

**AMENDED MINUTES  
WEST BOYLSTON CONSERVATION COMMISSION  
NOVEMBER 4, 2013 MEETING**

**MEMBERS PRESENT:** William Chase, Chair, John Hadley, Vice-Chair, Charlene Hopkins, Vice-Chair, and Clerk Toby Goldstein.

**MEMBERS ABSENT:** David Eckhardt, Vice-Chair, and Mark Meola.

At 6:57 pm, Mr. Hadley moved to open the meeting. Ms. Hopkins seconded. All in favor.

**Minutes of 10/7/13 Meeting:**

The Commission members reviewed the draft minutes. Mr. Hadley moved to accept the minutes as submitted. Ms. Hopkins seconded. All in favor.

**Public Hearing, David Lipinski, LandValue, LLC, Notice of Intent, Lot C, Prospect Street, DEP File #327-0255:**

Mr. Chase read aloud the legal ad which appeared in the Telegram and Gazette. Representing were Neil Gorman and Steve Sears of Ross Associates, and John Marchefka and Bruce Rosevarne representing the applicant. The applicant is proposing to build a single family home on the lot, within the 200' Riverfront Zone and within the 100' buffer zone to bordering vegetated wetland. Mr. Gorman showed to the Commission members the GIS map, indicating a 1977 subdivision plan. The property is 2.52 acres. He pointed out the outlined bordering vegetated wetland; the wetlands were delineated by Mr. Sears. Streams in the area were indicated. There would be a 200 ft. offset from a stream, with 90 to 95% of work done in the riverfront zone. Mr. Gorman also pointed out the existing sewer line and siltation barrier. The area of 10,700 square feet of disturbance would be less than the 10% requirement in the Wetlands Protection Act. Mr. Sears added that, prior to the sewer hookup, testing was done where the house was proposed, and it is now an overgrown field. 25-30 ft. around the house is a yard area. There are roof recharge trenches around the foundation.

Mr. Chase asked several questions of Mr. Gorman. First, was if there would be change in elevation; Mr. Gorman replied that there would be some grading. Mr. Chase asked if the foundation is flagged; Mr. Gorman replied that the wetlands are flagged, but not the foundation. Mr. Gorman then referred to questions from DCR. They talked in advance as to whether the April 13, 1993 letter from MDC was still applicable (on file) which stated, as the lot existed in 1992, it is exempt from section 107A(h) of the Watershed Protection Act (construction of a single-family dwelling). Nancy McGrath of DCR is looking into this. Mr. Chase opined that he would like the property to be flagged and visit the site.

Linda Isgro of 7 Prospect Street, who attended the public hearing, spoke next. She clarified the location of the house with Mr. Chase, and opined that, from the posting of the public hearing, that it was difficult to know exactly where the lot was located. She said that someone from DCR said that that DCR owned the lot. Mr. Chase clarified, that DCR owns the lot behind Lot C. She questioned the applicants' interpretation of the Watershed Protection Act, that any house already in existence on the

lot was exempt, but if one is being built, the owner has to comply. Mr. Marchefka replied that the lot is grandfathered, referring to the previously mentioned letter by MDC. Mr. Sears added that they can flag the property as soon as the next day.

Next, one abutter asked about the dimensions of the footprint. Mr. Gorman replied approximately 20,000 square feet. The abutter asked if the road runs downward; Mr. Gorman replied that there is some fill, and the top concrete is higher than the road, and a swale is built in. The abutter asked about the height of the proposed house, and Mr. Marchefka said that no decision has been made yet, and the footprint maybe smaller than the present one, also. Mr. Chase asked what the maximum might be; Mr. Gorman replied that there would be a 200-foot offset from the nearest stream. He added that, under the Wetlands Protection Act, to build within the buffer zone. Mr. Chase added that the applicants are allowed to use 10% of the land they own in the riverfront area to build the single family house. Ms. Isgro opined that there usually is a replication area. Mr. Chase responded that, if they are under the 10%, they do not need to do that. Mr. Gorman read aloud to Ms. Isgro the portion of the Watershed Protection Act stating this

Mr. Chase suggested continuing the public hearing to a site visit by the Commission members (the members agreed upon Tuesday, November 12, at 2:00, as being a suitable date and time, and the applicants were in agreement). He also asked Mr. Gorman to clarify if they will treat the stormwater, to which Mr. Gorman replied that there is a stone trench around the perimeter of the foundation, and the water will have some pretreatment before it enters the ground again. Ms. Isgro assumed, then, that DCR is not needed at this point, to which Mr. Gorman replied that they consulted them in advance of this meeting, and they forwarded a letter (on file). Nancy McGrath had informed the applicants that they did not need to file with DCR. Mr. Chase added that greater than ½ of the existing lot will remain the same.

Mr. Hadley moved that the Commission continue the public hearing to Tuesday, November 12, at 2:00 pm, at Lot C, Prospect Street. Ms. Hopkins seconded. All in favor. The applicants said that they would have the entire area of disturbance flagged prior to the site visit.

#### **Catherine Gleason, 398 Worcester Street:**

The Commission received a letter (on file) from Mark Brodeur, Building Inspector, stating that he could not issue a building permit that she requested as she needed to meet with the Conservation Commission first regarding possible wetland issues. Mr. Hadley visited the site, and discussed that Ms. Gleason proposes to enclose a deck, add more sauna tubes, and have a total size of the deck of 14' x 14' instead of the present size of 15' x 15'. Ms. Gleason also discussed these plans. Mr. Hadley opined that no further visiting of the site was needed by the Concomm, agreeing with Mr. Chase's opinion that the proposed work was to be replication in kind. The Clerk was instructed to compose an e-mail letter, to be reviewed first by Concomm, to go to Mark Brodeur, stating this conclusion.

#### **Update on Baldarelli Orders of Conditions:**

(John Farnsworth and Ed Baldarelli were present for discussion). Mr. Farnsworth discussed the plank bridge, approximately 27" x 18", that they had constructed on their property. There were changes to their plans for a second bridge. The bridge would be the only access to Ed's property, but there was question of renewal of a lease on his property. Also, they wanted a precast concrete bridge, but the size was 21" x 18", smaller than the plank bridge, but it will fit. Another complication is that the side of the stream on Ed's property has trees on Mass Highway's right-of-way, so they need to see Mass Highway about dealing with this. Mr. Chase replied that Mr. Farnsworth can give him an "as built" plan. Mr.

Farnsworth continued that they were told by Nancy McGrath of DCR that they need a letter from MEPA; Mr. Chase replied that the Commission has no problem with what the Baldarellis propose to do, and he will speak with Nancy McGrath. Mr. Farnsworth added that they will speak with Mass Highway and get the letter from MEPA. Mr. Chase added that they should use cloth fence rather than haybales for erosion control. Ms. Hopkins confirmed that Ed Baldarelli's name is on the Orders of Conditions as the owner, as they had questioned this at earlier Concomm meetings.

**Discussion with Mark Archambeault, Nashua River Watershed Association, Regarding Development of Wetland Bylaws for West Boylston:**

First, Mr. Archambeault and the Commission members discussed the subject of vernal pools. He said that a vernal pool biologist could attend the next Concomm meeting if the members would like to discuss the subject. Mr. Chase mentioned that he knows of (2) vernal pools that are not registered, and therefore not protected, as Ms. Hopkins had asked. He replied to a question by Mr. Hadley as to whether or not that means that they can be filled, and Mr. Chase replied "yes." Mr. Archambeault added that if a vernal pool exists in a buffer zone or riverfront area, it can be protected. There are criteria for this under the state Wetlands Protection Act. Mr. Archambeault opined that a list of "certified" vernal pools should be the focus, and the members agreed. Mr. Chase opined that it would be worthwhile for the vernal pool biologist to come to a meeting. Mr. Archambeault mentioned the names of several towns' bylaws that he would draw upon to find the best, most succinct result. He explained that, if the draft that he gave to the Commission to review tonight is too long, they could remove some provisions and include them with regulations. He continued that, at the next meeting, he will remove certain items indicated by the Commission and put them into regulations.

Mr. Archambeault then proceeded to go through the draft (on file) with the Commission members. Some areas discussed were:

"Purpose and Intent" – why the Concomm is doing this; Mr. Archambeault opined that the Concomm could be stricter in certain aspects than the Wetlands Protection Act.

"Jurisdiction" – Mr. Archambeault suggested that the buffer zone itself could be made a resource area. This section would restate and make more stringent what the Concomm would have jurisdiction over, and would give them the ability to make conditions on the buffer zone.

"Exemptions" – Mr. Archambeault mentioned that many items have agricultural exemption. Mr. Baldarelli confirmed that maintenance activities are exempt. Mr. Archambeault suggested that removal of dead and dying trees without the use of machinery would be a more specific wording that could be used.

"Definitions" – Mr. Archambeault said that much from that section can be placed in regulations. Some important definitions that he mentioned need to be specific were "resource area" and "presumptions." Regarding "limits on activities in the resource area", Mr. Chase suggested a 25 foot non-disturbance area, and Mr. Archambeault mentioned parking lots be mentioned because of possible stormwater effects.

"Exceptions to Prohibitions in the Resource Area" – some suggestions by the Commission were adding details for impervious area, such as use of stone rather than asphalt, and paving of dirt roads.

"Applications, fees and consults" – regarding fees, Mr. Chase and Ms. Hopkins mentioned that the Concomm has fees which they review periodically, which are posted on the Town website. Mr. Archambeault opined that parts A,B,C and D should remain. He also thought that parts E – I should be moved to regulations. For example, regarding part I, the ability to hire a consultant, the applicant must pay for the consultant.

“Notices and Hearing” – Mr. Archambeault suggested that this section should remain where it is. Regarding abutters, they would be within 300 feet of the property in question; in the Public Hearing section, filing deadlines would be included.

“Coordination with Other Boards” – this must be done at least (3) days before the hearing.

“Permits and Conditions” - involves decisions and factors behind them, conditions, and denials.

“Waivers” – Mr. Archambeault said that not every bylaw has this. Mr. Chase and Mr. Hadley agreed that this should be included. Mr. Archambeault opined that this section adds flexibility. Some examples that Commission members suggested were (4) growing seasons required before Certificate of Compliance issuance (Mr. Hadley asked; Mr. Chase stated that this should be the case, according to law, but that it should be able to be waived if needed); Mr. Chase suggested that haybales can be waived for baffles.

“Regulations” – this is the authority given to Concomm to establish regulations.

“Security and Site Inspection” – the members wanted this, for example, in the case of 40B’s, to secure bond or deposits, or in the case of maintenance.

“Enforcement” – this regards noncriminal citations. For example, Mr. Chase suggested, when Ms. Hopkins posed the question of entering private land, that the members have identification from the Police Department, and that it must be land that is under the Concomm’s jurisdiction. Suggested in the draft was a fine of \$100 per day, per event until the situation is rectified to the Town’s satisfaction. Mr. Archambeault opined that this section should stay in the main body of the bylaw, rather than being placed into regulations.

“Relationship to Wetlands Protection Act” – Mr. Archambeault said that all sections already have references to the WPA.

Mr. Archambeault informed the Commission members that he will take the draft and separate it into bylaw and regulation sections, and will bring in a vernal pool biologist; he will attend the December 2 meeting. Mr. Chase also asked him to add a cover letter with a few paragraphs of introduction to the draft.

**Update on MDC Fast Track Sewer Project Certificates of Compliance:**

Ms. Hopkins informed the Commission that the affidavit that was approved at the November 4 meeting is signed and will be recorded with the (2) original Certificates of Compliance that were found by Anthony Sylvia of DPW when Concomm receives the additional \$75.00 recording fee for the affidavit from DPW.

Mr. Hadley moved to adjourn the meeting at 8:50 pm. Ms. Hopkins seconded. All in favor.

Submitted by: \_\_\_\_\_

Date accepted: \_\_\_\_\_