



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
Elissa Brown, Agent
Patrick Hogan, Assistant Agent

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TOWN OF DEDHAM

CONSERVATION COMMISSION

Minutes of August 19, 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 both in person and 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, Chair
Nathan Gauthier, Vice Chair
Bob Holmes
Nick Garlick
Erik DeAvila
Leigh Hafrey
Tim Puopolo, Alternate

The following staff were also present:

Elissa Brown, Agent
Patrick Hogan, Assistant Agent

The following Commissioners were absent:

Eliot Foulds, Clerk

The following Applicants and/or Representatives were present:

Scott Henderson, Representative – 17 McDonald Street
Sandra Blackwood, Applicant – 13 Wiggin Avenue

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. Introduce Patrick Hogan, Assistant Conservation Agent

Agent Brown introduced the new Assistant Conservation Agent, Patrick Hogan. He will be operating the front desk in the Conservation Department Monday-Friday.

2. Continued Applications (Applications Previously Opened to be Discussed Tonight)

There were no continued applications to be discussed.

3. New Applications

3.1 13 Wiggin Avenue – Local Bylaw RDA 2021-11 – Install Fence Within 50 Feet of Wetland

Applicant: Sandra Blackwood Representative: None Request: Issue Neg. DoA

NOTE: Due to agenda item 3.2 being taken out-of-order, this item was moved to the 3.2 agenda item slot.

Ms. Blackwood stated she has partially completed a fence along the back of her property to contain her dog. She was not aware of the need for the permit, but was contacted by the Town, made aware of the issue, and began the process. The fence is within 50' of the wetlands and has a 6" gap at the bottom to prevent being a hindrance to wildlife.

Commissioner Radner asked if the fence was fully or partially complete. Ms. Blackwood stated it was partially complete. A gate opening to the wetlands still needs to be installed.

Agent Brown added that this proposed fence would essentially continue a fenceline that extends behind most of the neighboring properties along Wiggin Avenue. She clarified that this was a local by-law RDA since the fence is exempted from the state by-law because it has clearance at the bottom. Agent Brown added that this fence is essentially a continuation of neighbors' fences along the wetlands. She also noted some grass clippings that had been dumped at the edge of the wetland that should be removed.

Commissioner Radner asked if the dog is able to fit under the fence. Ms. Blackwood stated she can fit, but she doesn't try to escape.

Commissioner Radner reminded the Commission that they should focus on the presented application, which only concerns the partially completed fence at 13 Wiggin Avenue.

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

Commissioner Gauthier stated the biggest reason for concern with fencing near wetlands is the potential barrier presented to wildlife. He asked the applicant to confirm that she is satisfied leaving a 6" gap at the bottom of the fence to allow wildlife migration. Ms. Blackwood confirmed.

Commissioner DeAvila recommended the inclusion of a special condition that the yard waste be removed and any soil from fence post holes be disposed of away from the wetland. Ms. Blackwood agreed.

Commissioner Holmes asked if the 6" gap would exist under the fence all around the perimeter of the yard or if it would only be included on one side. Ms. Blackwood stated the fence she has partially completed is only on one side of the yard. She stated the other sides were in place when she purchased the home. She is essentially completing the fence that was in place when she purchased the property by constructing a fencerow along the wetlands. Commissioner Radner asked if the existing sides of the fence had a 6" clearance at the bottom. Ms. Blackwood stated one side was a wooden fence with no clearance. She stated the other side has some clearance, but she wasn't sure if it was 6".

Commissioner Radner stated she doesn't believe the by-law requires modification of existing fencing. She stated the Commission is not intended to be an enforcement agency that searches for violations to correct. She stated she would not be in favor of pursuing elevation of the side fence in the event it did not have the 6" clearance of the back fence.

Commissioner Hafrey asked for confirmation that the fence was partially complete. Ms. Blackwood confirmed and stated that the only remaining piece to be installed was a gate to the wetland. Commissioner Hafrey asked if the 6" clearance existed all along the installed fencerow. Ms. Blackwood confirmed.

Commissioner Hafrey noted neighboring fences shown on the aerial photograph and asked if encroachment onto Town land was an issue along the street. Agent Brown stated a survey would be needed to know for sure. Commissioner Hafrey asked if the partially completed fence at 13 Wiggin Avenue encroached onto Town land. Agent Brown stated a survey would be needed for that, too. Commissioner Hafrey asked for clarification that the issue before the board was the proximity to the wetland and not property lines. Agent Brown confirmed. Commissioner Hafrey asked for confirmation that the fence was within the buffer zone. Agent Brown confirmed and stated the fence was within 5' – 10' of the wetland. Commissioner Hafrey asked for clarification that the argument posed by the applicant was that the fence did not represent a significant impact because it allowed a 6" gap for wildlife. Agent Brown confirmed.

Commissioner Garlick stated the fence seemed to be within the line based on the GIS map.

Commissioner Radner reminded the commission that encroachment was not the issue before the board. Any claim of encroachment would be addressed by another group, likely Zoning. Commissioner Garlick agreed.

Commissioner Radner opened the floor to the public for questions and comments.

Jose Calderon of 303 Bridge Street stated that the fences in the neighborhood are encroaching on the wetlands, continually going further with each new installation. He is concerned about the impact on wildlife. He stated the fence in question goes further into the wetland than the neighboring fence. Mr. Calderon stated he was denied permission to replace a damaged fence in the past. Commissioner Radner displayed an aerial photograph from the Town's GIS map. She stated the line on the map is not an official property line, but several of the fences in the area do seem to be encroaching on Town property based on that reference. She reiterated that the Commission does not enforce encroachment issues but that they had to be sure any permitted projects were on the applicant's property. She encouraged Ms. Blackwood to ensure the fence is on her property. Based on Mr. Calderon's description, she is concerned the fence in question may be encroaching.

Agent Brown suggested the Commission continue this item and allow her time to obtain the deed and plot plan and visit the site to verify the fence is not encroaching. Commissioner DeAvila suggested requiring the applicant to obtain a survey. Commissioner Radner suggested allowing Agent Brown to visit the site as a first step and, if questions remain, the possibility of a survey could be explored.

Commissioner Gauthier asked the applicant if the fence is extending further into the wetland than the neighboring fences. He also asked for confirmation that she is aware that grass clippings should not be dumped in the wetland and asked why she was intending to put a gate in the fence facing the wetlands. He also clarified that while the commission does not actively search for violations such as dumping of grass clippings, they do enforce violations as they are made aware of them, so any residents aware of

violations should report them to the Conservation Commission. Ms. Blackwood stated she is aware that grass clippings should not be dumped in the wetland. She stated she is in line with the neighboring fence and does not extend further into the wetland as Mr. Calderon stated. She detailed previous property disputes with Mr. Calderon.

Commissioner Gauthier agreed that Agent Brown should visit the site.

Mr. Calderon stated a Town property post is visible near the site and he is basing his assessment of encroachment on that. Commissioner Radner suggested Agent Brown use the property marker as a reference during her visit.

Commissioner Radner motioned to continue this item to the hearing on September 2, 2021. Commissioner Garlick seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." Motion carried 6-0.

3.2 17 McDonald Street – MSMP 2021-17 – Commercial Garage Construction

Applicant: Sean Russell, SMKL Russell LLC Representative: Scott Henderson Request: Issue MSMP

NOTE: This item was taken out-of-order in the 3.1 agenda item slot.

Mr. Henderson gave an overview of the project. The site is off Sprague Street near Sprague Pond. Three-quarters of the property is located within the Limited Manufacturing District, the rest is zoned as General Residential. A single-family home currently exists on the parcel as well as an accessory shed. All structures are proposed to stay in place and a commercial garage is proposed to be added behind the house to allow the owner to store equipment for his landscape maintenance business. The footprint of the garage will be just under 2000 ft² and it will have 3 bays. The garage will be a typical prefabricated steel structure. The existing driveway will be extended to the limit of the proposed garage and behind the existing house. Beyond the garage to the south will be a crushed stone parking area for employee parking and outdoor equipment storage. A new curb cut with 4 new parking spaces will also be installed at the front of the property.

Mr. Henderson stated the proposal represents a significant increase in impervious area. A deep sump catch basin at the end of the driveway will route stormwater discharge to an isolator row of an underground infiltration system. The isolator row will overflow to other infiltration chambers. This system will accept runoff from the driveway catch basin and roof leaders from the new structure and the rear of the existing house.

Mr. Henderson stated an underground infiltration system is also proposed to be installed below the parking area at the front of the property. This system will accept flow from a driveway catch basin and the roof leaders from the front of the house.

Mr. Henderson stated no trees will be removed. Screening plantings, such as spruce, will be planted at the rear of the property to limit impact to abutters.

Commissioner Radner asked if vehicles will be stored inside the building. Mr. Henderson said a couple of trucks and mowers will likely be stored indoors. Currently the operation consists of two landscaping crews.

Commissioner Radner asked if hazardous chemicals and pesticides will be stored inside and whether the building had any special considerations for storage of those materials. Mr. Henderson stated the owner does not currently change the oil in his machinery on site and the building is required by plumbing code to include floor drains that are connected to an oil-water separator. He added that no fuel will be stored on site. He stated that, to his knowledge, the applicant does not do any fertilizing or pesticide spraying so these chemicals will likely not be stored on site, but he will check with the owner to make certain.

Commissioner Radner asked if the design met the stormwater storage requirements. Mr. Henderson confirmed.

Agent Brown suggested requesting \$2,000 for a peer review of the property.

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

Commissioner DeAvila asked if there was an oil-water separator on the catch basin at the end of the driveway. Mr. Henderson stated a standard hooded outlet would be included and the isolator row would help to remove suspended solids.

Commissioner Radner opened the floor to the public for questions and comments.

Kevin Kane of 12 Lancaster Road expressed concerns about the project disrupting his property and causing hazards for his family. Mr. Henderson suggested Mr. Kane attend the forthcoming Planning Board hearing for this project to discuss these concerns. He also offered his contact information if Mr. Kane would wish to discuss the design directly.

Commissioner Radner motioned to request \$2,000 from the applicant for a peer review of this project. Commissioner Garlick seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." Motion carried 6-0.

Commissioner Radner motioned to continue this item to the hearing on September 16, 2021. Commissioner Hafrey seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." Motion carried 6-0.

4. Request for COC – 50 Fuller Street – MSMP 2018-20

Agent Brown stated the applicant built a large garage with a studio above. They had originally proposed an infiltration system but found ledge in the way upon beginning work. They requested a modification to the permit to install a rain garden instead. All work has been completed and they are requesting a Certificate of Compliance.

Commissioner Radner opened the floor to the commissioners for questions or comment. She received no responses.

Commissioner Radner opened the floor to the public for questions or comments. She received no responses.

Commissioner Radner motioned to issue the Certificate of Compliance for this project. Commissioner DeAvila seconded. Commissioner Radner led a roll call vote. All attending commissioners voted “aye.” Motion carried 6-0.

5. Finalize Fill Policy

Agent Brown stated the Department of Public Works (DPW) and the Engineering Department had concerns about their projects being included in this policy as written. She informed them it was intended to be focused on residential fill rather than commercial, industrial, or municipal projects. She asked the commission for the opportunity to revise the policy further to reflect this position.

Commissioner Radner encouraged DPW staff ensure they make comments on the policy before the next meeting. She also asked what fill projects they may be completing that might not have similar impacts as residential fill projects. She also expressed interest in further understanding the DPW’s projects that would be affected by a fill policy in order to ensure a residential-focused policy was not ignoring significant impacts from other fill projects.

Agent Brown asked that the item be continued to the September 16, 2021, meeting to allow for updates and comments.

Commissioner Gauthier agreed with Commissioner Radner and suggested that commercial or municipal fill projects were likely to be larger and more complicated than residential projects and should be held to the same permitting and engineering requirements. Agent Brown suggested inviting DPW staff to discuss their operations and concerns directly with the Commission.

Commissioner Radner expressed interest in understanding when the DPW would have a standalone fill project that wasn’t associated with other activities subject to permit applications.

Commissioner Gauthier reiterated that the Minor Stormwater Management Permit threshold currently proposed in the draft policy (about 18 ft³) is a moderate amount for a homeowner and that commercial and municipal projects likely routinely include fill in excess this amount.

The Commission agreed to continue this item to a later meeting. Agent Brown will provide an update at the next meeting.

6. Minutes – 2/18/21; 5/20/21; 6/3/21; 7/1/21; 8/5/21

Commissioner Radner stated she had circulated the meeting minutes with her edits included. She asked other commissioners for comments and questions. She received no responses.

Commissioner Radner motioned to approve the circulated meeting minutes from the hearings on 2/18/21, 5/20/21, 6/3/21, 7/1/21, and 8/5/21. Commissioner Hafrey seconded. Commissioner Radner led a roll call vote. All attending commissioner voted “aye.” Motion carried 6-0.

7. Agent’s Report

7.1 Discussion of Alterations Without Building Permits

Agent Brown stated she has been made aware of several instances of residents installing impervious surfaces, such as patios, which often go unnoticed because they don't require building permits. She stated these installations will result in a general increase in imperviousness throughout the town, with the potential to impact neighbors. She did not have a suggestion of how to address it but wanted to make the Commission aware of the issue. She stated if the Commission was interested, she could draft a policy of how to handle these projects as the Commission is made aware of them.

Commissioner Hafrey asked if the Commission could organize outreach activities to spread awareness of the requirements to Town residents. Agent Brown stated new homeowner brochures about wetlands protection are sent to new property owners and will also be shared at the library open houses. She stated a similar brochure on stormwater management could be created and shared with new homeowners.

Commissioner Gauthier agreed that outreach and education was important for this issue. He also asked for verification that any impervious additions over a 3-year period were considered as a single project that installed the sum total of the impervious area. Agent Brown clarified that the Building Department uses a 5-year lookback when considering changes to a property as part of a single project.

Agent Brown stated she would develop a brochure and introduce it to the Commission for review when ready.

Commissioner DeAvila stated that, as a landscaper, he had received a notice from the Town of Needham making them aware of a requirement to supply MSDS sheets of all chemicals to the neighbors of a customer. He suggested a similar approach of informing the landscapers of the stormwater management permit requirements so they can pass the information on to customers may help to resolve this issue. He also suggested making local landscaping suppliers aware of the requirement could help spread awareness, as well. Agent Brown and several commissioners agreed this was a good idea.

Commissioner Hafrey motioned to adjourn. Commissioner Radner seconded. All attending commissioners voted "aye." Motion carried 6-0.

The meeting was adjourned at 8:23 pm.