

WAYLAND CONSERVATION COMMISSION

Minutes, Thursday, July 17, 2014 7:34 – 10:10PM

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

Present: Commissioners: Roger Backman, Bob Goldsmith, Sherre Greenbaum, Acting Chairman Barbara Howell, Conservation Administrator: Brian Monahan

Not present: Betty Salzberg, John Sullivan

Minutes: Andrea Upham

B.Howell opened the meeting at 7:34PM noting that a quorum was present.

1. **7:34 pm – Citizens Time: This is a time for input to the Commission regarding items that are *not* on the agenda.**

Tom Sciacca reported on a pre-screening meeting that was held with DEP concerning the DPW Access Roadway. Mr. Sciacca noted that DEP confirmed that this road has in fact, and will, result in environmental damage. Mr. Sciacca told Commissioners his focus was on wildlife habitat but that DEP also mentioned other existing wetland issues and there appeared to be no disagreement between the appealing group and DEP on the facts and the environmental issues. Mr. Sciacca reported there are many legal issues on which Sally Newbury has focused. Mr. Sciacca questioned whether the Conservation Commission wishes to go along with their settlement proposal to allow the road to remain in place with Conservation Commission mitigation measures for as long as the transfer station exists, but forbid its use for any other purpose, such as DPW access, in order to maintain the principle of it being a road maintained as a temporary road acknowledging that some day when it is no longer needed for purposes of transfer station activity, it can be removed. B.Monahan noted that the Commission hears comments during citizens time more for purposes of listening than responding. S.Greenbaum noted what was most impressive at the meeting was that Mr. DiPietro said that DEP never would have permitted the road today but mitigation is occurring. The issue of use is a legal issue and counsel says it can be used for DPW purposes based on zoning. Mr. Sciacca said he maintains that use restrictions are not appropriate under the Wetlands Protection Act, and the Administrative Hearing Officer seemed less clear. B.Monahan noted the Commission will address as a future discussion as appropriate.

2. **Re-organization**

This item was tabled.

3. **Minutes: April 17, 2014**
Motion to accept the Minutes of April 17, 2014; Seconded 3-0-1
4. **7:35 Continued Public Hearing - Roland Gray, III, Esq., Trustee, Applicant, 7 Lincoln Road, DEP File No. 322-826:** Notice of Intent filed pursuant to the MA Wetlands Protection Act and an application filed pursuant to Wayland's Wetlands and Water Resources Protection Bylaw, Chapter 194, filed by Roland Gray, III Esq., Trustee. The applicant is proposing the installation of a 5-bedroom septic system, grading, and associated site work at 7 Lincoln Road, Wayland, shown on Assessor's Map 11, Parcel 083. Work is within riverfront area and buffer zone.

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Amy Kwesell of Rubin and Rudman and Scott Morrison of EcoTec were present for the discussion. Ms. Kwesell noted possible issues with a quorum and this item was postponed for a time to await the potential arrival of one more Commission member.

5. Other

a. Discussion – Changes in the Site Plan for 11 Three Ponds Road; D-840

B.Monahan reported that the applicant wishes to increase the impervious surface on the lot by seven square feet. The Commission noted that the filing of an amendment is in order.

**Motion to require the applicant to request an amendment to the Chapter 194 Permit;
Seconded 4-0**

b. Meeting Schedule and Meeting Starting Time Discussion

S.Greenbaum suggested starting future Commission meetings at 7:15pm. B.Monahan reviewed upcoming dates and noted that the September 11 meeting will now shift to September 18, 2014 and subsequent meetings will take place on October 2 and 23, November 6 and 20, December 4 and 18, and January 8, 2015.

c. Tree Replacement summary

The language discussed at the last meeting was reviewed.

d. Capital Budgets

S.Greenbaum reported that the Finance Committee's newest idea is to get all issues pertaining to capital planning money addressed by groups/committees/boards and she provided Commissioners with a handout of long-range planning topics from the recent meeting. At S.Greenbaum's suggestion, the Finance Committee added open space to the list and the Commission should discuss this as well as other items. B.Monahan responded that land management items can be bundled into one capital item. R.Backman asked how much money remains in the Conservation Fund and B.Monahan noted that approximately \$50K remains as it was previously capped. B.Monahan noted this item should be discussed at an upcoming agenda. Snake Brook Dam was briefly discussed.

6. Continued Public Hearing - Roland Gray, III, Esq., Trustee, Applicant, 7 Lincoln Road, DEP File No. 322-826: Notice of Intent filed pursuant to the MA Wetlands Protection Act and an application filed pursuant to Wayland's Wetlands and Water Resources Protection Bylaw, Chapter 194, filed by Roland Gray, III Esq., Trustee. The applicant is proposing the installation of a 5-bedroom septic system, grading, and associated site work at 7 Lincoln Road, Wayland, shown on Assessor's Map 11, Parcel 083. Work is within riverfront area and buffer zone.

Ms. Kwesell noted permission to continue the hearing until the next meeting.

**Motion to continue the hearing to August 7, 2014 at 7:35pm under the Wetlands Protection Act;
Seconded 4-0**

**Motion to continue the hearing to August 7, 2014 at 7:35pm under the Chapter 194 Bylaw;
Seconded 4-0**

7. 8:15 p.m. – Public Meeting, Kenneth Todd Nelson, Applicant, 8 Hill Street, File D-843: Request for Determination filed pursuant to the MA Wetlands Protection Act and an application filed pursuant to Wayland's Wetlands and Water Resources Protection Bylaw, Chapter 194, filed by

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Kenneth Todd Nelson. The applicant is requesting confirmation that there are no wetlands on site or buffer zone at 8 Hill Street, Wayland, MA shown on Assessor's Map 51B, Parcel 029.

Scott Morrison of EcoTec was present for the discussion along with Todd Nelson, Applicant, Tom Grassia, Esquire and Steve Bretmeier. Mr. Morrison explained the application seeking confirmation that no wetland resource areas exist on or surrounding the site. He noted that an earlier RDA was filed in late 2013 citing no wetlands on the site but the Commission brought up an issue that isolated pockets could qualify under the Bylaw and the RDA was withdrawn. Mr. Morrison reported that Paul McManus conducted a site visit on 3/31/14 following heavy snow melt and 3" of rain to evaluate the site and determine if areas could pond water in relation to the Bylaw. He reported that no areas on site held the amount of water noted in the Bylaw and water was draining from the site. Mr. Morrison pointed out 6" topo contours which were done at B. Monahan's request. B. Monahan noted that trees greater than six inches were not shown on the plan, such as the large silver maple he had seen on a recent site visit, and added that land subject to flooding and inundation could have used a peer review, but there is a time element with Requests for Determination of Applicability. Mr. Morrison said soils were evaluated and included in the application noting non-hydric soils throughout the site. Mr. Morrison further reported no bordering vegetated wetlands on or within 100 feet, no areas as isolated land subject to flooding and inundation under State and Bylaw, no rivers, and FEMA maps attached indicate the area is not within floodplain. A thorough analysis of no wetland resource areas was reported by Mr. Morrison with confirmation by the Commission now being sought.

B. Monahan noted that the site has been heavily disturbed with soil testing and the question of isolated land subject to flooding and inundation was modified by the digging and the definition in the Bylaw mentions plants and he questions the vegetated cover. S. Greenbaum took issue with no trees being noted on the plan along with no waiver requested. Mr. Morrison responded that there is no work proposed by the application as they are just seeking wetland determination. B. Monahan read an excerpt concerning swamps and associated plantings. Mr. Morrison noted that even in a heavy rainstorm there was no ponded water on the property and based upon the definition, the area would have to routinely pond. S. Greenbaum commented that the project should have peer review. B. Howell noted low areas across the road and it seems that water could travel over the road and onto 8 Hill Street and noted seeing plants such as skunk cabbage, cinnamon fern, etc. on the 8 Hill Street site. B. Monahan explained that the issue at hand is to determine "could it hold" not "does it hold" water.

Justin Woodside, 22 South Street, told the Commission that he has had water on his property, which is kitty corner from 8 Hill Street, and had ponding water in his back yard. He learned that in the late 1960s Hill Street was built up with gravel preventing people from getting stuck in mud, and it doesn't allow for drainage which requires everyone to use pumps. Mr. Morrison responded that if historically the area was a wetland, there would be hydric soils. B. Goldsmith noted that Chapter 194 states "and/or hydric soils" noting that it is one measure used and noted a fairly large depression with areas around it being higher. Mr. Morrison noted the area was less than 500 square feet, which is less than the threshold.

Chuck Samiotes, abutter at 65 East Plain Street, said it is not uncommon for the site to totally flood and flooding erodes the roadway. He reported that it floods during winter all the time and said that on March 31 the rainfall was less than 2" rather than 3" as noted in the presentation. Mr. Samiotes noted that it has been this way for the 27 years he has been there.

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Joan Ferguson, 14 Hill Street, said she has lived in a raised ranch home for 40+ years and that homeowners were requested to build on a certain area and had to bring in tons of gravel to elevate properties above the water table as a requirement of the Town.

S.Greenbaum asked the Commission what options exist for their decision making this evening. B.Goldsmith commented that there are conflicting opinions that make a vote difficult.

Mr. Morrison requested a break for a client discussion at 8:40pm and returned to the Commission noting that the applicant is granting a time extension to the Commission thereby waiving the right to appeal the Commission's decision wasn't timely, with a future meeting date that would likely be in two meetings. Commissioners asked about precedents and B.Monahan recalled it has happened once in the past. Mr. Morrison noted that they had provided the work requested when the previous determination from a different applicant was withdrawn and made the offer to extend the current application to allow for peer review. B.Monahan noted that a Notice of Intent provides the option of time and continuance. B. Monahan read from the Wetlands Protection Act regulations which stated "shall" make a decision rather than continue a hearing on an RDA. Mr. Grassia explained that the applicant is the party offering the extension to allow the Commission the time needed so there would be no reason for its objection. Discussion ensued on how to procedurally respond. S. Greenbaum suggested the applicant withdraw the application under the Wetlands Protection Act and reapply. B.Monahan said he is not uncomfortable with a Bylaw extension as it is a much smaller threshold so the Commission can vote the application for the Wetlands Protection Act and then continue the Bylaw to allow for a peer review to be conducted. B.Monahan indicated being comfortable there are no resource areas under the Wetlands Protection Act so a vote can be taken and the Bylaw portion extended.

Motion to issue a Negative Determination w/conditions under the Wetlands Protection Act; Seconded 2-2

B.Monahan read details on isolated land subject to flooding and inundation under the Wetlands Protection Act. Mr. Grassia commented that the Commission should not back away from getting information to add to this decision and the applicant welcomes peer review and approves of the date extension.

Mr. Morrison announced a second brief recess at 9:05pm and returned confirming that they would grant the extension for six weeks. B.Monahan responded that it would be cleanest to withdraw under the Wetlands Protection Act and extend under the Bylaw. Discussion ensued on the Commission's 2-2 vote and whether it means a negative or positive finding. Mr. Morrison stated that if the Commission delivered a positive determination, they would need to designate the resource area that exists.

Motion to continue the Request for Determination of Applicability under the Chapter 194 Bylaw to August 28, 2014;Seconded 4-0

Motion to hire a peer review consultant in coordination with the applicant; Seconded 4-0

8. **Other – DEP File 322-759; Carriage House at Lee's Farm**
 - a. 134 Boston Post Road Question w.r.t. 6 month report

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Concerning the detailed report to be done six months prior to the end of the project, B.Monahan noted he suggested a summary assessment as to what is left to be done rather than a detailed report. Generally, the Conservation Restriction is the only outstanding item. R.Backman suggested there may be basin issues. B.Monahan said he requested details of what is known to be outstanding.

Motion to request details provided to the Commission of what is perceived or known to be outstanding on the project; Seconded 4-0

- b. Town Center O&M Plan DEP File No. 322-701
DEP's guidelines for O&M plan were discussed.
- 9. **Request for Certificate of Compliance [310 CMR 10.05 (9)]**
 - a. 113 Dudley Road; File D-825 – item tabled
- 10. **Request for Performance Guarantees or Other 53G Funds**
 - a. 12 Plain Road; File D-801
Motion to return the Performance Guarantee; Seconded 4-0
 - b. 42 Mathews Drive; File D-826
Motion to return the Performance Guarantee; Seconded 4-0
- 11. **Land Management**
 - a. Heard Farm Conservation Area – Drainage and Sign post
B.Monahan noted the need to keep this on radar. Ms. Eggleston may be asked for opinion. B.Monahan reported he went out with David Faist and found a manhole; there is a need to ascertain proper boundary. There is a need to know existing drainage. B.Goldsmith suggested asking S.Kadlik.
 - b. Update – Proposed CR for 134 Boston Post Road; DEP File 322-759
B.Monahan reported that S.Greenbaum is conducting CR reviews and suggested a process involving everyone's input on the Conservation Restrictions to S.Greenbaum.
- 12. **Compliance Updates**
 - a. 326 Boston Post Road; File D-841
B.Monahan indicated this item may be back before the Commission; a violation occurred and the engineer phoned him.
 - b. 533 Boston Post Road
B.Monahan indicated a violation occurred and a phone message was left with Conservation after work hours today.
 - c. 30 Lakeshore Drive – Tree Cutting
B.Monahan noted that four large trees were removed that were not included in the application. Discussion ensued as to whether fines or reduction of returned performance guaranteed should be considered. B.Monahan will send a letter.
 - d. Other – OOC for Access Roadway; DEP File 322-808

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B.Monahan noted that the application came in from Applicant John Moynihan, Director of Public Facilities, Town of Wayland; on the OOC the words “for the Board of Public Works” were added. Templates are being revised to clarify owner and other information in our Bylaw decisions.

13. Citizen Inquiries

14. Correspondence/Expenditures

15. Adjournment

Motion to adjourn at 10:10pm; Seconded 4-0

The next Conservation Commission Meeting is scheduled for Thursday, **August 7, 2014** in the Wayland Town Building.

**TOWN OF WAYLAND
MASSACHUSETTS
CONSERVATION COMMISSION**

LIST OF PUBLIC DOCUMENTS PROVIDED TO THE CONSERVATION COMMISSION

June 27, 2014 to July 17, 2014

June 27, 2014

322-770 Response letter on 10 Covered Bridge Lane from Trask Incorporated
RDA for resource area confirmation of 8 Hill Street from EcoTec, Inc.

June 30, 2014

Inspection Evaluation Report for Snake Brook Dam from GZA Environmental, Inc.
322-794 Inspection Report on DPW Facility from Weston & Sampson, Inc.
322-795 Inspection Report on 11 Barney Hill Road from Schofield Brothers

July 1, 2014

322-815 Start of work, construction schedule etc. for 22 Pequot Road from Nathan Wilson
D-826 Request for return of performance guarantee for 42 Mathews Drive from J.Tharpe
Request for tree removal at 42 Mathews Drive from J.Tharpe

July 2, 2014

322-802 Inspection Reports 1-4 for 124 Lakeshore Drive from Joseph Davey, P.E.
322-803 Inspection Reports 1-4 for 122 Lakeshore Drive from Joseph Davey, P.E.

July 7, 2014

322-819 Start of work schedule, planting plan etc. for 102 Lakeshore Drive from Keystone Development
322-817 Inspection Report and septic as-built for 29 Damon Street from Drake Associates
Commission copy of Plaintiffs' Answer to Counterclaim, Land Court, from M.Lanza
ZBA Decision for 24 Glezen Lane
ZBA Hearing notice for July 22, 2014 (92 Boston Post Road and 2 Melville Place)

July 9, 2014

ZBA Decision for 10 Deer Run
D-840 Revised plan for 11 Three Ponds Road from Stamski & McNary, Inc.

July 10, 2014

322-819 Project update and pre-construction photos for 102 Lakeshore Drive from Drake Associates
322-818 Project update, contact info, etc. for 30 Lakeshore Drive from Drake Associates
322-826 Revised plans for 7 Lincoln Road NOI from EcoTec, Inc.
322-698 End of Season Report 2013 for Dudley Pond OOC from M.Lowery, SWQC

July 11, 2014

322-816 Inspection Reports on River Trail Place from Sullivan, Connors

July 14, 2014

322-806 Request for CoC (incomplete) for 4 Fields Lane from Thomas Land Surveyors

July 15, 2014

322-335 Notice to mow fields at 59 Lincoln Road from R.Prestidge for B.Farrell

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July 16, 2014

New Street Address Notice (4 and 6 Fields Lane) from Building Department
ZBA decision for 12 Priscilla Path

July 17, 2014

D-843 Topo plan for 8 Hill Street from
322-759 Inspection Reports on Carriage House at Lee's Farm from EBI Consulting

LIST OF EXPENDITURES June 27, 2014 to July 27, 2014

7/8/14	Wayland Power Equipment (belt for DR)	\$38.94
	Gatehouse Media (legal ad)	9.87