



Stephanie Radner, Chair  
Nathan Gauthier, Vice Chair  
Eliot Foulds, Clerk  
Leigh Hafrey, Associate  
Nick Garlick, Associate  
Bob Holmes, Associate  
Erik DeAvila, Associate  
Tim Puopolo, Alternate  
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## TOWN OF DEDHAM

### CONSERVATION COMMISSION

#### Minutes of July 1, 2021

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:

Stephanie Radner  
Bob Holmes  
Leigh Hafrey  
Nick Garlick  
Nathan Gauthier  
Erik DeAvila  
Tim Puopolo, Alternate

#### The following staff were also present:

Elissa Brown, Agent

#### The following Commissioners were absent:

Eliot Foulds, Clerk

#### The following Applicants and/or Representatives were present:

John Patillo, Applicant – 2 Jackson Pond Road  
Karon Skinner Catrone, Representative – 2 Jackson Pond Road  
Mike Carter, Representative – 210 Schoolmaster Lane & Schoolmaster Lane Lot 7  
Martin Grealish, Applicant – 179 Riverside Drive  
Jim Burke, Representative – 179 Riverside Drive  
Scott Morrison, Representative – 179 Riverside Drive

Commissioner Radner called the meeting to order at 7:02 pm in accordance with the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, the Dedham Wetlands Bylaw, and the Dedham Stormwater Management Bylaw.

#### 1. Continued Applications (Applications Previously Opened to be Discussed Tonight)

##### 1.1 2 Jackson Pond Road – RDA 2021-09 – Invasive Species Management and Paving

Applicant: John Patillo Representative: Karon Skinner Catrone Request: Issue Neg. DoA

Ms. Catrone stated she has included the erosion and sedimentation controls in the plan documents as requested at the last meeting, as well as the necessary neighbor's signature. Mr. Patillo confirmed this was the case.

Commissioner Radner asked for clarification on whether pavement existed underneath the gravel on the driveway. Ms. Catrone confirmed this was the case.

Commissioner Radner opened the floor to comments and questions from other commissioners and the public. She received no responses.

Commissioner Radner reviewed the draft Negative Determination of Applicability and asked Agent Brown if there were any associated special conditions. Agent Brown stated there were no special conditions. Agent Brown noted that it was now mid-summer and the vegetation had grown very thick. She recommended the applicant consider scheduling the proposed work for a time when conditions are more optimal.

Commissioner Radner requested clarification on the management of removed invasive plant material. Ms. Catrone stated it will be disposed of off-site. Commissioner Radner reminded the applicant that many invasive varieties, bittersweet in particular, can re-root and, if it is fruiting, can re-seed easily. She recommended the applicant allow that material to sit in the sun, possibly in black bags, to prevent these issues. Ms. Catrone agreed and stated these methods were included in the submitted plan.

Commissioner Radner motioned to close the public hearing for this item and issue the Negative DoA as drafted by Agent Brown. Commissioner Hafrey seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." Motion carried.

## **1.2 210 Schoolmaster Lane – MSMP 2021-14 – Driveway Relocation**

Applicant: Supreme Development, Giorgio Petruzzello    Representative: Mike Carter, GCG    Request: Issue MSMP

Mr. Carter reminded the Commission of the previously submitted application to move a driveway from Lot 6 to Lot 5 and that this is an "after-the-fact" application.

Following the previous meeting, Mr. Carter has prepared a full drainage analysis and stormwater report. He confirmed that the project fully complied with stormwater regulations and that there were no increases in stormwater runoff or impervious area. He stated that, to achieve TSS removal requirements, a small rain garden has been added to the design. He also confirmed that the crown of the road will cause the road to drain to either side where it is bordered by a 2' stone trench.

Mr. Carter then detailed the plans for the new raingarden. Ideally, he is hoping to have 30" of soil in the rain garden but may be limited by tree roots. A list of plantings is included on the plan design and he confirmed that they are all native.

Mr. Carter stated that the applicant is not seeking any waivers for this project.

Commissioner Radner asked if the Ilex Glabra (inkberry) listed on the planting plan would have both male and female varieties planted. She said that this species requires both to fruit. Mr. Carter agreed and confirmed the landscaper is likely aware of the need.

Commissioner Hafrey asked for clarification on the crown of the road. Since there are now stone trenches to each side, he asked if the road is crowned to allow it to drain in both directions. Mr. Carter confirmed the road is crowned.

Commissioner Radner opened the floor for public comments and question. She received no responses.

Commissioner Radner asked and Agent Brown confirmed that a draft MSMP had been shared with Mr. Carter. Mr. Carter stated he had reviewed it and had no questions or concerns.

Commissioner Radner motioned to close the public hearing for this item and issue the MSMP as drafted by Agent Brown. Commissioner Hafrey seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." Motion carried.

### **1.3 179 Riverside Drive – DEP #141-0585; MSMP 2021-02 – New SFD on Undeveloped Lot**

Applicant: Martin Grealish, Phoenix Holdings    Representative: Jim Burke, DeCelle-Burke-Sala  
Request: Issue OOC/MSMP

Mr. Burke detailed changes that have been made to the plans since the last meeting. The design has been revised to reduce the required grading. Additional details with more robust erosion and sediment controls have been added to the construction management plan. The second deck has been removed from the plan and width of the remaining deck has been increased from 10' to 12'. A cut sheet showing lighting intensity for a single LED bulb with downcast lighting has also been submitted. Mr. Burke displayed the submitted documents to detail these changes for the Commission.

Commissioner Radner stated that she has reviewed the Town By-Laws and Wetlands Protection Act and still has concerns with certain aspects of the project. She stated the waiver request must demonstrate that strict application of the rules and regulations will create an undue hardship on the applicant and that the same level of protection of the resource areas can be achieved without a strict application of the rules and regs. She researched what constitutes an undue hardship and found that the state recommends looking at the category of project rather than the applicant as an individual when evaluating hardships. In this case, the project is a single-family home. She reasoned that the applicant owns this land in addition to an adjacent parcel that already contains a residence, therefore this project represents a second home. She stated that, considering these pretenses, in her opinion, not allowing this project does not create a hardship. Further, she does not believe the same level of protection of the resource area can be achieved without strict application of the rules. She felt the construction will negatively affect the resource area.

Commissioner Radner also reviewed the provision in the Wetlands Protection Act that allows for the construction of a single family house, a septic system (if no sewer is available), and a driveway on a lot created recorded before August 7, 1996 where the size or shape of the lot within the riverfront area prevents the construction from meeting the requirements provided that the lot can be developed for such purposes under the law and performance standards are met to the maximum extent feasible. She also clarified that the Town By-Law has no such provision. She stated the presumptions of this provision are that several alternatives have been considered and there are not any adverse impacts. She believes this project as proposed creates adverse impacts. Scott Morrison, a representative for the project from EcoTec, responded that the concerns over adverse impacts were specifically addressed in the submitted wildlife habitat evaluation. He cited a provision in the Wetlands Protection Act that up to 5,000 ft<sup>2</sup> or 10% of the riverfront lot, whichever is greater, may be altered within the 200' riverfront area for any lot recorded on or before October 6, 1997. He stated that this lot was created well before that date, and

this allows the project to expand up to 5000 ft<sup>2</sup>. Because of the neighborhood setting and the habitat assessment, this project has been designed to about 2/3 of the 5000 ft<sup>2</sup> maximum.

Commissioner Holmes stated that the project is within the 100-foot riparian area. Mr. Morrison responded that the provision he cited does not change for projects within 100 feet of the river.

Commissioner Hafrey asked if the owner had researched the history of any of these issues, as he said he would do at a previous meeting. Mr. Grealish stated he had not researched the topic yet. Commissioner Hafrey requested Mr. Grealish detail the findings he hoped for as a result of that research. Mr. Grealish stated he wanted to determine whether or not there had been a home on that lot in the 1920's-1940's. Commissioner Hafrey asked if this would establish some sort of precedent for this project. Mr. Burke stated that this hypothetical finding would avoid the waiver requirement. Commissioner Hafrey asked for clarification that Mr. Morrison's stated position makes it irrelevant whether or not a structure previously existed on the site. Mr. Morrison agreed that a previously existing structure did not affect his interpretation unless the structure was present after 1997.

Commissioner Radner reviewed the provision cited by Mr. Morrison but emphasized a portion of the provision that states a minimum of a 100' wide area of undisturbed vegetation is provided. She stated that this is not the case as the project is proposed; there is only 60' between the project area and the riverfront. Further, she stated her belief that there will likely be more disturbance down the bank from the actual project area in the process of construction, meaning the undisturbed buffer area is likely less than 60'.

Mr. Burke stated this project will remove invasive species and provide native species, another benefit to the area. He also stated that providing some improvement in stormwater quality on this lot was a possibility. He stated his belief that the benefits outweigh the negative short-term impacts.

Mr. Morrison emphasized that the language in the provision he cited for residential structures utilizes the words "The Commission *shall* allow..." rather than "The Commission *may* allow..." He stated he interprets this to mean that a commission must allow development of up to 5000 ft<sup>2</sup> or 10% of the riverfront lot, whichever is greater, for any lot recorded on or before October 6, 1997.

Mr. Grealish cited many questions from previous meetings regarding existing conditions. He requested permission to share several photos to illustrate the site. He also reiterated a previous offer to improve stormwater infrastructure on the site. Commissioner Radner stated that both the Town's Public Works Director and Engineering Director have looked at the storm drain in question, and both said that they do not see any issues with the drain's current condition.

Mr. Grealish shared the photos of the site. In the photos, he highlighted what he believes to be old foundation walls, a break in an outfall pipe and associated erosion, and debris (such as a discarded appliance and 55-gallon barrel) on the property. Agent Brown asked if there was a proposal for the improvement of the drain. Mr. Grealish stated he would prepare a plan if it was something the Town would entertain. Agent Brown stated that if Mr. Grealish were proposing cleaning up this site and improving the storm drain as part of this project, it would need to be included in the plan and approved by the Engineering Department. Mr. Burke stated that including these items in the proposal would require significant funds from the applicant and they would need feedback suggesting these actions would move the project toward approval before expending the effort. He asked about including the actions as a special condition. Agent Brown declined and stated they would have to be included in the proposal.

Commissioner Gauthier stated that he appreciated the changes in the design in response to previous comments, but also stated that storm drain improvements were discussed at the previous meeting. At the end of that meeting, the applicant agreed to provide a plan for the improvements, but a plan hasn't been provided. Mr. Burke stated they could propose a proprietary inlet structure to collect debris and a rip-rap channel at the outlet to prevent erosion, but the project could still be denied. He would prefer to know what the Commission would like in order to approve this project.

Commissioner Radner asked to be shown on a map the back of the proposed structure in relation to the back of the neighboring structures. Mr. Morrison stated the back of the proposed house is halfway between the two neighboring houses. Commissioner Radner stated her concern with building the proposed structure into the slope. Mr. Morrison stated that the most important part of this parcel from a wildlife standpoint was the continuity of an open space corridor, which was why the house was proposed to be placed directly in between the two neighboring houses.

Commissioner Hafrey asked if anyone on the applicant's side could define the hardship that would be created by denying this project. Mr. Morrison stated that denial prevented the applicant from building on a lot where it was possible, which he considers a hardship. Commissioner Radner asked if the applicant intended to live in the house or sell it, as the provision says that future profits cannot be considered when determining a hardship.

Agent Brown stated that the Wetlands Protection Act doesn't mention the size of the house and it doesn't allow the deck as a right. She also said that there were other alternatives for this parcel that had not been explored yet, such as an addition to 181 Riverside or a tiny house. Mr. Grealish stated he was not interested in these alternatives and that he considered these sites as separate. In response to Commissioner Radner's question, he stated he was not sure if he'd live in the house or not and stated that he is a small-scale real estate investor. He stated that he purchased the lot believing that it was buildable, that the lot has been taxed as though it was buildable, and denying this project would therefore create a financial hardship for him.

Mr. Burke stated that he believes the deck was necessary as it provided a secondary egress from the house. He asked the Commission what they would need to change in order to approve the project. Commissioner Radner stated she would prefer to re-read the proposal and performance standards before providing an answer. She further asked that details about the stormwater improvements be included in the proposal if that is something the applicant is willing to complete. She stated they don't need to be engineered to fine details, but at least provide an idea of what they're proposing. Agent Brown stated that the Engineering Department would eventually need something with enough detail that they could approve, but at least a conceptual plan would help the Commission to understand what was being proposed. Mr. Burke stated that the infrastructure is very old and improving it would provide a benefit the Commission should be interested in. Mr. Grealish stated he would work with his engineers to conceptualize the improvements. Mr. Grealish asked if there were any other revisions that the Commission needed to see.

Commissioner Radner suggested that each commissioner individually state all their concerns with the project as proposed. She stated she needed to read through the By-Law and the Wetlands Protection Act to understand the language. She stated she would prefer the house to be perched more on top of the hill, which might require the structure to be smaller, the driveway to be smaller, and/or the deck to be removed. If this were proposed, it would create closer to 100' of undisturbed vegetation in between the house and the river, bringing the project closer in-line with the provisions. She also said she wanted to know what the Town Department of Public Works would need to sign off on stormwater improvements.

Commissioner Hafrey agreed with Commissioner Radner's points. He added that the public had not had a chance to speak yet and would like to hear their comments. Commissioner Radner said she would open the floor as soon as the Commissioners had finished with their comments.

Commissioner Holmes agreed with Commissioner Radner's points and agreed that improvements to the outfall would be beneficial.

Commissioner Gauthier stated that he is ok with the size of the house but would also be ok if the size was reduced. He stated he would consider it a hardship to not allow a building on a single buildable lot. He stated that the plan would have to minimize impacts and also stated that improving the outfall pipe would be a benefit.

Commissioner DeAvila stated he is ok with the house at the current location but would like to see the storm drain infrastructure improved, particularly the outlet. He cited the design plans and said he noticed a downspout planned for the deck. He asked if the deck was pervious or required guttering. Mr. Burke stated there was a gutter system and downspout that ties into the infiltration system.

Commissioner Radner opened the floor to the public for comments.

Resident Damon Carter of 163 Riverside Road stated that the lot is too small to meet zoning requirements, too steep to meet UBA requirements, and too close to the river to allow the project. He stated that according to land records, the applicant paid \$1 for this lot, which he believes is not significant in terms of the financial hardship discussion. He also noted the 10' side setbacks on the lot were not being met. He believes the noted issues (the trash, the storm drain) can be fixed without building a house in this location.

Commissioner Radner asked for any additional public comments but received no response.

Commissioner Radner reiterated that she is concerned with this proposal because it would allow development in the 100' UBA and Riverfront Area.

Commissioner Radner motioned to continue this item to the next meeting on July 15<sup>th</sup>. Commissioner Hafrey seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." Motion carried.

## **2. New Applications**

### **2.1 218 Schoolmaster Lane (Lot 7) – MSMP 2021-22, RDA 2021-10 – New SFD on Undeveloped Lot**

Applicant: Supreme Development    Representative: Mike Carter, GCG    Request: Issue MSMP & Neg. DoA

Mr. Carter presented plans for the project. He stated the site plans have been revised to create 1 infiltration system with a yard drain in the rear along with a smaller one in the front. The two systems together will contain a 100-year event with no runoff off site. A 4' chain link fence was also added on top of the slope. Mr. Carter detailed a rip rap slope to the rear of the property and stated the RDA is associated with this area and it is an "after-the-fact" RDA. Some plantings were included at the bottom of the slope. Mr. Carter also reviewed the landscaping plan and stated that the planting list is very similar to what was submitted for Lot 6. He is proposing to revise the planting plan to not include a row of trees in between Lot 6 and Lot 7, as the planting plan for Lot 6 included a row of trees in this area

and a second row of trees would be unnecessary. He would also like to add Pepperbush and Spicebush at the bottom of the slope.

Commissioner Radner asked if the trees on the Lot 6 (the neighboring lot) are already in place or if they are simply proposed at this point. Mr. Carter stated they were not planted as of the site walk two weeks ago.

Commissioner Radner expressed that she was more in favor of this planting list than the previous one.

Commissioner Radner opened the floor to the other commissioners for questions and comments.

Commissioner DeAvila asked if Mr. Carter was going to be able to plant grass on the slope. Mr. Carter responded that the slope is solid ledge, so no landscaping would occur.

Agent Brown stated a draft MSMP had been created and shared. A negative determination of applicability had not been drafted yet. She stated the only extra requirements for a draft negative determination of applicability she would include would be a requirement for a wetland scientist to oversee installation and at least 80% of the plants to survive 2 growing seasons. Alternatively, she mentioned the MSMP could be issued now and the Negative DoA issued at the next public hearing.

Commissioner Radner asked for Mr. Carter's comments on the draft MSMP. He stated a waiver is requesting test pits to be postponed until the time of construction, but the site has been shown to have a lot of fill, so the holes will have to be over 13' to reach natural material, when the infiltration system will only be 3'-4' deep. Agent Brown stated the intent was to ensure the level of groundwater is at least 2' below the system. Mr. Carter withdrew his concern.

Commissioner Radner motioned to close the public hearing for this item. Commissioner Garlick seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." Motion carried.

Commissioner Radner motioned to issue two waivers requesting postponing the determination of the depth of groundwater until the time of construction and the reduction of the TSS removal requirement from 90% to 80%. Commissioner DeAvila seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." Motion carried.

Commissioner Radner motioned to issue the MSMP as drafted by Agent Brown. Commissioner Hafrey seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." Motion carried.

Commissioner Radner motioned to continue the RDA request for this item to the next public meeting. Commissioner Hafrey seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." Motion carried.

## **2.2 325 East Street – MSMP 2021-16 – Demo Existing SFD and Construct New SFD**

Applicant: Anthony Rosetti    Representative: Erin Joyce, Joyce Consulting    Request: Issue MSMP

Agent Brown stated that abutter notifications were not sent out by the applicant for this item. Therefore, she recommended the public meeting on this item not be opened. This will also give the opportunity to review recently revised plans for this item. Commissioner Radner agreed.

**3. Minutes – 6/3/21**

The commissioners had not yet reviewed the minutes.

**4. Agent's Report**

Agent Brown reported that Patrick Hogan will begin as the Assistant Conservation Agent on July 19, 2021.

Commissioner Hafrey motioned to adjourn. Commissioner Gauthier seconded. All attending commissioners voted "aye." Motion carried.

The meeting was adjourned at 9:16 pm.