

WAYLAND CONSERVATION COMMISSION

Minutes Thursday, September 26, 2013 7:35 - 10:55PM

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

Present: Commissioners: Roger Backman, Sherre Greenbaum, Barbara Howell, Betty Salzberg, John Sullivan (7:50pm), **Chairman:** Andy Irwin, **Conservation Administrator:** Brian Monahan

Minutes: Andrea Upham

A.Irwin opened the meeting at 7:35 PM noting that a quorum was present.

1. 7:35 pm – Citizens Time

Gordon Cliff, Highfields Road, offered personal comment concerning the DPW Access Road.

A.Irwin explained that public comment is reserved for items not being covered in hearings later on the agenda.

- 2. 7:36 pm - Continued Public Hearing Town of Wayland, Facilities Department, Applicant, DPW Access Facility Roadway off Route 20, DEP File No. 322-808:** Notice of Intent filed pursuant to the Wetlands Protection Act, G.L. ch. 131 s. 40 and an application filed pursuant to Wayland's Wetlands and Water Resources Protection Bylaw, Chapter 194 filed by Town of Wayland – Facilities Department. The project is the DPW facility access road upgrade and environmental improvements off Route 20 shown on Assessor's Map 22, Parcels 005 & 007 and Map 17, Parcels 018 and 018C.

Gordon Cliff, Highfields Road, commented that forty years ago we built an access road; the road has served the town well and nature has adapted its way around the road. Mr. Cliff further expressed that the DPW building move from their current facility will leave room for recreation space near the Middle School and he would like to see the Commission make their decision based on what is currently best for the Town as opposed to revisiting a decision made forty years ago.

James Pearson and Jeff Alberti of Weston & Sampson and John Moynihan, Public Facilities Director, were present for the discussion. A.Irwin introduced Lisa Eggleston, who provided drainage consulting peer review on the project. Mr. Pearson brought updated plans and reviewed changes, including three additional amphibian crossings on p.C2, bringing the total to five crossings spaced 200 feet apart. In addition, the planting table was modified to be consistent with the NOI narrative as to number of shrubs.

A.Irwin noted new correspondence received after hours today in the Conservation office dated 9/26/13 from DEP NERO offering comments concerning the readability of plans and definition of wetland boundaries. Mr. Alberti summarized Weston & Sampson's response to the DEP. Concerning the wetland boundaries response, A.Irwin noted that Peter Fletcher addressed that matter previously.

Concerning Item #4, A.Irwin noted that the stop logs are for the conveyance under the road and the cleaning out of those conduits will increase flow from what is the current condition, which is the purpose for the upgrade. Concerning Item #5, A.Irwin asked if a letter was sent to DEP, and Mr. Alberti confirmed it is being sent for their receipt tomorrow morning. A.Irwin noted a condition for the replication area monitoring. Ms. Eggleston commented on having sent written comments on 9/3/13 in response to the August NOI packet concerning drainage design. Ms. Eggleston noted she wasn't in attendance for the last hearing but has since reviewed the detail from Weston & Sampson and it satisfactorily addressed all of her comments. R.Backman asked about an illicit discharge statement, which Ms. Eggleston confirmed in this case will be a statement by the owner stating no illicit discharges exist (DEP standard #10).

Tom Sciacca, Rolling Lane, commented that he feels there is a conflict between the wetland regulations and the NHESP desires. Mr. Sciacca reviewed his comments sent to the Commission in the

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past week, noting that the Commission cannot ignore the existence of the 1978 OOC, which has to be closed out explicitly. Commenting on item #18, he felt options were to remove the road or assume conditions were met and require a new NOI. Mr. Sciacca commented that proponents told Town Meeting that this access road would cost \$50K and it is now \$1.5M. R.Backman challenged those figures and noted to Mr. Sciacca that the cost is the complete road, rather than just a portion, and J.Moynihan added that all mitigation measures are included in that cost. R.Backman reiterated that the two figures should not be compared as one is a partial roadway and the other is the complete project. Concerning the “redevelopment” meaning, R.Backman noted there once was a house on the property. Mr. Sciacca commented that the marsh on both sides will quickly fill in and this would not meet the intent of redevelopment.

J.Moynihan noted that Town Counsel issued his opinion on what a solid waste disposal is, confirming that a transfer station or landfill both qualify.

Mr. Sciacca argued that Town Counsel was speaking in the context of town meeting, not the Order of Conditions, and expressed that the OOC issue has not yet been addressed as there is a need to seriously evaluate alternatives and other sites available have not been researched.

R.Backman commented that River Road would do more damage than anything at the current access road as the area floods over and multiple trucks and traffic would cause more damage than the current access road and he cited Article 19 for the purchase of land and Motion #2 where the selectmen were noted as making the decision.

S.Greenbaum inquired about closing out the previous OOC, and A.Irwin noted that it shouldn't be closed until the mitigations are completed for this. A.Irwin further commented that the NOI is to address impacts road construction and we've added additional factors of work to add stormwater quality improvements as well as mitigation effects of bordering vegetated wetland replication and bordering land subject to flooding area where the rate of flow through culverts will deliver flow in flood stages greater than currently exists.

J.Sullivan spoke about serving on the Conservation Commission with Mr. Sciacca and always anticipated that the road was going to be closed and become Conservation land and his conscience will not let him vote in favor of the proposal. S.Greenbaum responded that she sympathizes but that while there are issues that cannot be addressed, we can look at improvements and the bigger picture. B.Howell commented that it is redevelopment. A.Irwin spoke about the offset of lands and the fact that we are getting a larger piece of land on the east side protecting the wildlife area. J.Sullivan commented that they did a great job with the proposal but he has to respond to his conscience.

Ms. Eggleston commented that it is important to separate projects and impacts and stated that by permitting this, you are finding that the previous OOC is no longer valid most likely on the basis that the OOC cited the dump and life expectancy and things have changed with dumps/landfill/transfer stations. Ms. Eggleston added that the need for that space has continued beyond the life expectancy of the dump and it now makes sense to leave the road there; the finding from NHESP prefers it remain and the wetland impacts are associated with the mitigation.

B.Monahan noted that stamped plans were received 9/26/13 with a revision date of 9/20/13.

S.Greenbaum asked if the Commission needs to make findings per the temporary/permanent road. A.Irwin stated that the vote of Town Meeting was that the road could be acquired to become permanent with the provision that there will be mitigation as discussed. There remained an administrative matter for Conservation, and in that context we considered the mitigation and offset.

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Mr. Drobinski noted that the Commission is welcome to come out and observe the activity, which should be the week of October 14 and is proposed for five days.

Linda Segal announced that the Annual PIP meeting is on 12/4/13.

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

5. **Minutes – September 12, 2013**

Motion to approve the September 12, 2013 Minutes as edited; Seconded 4-0 (2 abstain)

6. **8:53 pm – Public Meeting, SVT, Applicant, Greenways Conservation Area, File D-828:** Request for Determination of Applicability filed pursuant to the Wetlands Protection Act (MGL Chap 131, Sec. 40) and an application filed pursuant to Wayland’s Wetlands and Water Resources Protection Bylaw, Chapter 194, filed by Sudbury Valley Trustees for work at the Greenways Conservation Area along the wetland field margin doing mowing and then selective herbicides shown on Wayland’s Assessors Map 33, Parcel 001A, 001B, and 001D.

Laura Mattei of Sudbury Valley Trustees and Jessica Toro of Native Habitat Restoration were present for the discussion. Ms. Mattei explained that this matter had been discussed at a previous meeting for field improvement and reduction of invasive species. The wetland borders owned by SVT are on the south side of the center field and around the perimeter of the south fields. Ms. Mattei explained the project goal is to reduce dominance and abundance of invasive plants utilizing the mowing/spraying method. A.Irwin inquired about the debris from cutting producing more sprouts. Ms. Toro explained that the mower mulches up all material and the invasives don’t re-sprout from woody debris, and added that cutting that much buckthorn would have created a lot of debris. Ms. Toro confirmed that the forestry mower will travel inward and perpendicular to minimize disruption. Ms. Toro confirmed the use of Rodeo – a wetland-approved herbicide – along with another they make themselves, both of which are approved for this habitat. Ms. Toro confirmed they are licensed applicators. A.Irwin requested the pesticide registration confirmation and MSDS.

Mike Lowery commented that the Board of Health requires registration with them as well.

Tom Sciacca commented on the Noyes house on the 375 tour as the only house of that age with a viewscape that exists today as it was years ago, so efforts to open up land is a good thing.

Motion to issue a Negative Determination w/conditions under the Wetlands Protection Act; Seconded 6-0

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

7. **Informal Discussion – 68 Lakeshore Drive Septic Repair Discussion**

Kevin O’Leary of the Jillson Company was present for the discussion along with homeowner Harvey Yazijian. Mr. Jillson showed a sketch plan for discussion purposes and explained they are looking for clarification for the owners to help them move forward with a septic project. The 12K square-foot property is comprised of two lots obstructed by a right-of-way. Mr. O’Leary highlighted that the wetlands are delineated and due to limitations they can’t be more than 66 feet away from wetlands with the leaching area. They wish to replace the existing cesspool with no expansion in the northeasterly corner and they wish to not provide secondary sewage treatment and are looking for direction from the Commission.

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A.Irwin explained that there exists a presumption that with a 75-foot setback, discharge will not have impact on wetlands and the state regulations recognize our local 75-foot setback looking for no impact; a variance from the Board of Health would discuss alternative systems. A.Irwin noted that one part is feasibility and the other is impact so it is up to the applicant/engineer to address those aspects of that rule and if someone is looking at being closer than the approved setback, they must address the 'no impact' issue. A.Irwin added that there are presumptions concerning Title V systems which should be carefully read. Discussion ensued of the burden of proof being on the applicant. Mr. O'Leary commented that his effort is always to try conventional and simple design, given the maintenance and component cost to the homeowner; his approach here is the simple gravity flow system as far from the pond as possible. Concerning alternative systems, Mr. O'Leary expressed the opinion that the Presby system does not provide adequate aeration.

Mike Lowery noted a Busse system that has a video link available.

Mr. Yazjian asked for confirmation that the issue is they have to prove or argue that their proposed system will not have a negative impact on the pond. A.Irwin read from the regulations concerning setback distance, alternatives, Board of Health approval, etc. A.Irwin asked that they consider ways to reduce flow and provide credible evidence by a competent professional providing that conditions are favorable in the proposed location, adding that soils can help.

Mike Lowery offered his experience where leaching was installed quite a distance down – 18 feet below road grade – with flow away from the pond. A.Irwin cautioned Mr. O'Leary that they be mindful of the easement and consider variance and mitigation.

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

- a. 138 Glezen Lane; DEP File No. 322-774

B.Monahan confirmed that there was a lack of site inspections and there is a no-disturb marked by plants.

Motion to issue a partial Certificate of Compliance under the Wetlands Protection Act; Seconded 6-0
Motion to issue a partial Certificate of Compliance under the Chapter 194 Bylaw; Seconded 6-0

- b. 27 York Road; DEP File No. 322-282

B.Monahan noted that no further work is required on Lot 18.

Motion to issue a partial Certificate of Compliance under the Wetlands Protection Act; Seconded 6-0
Motion to issue a partial Certificate of Compliance under the Chapter 194 Bylaw; Seconded 6-0

J.Sullivan departed the meeting at 9:50pm.

9. Compliance Updates

- a. **122 Lakeshore Drive; DEP File No. 322-803 - Commencing of work**

Fred Mannix, homeowner, was present for the discussion. B.Monahan reported that work started on the property without proper notice – it went from inside work to the structure having no walls. A.Irwin commented that demolition represents the start of work. Mr. Mannix noted that Chapter 91 may be required to remove the old retaining wall and proposed a change in wording in his Permit. A.Irwin asked the Commission if they would consider a change to the condition in the way of an amendment. A.Irwin encouraged Mr. Mannix to anticipate any deviations which he might foresee moving forward as well.

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Regarding the start of work, Mr. Mannix explained that he obtained a building permit and part of that work was to take down the upper walls of the house. Further, Mr. Mannix expressed that he felt he was proceeding with the work permitted from the previous RDA filed by him, for which he received a negative determination. B.Monahan commented that he felt it was fair to defer to the Building Commissioner for determination on the current activity. Mr. Mannix noted that the footings are still there. A.Irwin stated that work will cease until the Building Department gives their determination. The Conservation Commission will consult the orders and defer to B.Monahan relative to compliance. Mr. Mannix said work has stopped.

Mike Lowery made comments in support of the need and method of the walls coming down at the property. A.Irwin noted that the amendment piece will have to be resolved.

- b. 121 Lakeshore Drive; DEP File No. 322-775 – Change of scope**
This item was tabled for a future meeting discussion.

10. Request for Performance Guarantee or Other 53G Funds

124 Lakeshore Drive; DEP File No. 322-802; Peer Review – Return of remaining funds.
Motion to return the remaining \$480; Seconded 5-0

11. Citizen Inquiries

“Oh Deer” Correspondence

A.Irwin noted that a letter was sent to the business owner concerning water withdrawal from Mill Pond though no response has yet been received.

12. Other

- a. Meeting Schedule:** Conservation Commission meeting for October 10, 2013 is changed to Wednesday, October 9, 2013
- b. Annual Report of the Conservation Commission**
The Commission expressed their thanks to Barbara Howell for her usual excellent work on the Annual Report submission.
- c. Pertinent Conservation Commission Issues sent to BOS**
A.Irwin reported that B.Monahan was asked by the Board of Selectmen for a list of issues facing the Conservation Commission and a list was provided and briefly summarized by A.Irwin.
- d. Open Meeting Law Presentation – Overview of requirements**
A.Irwin discussed some of the areas of concern with the open meeting law and noted that a work group of Chapter 193, for instance, requires noticing. Discussion ensued of areas of concern, such as forwarding emails, 1:1 discussions not involving opinions, etc. A.Irwin confirmed that site visits are given exemptions but caution is required to not deliberate on a site visit.
- e. Discussion of Gas Regulator Project – Concord Road; DEP File No. 322-793**

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A.Irwin reported on this previously-approved project, noting that the workers found a water line in the exact location of the proposed new station so they abandoned it and will now put the line in an area which is less sensitive and not in Conservation Commission jurisdiction.

B.Monahan noted that they are still under the order but not doing all of the work.

f. Chapter 193 Issues: 45 Moore Road

B.Monahan reported that he sent correspondence noting that straw wattles alone are not adequate on the site and there is runoff onto Moore Road and a response had been received.

g. Land Acquisition Update: Forty Acres Drive and Lincoln Road

B.Monahan noted the need to take a position for Town Meeting and reported that they are working on several issues which will be discussed at a future meeting. Concerning Lincoln Road, A.Irwin noted that public access is necessary. Brief discussion ensued on land around Pine Brook and the process of appraisals in general.

h. Redevelopment around sensitive areas – Coordination with other Boards

A.Irwin noted that discussions with the Board of Health are a top priority and discussion of stormwater matters are on the forefront for the coming year.

13. Correspondence/Expenditures

14. Adjournment

Motion to adjourn at 10:55pm; Seconded 5-0

**TOWN OF WAYLAND
MASSACHUSETTS
CONSERVATION COMMISSION**

**LIST OF PUBLIC DOCUMENTS PROVIDED TO THE CONSERVATION COMMISSION
September 13, 2013 to September 26, 2013**

September 17, 2013

322-807 Notice to start work at 21 French Avenue from Drake Associates

September 18, 2013

322-802/803 Letter re: condition 18 for 122-124 Lakeshore Drive from EcoTec, Inc.

September 19, 2013

322-808 Response to DPW alternatives analysis comments from Weston & Sampson
322-624 Inspection Report on Wayland Commons from Sullivan, Connors & Associates
322-793 Letter re: Gas Regulator Station Relocation from Andrea Kendall, LEC

September 20, 2013

322-701/744 Town Center Inspection Reports from Griffin Engineering Group, LLC
322-808 Follow-up comments on DPW Access Road from Tom Sciacca
322-710 Inspection Report on Fieldstone Estates from H2O Engineering

September 23, 2013

NOI for Happy Hollow Chemical Feed Facility and Water Main from Tata & Howard
Request for 2014 garden plot from J.Langsdorf
NOI – Happy Hollow Chemical Feed Facility and Water Main from Tata & Howard
RDA – Happy Hollow Chlorine Analyzer from Tata & Howard
ANRAD for 7 Lincoln Road from EcoTec Inc.
322-793 Summary package for Gas Regulator Station relocation from Andrea Kendall/LEC

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Notification of Environmental Sampling at 430 Boston Post Road from ERM

September 25, 2013

322-802/803 Request for condition #17 wording change to 122/124 Lakeshore Permits from F.Mannix
ZBA Hearing documents from F.Mannix
Building Permit and approved plans from F.Mannix
Foundation reinforcement drawings from F.Mannix

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322-808 Revised Sheets C2, C4 and C5 for DPW Access Road plans from Weston & Sampson
Letter seeking shed construction approval at 22 Lundy Lane from L. Robertson

LIST OF EXPENDITURES September 13, 2013 to September 26, 2013

9/17/13	Lisa Eggleston	\$1,020.00 (122-124 Lakeshore Peer Review funded by Applicant)
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