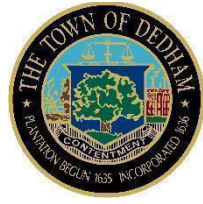


Tim Puopolo, Chair
Erik DeAvila, Vice Chair
Stephanie Radner, Clerk
Nathan Gauthier, Associate
Leigh Hafrey, Associate
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CONSERVATION COMMISSION

Minutes of September 19, 2024

In response to the COVID-19 pandemic and given the current prohibitions on gatherings imposed by Governor Baker's March 23, 2020 "Order Assuring Continued Operation of Essential Services in the Commonwealth, Closing Workplaces, and Prohibiting Gatherings of More than 10 People," this public hearing was conducted virtually, as allowed by Governor Baker's March 12, 2020 "Order Suspending Certain Provisions of the Open Meeting Law," G.L. c. 30A, §20.

The following Commissioners were present:

Tim Puopolo, Chair
Erik DeAvila, Vice Chair
Nathan Gauthier, Clerk
Stephanie Radner, Associate
Elena Taurasi, Associate

The following Commissioners were absent:

Leigh Hafrey, Associate

The following Staff were present:

Meredith LaBelle, Conservation Agent

The following Applicants and/or Representatives were present:

Ariel Peguero, Applicant for 142 Milton Street
Pamela Peguero, Applicant for 142 Milton Street
Andrew Magee, Representative for 142 Milton Street
David Gorden, Representative for 142 Milton Street

Chair Puopolo called the meeting to order at 7:06 pm in accordance with the Wetlands Protection Act, M.G.L. Chapter 131, Section 40 and the Dedham Wetlands Bylaw.

AGENDA:

1. Public Comment

Commissioner Puopolo opened the floor for any conservation questions or general comments from members of the public. He received no responses.

2. New Application

2.1. 61 Milton Street –Site Redevelopment – RDA 2024-17 (*continued to 10/3/24 meeting*)

Chair Puopolo stated that due to the legal issue of posting, the Commission is not able to open this application and continue discussion because of one legal requirement in the WPA not being met. Notifying abutters legal notice was met but not the legal posting for the public.

Commissioner Radner asked if this would affect the time for the applicant and default for not opening in time. Agent LaBelle responded since it is an RDA it must be opened in 21 days or with permission from the application. She explained in this case, it was an administrative error, and no one is at fault and that it will be posted in the following week and notifying the applicant with continuing with the 10/03 meeting. Abutters will be notified about the change in date.

Chair Puopolo final statement they cannot continue discussing or accept public comments until the next 10/03 meeting.

3. Continued Applications

3.1. 142 Milton Street – DEP 141-0537 – Dog Kennel (After-The-Fact Application)

Andrew Magee, a Landscape Architect with Landscape Oasis LLC, introduced himself as a representative of the project and presented updates based on comments and recommendations from the previous meeting on 09/05. He introduced the applicant, Ariel Peguero, along with his two children, Pamela and Eric Peguero. Magee also introduced his team member, David Gorden, a wetland scientist from Thunderchase Environmental.

Mr. Magee then presented the updated proposal, highlighting changes with clouded annotations to emphasize comments of interest to the Conservation Commission, the applicant, and the WPA. He clarified the soil type and water table, noting that it was measured at 80 inches deep, but explained it could be 80 inches or deeper. Both Mr. Magee and Mr. Gorden pointed out that it was difficult to assess the slope of the bank due to its steepness. However, they confirmed there was no visible water seepage from the top of the bank, suggesting the water table could be as much as 20 feet below the surface. Mr. Magee apologized for any confusion caused during the previous meeting.

He then reviewed the grading plan, including details of the kennel structure, its entrances, and the fenced yard. He brought to Chair Puopolo's attention the plan's limit of six dogs. To address concerns about rainwater entering the town's septic system, Mr. Magee proposed installing gutters along the front and rear rooflines of the kennel, as well as over the dog runs. Side panels were also recommended to prevent wind-driven rain. Collected rainwater would be directed via downspouts to an underground recharge system that connects to the existing rainwater recharge chamber at 142 Milton Street. Mr. Magee noted that Ariel Peguero has not experienced any backflow issues due to the well-draining soil, and he expressed confidence that the water would be absorbed and retained on site.

Addressing a recommendation to add a lip to the front of the kennel to prevent runoff, Mr. Magee explained that after revisiting the site with Mr. Gorden, they determined it was unnecessary. They are confident the runoff will drain into an internal system designed for the dog runs, making the lip redundant. He emphasized that this system is designed to infiltrate clean rainwater from the asphalt roof of the K9 facility and the new roof over the dog runs.

Next, Mr. Magee addressed the second issue of wind-driven rain. He reiterated the proposal to install side panels to prevent rain from entering the kennel. With the addition of gutters and side panels, the system is expected to handle any rainwater that might have otherwise entered through the roofline.

Moving on to the planting plan, Mr. Magee discussed the berms, which are raised and sit on a curtain drain with an inspection port at the lowest point for maintenance and sediment cleaning. The berms are intended to capture runoff before it reaches the river, acting as a filtration barrier. The berm areas have been expanded from 800 square feet to 1,100 square feet and will be 18–20 inches tall and 10 feet wide. A pedestrian gateway will remain accessible for maintenance purposes. He also mentioned plans to

preserve the top of the bank, planting native grasses and sweet fern to support infiltration and pollination.

Responding to Commissioner Radner's feedback, Mr. Magee noted changes to the planting plan, which now includes Eastern Redbud and Serviceberry trees. He also suggested using a temporary above-ground irrigation system for the larger trees and shrubs to improve their chances of survival. This system would be removed before applying for a Certificate of Compliance (COC) after 2–3 years, once the plants are established. He explained that the berms will act similarly to a leaching field, handling drainage and nutrient runoff from the dogs, and will not require mowing due to their thicket-like design.

Mr. Magee concluded his presentation by thanking the commission for their comments and recommendations, which have helped improve the project's design. He invited further feedback and welcomed their thoughts.

Commissioner Puopolo opened the floor to comments from the other commissioners.

Commissioner Gauthier says his comments have been addressed and agrees with having a temporary irrigation system, overall plan has been improved.

Commissioner Radner made a comment about Virginia Sweetspire not being native to the area. Mr. Magee responded sweetspire is grown and will work in this area. Commissioner Radner also asked what grasses will be planted, and Mr. Magee responded that they would get them from a restoration company and is hopeful a warm season native green mix will be used. Commissioner Radner agrees with the planting plan and doesn't have an issue with boulder marking. Another concern she has is the number of dogs could exceed the reasonable amount of space and size of parcel and the potential of excess runoff from the dogs and is communicated to other boards. Agent LaBelle will work on a memo for ZBA with the concerns of the number of dogs.

Commissioner Puopolo opened the floor for comments from the public.

Kate Savage of 84 Commonwealth Ave raised concerns about why this dog kennel is being allowed when the town requires 6 acres for a kennel, and this parcel is below that. She also questioned why it's being considered within 100 feet of Mother Brook. Commissioner Puopolo clarified that the 6-acre requirement for a kennel falls under the jurisdiction of the Zoning Board and Animal Control. Before those boards can make a ruling, they wanted input from the Conservation Commission, even though the commission's primary concern is the structure's impact on Mother Brook. He explained that the commission is focusing on the constructed berm and the restoration work within the 100-foot riparian line.

Ms. Savage further asked if there are any species of concern in the area of Mother Brook and whether this project would disturb them. Commissioner Radner responded that the area was investigated, and no species of concern were identified.

Elizabeth Doris Gustin inquired about how the retention of urine in the area would be managed and whether a percolation test had been conducted to determine how quickly liquids would be absorbed. Commissioner Radner asked Mr. Gorden to respond, who explained that since they are not designing any type of in-ground infiltration system, a percolation test was not required. He added that the soil type in the area has been studied and is classified as "somewhat excessively drained," with a low runoff potential, similar to the soil at a nearby dog park and on the Peguero property. Groundwater was found to be approximately 23 feet below the surface.

Commissioner Puopolo asked whether the existing rainwater recharge system was a new addition. Mr. Magee confirmed that it had been in place since the building was constructed.

Ms. Gustin then stated that she was familiar with the Dedham Dog Park, which is located on ledge, and questioned how a comparison could be made between the dog park and the Peguero property. She also asked if a percolation test had been done. Mr. Magee confirmed that no percolation test had been conducted but noted that MassMapper data and Mr. Gorden's resources were used to determine the drainage quality of the soil. Mr. Gorden confirmed that there is ledge on the western edge of the Dedham Dog Park, but the soil maps for both the dog park and the Peguero property indicate they share the same type of soil, classified as Merrimac.

Commissioner Puopolo asked Agent LaBelle whether Stormwater Manager Patrick Hogan had been consulted. Agent LaBelle replied that Hogan did not find any need to trigger a stormwater permit or comment on the project. She also explained that a percolation test is not required unless there is a septic system installation, which would then fall under the Board of Health's purview.

Commissioner Radner expressed her reservations about approving the project, stating that she would likely approve it for a yard with up to four dogs but had concerns about the proximity to the resource area. She added that if the Zoning Board of Appeals (ZBA) and Animal Control approved the kennel for more dogs, it would require proper management of animal waste. For the record, she stated that she does not support the plan for a larger number of dogs or any other potential uses but does support the structure since anything seeping into the ground could be managed.

Commissioner Puopolo asked Agent LaBelle if a special order of condition could be used to limit the number of dogs to a maximum of eight in this approved structure. Agent LaBelle responded that this would be up to the ZBA, as the property faces a setback issue on one side and lacks the acreage required for a kennel. She emphasized that the Conservation Commission is not responsible for this decision but would provide a memo to the ZBA.

Ms. Savage voiced concerns about how the project would proceed since it had already been built without permits. Commissioner Puopolo explained that the structure had been constructed without proper authorization, and the applicant is now seeking an After-The-Fact application and an Order of Conditions to rectify the violation. He added that if the applicant does not receive a Certificate of Compliance (COC) after completing the necessary work, the violation would be recorded on the property's deed, affecting future sales. If the applicant fails to comply, an enforcement order could be issued, potentially requiring the removal of the structure. He assured that Agent LaBelle would verify compliance through site visits.

Commissioner Puopolo then opened the floor for comments from other commissioners regarding the draft Order of Conditions. Commissioner Gauthier expressed approval of the plan. Commissioner Puopolo asked the project representative if any modifications or conditions would pose a hardship before presenting the project to other boards. Mr. Magee sought clarification, asking whether the straw poll would include a favorable memo to the ZBA based on the presented information. Commissioner Puopolo confirmed that the memo would be favorable for the Order of Conditions but would not include a formal Conservation Commission (ConCom) approval letter.

Commissioner Puopolo then asked applicant Ariel Peguero if he wanted to comment on the proceedings. Mr. Peguero expressed appreciation for the work done and indicated he was open to making any necessary changes.

Agent LaBelle mentioned that she had spoken with the Building Commissioner, who was willing to approve the project once it was cleared by the Conservation Commission and other boards. She added that most parties were generally in favor of the project, and a firm decision would provide clarity for the ZBA.

Commissioner Radner asked what would happen if the commission decided to deny the project. Commissioner Puopolo responded that the applicant would need to explore alternatives to make the project compliant. Agent LaBelle added that if restoration work was denied, an enforcement order would

be issued to dismantle the structure. Commissioner DeAvila noted that demolition would still require additional permitting.

Commissioner Gauthier commented that this permitting process is similar to others, except for the need for a waiver due to the project's location within the Undisturbed Buffer Area (UBA). He pointed out that improvements, such as raising the berm and planting native species, had been made.

Commissioner Radner reiterated her concerns about approving projects in the UBA and expressed frustration with the increasing number of After-The-Fact applications. Commissioner Puopolo responded by noting that previous UBA waivers were also for restorative work, and in this case, the project similarly involves restoration. Mr. Gorden added that the UBA is designed to protect resource areas from excessive stormwater runoff, and the project's berms and plantings are intended to manage water flow effectively.

Commissioner Radner **motioned to close public hearing for DEP 141-0637**. Commissioner DeAvila seconded the motion. Commissioner Puopolo led a roll call vote. **All Commissioners present voted "aye" and the motion passed by a 5-0 vote.**

Commissioner Gauthier **motioned to approve the waiver for work in the UBA for DEP 141-0637**. Commissioner Taurasi seconded the motion. Commissioner Puopolo led a roll call vote. **All Commissioners present voted "aye", except for Commissioner DeAvila and Commissioner Radner, and the motion passed by a 3-2 vote.**

Commissioner Gauthier **motioned to approve the Order of Conditions for DEP 141-0637**. Commissioner Taurasi seconded the motion. Commissioner Puopolo led a roll call vote. **All Commissioners present voted "aye", except for Commissioner DeAvila, and the motion passed by a 4-1 vote.**

4. Minutes

Commissioner DeAvila made a motion to approve the minutes for the 9/5 meeting as drafted. Commissioner Radner seconded the motion. Commissioner led a roll call vote. All Commissioners present voted "aye" and **the motion passed by a 5-0 vote.**

5. Agent's Report

Agent LaBelle reports that 181 Village Ave stormwater system was moved away from the UBA, and they came back for a modification to fill their swimming pool but have canceled it. The minor modification has become null, and the permit has not changed. She also updated the Commissioners that Jim Maher has submitted his by-law article for the town meeting which will be presented at the next ComCon meeting. Agent LaBelle also added that they are working updating the water trail signs. Lastly, she updated the Commissioners that Leo Lainez would be starting on Monday as the Environmental Specialist for the department. The Commissioners discussed their first-ever Biodiversity Day which was a successful event with great turnout and supportive feedback. They discussed making it an annual event.

The meeting was adjourned at approximately 9:43 pm.