

MINUTES
WEST BOYLSTON CONSERVATION COMMISSION
NOVEMBER 3, 2014 MEETING

MEMBERS PRESENT: William Chase, Chair, David Eckhardt, Associate Member, John Hadley, Vice-Chair, Charlene Hopkins, Vice Chair, and Clerk Toby Goldstein.

MEMBERS ABSENT: Mark Meola.

At 7:00 pm, Mr. Eckhardt moved to open the meeting. Mr. Hadley seconded. All in favor.

Public Hearing, Joseph Evangelista, Request for Certificate of Compliance, DEP File #327-0253, 150 Worcester Street:

No representative appeared to present the Request to the Commission. Mr. Evangelista had been notified that he had sent the incorrect amount for the fee for the Request, but did not respond to that notification. Also, the Commission members did have some questions pertaining to the property, therefore they continued the Public Hearing to the December 1 meeting. The Clerk will notify Mr. Evangelista.

Inquiries Regarding WPI Project Involving Mixer Property:

Attending the meeting was a student, Briana Weisgerber, from WPI, who had previously e-mailed the Commission with questions regarding a project involving the Mixer Building property on Prescott Street. Mr. Eckhardt had invited Ms. Weisgerber to attend this evening's Concomm meeting to discuss the project.

Mr. Eckhardt, who had spoken with Ms. Weisgerber previously, explained that the project is a senior Capstone Project. He continued that the project would be to show the plausibility of developing the Mixer property into a low-intensity residential development (LID), using the Mixer property as a case study. He mentioned that Vincent Vignaly has been volunteering his assistance with the project also. Mr. Eckhardt said that the questions Ms. Weisgerber will have are what would be the conservation problems on that piece of property? He noted that there are some wetlands on the northern periphery of the property. Ms. Weisgerber showed a GIS picture of the property to the Concomm members, and Mr. Chase and Mr. Eckhardt pointed out the wetlands. Mr. Eckhardt offered to walk through the property and show her the wetlands if she would want them to do so. He then asked her how familiar she was with State Wetland Law? Ms. Weisgerber replied that her partner on the project has read DEP Wetlands rules and regulations. Mr. Eckhardt responded that the first question is if Concomm has jurisdiction there, and he explained within what distances from certain areas they would have jurisdiction. Mr. Hadley asked if there is wetland at the top of the property? Mr. Chase replied "yes." Mr. Eckhardt suggested that Ms. Weisgerber have her partner opine as to Concomm's jurisdiction over the wetlands on the Mixer property, and Mr. Chase suggested that she take a copy of the proposed wetland bylaws; the Clerk will e-mail a copy to her. Mr. Eckhardt suggested to Ms. Weisgerber that she let the Commission know when she is going to present the project, and he said that he would probably

review it. He instructed her to file a Notice of Intent, and said that Concomm would issue a set of conditions. He continued that she should show the Commission a plot plan of what is proposed (a sketch as this is a study), and they can give their opinion as to what their position would be, what the conditions are likely to say, and walk through it with her. Mr. Chase discussed the professional expertises of the board members with Ms. Weisgerber. Ms. Weisgerber opined that a copy of the proposed wetland bylaws would be helpful for her to have. Mr. Eckhardt added that the bylaws should be passed in May of 2015.

He then asked Ms. Weisgerber if there is sewer at the Mixer Building, and she replied that there is an easement through the side property, and that is where the old leach fields used to be, and there is a sewer tap over by that property. Mr. Hadley opined that they would be able to use that. Mr. Chase told her that they needed to know how many units they are proposing in the project. Mr. Eckhardt continued that the Concomm will support the students in this project, and asked her to email them when the project is scheduled and let the Commission know what support is needed from them. The Commission shared their e-mail information with her. Ms. Weisgerber responded that they are mostly concerned with setbacks, which are addressed in the bylaws, and Mr. Eckhardt suggested that if they start to see conflicts between setbacks and zoning, further guidance is needed. Mr. Chase opined that this project may be taken seriously by the Town as the Town is looking for more housing. Mr. Chase added that he thought Mr. Hadley and Mark Brodeur might be of help. She added that setbacks are the largest issue now. Mr. Eckhardt asked if Mr. Vignaly has gotten necessary drawings for her yet; Mr. Chase opined that DCR can give those to him. Ms. Weisgerber said that they have been mostly using Mass. GIS data. Mr. Eckhardt told Ms. Weisgerber that Concomm typically meets on the first Monday of the month at 7:00 p.m. She told the board that they will be presenting the project in April, but they are trying to finish up in January, with much of it being done during Christmas break, so the Commission members reminded her to contact them with any questions that they might have.

Afra Terrace:

Iqbal Ali, the developer for Afra Terrace, brought in the "as-built" plan previously requested by the Commission earlier that day, but no representatives appeared at the meeting. Mr. Chase said that the engineer for the Town needs to look at it. Mr. Eckhardt moved that the West Boylston Conservation Commission authorize the Chairman to speak with the Town Administrator and Town Counsel regarding the status of work at Afra Terrace and to determine a path forward which could include engineering review and/or enforcement action. Mr. Hadley seconded. All in favor. Mr. Hadley added that they want to be sure that what is on the "as-built" is what was on the original plan. Ms. Hopkins added that they should not review the "as-built" to decide what is right or wrong, that should be up to Ali and the engineer. Mr. Eckhardt opined that it would be appropriate to obtain guidance from Town Counsel and the Town Administrator; Mr. Chase agreed with the Town Administrator at least. Mr. Hadley opined that the applicant should pay the engineer for review of the "as-built." Mr. Chase asked Mr. Eckhardt to contact Mr. Gaumond (Town Administrator) to set up a meeting with Mr. Chase and ask him what Mr. Chase needs to have for him when they meet. Mr. Eckhardt also asked if Concomm has adequate narrative of the history of the Afra Terrace situation in preparation for the meeting? He opined that they should stick to their jurisdiction and expertise, and discuss the facts, and have this document as well as a listing of previous documents for future discussions.

David Femia, Associate Member of the Zoning Board of Appeals, who was present at the meeting, asked the Commission members how vital it was for Mr. Ali to turn over ownership of Afra Terrace to the Board of Trustees? Mr. Femia discussed that the Board of Trustees came before the ZBA because Mr. Ali still did not perform certain maintenance that was supposed to be done, but Mr. Femia

wanted to know how vital it is for the Condo Association to take possession of the property and assumed that they could not do so until the issues were taken care of. Mr. Hadley said that they can take over ownership but it would not be wise to do so. Mr. Chase said that, in order to obtain insurance, the Town boards must sign off on the project, and Mr. Eckhardt added that, as a 40B project, there are less Town boards involved in the process. Mr. Eckhardt continued that the "as-built" was a step in the right direction, but that before issuing a Certificate of Compliance, Concomm needs a second professional opinion to look at it. Mr. Chase mentioned as an example that snow storage appeared to be missing from the "as-built." Mr. Femia opined that Mr. Ali does not seem to be in a hurry to do this, as he brought in the "as-built" at the last minute and no representative appeared at tonight's meeting. Mr. Chase continued that Mr. Ali also has to present the old documentation, and should have a second engineer look at it and compare it with the "as-built." Mr. Eckhardt added that, at some point, lack of a Certificate of Compliance will cause properties to not be sold. Mr. Hadley then asked about an e-mail received by Concomm, asking about a Certificate of Compliance on Unit 12; Ms. Hopkins researched this, and found that only one Partial Certificate of Compliance was issued on this project, on Unit 38. She added that, if someone wants to buy a unit, the builder's attorney might give an indemnification.

Site Plan Review Forms Regarding Nuha Circle:

This is a proposed development by Crescent Builders on Prescott Street on the western side. Mr. Eckhardt pointed out the property on the enclosed map. He said that there is no solid evidence of wetlands on the drawing. He opined that it would be a good idea to prove this by a wetland scientist, but that Concomm probably does not have jurisdiction. He continued that the major issue with the project is fire protection, as it is far away from wells and pumping stations and cannot obtain enough water pressure, and thought that they may need to put in catch basins, or sprinklers in the homes. Mr. Hadley responded that these are not required in single-family homes. Mr. Eckhardt opined that it would be difficult to prove jurisdiction for Concomm, and that the Building Inspector and Fire Inspector are watching the development carefully. Mr. Chase opined that Concomm can give as a condition that if they approve this and the developer changes it, he has to install sprinklers; also, they need to leave 50 feet behind buildings. Mr. Hadley added that the retention pond needs a program for maintenance and the homeowners' association needs to be responsible for it. Mr. Eckhardt said that there should be attention to copies received from Planning Board, and he will try to answer any questions. Mr. Hadley thought that there is some kind of bond set up for the project, and Mr. Eckhardt suggested that he ask when before the Board of Selectmen. David Femia asked if the Chief of the Fire Department can force sprinklers to be installed, and Mr. Hadley replied that he can, and the Planning Board will enforce that. Mr. Eckhardt added that the Fire Dept. Chief and the Building Inspector are discussing this.

Wetland Bylaws:

The Commission discussed the fact that, at the October 20 Town Meeting, the proposed bylaws were not accepted, as it was opined that there were too many regulations. The board explained the role of the Massachusetts General Laws to Mr. Femia, who had questions about them and use of them in the bylaws.

Record Retention:

Mr. Eckhardt had requested several weeks previously for a copy of guidelines from the Town Clerk (which were received), which would list which records had to be kept permanently, and which did not and how long they needed to be kept; he suggested that he and the Clerk work together over the

next months on the Concomm records, with a goal of completing the project by the end of the fiscal year.

Minutes of October 6, 2014:

After review of the minutes by the Commission members, Mr. Hadley moved to accept the minutes as submitted. Ms. Hopkins seconded. Mr. Eckhardt recused himself, as he was not present at that meeting. All others voted in favor.

With no further business to discuss, Mr. Hadley moved to adjourn the meeting at 7:52 p.m. Mr. Eckhardt seconded. All in favor.

Submitted by: _____

Date accepted: _____