



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
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TOWN OF DEDHAM

CONSERVATION COMMISSION

Minutes of September 16, 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
Nick Garlick
Erik DeAvila

The following staff were also present:

Elissa Brown, Agent
Patrick Hogan, Assistant Agent

The following Commissioners were absent:

Eliot Foulds, Clerk
Bob Holmes
Leigh Hafrey
Tim Puopolo, Alternate

The following Applicants and/or Representatives were present:

Kelly Clerkin, Applicant – 383 Westfield Street
Martin Grealish, Applicant – 179 Riverside Drive
Kameron Campbell, Representative – 179 Riverside Drive
Scott Morrison, Representative – 179 Riverside Drive

Commissioner Radner called the meeting to order at 7:04 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)

1.1 179 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

NOTE: At the representative's request, this item was taken out of order after Agenda Item #3.

Kameron Campbell of DeCelle-Burke-Sala stated an energy dissipator has been added to the plans at the bottom of the slope in place of the concrete splash pad to address the erosion issues. He believes all other aspects of the plan meet the applicable standards and requirements.

Martin Grealish, the applicant, gave a history of the considerations and discussions related to the project. He reminded the Commission that he is a resident of the neighborhood and has completed other environmentally sensitive projects in Town. He reiterated Mr. Campbell's statement that this project has met the requirements of the Wetlands Protection Act. He stated the project team has also worked with the DPW and Town Engineering Department to identify appropriate improvements to the storm drain system to be included with the projects and improve the existing conditions. He reiterated that all requirements have been satisfied except for disturbance within the undisturbed buffer area, which cannot be avoided due to the location of the site. As such, they are requesting a waiver of that requirement.

Scott Morrison of EcoTec reminded the Commission of several considerations in the design to limit the project's impact. He also stated a wildlife habitat assessment had revealed invasive species which will be removed and replaced with native species. Mr. Morrison also reiterated Mr. Grealish's assessment of the stormwater improvements on the site. He stated the project team has worked hard to create a design that prevents impacts and improves the property.

Commissioner Radner stated that she appreciated the applicant's proposed improvements to the drainage system but doesn't believe these actions are relevant to this application. She acknowledged the deck has been reduced from two tiers to one, but the actual footprint of the house has not changed in response to previous comments. She added that a deck is not a by-right feature and is a large part of the proposed plan's effect on the sloped section of the property. Commissioner Radner also stated that she has noticed many amphibian and reptile species in the area, exemplifying this parcel's value as habitat. She stated her belief that the footprint of the home could be reduced and still yield a productive project, but the project team has not considered this possibility in their revisions. She added that the submitted invasive management plan was not specific enough and that the proposed bird and bat houses required regular maintenance, which should be included as part of the plan.

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

Commissioner DeAvila asked if the erosion at the storm drain outfall had affected this specific property. Mr. Grealish confirmed. Commissioner DeAvila agreed that the stormwater improvements proposed with this project provided a benefit. He also stated that he believed the size of the deck could be reduced to limit the project's impact.

Commissioner Garlick agreed that the size of the deck could be reduced to limit the project's impact.

Commissioner Gauthier stated there is no grandfather clause in the Dedham Bylaw. He also stated that a deck, garage, or parking area are not included in the grandfather clause of the state regulations the applicant and his representatives have cited. He stated the Commission had previously suggested reducing the size of the deck and moving the house closer to the street and does not feel the latest revision takes these comments into account.

Mr. Campbell stated the deck had been reduced from 20'x32' to 12'x32'. Mr. Grealish asked for clarification on what would be gained by making the deck smaller. Agent Brown replied that a smaller deck would result in less intrusion to the slope. Mr. Campbell responded that the only intrusion into the slope would be sonotubes which can be installed by hand.

Commissioner DeAvila noted that the applicant is using the deck as the second egress from the house and asked where the stairs from the deck to the ground surface would be placed. Mr. Campbell displayed the proposed plan and stated the stairs would meet grade at the driveway. Commissioner DeAvila asked if there were plans to install a patio or create other disturbance below the deck. Mr. Campbell stated there was not.

Commissioner Radner asked to look at the site in profile, noting that without the deck, the erosion control could be moved much further up the slope, greatly reducing the impact on the sloped area. Mr. Campbell stated the proposed drywell and plantings in the area would need erosion controls in nearly the same location, so they likely wouldn't move much even without the deck.

Mr. Grealish noted that the house foundation was flipped from the original plan to allow for a smaller retaining wall and to save additional trees. He stated that if the house was moved closer to the street, it would be very close to the sidewalk and it would be difficult to still include off-street parking in the plan.

Commissioner Radner asked for clarification on the size of the proposed driveway. Mr. Campbell stated it was 20'x20' and commented that the size was appropriate for 2 vehicles.

Mr. Grealish stated the architect had difficulty designing the interior of the house at its currently proposed size. He stated that if it was smaller, the house would become more of a bungalow or cottage, which he believes is not feasible. He added that the architect believed the scale of the rooms would become too small to accommodate furniture if the size was further reduced. Commissioner Radner consulted a list previously supplied by Mr. Grealish and noted that other houses on the street seem to be cottage sized. Mr. Grealish stated that the list was supplied to show the project is not outsized for the neighborhood.

In response to a previous comment from Commissioner Radner, Mr. Grealish noted that bird houses require regular maintenance, but bat houses don't. Because of this, he stated the project was now only proposing bat houses, not bird houses.

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

Sue Stephenson of 56 Bayard Street stated she was in favor of the project. She does not believe it will change the neighborhood enjoyment of the area. She stated she believes the parcel currently looks shabby and this project will bring value to the neighborhood. She added that her house is larger than this proposed design and she once considered moving because it was too small. She also stated that moving it closer to the street will cause issues for the neighbors.

Damon Carter of 163 Riverside Drive asked why this project was being considered if the entire lot falls within the undisturbed buffer area. He suggested the Commission decide whether a house would ever be allowed on this lot and, if so, how small it would need to be. He also stated that he is opposed to this project.

Commissioner Radner reiterated her previously expressed concerns that the deck is not a by-right feature and its use as a secondary egress does not require it to run the entire length of the house. She also noted that the footprint of the design has not changed since the original submission in February.

Mr. Grealish stated he does not believe the project team has been reluctant to make changes. He stated that he does not believe the house size can be reduced. He also suggested that if he had known the deck running the length of the house was an issue, it could've been changed.

Commissioner Radner reminded Mr. Grealish that the deck was not a by-right feature. She also stated that satisfying the requirement to "have no adverse impact" in her opinion might include reduction of the parking area and moving the house closer to the street. She stated the purpose of the Commission is not to specifically define how big or small structures on a given lot can be, but rather to consider the proposal as presented to them. She reiterated that the Commission has previously provided advice to Mr. Grealish on how to improve the proposed plans.

Mr. Grealish stated he did not previously understand that the Commission was opposed to the deck. He stated experts had been hired for a wildlife habitat study and they found that the project as proposed does not affect the wildlife corridor. He stated he did not understand why the Commission does not accept this report. He also reiterated that sonotubes will limit the impact of the deck and didn't understand what improvement would result from reducing the size of the deck.

Commissioner Gauthier reiterated Commissioner Radner's statement that the Commission is a voting committee and is not designed to advise the levels at which a project will be approved. He stated that moving the house forward clearly has a benefit to the resource area while Mr. Grealish had previously stated it did not and that false statement concerned him.

Mr. Grealish stated his comments regarding the benefits of moving the house toward the street were not intended to be disingenuous but were instead intended to communicate that he did not understand what the benefits would be.

Commissioner Radner suggested Mr. Grealish read the Preamble to the regulations which discusses the benefits of keeping as much of the riverfront area undisturbed as possible. She stated this illustrates the benefit of moving the house closer to the street and reducing the size of the deck or removing it from the proposal altogether.

Mr. Grealish asked Commissioner Radner for guidance on the proximity to the road or the size of deck that she would find acceptable. Commissioner Radner stated that the requirement is that the finished project provides the same level of protection to the resource area as if the parcel was left as-is. She stated her opinion that anything installed beyond where the top of the slope is jeopardizes satisfaction of that requirement.

Mr. Campbell displayed the plans and showed that steps made from railroad ties and a wooden deck are already in the area of the proposed deck. He stated the slope will be disturbed if these items are to be removed anyway. He also stated that reducing the size of the deck would not result in the preservation of additional trees. Commissioner Radner reminded Mr. Campbell that there was more to this consideration than trees alone.

Commissioner Radner stated the proposed house would need to be moved closer to the road to help alleviate her concerns. She stated that if the applicant was willing to do that, they could revise their plans. If the applicant was not willing to make further revisions, the application could be voted on as-is.

Mr. Morrison suggested that the project team look at reducing the size of the deck and moving the house closer to the road. If that was feasible, they would do it. If it's infeasible, they will document why.

Mr. Grealish stated that he believes off-street parking is critical to this project and the neighborhood. He asked if the Commission agreed. Commissioner Radner stated that off-street parking was a nice idea, but that she wasn't sure this benefit offset the impact a 2-car space would cause to the resource area. Commissioner Gauthier reiterated that off-street parking is not specifically identified as a by-right feature. He also noted that many houses in the same area are near to the road and also have off-street parking, so the two are not mutually exclusive.

Mr. Grealish agreed to consider revisions to the proposed plan.

Commissioner Gauthier asked for clarification on the drainage easement. He asked if asphalt could be placed in the area of the easement. Agent Brown stated it was unlikely to be allowed. Mr. Campbell added that the slope is very steep through the easement.

Commissioner DeAvila asked to see the planting plan and asked if there will be lawn or some other vegetation to hold the soil in place to the rear of the property. Mr. Grealish stated a more robust planting plan would have to be prepared to answer that question.

Commissioner Radner added that she'd like to see a more detailed invasive management plan detailing specifically the actions that would be taken to control the invasive species. She also stated that she'd like to see details in the project plan about preventing the road from becoming blocked with construction traffic and worker parking during construction.

Mr. Morrison stated that he believes the invasive management plan fully describes the actions that will be taken as written. Commissioner Radner asked if everything written in the plan will be completed. Mr. Morrison confirmed. Commissioner Radner understood and stated the level of detail in the current plan was acceptable.

Agent Brown stated she was concerned about foliar application of herbicides in the project area. Mr. Morrison stated foliar application can be removed from the plan if the Commission wishes. Mr. Grealish asked if Agent Brown could review the revised invasive management plan before it is presented to the Commission. Agent Brown agreed.

Ms. Stephenson stated that off-street parking for any residence at this site would be helpful because the property is on a slight curve.

Commissioner Radner asked if the applicant and his representatives could have revised materials prepared for the October 7 meeting. Mr. Grealish, Mr. Morrison, and Mr. Campbell agreed.

Commissioner Radner motioned to continue this item to the October 7th hearing. Commissioner DeAvila seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." Motion carried 4-0.

2. Request for Modification – 80 Bridge Street – DEP #141-0772/mSMP 2020-04

Applicant: Giorgio Petruzzello, Supreme Development Representative: John Getherall, GCG Associates

Agent Brown stated neither the applicant nor the representative was able to attend, but she was able to give an overview of the situation. She stated the Commission previously had approved a plan for the site,

but Mr. Petruzziello has since acquired the property. He would like to add a dumpster to the plan as well as change some of the landscaped area to 3 paths made of pavers.

Commissioner DeAvila asked if the dumpsters were required to be fenced. Agent Brown confirmed.

Agent Brown stated her immediate concern was the leachate from the dumpster. In response, the applicant is proposing to grade the dumpster pad such that leachate would run to a catch basin which would direct it to the proposed water quality unit.

Commissioner Radner asked if the paver pathways would significantly change the stormwater characteristics of the site. Agent Brown stated they were on the opposite side of the building from the river and likely would not significantly impact the river.

Agent Brown displayed the submitted revised plan to illustrate the request.

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

Commissioner Gauthier stated that the project as approved was just under the threshold for a Major Stormwater Management Permit. He asked if the new additions to the plan created enough disturbance to require a Major Stormwater Management Permit. Agent Brown stated this was a good point, but the original peer reviewer commented that not much more could be done to improve the site's stormwater features, so the benefit of escalating this to a Major Stormwater Management Permit was uncertain.

Commissioner Radner questioned whether the roof drains were being collected by the drainage system. Agent Brown stated that under the original plan they were not, but this request could be made. Commissioner Radner stated collecting the roof drains would be preferable. Agent Brown agreed to relay this to the applicant and their representative for response at the next meeting.

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

Damon Carter of 163 Riverside Drive asked if the parking lot drainage is directed to a stormwater best management practice. Agent Brown stated deep sump catch basins and a water quality unit were proposed for the site.

Commissioner Radner asked for any other comments from the public. She received no responses.

Commissioner Radner motioned to continue this item to the October 7th hearing. Commissioner DeAvila seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." Motion carried 4-0.

3. Request for Extension – 383 Westfield Street – MSMP 2018-12

Applicant: Kelly Clerkin, Wilson Mountain Realty Trust

Ms. Clerkin stated she still needs to complete 2 of the 6 units in the multi-family complex as well as the new structure on the site. All items are part of the original approved plan and are in progress. She has been experiencing delays due to material unavailability.

Commissioner Radner asked how long Ms. Clerkin would need to complete the project. Ms. Clerkin asked for the maximum amount of time allowed. Agent Brown stated that was 3 years. Ms. Clerkin requested a 3-year extension.

Agent Brown noted an Order of Conditions for the back of the property and suggested Ms. Clerkin request a Certificate of Compliance for that portion once completed rather than waiting until all project areas are complete.

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

Commissioner Gauthier stated he was concerned that the applicant simply requested the longest amount of time possible. He stated he would prefer to know how long the applicant actually needs to finish the project. He stated changes in regulations can occur and simply extending projects for the maximum amount of time allowable without reason could create an issue.

Commissioner Radner agreed with Commissioner Gauthier and stated more discussion as to the time needed should have occurred, but she believed the maximum extension possible was appropriate in this situation due to the material supply issues caused by the ongoing pandemic.

Commissioner DeAvila suggested that any future requests for an extension on this project require a review of the plans to ensure no new regulations have come into effect. Commissioner Gauthier agreed this was appropriate given similar situations that have occurred on past projects. Agent Brown suggested this could be included in the extension approval letter.

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

Commissioner Radner motioned to approve a 3-year extension with the condition that future requests for extensions be subject to a review of current regulations. Commissioner DeAvila seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." Motion carried 4-0.

4. Return of Peer Review Escrow Funds – 214 Lowder Street – DEP #141-0583/MSMP 2021-01 – \$606.25

Commissioner Radner motioned to return the unused peer review escrow funds for the project at 214 Lowder Street. Commissioner Garlick seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." Motion carried 4-0.

5. Minutes – 9/2/21; 8/19/21; 6/17/21; 5/6/21; 4/15/21; 4/1/21; 3/4/21; 2/4/21

Commissioner Radner stated she had reviewed the 2/4/21, 3/4/21, 6/17/21, 8/19/21, and 9/2/21 minutes and submitted minor edits. She noted no issues with the 2/4 or 3/4 minutes. In the 6/17 minutes there was no mention of closing the public hearing. If it wasn't closed in a previous meeting, it was closed at this meeting and should be added to the minutes. She stated the 8/19 minutes were missing names of attending applicants and representatives, which she had added. In the 9/2 minutes, there was mention of a "sediment bag." She was unsure if this was correct and asked that it be reviewed and changed to "sediment bay" if needed. She stated she still needed to review the 4/1/21, 4/15/21, and 5/6/21 minutes.

Commissioner DeAvila stated he had reviewed the minutes and noted no issues.

Commissioner Radner motioned to approve the minutes from 2/4/21, 3/4/21, 6/17/21, 8/19/21, and 9/2/21 with the minor edits she had already submitted. Commissioner Garlick seconded. Commissioner Radner led a roll call vote. All attending commissioners voted “aye.” Motion carried 4-0.

6. **Agent’s Report**

MACC Annual Conference

Agent Brown reminded Commissioners of the MACC Annual Conference and encouraged attendance. She offered to register commissioners for sessions as needed, calling attention to the Fundamentals courses that are being offered.

Conflict of Interest

Agent Brown reminded commissioners that they are required to complete Conflict of Interest training. She stated she had sent an email containing instructions to access the training the previous week.

Fill Policy

Agent Brown stated the fill policy has been revised based on previous comments. She has received further comments from both Commissioner Radner and Commissioner Gauthier. Based on those comments, the measurements of fill in the policy will be changed from cubic feet to cubic yards.

Commissioner Radner also suggested the final paragraph in the policy either be removed or be amended to include the possibility that the Commission may issue a Positive Determination of Applicability. Agent Brown suggested the paragraph be removed.

Commissioner Gauthier noted that the policy says “for 500 cubic yards, you *may* not need a Minor Stormwater Management Permit.” He felt it was unclear whether projects below this threshold were exempted or if they still needed to submit an application and may be exempted on a case-by-case basis. Agent Brown stated she felt any disturbance over 500 ft² should still be reviewed by staff and a determination as to the necessity of a permit application determined.

Commissioner DeAvila asked for clarification on whether the policy concerned 500 ft² of disturbance or 500 ft³ of fill. Agent Brown clarified that the regulation concerns 500 ft² of disturbance, but this policy is trying to translate that figure into a specific amount of fill so that minor top-dressing applications of fill are not required to be permitted. She stated the 500 ft³ amount in the policy was calculated by assuming a 3” application over 2000 ft². Commissioner DeAvila suggested including key words in the policy such as “top-dressing” to make it clearer.

Commissioner Gauthier suggested clarifying what a resident must do if they are below the threshold in the policy. Agent Brown suggested adding a statement that “notification is required” so a resident knows they must notify the Commission for a determination on whether their project must be permitted.

Commissioner Radner agreed with Commissioner DeAvila and suggested that landscaping terminology be included to differentiate projects that are regular maintenance from projects that create new slopes and grades.

Commissioner DeAvila suggested making fill suppliers aware of the policy so they can communicate the need to notify the Commission to their customers. Agent Brown agreed and suggested notification could be added to the spring letter sent to landscapers once the policy is finalized.

Agent Brown stated she would further revise the policy based on the comments she has received and present it at a future meeting.

Commissioner Radner stated that Jim McGrail informed the Open Space and Recreation Committee that the Planning Board has been reviewing the PRD bylaw language, particularly with respect to the issue of a project applicant donating land such as wetlands that can't be used anyway. She suggested interested commissioners keep an eye out for developments and changes.

Commissioner Garlick motioned to adjourn. Commissioner Radner seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." Motion carried 4-0.

The meeting was adjourned at 9:04 pm.