive; DEP File No. 322-766

Ted Doucette of Samiotes was present. Mr. Doucette quickly summarized that this was a septic project on Dudley with issues that arose with the proposed plan. Per the Commission's request, a 12-14" wide trench was installed, and B.Monahan, B.Howell and Mr. Doucette conducted a site inspection yesterday. Mr. Doucette mentioned that the as-built shows no disturb.

Motion to issue partial Certificate of Compliance with continuing conditions under the Wetlands Protect Act; Seconded 5-0

Motion to issue partial Certificate of Compliance with continuing conditions under the Chapter 194 Bylaw; Seconded 5-0

b. 5 Snake Brook Road, File D-737

Motion to issue partial Certificate of Compliance under the Wetlands Protect Act; Seconded 5-0

Motion to issue partial Certificate of Compliance under the Chapter 194 Bylaw; Seconded 5-0

c. 9 Campbell Road; DEP File 322-626

A.Irwin asked B.Monahan if he had any comments to note on the file. B.Monahan shared that the original plan and as-built were done by a Registered Sanitarian, though the requirement was for a PE or Land Surveyor, so they didn't meet that requirement.

B.Monahan and B.Howell had visited sites and raised beds were noted. B.Monahan also noted that there were no inspection reports on record.

Motion to issue partial Certificate of Compliance with continuing conditions under the Wetlands Protect Act; Seconded 5-0

Motion to issue partial Certificate of Compliance with continuing conditions under the Chapter 194 Bylaw; Seconded 5-0

d. 57 Highland Circle, DEP File 322-431 and 322-516

Bob Drake of Drake Associates and Suzie Goldstein, property owner, were present.

Mr. Drake summarized that there were two Orders of Condition on the property for a project that started in 2001, noting that some of the current Commissioners were present during those discussions. There was substantial renovation of the house and patio, and the septic was replaced under a separate order. Mr. Drake provided plans on both projects for Commissioners and explained that there are a couple of items requiring consideration by the Commission. Photos were reviewed showing different views of the property, and Mr.

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Drake discussed an area of 1000 yards of fill and hemlock and white pine plantings. Mr. Drake explained that the original plan was for a patio and wall which weren't done; the new plan is as-built.

Mr. Drake began to highlight the two issues requiring the Commission's consideration on the project. The first issue was a Conservation Restriction that was going to be drafted and recorded as part of the project but was never actually put on record. As a result, Mr. Drake explained that the property owner is asking to place a conservation easement on that 10,100 square-foot piece of land. A.Irwin inquired about the grantee on that parcel. Mr. Drake responded that it grants to the Town of Wayland. The easement will put a portion of the lawn in the buffer zone. B.Monahan commented that the proposed conservation easement is adding to the existing conservation easement. B.Drake offered that the new plan will be put on deed for the transfer of sale of the property.

Mr. Drake raised the second item for the Commission's consideration, which concerns the cleanup in the back of the property where an area was seeded and extends 25' beyond where proposed plantings were on the plan. Mr. Drake pointed out the specific area on the plan and summarized that grades were not changed and no trees were removed. B.Monahan mentioned that at the bottom of the bank there was concern that leaves were being dumped and it shouldn't continue. A.Irwin asked if the toe of the wall is where it should be, and Mr. Drake responded that it is and had been measured, adding that the as-built plan was done by Schofield. Discussion ensued of scope of work allowed by a Registered Sanitarian. B.Monahan confirmed that such work should be done by a Professional Land Surveyor or Professional Engineer. B.Monahan added language to the Certificate of Compliance paperwork acknowledging a conservation easement to be filed simultaneously, and the Commission noted deviations of not doing certain parts of project with the retaining wall and that a Registered Sanitarian did the as-built plan.

Motion to issue Partial Certificate of Compliance with continuing conditions for DEP File 322-431 under the Wetlands Protection Act; Seconded 5-0

Motion to issue Partial Certificate of Compliance with continuing conditions for DEP File 322-516 under the Wetlands Protection Act; Seconded 5-0

7. Other

- a. Vote to return 53G Fund (Balance of Consultant Fee) for 134 Boston Post Road

Motion to return \$280 balance set aside for drainage consulting services; Seconded 5-0

- b. Warrant Articles 2012

It was noted that Jay Sherry will be at the March 8, 2012 Conservation Commission meeting.

**8. Issuance of Order of Conditions/Chapter 194 Permit
Further discussion on 11 Old Sudbury Road (322-765)**

Issues were summarized once again as fence, pool, deck, shed and hot tub.

A.Irwin confirmed that the removal of the pool will be required as a condition.

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L.Kiernan asked if the pool removal requirement is due to others in the future who might follow the same after-the-fact approach to unpermitted work on their properties. B.Howell responded that there is clear language in the Wetlands Protection Act which says a pool simply cannot be that close to the wetlands. A.Irwin commented that the Commission is trying to not require the removal of all things, but it is not appropriate to take unpermitted activity and wrap it into another project and the mitigation of underneath deck and roof runoff can be addressed in a separate filing. Taking the pool out is a reduction of impact so doesn't require inclusion in another notice; consideration of increased footprint activities and related mitigation activity will be handled in second after-the-fact filing. The removal of the pool and fill-in of at least five feet of vegetated buffer is needed, and the fence/deck/shed/hot tub will all be noted in the findings of unpermitted work falling under the after-the-fact filing. In summary, the current project will include the pool being removed, a 5-foot vegetated buffer extended around the limit of lawn and the septic replacement project.

Motion to issue Permit under the Chapter 194 Bylaw; Seconded 5-0

Motion to issue Order of Conditions under the Wetlands Protection Act; Seconded 5-0

9. Compliance Updates

B.Monahan gave an update on 55 Knollwood Lane, citing recent correspondence with Mr. Dreher, who wants to have Phil Regan dig the soil up the slope. B.Monahan clarified to Mr. Dreher that the process needs Conservation Commission approval. B.Monahan will request written confirmation of equipment to be used and where it is to be staged. A site visit can be scheduled, but Commission will need written submission/narrative on the process in advance.

10. Correspondence/Expenditures

11. Minutes – January 26, 2012

Motion to approve January 26, 2012 Minutes; Seconded 5-0

Adjournment

Motion to adjourn at 9:50pm; Seconded 5-0

The next Conservation Commission Meeting is scheduled for **Thursday, March 8, 2012** in the Wayland Town Building.

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.