

**MINUTES**  
**WEST BOYLSTON CONSERVATION COMMISSION**  
**APRIL 6, 2015 MEETING**

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

**MEMBERS ABSENT:** David Eckhardt (Associate Member) and Mark Meola.

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

**Minutes of March 2 Meeting:**

After review of the minutes by the Commission members, Mr. Hadley moved to accept the minutes as submitted. Ms. Hopkins seconded. All in favor.

**Request for Certificate of Compliance, Patrick Guida, 35 Pine Arden Drive, DEP File #327-0251:**

(The original Notice of Intent and Order of Conditions were for work at the above address). Mr. Chase had recently visited the site. After discussion by the Concomm members, Mr. Hadley moved to issue the Certificate of Compliance for 35 Pine Arden Drive, DEP File #327-0251. Ms. Hopkins seconded. All in favor.

**Afra Terrace:**

(Mr. Iqbal Ali, the developer, was present as a representative). The Commission previously sent a letter to Mr. Ali requesting an "as-built" of the property, and in response to a plan submitted to the Concomm by Mr. Ali several months before which he called the "as-built" but which had deficiencies of information needed by Concomm, Leon Gaumond sent a letter to Mr. Ali stating that the Commission still needed certain information from him. Mr. Ali attended this evening's meeting to determine what the Commission still needed from him.

First, with Mr. Ali looking at the plan with the Concomm members, Mr. Chase asked him where snow storage would take place? Mr. Ali replied that he was thinking of an area on the side of the road, and has a spot on Jasmine Drive, but Mr. Chase responded that he needs that in print. Mr. Hadley then asked Mr. Ali about a detention pond and which was there according to the original plan? Mr. Ali responded that it was built close to or deeper than the plan, and that DCR signed off on it, that the culvert that was already there should be the same, and the height of the retaining wall is 9 feet vs. 10 feet. Mr. Chase also mentioned there being 3 clean out holes at the top originally, but only 2 now are present on the "as-built". Mr. Ali responded that 2 storm sceptors are on each detention pond. Mr. Chase and Mr. Hadley both repeated the need for a storage place for snow, and Mr. Ali said that he would check with the engineer.

Next, Vinny Vignaly of the Planning Board, who attended the meeting, added that Mr. Ali needs certification from the design engineer, who reviews it and verifies that what is on the "as-built" is what was on the plan previously approved. Mr. Chase continued that, on the Order of Conditions, 2 areas for

snow were needed, one at the top, one at the bottom. The Commission members explained to Mr. Ali that he would need to put the “as-built” plan and plan according to the Order of Conditions in front of the engineer and he would need to certify that the “as-built” agrees with what was supposed to be done.

#### **Wachusett Liquors Update:**

Mr. Vignaly stated that the owners had not stabilized their slope yet. Mr. Chase added that there was a question regarding a shed also. Mr. Vignaly responded that the shed is all set, but the owners still need to clean up the area and see if water flows out of the detention basin.

#### **Informal Discussion With Chris Lund, Building Inspector:**

First, the Commission members informed Mr. Lund that they want to be notified of all permits, even if there are no wetlands, because there have been instances where Concomm was not notified but then issues came before them. When Mr. Lund asked for examples, those present gave several. For example, Mr. Vignaly mentioned Gerardo’s Bakery on West Boylston Street; he discussed that Gerardo attended the Planning Board meeting with a proposal for a roadway through the allowed and not-allowed parking areas and beyond, but doesn’t own the two properties that would be involved, and Planning Board had told him to give them proof that he has some claim to the properties and would pay taxes on them, and they would belong to him; they want them used, as there have been accidents in the bakery parking area and this would help remedy that. They also discussed the Dairy Queen property on West Boylston Street as an example of a situation with an access problem and that there were possible ways to remedy that but the owner will not come before the Town boards to discuss it.

Mr. Hadley then asked Mr. Lund, that even if a building permit is issued where there are no wetlands, will he still want the owner to appear in front of Concomm? Mr. Lund replied that he uses the GIS website, and there can be discrepancies, but if there is no sign that a body of water is even close by, he will approve an addition, new home or commercial building. Mr. Mercurio added that this is typical practice in other towns. Mr. Lund continued that, if a water body appears close to the area in question, he has the owner appear in front of Concomm. Mr. Vignaly added that the Building Inspector is authorized to enforce stormwater infractions until a permit is issued by Planning Board, ZBA, or another board. Mr. Hadley asked what would be the case for just a house and would Mr. Lund order the applicant to use a silt fence? Mr. Lund replied that there would only be concern if there is a slope, and added that, for an addition, contour lines are not required on a plot plan and usually address of runoff of water is complaint-driven.

Mr. Vignaly then mentioned the example of how, on Goodale Street, someone installed a septic system at his home and that there was no Concomm jurisdiction there; the Building Inspector and Board of Health gave permits, but with no erosion controls, waste washed downhill. Mr. Mercurio suggested that the Building Inspector can go to the area and recommend a silt fence.

When asked, Mr. Lund replied that he uses the West Boylston GIS map. Mr. Vignaly suggested the Oliver map; he also mentioned that DCR updates the MA GIS every couple of years. Ms. Hopkins commented that West Boylston is not getting the updates, and opined that the State should update the towns; Mr. Vignaly opined that Oliver is a good resource. Mr. Lund continued that he will use it for wetland questions, and if something related to wetlands is found, he will email Concomm. The Commission members added that they could have special meetings if necessary, and instructed Mr. Lund to e-mail the Clerk with any notifications.

Next, Mr. Lund discussed a couple of properties of which he had wetland questions. First was 491 Prospect Street, where he mentioned that the owners have been filling in the backyard, and stated that there are wetlands behind it. (He showed the Concomm members a picture of the property on his phone). He continued that he consulted DCR and they only would be involved if there were known

pollutants involved that run into the watershed area, and asked Concomm if there are wetlands there? They discussed this and the area, and Ms. Hopkins said that she would take a look at the property when she is in the area walking.

The next property that Mr. Lund mentioned was 184 West Boylston Street, owned by Surabian; the owner approached him about a pad site at the front of the parcel. Mr. Lund mentioned that, on the left of the property, is a large amount of wetlands. Mr. Hadley added that there is a small pad on the left, and a large one on the right. Mr. Vignaly continued that they filed a site plan review, and said that they wanted to put in rain gardens on the left for drainage, but never built them; they never did drainage work, only rough grindings, and no water quality improvements, therefore they did not build what they said. Mr. Lund pointed out a detention wall on the site map. Mr. Chase said that the owner has to go for site plan review to the Planning Board, then Concomm would deal with it. Mr. Lund responded that there is not already a known issue. Mr. Chase continued that site plan review will come up with questions, then Concomm will continue with it.

Mr. Lund then discussed a new Cumberland Farms proposed construction on the right side of that plaza, of which they are all supposed to be seeing preliminaries. Mr. Vignaly mentioned that there could be access issues and there is not a second egress on the property. Mr. Lund responded that the owners will appear before ZBA requesting a sign variance. Mr. Vignaly commented on the fact that the owners are seeking a sign 10 times the size allowed in the Town bylaws, and Mr. Lund replied that, when the pad site is built, there will be 16 tenants, and if there is additional taken into account for the plaza, he opined that the size of the proposed sign will not be unusually big, especially having to be set back 40 feet. Mr. Hadley added that the size of the building must be taken into account when a sign bylaw is written, and Mr. Vignaly opined that flexibility is needed.

When asked, Mr. Lund replied that the Cumberland Farms will likely have free-standing signs and probably will sell gasoline. Mr. Chase said that this could be a problem as there might be a secondary aquifer there, and Mr. Lund opined that there are low-yield tributaries; Mr. Vignaly replied that he is not sure of that. Ms. Hopkins mentioned the environmental concerns regarding underground gas tanks there but Mr. Hadley opined that there would be precautions taken regarding that. Mr. Lund expressed the hope that there would be a project roundtable in the Town regarding that project, but commented that he opined that Auburn's Cumberland Farms facility is nice. Mr. Mercurio opined that the way these structures are built today is much better than in the past. Mr. Lund discussed that the project will need gas, sand and water separators, grease traps for the kitchen, all which affect waste. When asked what will be on the left side of the plaza, Mr. Lund replied that 2 tenant spaces will be added to that side. He also discussed square footage allowed, and approval required.

Next, Mr. Lund discussed with those present the Wachusett Liquors project at the corner of Franklin Street, and the issues involved affecting why permanent occupancy permit has not been issued yet. Mr. Lund also discussed a question regarding property on Hosmer/Keyes Street, noted that he has seen possibly something of interest on GIS there, and asked if anyone from Concomm has anything that he can tell the resident? Mr. Lund and Mr. Vignaly discussed that the property has been grubbed, loamed and seeded, and discussed drainage there. Mr. Chase instructed Mr. Lund to have the resident call him.

Regarding Wachusett Plaza again, Mr. Vignaly opined that the owner, Mr. Surabian, should be alright to begin his work, but Mr. Lund responded that use is changing and there may be watershed issues.

Next, those present discussed the existing Honey Farms and issues regarding their parking affecting traffic, but decided that, since they were issued permits, they cannot be forced to make changes but can be asked to do so.

#### **Discussion of Proposed Wetland Bylaws:**

Mr. Vignaly informed the Concomm members that he had comments regarding the bylaws; he explained that previously, the Planning Board chair received a draft of the bylaws but did not forward them to the entire board, which is why Mr. Vignaly was commenting at this time. Mr. Vignaly reported that the Planning Board opined that the proposed bylaws were more restrictive and would cost money to the Town residents by expanding Concomm's jurisdiction and creating more of a process for the residents. They also felt that there was nothing that showed exactly why it was needed. Ms. Hopkins responded that the bylaws would tell the residents what would be approved ahead of time, so that they could avoid unnecessary filings. Mr. Vignaly continued that the bylaws would add restrictions to the residents, and then went through a copy of the draft bylaws with the Concomm to show them examples. He asked where was justification that the Wetlands Protection Act is not sufficient for enforcement?

Commission members replied with several examples of problems with properties in the Town, and expressed the feeling that they are ignored when they try to enforce. They mentioned fines to Mr. Vignaly, who replied with the type of fine that is allowed in the Wetlands Protection Act for violation in the resource area; Mr. Hadley responded that Concomm was told that DEP had no jurisdiction when someone filled a wetland, for example. Mr. Chase explained that the bylaws would define specifics so that Concomm could prosecute if they have to do so. Mr. Vignaly asked if the Town could ticket the offender, and Mr. Lund replied that he, the police, or any designated official could ticket. Mr. Vignaly opined that the Town's bylaws stipulate that they are allowed to fine up to \$300/day; Mr. Lund opined that it is \$100/day, and goes up from there.

Mr. Mercurio then asked why they cannot keep the Wetlands Protection Act as it is, but have an amendment that Concomm has enforcement through the Building Inspector, he can issue a ticket, and then go to court if necessary? Mr. Chase replied that this has not worked in the past. Referring back to fines, Mr. Lund responded that the penalty is \$100 per violation (against ZBA or Planning Board), each day a separate offense, enforced by the Building Inspector. Ms. Hopkins noted that Concomm is not included, and the Building Inspector does not ticket for them. Mr. Chase added that the purpose of Concomm's bylaws is so that anyone can read it, and suggested that they can draft a cover letter. Mr. Vignaly suggested that Concomm draft a justification and Planning Board will look at it. (Mr. Lund then noted in the General Bylaws, Article 25, that any bylaw, rule or regulation of the Town boards may be enforced with a penalty of \$100, by a police office, Building Inspector and his designees, and Concomm and designees). The Concomm members opined that their bylaw would make the process simpler. Mr. Mercurio asked why past enforcement efforts were not carried out? Mr. Chase replied that they did not define it. Ms. Hopkins added that they can bring in the buffer area. Mr. Vignaly pointed out that, in the Wetlands Protection Act, the same protected areas are mentioned. The Concomm members thought it might be a good idea for them to sit down with Planning Board to discuss; Mr. Lund said that he would join them. Mr. Vignaly responded that he thought Planning Board would meet with them at one meeting. Mr. Chase said that Concomm would draft a cover letter stating their purpose and give to them for comments. Concomm opined that Mr. Vignaly's input would be very helpful. Mr. Vignaly replied that he will now have backup as to why the bylaws are needed, and he will e-mail his copy of the draft bylaws to the Commission with comments.

With no further business to discuss, Ms. Hopkins moved to adjourn the meeting at 8:16 pm. Mr. Hadley seconded. All in favor.

Submitted by: \_\_\_\_\_  
Date accepted: \_\_\_\_\_

