

WAYLAND CONSERVATION COMMISSION

Minutes Thursday, March 8, 2012 7:30 - 9:30PM

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

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

Minutes: Andrea Upham

Not present: Ted Harding, John Sullivan

A. Irwin opened the meeting at 7:30pm noting a quorum was present.

1. **Citizens Time**

No comments were offered.

2. **Minutes – February 16, 2012**

Motion to approve February 16, 2012 Minutes as edited; Seconded 4-0

3. **Wetlands Violation**

B.Monahan reported to the Commission on an apparent violation which was brought to his attention at 50 Rich Valley Road involving filling of wetlands. Communication was made with the homeowner and B.Monahan will be speaking with the local contractor as well. A letter will be sent. B.Monahan had no recommendation yet on enforcement until the matter is further researched, and he will provide update at the March 22 meeting.

4. **7:35 pm –Public Meeting, 24 Estes Street LLC, Applicant, 55 Rice Road, File D-798:** Request for Determination of Applicability filed by 24 Estes Street LLC, 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 for a 24' x 24' addition, a new septic system, grading, and landscaping at 55 Rice Road, Wayland. The proposed work is shown on Wayland's Assessors Map 049, Parcel 001.

Mike DiModica of MJ DiModica Excavating, and Matt Roman, 24 Estes Street, LLC, Applicant, were present for the discussion. Mr. DiModica reported that the project is a 24' x 24' addition on the northerly side with a new septic to the southerly side of the parcel. The plan was reviewed with the Commission, noting that the property owner is moving from 2 to 4 bedrooms. Trenches were reviewed, and Mr. DiModica confirmed that on January 23, 2012 the soil was tested with the Board of Health and two perk tests were both 10 minutes per inch. Mr. DiModica reported that the wetlands were flagged in January by Goddard Consulting as shown on the plan, and he confirmed that the work is outside of the buffer zone except for a small corner of the proposed addition and the demolition of the existing cesspool. Re-establishment of the rear yard area which is overgrown is also planned. Mr. DiModica mentioned that he was contacted by B.Monahan regarding the stream he noted on the back portion of the parcel. M.DiModica looked at the area and notified Scott Goddard. M.DiModica reported that he didn't see flow to anything at the time and reported that he and Mr. Goddard also walked the area with B.Monahan and B.Howell and saw water but no flow. Mr. DiModica pointed out on the GIS site printout the area near the stone wall which was being discussed. B.Monahan explained

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they will have to spend time to evaluate flow, adding that channels can be seen well on infrared but may not be well defined this time of year and may flow south normally. Mr. DiModica passed out a sketch/overlay of the outfall point showing that work would be outside of the area if in fact it were a stream. A.Irwin asked for confirmation that work would be in the outer riparian zone, and M.DiModica confirmed that fact. A.Irwin inquired about whether there is a defined limit of lawn, and Mr. DiModica pointed that out on the plan following the stone wall to a 90-degree turn. A.Irwin asked for confirmation that there will be no increase to the limit of lawn and Mr. DiModica confirmed that there would not. A.Irwin stated that where the stream is presumed perennial, we are in the outer riparian zone and not increasing the limit of lawn. Mr. DiModica went on to say that due to the property not being maintained, the back yard is overgrown. One 18" dead tree is to be taken down. B.Howell made mention of the new driveway being part of the project. M.DiModica reported that based on B.Monahan's recommendation, he is planning a drip edge for mitigation. B.Monahan stated that there are mulch sock products that don't require silt fence and that two are approved for use by the Commission – Filtermitt and Filtrexx. A.Irwin asked if the plan is to return to existing grade for the septic, and M.DiModica confirmed that is the plan.

Motion to issue a Negative Determination w/conditions under the Wetlands Protection Act; Seconded 5-0

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

Motion to require a \$1,200 Performance Guarantee; Seconded 5-0

5. **7:50 pm – Public Meeting, Eileen Stanford, Applicant, 22 White Road, File D-799:** Request for Determination of Applicability filed by Eileen Stanford 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 for a replacement septic system at 22 White Road, Wayland. The proposed work is shown on Wayland's Assessors Map 025, Parcel 065.

Eileen Stanford, Applicant, and Brandon Ducharme of Ducharme & Dillis, were present. Mr. Ducharme reviewed the plan for the septic repair project, showing the existing 3-bedroom home with the septic in back. The existing septic is located within 100 feet of the wetland. Ms. Stanford discovered last fall that the septic doesn't pass Title V. They are permitting with the Board of Health to relocate the system further away from the wetlands in the front yard. The existing plumbing comes out under the slab in back, so they are looking to remove the existing tank and replace it with a new system in front with a 14' x 45' leaching bed. Mr. Ducharme added that there is an intermittent stream in back and that based on comments from the Commission, the plan is now revised to presume a perennial stream. Mr. Ducharme reviewed the sight constraints. They plan to work around specimen trees as best they can, but four trees in the yard will need to be removed (2 within the 100-foot buffer zone and two in the outer riverfront) so the revised plan is based on planting policy furnished by B.Monahan. Most of the yard is tight, but there is an open area in back so they propose plantings in the back to include 6 trees and 21 shrubs, which is in excess of policy requirements. Plans are to use highbush blueberry, gray dogwood, etc. Mr. Ducharme confirmed that minus the trees, the result will be the same with grades and a year from now it will be the same with no further encroachment. A.Irwin raised issues of limit of lawn delineation and shed on the plan. B.Monahan explained that the old application for a deck and shed was before the existence of the Bylaw and was discussed back then. Ms. Stanford shared that it was a paddock at one time and that the horse

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barn has been there for years. A.Irwin stipulated that the limit of lawn designation should be made clear to any new owners. Ms. Stanford asked for clarification of the definition of “limit of lawn” phrase, and A.Irwin explained that the Commission likes to see clear definition of where mowed area ends. B.Monahan added that currently the lawn area is the fenced area. A.Irwin expressed that the fence will be identified as the limit of lawn. B.Monahan expressed that it is allowed to the front of the shed. Brief discussion ensued of fencing the trees that are to be saved. B.Monahan noted some erosion at the end of the driveway and suggested that crushed stone might help there. Mr. Ducharme said that there will be crushed stone on site for the leaching bed and some could be used there. A.Irwin confirmed to Ms. Stanford that the design does not accommodate a garbage disposal. E.Stanford said that the house does have one but it has never been used and asked if she should have it removed. A.Irwin encouraged that she arrange for a plumber to do that. Brief discussion ensued of Filtermitt product.

Motion to issue a Negative Determination w/conditions under the Wetlands Protection Act; Seconded 5-0

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

Motion to require a \$1,200 Performance Guarantee; Seconded 5-0

6. Compliance Updates

55 Knollwood Lane – Proposed Soil Removal

A.Irwin reported that we have made progress and that the current proposal from the homeowner is the use of two separate machines – one larger machine on the top of the hill and one smaller one to track down the hill on a cable from the large machine. It will have skids and a soil box that will be pulled up and down the hill and trucked out and a vactor will be used for the finish work. A.Irwin summarized that we now understand the concept and have confirmed that the work cannot start unless we are present, and we will watch the first few passes of the method and then they will be allowed to proceed. March 20 is confirmed as the start of work, which is anticipated to take three days. A.Irwin noted that a Certificate of Insurance would be in the homeowner’s best interests. If further damage to the slope is evident then the use of the excavator must immediately stop.

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

a. 142 Glezen Lane; DEP File 322-739

Melissa Fowler was present for the discussion. B.Monahan confirmed receipt of a detailed report stamped from the land surveyor stating stabilization of the area. Ms. Fowler presented photos showing stabilization and explained that the house is for sale and there is a potential buyer. She explained that the area of the septic is a little muddy based on septic testing required for sale of the property. M.Burke recalled having done a site inspection with B.Monahan. Ms. Fowler explained that they had only done one of the two proposed additions and then decided to sell and added that 120 feet of drip line was added all the way around, finishing the project with more than the necessary limit of lawn area. Ms. Fowler reviewed with the Commission all changes on the plan. A.Irwin made note of the As-built by John Hamel dated 2/22/12. A.Irwin asked B.Monahan if there are any outstanding issues. B.Monahan said there were three items of noncompliance that can’t be corrected but that would impact the total Performance Guarantee return.

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Motion to issue a Partial Certificate of Compliance w/continuing conditions under the Wetlands Protection Act; Seconded 5-0

Motion to issue a Partial Certificate of Compliance w/continuing conditions under the Chapter 194 Bylaw; Seconded 5-0

A.Irwin noted that copies of the As-built plans should be transferred to any new owner so that they would be aware of wetland jurisdiction areas on the property.

b. 145 Plain Road – Duplicate in Different Name; DEP File 322-500

A.Irwin summarized that a Partial Certificate of Compliance had been previously voted and we are reissuing the certificate noting that no further work is permitted under DEP File 322-500.

Motion to issue Partial Certificate of Compliance with continuing conditions, noting no further work permitted, under the Wetlands Protection Act; Seconded 5-0

c. Discussion – 7 Old Vineyard Way

A.Irwin summarized that the Commission had already voted to not issue a Certificate of Compliance at the present time, and there is no action to take at the moment to reconsider.

8. Discussion with Petitioner – CPC Warrant Article

Jay Sherry, 18 Pineneedle Road, introduced himself as 16-year resident of Wayland with four children, all of whom are Wayland High School graduates. Mr. Sherry provided a two-page handout to Commissioners. He summarized that he will be referring to the last three pages of what is in the Warrant. At the November Special Town Meeting, Mr. Sherry observed that the Town had upwards of \$33M in cash around Town; there was a resounding decision then that \$4M be transferred back to the taxpayers. The second largest fund of that \$33M was the CPA fund. After exploration and research Mr. Sherry shared his observation that the CPA fund has taken in \$9.5M in revenue over ten years but has only expended \$2.1M over a 10-year period, resulting in a \$7.4M balance. Mr. Sherry expressed that all are supportive of the idea of community preservation – adding the he had voted for the Act – but while it seemed like the right taxation level at the time, it now appears to be at least three or four times more than needed. He went on to say that the Town could have had a rate of .5% and could have afforded projects and had more money in everyone’s wallets. L.Kiernan asked Mr. Sherry how much match we would we have lost, and Mr. Sherry responded about \$2M. Mr. Sherry stated that when you take in 4.5 times more than you spend, something is out of whack, and revenues/expenditures should be more in synch.

A.Irwin expressed that it seems Mr. Sherry’s opinion seems to suggest that if the Town is wise and saves money, then that is bad, adding that the Commission has always tried to prioritize the opportunities in front of them in Town and that they need to look forward to having that fund available for those things. Does that approach represent substantial excess or a matter of prudence? A.Irwin added that the Commission has not just been spending money for the sake of spending it but, rather, focusing on the open space plan and prioritizing activities. He further explained that there are ample projects and more land to acquire than we have funding at this point. Mr. Sherry asked if the Commission’s open space plan/master plan includes dates and prices. B.Howell responded that they don’t address the specifics until the time arrives.

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B.Monahan told Mr. Sherry that they are putting the open space plan on the website even though it's from 1995. B.Monahan shared that there is a lot of land around Pinebrook that is of interest to the Commission, adding that all the Commission can really use for price is the appraisal figure – that's the law. Mr. Sherry expressed that he feels this is an issue of income and expenditures, suggesting that the way it should work is that there be a rolling process over a three to five year basis for the Preservation Committee to present prospects of a high priority so Mike DiPietro could say "I need a CPA rate of "\$X" available. Mr. Sherry said that most other towns were saying 1.5% so we did, and the tax has been on auto pilot for years, adding that Dover-Sherborn has no CPA. M.Burke suggested that was the case because Dover-Sherborn already has so much conservation land. B.Monahan explained that they are starting to use real numbers so are trying to move toward that but just haven't had the time to devote to it.

A.Irwin explained that the Commission has one large parcel on their horizon for which the funds available are peanuts; the longer-term perspective from our vantage point is looking out for funding on larger projects and being selective about spending – the "use it or lose it" philosophy doesn't serve us well and we would end up spending more for land; the Commission tries to be frugal. Mr. Sherry brought up the topic of Mainstone, stating that he heard the seller may be holding out for \$20M and asking if that would be a good use of town funds to acquire that property. B.Monahan responded that when he looks at the open space plan, Pinebrook comes to mind as there are pieces around it that would more than double its size. Mr. Sherry expressed his proposal is for projects to be brought by the Commission with a prioritized plan, an open space wish list with highest priority items in order to establish a 5-year budget, adding that he heard the Preservation Committee has it slotted for Mainstone. A.Irwin explained that it is very difficult to predict things at times, such as legacy situations. B.Howell expressed the need to be able to focus on both open space and affordable housing. B.Monahan assured Mr. Sherry that The Commission has never voted "Mainstone or bust" and added that the Commission recently picked up an area of Lee's farm stand for regulatory purposes.

A.Irwin summarized to Mr. Sherry that he had raised a good point for the Commission putting pen to paper about what the Commission is planning, adding that the conversation has been a useful discourse and point well taken. B.Monahan explained to Mr. Sherry that the Commission isn't always looking for entire parcels, adding that they want to save as much land as possible along Hayward Brook and other perennial streams in Town. Mr. Sherry expressed the need to put in context of how much is enough, adding that the plan should be balanced. R.Backman shared he had heard a rumor that CPA funds may be loosened up for recreation as well.

9. Review of Proposed Changes

a. Happy Hollow Wells; DEP File 322-763

A.Irwin summarized the letter that was received asking for relief on the new well to monitor groundwater. The DPW was asking for relief on the new well and wants to monitor once per quarter. The Commission's position is that they could use the existing well, but we would want continuous data logging. It was noted that Peter Fletcher has expressed being a fan of continuous data loggers.

**Motion to allow the use of the existing well with the need for continuous data logging;
Seconded 5-0**

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- b. 14 Squirrel Hill Road; DEP File 322-748
A.Irwin summarized that a letter was sent seeking further encroachment; moving landscaping further back. The Commission should proceed with an amendment. A.Irwin would like B.Monahan to get an amendment beforehand and let them know the Commission appreciates their coming to us in advance.

10. Other

- a. 56 Orchard Lane; File D-733
B.Monahan confirmed that verification of fence measurement will be requested from property owner
- b. Effective Date of Decisions – Concord Road; DEP Files 322-708, 322-709, and 322-710
Permit was issued during period of the two-year extensions issued by state legislature. Confirmation was requested to confirm that the permit expiration would now be two years beyond the stated date. The Commission stated no objection.
- c. 11 Old Sudbury Road Correspondence; DEP File 322-765
A.Irwin summarized that a letter was received asking for an extension of time to file the Notice of Intent in order to evaluate the stream. Discussion ensued of the no-disturb (15 feet for non-riverfront existing developments and 30-foot buffer zone for new developments). The distance is 100 feet if it's a river. A.Irwin stating that the applicant/engineer is trying to lessen impact that is not a perennial water source; however, with groundwater levels way down right now during these dry conditions we have had, the Commission would expect filing to be made by June 1, 2012. B.Monahan agreed that where there already exists a period of such low precipitation by which to evaluate the stream, there is nothing to be gained by waiting. Confirmation reached on Notice of Intent to be filed by June 1, 2012.

11. Issuance of Order of Conditions/Chapter 194 Permit

Continued Public Meeting, Wayland Conservation, Applicant, Town-Wide Request for Generic Home Repair (roofing, siding, window replacements), File D-797: Request for 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 issue a Negative Determination w/conditions under the Wetlands Protection Act; Seconded 5-0

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

B.Monahan will distribute language to be reviewed by at least three commissioners

**12. Land Management matters to be discussed at 8:15pm at the March 22, 2012 meeting
Adjournment**

Motion to adjourn at 9:30pm; Seconded 5-0