|  | The Town of Dedham  Commonwealth of Massachusetts  Conservation Commission  26 Bryant Street  Dedham, MA. 02026 |
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Conservation Commission - Meeting Minutes

Thursday, May 7, 2015, Dedham Town Hall- Lower Conference Room

Members Present: Fred Civian (Chairman), Kristine Langdon, Andrew Tittler, Brian McGrath, Laura Bugay, Joseph Smith and Joseph Hickey.

Mr. Civian called the meeting to order at 7:00 PM

**7:00 PM:** **Town of Dedham Roads-** *Request for Determination of Applicability from the Town of Dedham Engineering Department for routine maintenance and repair of existing roadways throughout the Town. (RDA 2015-05)*

Jason Mammone, Director of Engineering, explained that they are proposing work within three jurisdictional areas including Chickering Rd, Durham Rd, and Rosemary Rd. They will be replacing the asphalt on these roads and at the same time they will be replacing catch basin structures. Work will be taking place within the 200 foot of riverfront area.

Agent O’Connell recommended a Negative Determination of Applicability with standard conditions of approval.

Mr. Civian made a motion to issue a Negative Determination of Applicability with standard conditions of approval as recommended by Agent O’Connell, seconded by Ms. Bugay, UA.

**7:03 PM:** **110 Meadow Road (Lot 4)** – *Notice of Intent from LSRED2 Clover Property 13, LLC for an expansion of the existing parking area at 110 Meadow Road, including modifications to the existing stormwater management system. (DEP File # 141-0476)* Continued from April 16, 2015

Mr. Civian made a motion to continue 110 Meadow Road (Lot 4) until May 21st at the request of the applicant, seconded by Ms. Bugay, UA.

**7:05 PM: 25 Boathouse Lane**- *Notice of Intent from Mollie Blundell Moran & Charles Edward King for the construction of a single family dwelling including onsite septic system with work proposed within the 200’ riverfront area and the 100 year flood plain of the Charles River (DEP# 141- 0477)* Continued from April 2, 2015- Applicant has requested to Continue from April 16, 2015

Kristine Meaney was present from Site Design Professionals. She explained that she does not foresee much going on between the BVW line and the river. They plan to restore the site through invasive species removal and re-vegetation.

Mr. Civian asked if they would normally receive review information from DEP. Agent O’Connell responded that yes, generally they would.

Ms. Meaney explained that she was asked to provide a plan with limits of work and a construction sequence, and she presented that plan to the Commission.

Mollie Moran discussed the tree plan. She explained that they found there are very few evergreens that are native species.

Mr. Tittler asked why the house cannot be pulled further back from the river. Ms. Moran explained that since this is an accessible house they need 50 feet of ramp to get into the front door. Mr. Tittler asked what is driving the use of that land for that purpose instead of a different arrangement.

Mr. Civian asked why it is impossible to stay outside of the 100 foot buffer zone. He explained the Commission would like to see an alternatives analysis for this. They need to find that it is consistent with the set back rules, and it would be easier if they maintain the 100 ft buffer area as undisturbed.

Ms. Bugay commented that while she appreciates the question from Mr. Tittler about staying outside of the buffer zone she is not sure this is a significant enough problem to ask the applicant to rework things.

Mr. Civian requested something in writing explaining why it is infeasible to move items out of the buffer zone.

Mr. McGrath commented that it will look lovely but the project will disturb inside the buffer zone and that is what needs to be made clear.

Agent O’Connell commented that Cathy Cardinale, Health Director, would like to see some changes to the leeching field and septic locations.

Bill Cullinane, abutter of 28 Boathouse Lane, asked about which trees are being removed. He commented even though there are invasive species the foliage in the area is dense and he hopes there can be enough trees to replicate that. Ms. Moran gave Mr. Cullinane a copy of the landscape plan and explained that the trees marked with red ribbons are the ones that are being removed.

Mr. Cullinane asked what size cedar trees they plan to plant considering they grow very slowly. Ms. Moran explained that she also would like to have as much privacy with trees as possible, but they also do not plan to bring in 30 foot trees and that is what it would take. Mr. Cullinane asked about white pines, Ms. Moran was not aware those were native species.

Mr. Civian confirmed with Ms. Moran that they are hoping to move the process along quickly, but that the ConCom needs more time to review the landscape plan and to reach out to Pam Merrill at DEP.

Mr. Civian made a motion to continue 25 Boathouse Lane until May 21st, seconded by Ms. Bugay. UA

**7:40 PM: 112 Meadow Road-** *Request for Determination of Applicability and Stormwater Permit Application from M.S. Walker for work associated with the construction of a new commercial building on the property located at 112 Meadow Rd. (RDA 2015-05, SWP 2015-04)* Continued from April 16, 2015

Steve Senna was present from National Development to represent M.S. Walker. He explained that the project location is a Boston business park, and half is in Dedham, half in Boston. He explained the existing conditions for the site, and it being a sea of asphalt with no pervious today, and with the proposed changes they will have significantly less impervious and will be adding landscaping. They have been through a process with the Town to adjust the zoning requirements to allow the bottling of alcoholic beverages at this site. The manufacturing facility will be approximately 140,000 square feet. The site is accessible by car from Boston only.

Agent O’Connell explained that Lisa Eggleston has provided comments on the design.

Justin Dufresne of VHB explained that he has addressed all of Lisa Eggleston’s comments. He explained how the design has been revised to meet the recharge volume completely.

Lisa Eggleston explained that although this is a redevelopment project they are really starting from scratch and need to be making every effort to meet the standards fully. Clarification needs to be done on existing conditions.

Ms. Bugay confirmed with Mr. Senna that there is not a 21 E on the site. He explained that there will not be a tremendous amount of excavation.

Ms. Langdon asked for more details on the increased landscaped area. Mr. Dufresne explained he will bring a landscape plan to the next hearing.

Ms. Bugay asked if they have considered a green roof or solar. Mr. Senna responded that solar will probably happen.

Agent O’Connell recommended that the Commission continue the hearing on 112 Meadow Rd. to allow time to receive and review revised plans.

Mr. Tittler informed the applicant that if they want a waiver they will need to provide a written request.

The Commission agreed that an RDA is appropriate, and a Notice of Intent is not necessary.

Mr. Civian made a motion to continue the hearing on 112 Meadow Rd until May 21st, seconded by Mr. McGrath, UA.

**50 Fillmore Road-** *Notice of Intent from Judith Gutman for an addition with proposed deck and elevated pet lift on existing home at 50 Fillmore Road with work proposed within the buffer zone of a bordering vegetated wetland. (DEP# 141- 0480)*

Matt Smith of Norwood Engineering was present with the property owner Judith Gutman.

He explained that they have added a 2 foot by 2 foot separation as recommended by Agent O’Connell. Ms. O’Connell explained that for Stormwater, this could be eligible for a blanket Stormwater Permit from the Building Department using a trench design.

Mr. Tittler confirmed with Mr. Smith that there is an existing deck that is pervious, but it will become impervious.

Mr. Civian made a motion to continue the hearing on 50 Fillmore Rd until May 21st, seconded by Ms. Bugay, UA.

**399 West Street-** *Notice of Intent from Perry Phinney for the construction of a single family house at 399 West Street with work proposed within the buffer zone of a bordering vegetated wetland and bordering land subject to flooding. (DEP 141- 0481)*

Renee McDonough was present from Goddard Consulting. She provided Certified Mail return receipts to Agent O’Connell. She then presented a plan to demonstrate the resource areas on the site, which was previously before the Commission for an Abbreviated Order of Resource Area Delineation. She also explained wildlife habitat information, and explained that this site is a habitat for a rare dragonfly species; this habitat will remain undisturbed. Trees will be removed within the buffer zone, and they were identified on the plan.

Agent O’Connell requested that Needham abutters be notified.

Mr. McGrath commented that the applicant will need justification for having the lawn area in the buffer zone.

Mr. Tittler asked about plantings planned for the site. Ms. McDonough responded that they do not know what they will be using yet.

Agent O’Connell explained that her comments were sent to Mr. Goddard but she has yet to receive a response. Ms. McDonough will look into this.

Ms. Bugay asked if the Town’s bylaws require a tree count of a certain size. Mr. Tittler referenced Section 3 of the Wetland Protection Bylaw.

Mr. McGrath commented that the grading on the driveway is a clear slope. Ms. McDonough explained that the runoff from the driveway should be connected to the drywell, but is not shown on the plans. Mr. McGrath added that it needs to be pretreated.

Mr. Civian commented that a lot of trees are being cut that do not seem to be necessary. He also commented that the green space does not fit with the land at all. He believes these things are barriers to the project as proposed.

Mr. Civian made a motion to continue the hearing on 399 West Street until May 21st, seconded by Ms. Bugay, UA.

**8:45 PM: 242 Lowder Street** – *Stormwater Permit application from Concinnitas Corporation for a new single family residence at 242 Lowder Street (SWP# 2015- 04)*

Agent O’Connell explained that she has visited the site, and while it is large, the proposed development is limited to easterly side of the site. The driveway is not impervious.

Scott Henderson of McKenzie Engineering with Greg Carlevale, the applicant. Mr. Henderson explained the existing conditions and how the system has been engineered.

Ms. Bugay commented on the significant tree removal on the site, but specifically wondered why trees were being removed along the slope next to the ledge area in the back. Mr. Henderson explained it was at the request of the applicant to allow for a back yard area. Ms. Bugay asked about the utilities which seemed to cross a lot. Mr. McKenzie agreed that they do cross a decent amount, the one crossing of note is the crossing of the Sewer line from the main house with the roof leader crossing over it; he explained the sewer is deep and the vertical separation is at least 2.5 feet.

Mr. Civian made a motion to issue a Stormwater Management Permit for 242 Lowder Street with standard conditions of approval subject to the Conservation Agent’s acceptance of revised plans from the applicant, seconded by Mr. Tittler, UA.

**270-280 Bridge Street-** *Request for Determination of Applicability from Marbridge LLC for landscape work within the100 foot buffer zone of a bordering vegetated wetland at 270-280 Bridge Street. (RDA 2015-06)*

Rebecca Bachand was present to represent Marbridge, LLC. She explained that they plan to remove brush along the property line but will be leaving the large evergreens.

Agent O’Connell commented that everything that is being proposed is within areas that have previously been developed. She does not see any of the work having an impact on the protectable resource areas. Agent O’Connell recommends that a Negative Determination of Applicability be issued with standard conditions of approval.

Mr. Tittler recommended that native species be used for planting.

Mr. Civian made a motion to issue a Negative Determination of Applicability for 270-280 Bridge Street with conditions as recommended by Agent O’Connell as well as the condition that stockpiles must be limited to the existing loading dock area, seconded by Mr. McGrath, UA.

**9:05 PM:** *The Commission took a 5 Minute Recess*

**150 Eastern Avenue/Gonzales Field**- *Notice of Intent from Algonquin Gas Transmission, LLC for the construction of a new natural gas pipeline in Dedham with work proposed within 200 feet of a riverfront area. (DEP# 141-0479)*Continued from April 16, 2015

Mr. Civian explained that the purpose of the meeting, and how anything that is outside wetlands area is outside of the scope of the Conservation Commission’s jurisdiction.

John Bonsall was present representing Algonquin Gas with Dave Neil and Dan Hilslinger. Mr. Bonsall reviewed the project, which is a 4.9 mile lateral project running from Westwood to West Roxbury. The purpose of the project is to connect into National Grid’s system in the West Roxbury area. They filed with the Conservation Commission approximately 2 months ago, and approximately 3 weeks ago they had their first Conservation Commission hearing. They have provided responses to the questions asked at the last meeting to the Conservation Agent last week.

Mr. Bonsall explained that there are three culverts that go underneath roadways but by virtue of the fact that the work will be in the roadways they meet an exemption within DEP’s regulations in terms of not being a jurisdictional resource area. The 4th area is some work in the buffer zone to the stream by Gonzales field, and the work is primarily outside of the 200 foot buffer zone.

Dan Herslinger of TRC Environmental pointed out the jurisdictional area on a map. The jurisdictional area will be used as temporary work space. The excavation for the pipeline itself is outside of the riverfront area.

Mr. Civian commented that last time the Commission asked what specific part of the Wetland Protection Act applies to the proposal. The applicant has since provided this information.

Mr. Bonsall walked the Commission through their responses to the comments made at the last meeting. He explained that a new Form 3 was completed and provided to the Conservation office. The alternatives analysis: originally they proposed to construct the pipeline through the middle of Gonzales Field, but as a result of some meetings with Parks and Recreation and the Board of Selectmen, they shifted more of the project over to Providence Highway as to minimize impacts to Gonzalez field. They tried to find an alignment that would minimize impact and lessen disturbance to the community. They have provided the wetland delineation data forms. They have provided an explanation for the question raised regarding the stormwater standards. Mr. Bonsall explained that they have tried to have some discussions with DEP regarding the abutter notification requirements, but with their general counsel leaving they were not successful in having the discussion they needed, so per the Commission’s direction and the discussion had at the last meeting, they gave the full abutter notification for the entire length of the pipeline in Dedham. He added that they don’t think that is the right interpretation of the notification requirements and it is not consistent with what DEP has out there, but that is how they are verbally explaining it. Mr. Bonsall explained that they have complied with guidance that has been provided. Mr. Bonsall also confirmed the staging location is 10 Industrial Ave.

Mr. Civian summarized that information was requested specifically for the 4th area which was the jurisdictional area.

Ms. Bugay asked about the proposed video inspection of the culvert. Mr. Neil confirmed it would be done prior to construction over that culvert. Ms. Bugay expressed concern with how the issue might be addressed if they find an issue that requires repairs. She was concerned with them waiting to complete the inspection.

Mr. Civian asked what they would do if they find damage. Mr. Neil responded that with the pipeline they have the ability to skip sections and come back to them. Ms. Bugay commented there has been collapsed pipe off the road and she is not sure of the condition of that pipe.

Mr. Tittler asked if there will be an O & M plan. Mr. Neil responded that they have a large book of the way things work with regards to maintaining the pipeline.

Mr. Smith asked if anyone knows when the buried culvert was built.

Agent O’Connell commented that the culvert is long and large.

Hamudy Sinclair expressed concern about damage to personal property. Mr. Civian responded that this is outside the scope of the discussion, but asked applicant anyways. Mr. Bonsall responded there will be right-of-way agents that will interact and coordinate with impacted property owners. They will try to minimize the impact as best they can. There will also be a 24/7 landowner hotline available. Mr. Sinclair explained that there has been poor communication about the project so far. He is disappointed that he only heard about it a couple of months ago and it has been known about for a couple years.

Shane Swaylan commented that current legislation is not set up to handle this type of pipeline. The gas is odorless. The consequences of whatever is in the pipeline going into the streams are huge. Will they give a breakdown of what will be contained and the levels of what is contained in the pipes? Mr. Bonsall responded that the gas is odorized and they monitor the pipes for leaks 24/7; it is a closed system and based on the design it will not leak. Mr. Bonsall added that the pipe will be tested before it is put into service. The pipes are overdesigned for safety. Mr. Swaylan asked if it is so safe, why they have a history of leaks and explosions.

Julie Hanna, owner of Sleepy’s, asked what the purpose is of the pipeline and how it will benefit the public, and why they are doing this now.

Jessica Porter commented that she was disappointed not to have notice of the April meeting. She added that she believes 48 hours notice was insufficient. She asked about emissions during construction, will they use a low fuel emissions vehicle?

Mr. Neil responded that they have hired a contractor and he does not know whether they use a low fuel emissions vehicle or not.

Ms. Porter continued that there is free flowing water going under providence highway which could be a vector for moving carcinogens or whatever else is around. She asked how they are keeping water away from the construction area. Mr. Neil responded that when they did borings on Providence Highway they did not encounter groundwater. If they did encounter groundwater, they would pump it out.

Ms. Porter asked what the blast zone is for one of these pipes.

Mr. Civian asked the applicants if they have any data they can provide to the Commission on incidents. Mr. Neil responded that Algonquin has not had a major incident. Mr. Bonsall added that the primary reason there are incidents are because of 3rd party damage. Mr. Neil explained the pipeline will be internally inspected every 7 years.

Ms. Porter asked what they do differently that prevents issues like San Bruno. Mr. Neil responded that San Bruno had improper maintenance, deficiencies, and no remote control valves.

Ms. Porter encouraged the Commission to vote against this application or at least wait until after FERC responds.

Ellen Fine, Needham resident, explained an event in 2009 in Pennsylvania where lubricating oil spilled and methane was released. She explained her concern of what would happen to the wetlands if this were to happen here in Dedham. Ms. Fine provided other examples of issues, including one in Maine. She asked the applicant to be hyper specific about what makes this pipeline any different. Mr. Bonsall responded that some examples that were given are different then the pipeline that is proposed.

Mr. Neil responded that in Searsmont Maine, it did what it was supposed to do.

Ms. Fine asked if Spectra has discussed the pipeline with the fire department. Mr. Bonsall responded that the Fire Chief and Police Chief have been involved in meetings.

Elizabeth Martin asked the applicant to check to see if the staging area is within a jurisdictional area.

May Duncan commented that she would like to echo what Jessica Porter said, and urged the Commission to say no until FERC is done with their hearing.

Mr. Tittler explained the legality of the applicant proceeding even thought the FERC order was issued.

Hamudy Sinclair explained that he read the process of installing this pipeline would take three years and that it would have a blast radius of 300 feet. He asked how they are going to handle hazardous materials getting into Charles River. Mr. Sinclair also asked why the Town of Dedham cannot veto this. Mr. Civian explained the limited jurisdiction of the Conservation Commission. He suggested Mr. Sinclair speak with the Selectmen rather than the Conservation Commission about some of these concerns.

Mr. Bonsall explained that the construction overall will take two years but only a portion of that time will be in Dedham.

Andrea Dereamis asked about the erosion and sedimentation plan for the jurisdictional area of the pipeline. Mr. Civian explained that all of this information was included in the NOI from the applicant, but asked the applicant to briefly review for the public. Mr. Hilslinger described the erosion control.

Kara Tierney commented that she would like to echo the request for the Commission to vote no. She asked if there is an appeal process if they vote in favor. Mr. Civian confirmed there is an appeal process. Agent O’Connell commented that she believes they would need to file an appeal with DEP within 10 days and file with Superior court within 60 days; it is a lengthy process.

Mr. Tittler reminded the public that they should consult their own counsel; the Commissioners cannot act as legal counsel.

Ellen Fine referenced Article 97 of the Constitution for purpose of protecting public lands. Mr. Bonsall commented that Article 97 does not apply with the easement from the MBTA.

Mr. McGrath commented that even though this is an emotional, hot topic the Commission needs to stay within their jurisdiction. He explained again for the public the one area located at Gonzales Field that the Conservation Commission has jurisdiction over, and how they are limited to that small piece when making their decision.

Mr. Civian commented that he agrees with the applicants claim that they are exempt from the other three locations, and that jurisdiction is limited to one area. He explained that it is difficult to claim that there will be an impact on that small piece of which they have jurisdiction.

Mr. Tittler commented that he agrees with Mr. Civian; it is 180 feet away.

Mr. Langdon commented that while she appreciates everyone’s participation, the Conservation Commission’s responsibility is limited to the jurisdiction they are given.

Ms. Bugay commented that they are voting to permit a portion of construction of the pipeline, not the potential for explosions. She explained that the applicant has met the Conservation Commission’s requirements and in her opinion will not impact the resource areas.

Mr. Smith commented that if the Conservation Commission were to vote no they would need to have a good reason, and he is not sure that there is one. He thinks the Conservation Commission needs to be reasonable.

Mr. Hickey commented that he is an abutter of the proposed pipeline; he does not like the project, and feels he is being sold a bill of goods. He does not see any benefit in this project; however, it does appear that the applicant has met the requirements with regards to the small piece of land the Commission as jurisdiction over. Since he is an abutter to the project, Mr. Hickey decided to recuse himself.

Mr. Sinclair commented there are basically no benefits of this project to anyone local. Mr. Sinclair asked about a location on Washington Street with a bridge and where the pipeline will be constructed. Mr. Bonsall confirmed that this is one of the three exempted areas, and there is space between the culvert and the road for the pipe. Mr. McGrath helped to explain the way it is being constructed. Mr. Sinclair asked what he would do if he saw contamination in the river. Mr. McGrath explained he can call the Conservation office; DEP also has a 24 hour hotline. Mr. McGrath explained that the construction will include welding pipe in a trench. Mr. Sinclair asked about his property rights. Mr. McGrath responded that nothing about this project precludes your rights as a home owner, a citizen; if something is happening you have every right to make a phone call, make a notification. Mr. Bonsall informed everyone that their environmental inspector on site has the ability to shut it down immediately.

Ann Churaga asked Ms. Bugay about the deteriorated pipe in a culvert she had mentioned previously. Ms. Bugay explained that the applicant has informed the Commission that they will be using a camera to inspect the culvert in question once they get to it, and they will work with the appropriate parties to deal with the culvert if they find there is an issue.

Mr. Tittler asked the applicant for more information on whether the proposed staging area was jurisdictional.

Jessica Porter recommended that the Commission wait to vote until the applicant responds to the issues that were raised tonight.

Mr. Sinclair echoed Ms. Porter’s request for the Commission to wait to vote to allow more voices from the public to be heard. He also asked where the staging area is going to be located. Mr. Bonsall responded 10 Industrial Ave. Mr. Civian asked how far the staging area is from Mother Brook. Mr. Bonsall responded that is appears to be approximately 300-400 feet away.

**10:40 PM**- Dennis Teehan commented that the Board of Selectmen is opposed the project, and that much of the decision making is done in Washington DC. There will be a public information meeting June 1st, he encourages those with concerns to write their representative in DC.

Mr. Civian made a motion to close the public hearing, seconded by Ms. Bugay. **It was voted 6-0** (Mr. Hickey recused)

Mr. Tittler asked if there is a way to get some kind of form of commitment from applicant at Lowder Brook

Ms. Bugay asked if they would like to consider the suggestion to wait to vote.

Mr. Civian commented that it he would need to see an environmental reason to hold up the project. Mr. Civian asked Agent O’Connell to come up with recommended conditions of approval.

Mr. Civian made a motion to continue **150 Eastern Avenue/Gonzales Field** to May 21st, seconded by Mr. Tittler, UA.

**10:50 PM:** Informal Discussion-

Boch Ice Center– Brian Taylor- The existing building is within 100 foot buffer. Parking and access will remain the same. Agent O’Connell thinks the proposal would be pushing the envelope a bit. Mr. Civian commented that they are close to the wetlands. Mr. Tittler asked about the area in front of the building. Agent O’Connell explained that it is in a different zoning district. Mr. Tittler commented that he is not clear why zoning lines should take precedence over environmental protections. Mr. Civian commented that it seems they will have a really hard time designing everything they want so close to the wetlands; he doesn’t know how they are going to be able to do that. Mr. Civian commented that it seems they have more of a barrier to this project than hurdles.

255 West Street- Scott Henderson was present with Greg Carlevale. They explained that they want to do work within 200 foot riverfront. There will be minor clearing, not noticeable from the area. Mr. Civian responded that there are hurdles, but he does not see a barrier to the proposal.

Mr. Civian informed the Commission that when David Gorden was not re-appointed by the Board of Selectmen to the Conservation Commission he received a note from Selectmen Teehan that mentioned how the Conservation Commission has operated in a way in recent years that has hurt citizens in a profound way. Mr. Civian wants to ask the Board of Selectmen for more information about projects during which the Conservation Commission has harmed people in this town.

Mr. Civian made a motion to adjourn at 11:15 PM, seconded by Mr. McGrath, UA.