

MINUTES
WEST BOYLSTON CONSERVATION COMMISSION
DECEMBER 1, 2014 MEETING

MEMBERS PRESENT: William Chase, Chair, David Eckhardt (arrived at 7:01 pm), Associate Member, John Hadley, Vice-Chair, Charlene Hopkins, Vice Chair, David Mercurio (full board member as of 11/24/14) and Clerk Toby Goldstein.

MEMBERS ABSENT: Mark Meola.

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

Public Hearing, Jonathan Gulliver, Commonwealth of MA, MassDOT (Highway Division, District 3), Request for Determination of Applicability, I-190, West Boylston and Worcester:

(William Clougherty from Mass DOT, Highway Division, District 3, represented). Mr. Clougherty explained the scope of the proposed project. He described that it will be a resurfacing project, which started out with the intention of working entirely in Worcester, but because of the condition of the pavement north of the West Boylston town line, they decided to continue it into West Boylston. Mr. Clougherty showed the Commission members an abbreviated locus map (on file) which showed the entire work area, which will be about 3.2 miles in total length, 1/8 mile in the Town of West Boylston. He added that the project will include milling, resurfacing and associated work (see "Scope of Work" attached to filing form). He said that all major storm water improvements will take place in Worcester. Mr. Clougherty thought that they would probably start work in the spring, and advertise for workmen in the winter; asphalt will be available in the spring. Mr. Mercurio agreed with this assessment, asserting that asphalt plants open between April 1 and 15.

Mr. Clougherty then showed the Commission members an abbreviated form (on file) from DEP listing changes to the Wetlands Protection Act (WPA), effective 10/24/14, with additional buffer zone minor activity exemptions, which would relate to this project relative to highway operation, maintenance and safety work and utility installation work in the buffer zone; these would be in addition to exemptions already in place. After severe weather, the minor activity exemptions will also facilitate clearing of roadways and repair and restoration of utilities, thus speeding emergency response.

Mr. Eckhardt then discussed how variable the Conservation Commissions are from town to town, such that one town may characterize something as maintenance, whereas another may not. He continued that, after deciding on maintenance, they determine if something requires the protection of erosion controls, and in the meeting minutes and documentation, if needed, the applicant has proof of that. Mr. Chase added that, if the work is to be in the existing footprint, it will be considered maintenance. Mr. Clougherty responded that it will be within the existing paved area. Mr. Eckhardt asked the other Concomm members if they see any areas in the scope of work that need their protection? They did not. Mr. Clougherty added that the work will not even be done on the highway ramps, but will all be mainline and elevated. Mr. Mercurio asked what the proximity of the work will be to wetlands? Mr. Clougherty replied that the work will be well over 100 feet to the closest bordering

vegetated wetland, and will probably not even be within the buffer zone. Mr. Chase reiterated that the proposed work will just be maintenance, and will be identified as such in the minutes. Mr. Eckhardt asked Mr. Clougherty if he wants a copy of the minutes when they are approved, and he replied that he just needs the Negative Determination.

With no further questions or comments, Mr. Eckhardt moved to close the Public Hearing and issue a Negative Determination for the scope of work as is presented on map "I.M. and Related Work-Project #605588," dated November 2014. Mr. Hadley seconded. All in favor.

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

According to Mr. Chase, who had visited the property, the area in question has gone by the four growing seasons and is currently stabilized. With no further questions or comments, Mr. Hadley moved to issue the Certificate of Compliance for 150 Worcester Street. Mr. Eckhardt seconded. All in favor. (Mr. Evangelista then had a few questions regarding cleaning out of dead growth on the property).

Afra Terrace:

No representative(s) appeared to address the previously expressed maintenance deficiencies by the developer, nor to compare the "as-built" submitted by him with the original plans for the property. The Commission members decided to continue this to the January meeting. They also explained some of the background of this situation to Mr. Mercurio, regarding how the Order of Conditions expired so that if someone tries to sell a property, their title is clouded. Mr. Chase mentioned that he had spoken to Leon Gaumond about this issue; Mr. Gaumond is looking through paperwork related to the matter and then they will speak further.

Mr. Mercurio then asked, if the Town had wetland bylaws in place, would Concomm have enforcement ability? Mr. Hadley responded that the problem in the Afra Terrace situation is that there was no bond in place, so that the Town was not able to use that as enforcement. Mr. Eckhardt asserted that bylaws would give a better definition of the laws, and enforcement ability. Mr. Chase gave several examples of properties in West Boylston where the owners made changes that they had no permission to make, but there was no avenue such as the bylaws by which to stop them. The Commission members then discussed with Mr. Mercurio how Town bylaws can make state law more restrictive, and how more can be done with the law at times. They discussed with him the need for soil samples and flagging of wetlands by wetland scientists to define wetlands involved in projects brought before them, and discussed how human activity has created wetlands over time to change what appears on wetland maps; they discussed maintenance of retention ponds; they discussed resources of information such as DCR; they also mentioned that the Beaver Law has still not been voted upon by the State, but that emergency action can be taken by the Board of Health if necessary.

Wachusett Liquors Temporary Occupancy Permit:

Mr. Chase stated that he still did not receive the "as-built" that he had requested due to the change in size of the retention pond. Mr. Hadley responded that it is not complete yet, as the owner still has some work to finish. It is within 100 feet of wetlands. Mr. Mercurio responded that, if the 25-foot rule of the proposed bylaws was in effect, the owner would be all set. Mr. Eckhardt asserted that, if Concomm does receive the "as-built," then the occupancy permit can be made permanent.

Update on WPI Senior Capstone Project Regarding Development on Mixer Property:

Mr. Eckhardt summarized the project for Mr. Mercurio, who was not at the November meeting that Briana Weisgerber of WPI attended to explain the project. Mr. Eckhardt continued that he walked the property with Ms. Weisgerber and pointed out utilities, etc.; the students will present the project to

their professor this week or next week. Mr. Chase explained that it is a feasibility study. Ms. Hopkins added that their proposal could be marketed also.

Nuha Circle Comments:

(This is a proposed development by Metrowest Builders; the Site Plan review by Planning Board was reviewed by the Commission members at the November 3 meeting). Mr. Hadley told the other members that the final plans have been presented to the Planning Board. Mr. Chase opined that the proposed roadway will not work. Mr. Hadley responded that the Fire Department and Planning Board said that, too. Mr. Eckhardt continued that the Fire Inspector and Building Inspector looked at the proposed site, which is at the top of a hill, and the road would run downhill from the middle of the property. He asserted that Concomm has no jurisdiction there; Planning Board has stormwater issues with it; the Fire Department is concerned with water pressure problems in case of fire, and is considering requiring sprinklers in all the houses. Mr. Hadley mentioned a dry sprinkler system. Mr. Mercurio asked if the Board of Selectmen is involved? Mr. Hadley replied that the Selectmen voted not to go forward with the project without the road and Fire Department issues being taken care of, and he opined that Planning Board will not let that go unresolved. Mr. Mercurio asked if the Selectmen can require the developer to pay for it, and Mr. Hadley replied that they will find out. Mr. Eckhardt opined that the only way to issue permits is through court order. Mr. Mercurio opined that the developer is creating an unsafe environment. Mr. Chase added that they would like to see a bond. Mr. Hadley said that the Town won't go ahead without a bond, specifically a cash bond.

DEP Circuit Rider Training Session:

This discussion is in response to an e-mail to Concomm, announcing the hiring of a new Regional Circuit Rider from DEP named Judith Schmitz and offering her services. Ms. Hopkins requested that this be placed on the December agenda. She discussed how the new Circuit Rider is offering to do training sessions one-on-one with Conservation Commissions or informational sessions with the towns. Ms. Hopkins opined that she should meet with Concomm and they could ask her questions. The Commission members instructed the Clerk to send Ms. Schmitz an e-mail, telling her that they are interested in meeting with her, and asking her for her availability, either at a Concomm meeting or otherwise.

2015 Concomm Meeting Schedule:

The Commission members reviewed a tentative schedule of meetings for 2015 that was prepared by the Clerk. They agreed upon dates for each month, and the Clerk will submit the schedule to Nancy Lucier.

Minutes of November 3 Meeting:

After review of the minutes by the Commission members (Mr. Mercurio abstained, as he did not attend that meeting), Mr. Hadley moved to accept the minutes as submitted. Ms. Hopkins seconded. All in favor.

With no further business to discuss, Mr. Hadley moved to adjourn the meeting at 7:53 pm. Ms. Hopkins seconded. All in favor.

Submitted by: _____
Date accepted: _____

