



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

Website
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Minutes of October 21, 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, Chair
Nathan Gauthier, Vice Chair
Eliot Foulds, Clerk
Leigh Hafrey
Nick Garlick
Erik DeAvila
Bob Holmes

The following staff were also present:

Elissa Brown, Agent
Patrick Hogan, Assistant Agent

The following Commissioners were absent:

Tim Puopolo, Alternate

The following Applicants and/or Representatives were present:

Iwal Guerrero, Applicant – 639 Washington Street
Michael Toohill, Representative – 120 Country Club Road
Fred Keylor, Representative – 120 Country Club Road
Frank O'Brien, Presenter – Sprague Pond
Sylvie Agdelo, Presenter – Sprague Pond
Terry Flynn, Applicant – MWRA Southern Extra High Pipeline
Paul Lindholm, Representative – 400 West Street
Mollie Moran, Representative – 400 West Street

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

Agent Brown gave an overview of the request. She stated the new owner of the property would like to make some minor changes to the approved Order of Conditions and Minor Stormwater Management

Permit. He would like to place a dumpster as far from the river as possible, with any runoff from the dumpster pad being directed to the storm drain system, with treatment by the water quality unit. He would also like to add pathways made of pervious pavers across the landscaped area adjacent to the sidewalk. She stated the Commission had previously asked about the roof drains and their potential for creating icy conditions, but she has confirmed they will be connected to the storm drain system, not draining across the parking lot surface.

Commissioner Radner stated she was satisfied with the provided details.

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

Commissioner Gauthier stated he had no concerns with the request.

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

Commissioner Radner motioned to approve the request for modification and authorize Agent Brown to issue a letter communicating the approval. Commissioner Garlick seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

2. New Applications

2.1 639 Washington Street – RDA 2021-12 – Add Front Entrance and Expand Deck on Existing House

Applicant: Iwal Guerrero Request: Issue Neg. DOA

Mr. Guerrero gave an overview of the project. He stated he is renovating the house on this property. He stated he would like to add a front entrance, as one is required by current building code. Additionally, he'd like to enlarge the deck on the side of the house.

Commissioner Holmes asked for clarification on the design, stating the photographs on the displayed plans did not seem to match the aerial photographs of the property. Mr. Guerrero stated the photos in the plans are renderings of the proposed building. Agent Brown shared photos of the site to illustrate the existing conditions. She also clarified that the existing deck has already been removed and Mr. Guerrero is seeking the Commission's approval to replace it with a larger deck.

Commissioner DeAvila noted a half bathroom adjacent to the deck in the existing conditions plan. He asked if it had been removed and if the space it previously occupied would be used for the expansion of the deck. Mr. Guerrero confirmed.

Commissioner DeAvila asked if the space below the deck will be paved. Mr. Guerrero confirmed. Agent Brown stated the Commission would prefer 6" of stone to be placed beneath the deck. Mr. Guerrero stated that was acceptable.

Commissioner Radner displayed a side-by-side photo of existing conditions and a rendering of the proposed conditions to illustrate the changes that are proposed..

Commissioner DeAvila asked how much impervious area will be added to the site by constructing the front entranceway. Agent Brown stated it would be less than 500 ft².

Commissioner Foulds asked if the area under the proposed deck was already paved. Mr. Guerrero stated it is currently paved, but they are planning to repave it during the construction process. Commissioner Foulds asked for confirmation that the deck would not increase impervious on the site as the underlying ground is already paved. Agent Brown confirmed.

Commissioner Radner asked for Agent Brown's recommendation for this project. Agent Brown stated a Negative Determination of Applicability has been drafted with the special conditions that the deck be constructed with gaps between planks to allow rain to pass, 6" of stone is placed underneath the deck, accumulated debris be removed from the wetlands, and a construction fence be installed at the edge of the pavement to prevent further debris accumulation.

Commissioner Radner asked if any significant vegetation will be removed for any part of construction. Mr. Guerrero stated 2 trees are planned to be removed to make room for a fence. Commissioner Radner asked for the diameter of the trees to be removed. Mr. Guerrero stated they were about 6" in diameter. Commissioner Radner stated these would qualify for the tree replacement requirement. Agent Brown stated that a requirement to plant 4 new trees could be added to the conditions of the Determination of Applicability. Mr. Guerrero stated several pine trees will be planted on the property for privacy. Agent Brown stated the Commission generally doesn't recommend pine trees for numerous reasons. Mr. Guerrero stated he could plant trees that are more desirable to the Commission and asked if a list of approved trees could be provided. Agent Brown agreed to send Mr. Guerrero a list.

Commissioner Radner noted the fence Mr. Guerrero mentioned and stated he will need to leave a 6" gap at the bottom to allow for wildlife passage because of the nearby wetlands. Mr. Guerrero stated he would do so. Agent Brown stated a condition to leave a gap at the bottom of the fence could also be added to the Determination of Applicability.

Commissioner DeAvila asked for clarification of where snow will be stored on the lot. Mr. Guerrero stated there will be approximately 10' of open space adjacent to the deck for snow storage. Commissioner Radner asked if the area is near the wetland. Mr. Guerrero stated that it was not and clarified that it is adjacent to Court Street. Commissioner Radner asked if there will be curbing to direct snow melt. Mr. Guerrero stated curbing was not planned. Commissioner DeAvila asked if Mr. Guerrero planned to install any riprap to prevent erosion of the land as snow melts and runs off the paved area. Mr. Guerrero stated no rip rap was planned, but the area is fairly flat and the melt water should be able to slowly soak in as it flows. Commissioner Radner asked if the snow storage area could be sloped toward the crushed stone area to increase infiltration. Mr. Guerrero confirmed he could do so.

Agent Brown suggested updated plans or simple sketches be submitted to illustrate the extra items discussed during this hearing. Mr. Guerrero agreed.

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

Commissioner Radner motioned to continue this item to the next meeting on 11/4/21. Commissioner Hafrey seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

2.2 120 Country Club Road – DEP #141-0589/MSMP 2021-18 – Additions to Clubhouse and New Paddle and Golf Buildings

Applicant: Dedham Country & Polo Club Representative: Fred Keylor, HW Moore Assoc. Request: Issue OOC/MSMP

Michael Toohill of Coneco Engineers & Scientists gave an overview of the portions of the project that are near wetland areas. He stated the Dedham Country and Polo Club would like to remove the existing building near the paddle tennis courts and replace it with a new, larger building. Part of the project area will be within the 100' buffer area to a nearby wetland. He stated the project will have to remove 7 trees of 6"-12" diameter, but will replace them with 14 trees. He stated the work area is small and it may be difficult to find appropriate locations for 14 trees, but if the Commission would allow, he could locate other areas on the property where the replacement trees could be planted. He noted that the work zone is slightly lower in elevation than the area bordering the wetlands. He added that existing decking to the rear of the paddle tennis courts will also be replaced as part of the project.

Fred Keylor of HW Moore Associates gave an overview of the stormwater-related portions of the project. He stated the parking lot near this building will be re-constructed and an infiltration system will be installed beneath to collect runoff from the building. He clarified that the existing decking is being replaced to increase accessibility. He stated a water quality catch basin is proposed to collect water from the driveway and parking area. He stated the project will result in the addition of 1,227 ft² of new impervious area, primarily comprised of the new roof and accessibility ramp. He stated Agent Brown has provided preliminary comments and they intend to make necessary changes to the hydrologic calculations in response.

Agent Radner asked for clarification on the location of the project in relation to the property as a whole. Mr. Toohill displayed aerial photographs and illustrated the location.

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

Commissioner Holmes asked for clarification on the proposed conditions vs. the existing conditions. Mr. Toohill illustrated the changes using the existing and proposed condition plans.

Commissioner Gauthier noted the canopy encroaches into the buffer zone and asked if it required a waiver. Agent Brown stated it was outside the Undisturbed Buffer Area and therefore did not require a waiver.

Commissioner DeAvila asked if the new decking will be pervious. Mr. Keylor stated he would need to check with the architect, but he believes the material will be similar to what currently exists. Agent Brown asked if the decking would have gaps to allow water to pass. Mr. Keylor confirmed.

Commissioner Gauthier asked if a peer review would be necessary for this project since it is commercial. Agent Brown stated a peer review of the project would be useful. She estimated it would likely cost less than \$2,000.

Commissioner Radner asked if this was part of the DCPC's master plan. Mr. Toohill confirmed it was part of the master plan work.

Commissioner Radner stated she would prefer the project be peer reviewed. Mr. Toohill stated they were amenable to a peer reviewer.

Commissioner Radner motioned to request up to \$3,000 for a peer reviewer, subject to reduction by Agent Brown as she saw fit. Commissioner DeAvila seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

Commissioner Radner motioned to continue this item to the 11/18/21 meeting. Commissioner Holmes seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

Later in this meeting, after the first item in the Agent Report, Assistant Agent Hogan spoke up regarding this item. He noted that the Mr. Keylor had contacted him stating he had not presented all parts of the project. The project team had only presented the part of the project associated with the Notice of Intent. He stated there were parts of the proposed project that were not located near the resource area (and therefore not included on the Notice of Intent, but were included on the Major Stormwater Management Permit application. Commissioner Radner stated that the item had already been continued, so it could not be reopened at this time, but all parts of the project would be considered by the peer reviewer and Mr. Keylor could present the other parts at a later meeting. Mr. Keylor agreed.

3. Sprague Pond – Update and Letter of Support

Frank O'Brien stated MassDEP has officially designated Sprague Pond, located in Boston and Dedham, as a Great Pond. He stated he is requesting a comment letter to the Massachusetts Environmental Protection Act (MEPA) office regarding an Environmental Notification Form that had been submitted for a 3-unit condominium on a property, currently undeveloped, adjacent to the pond. He stated the site is located on Lakeside Avenue in the City of Boston. The project has been through the City's permitting process and the issued Order of Conditions is currently under appeal. Mr. O'Brien stated the parcel is in an Area of Critical Environmental Concern (ACEC). His group is asking MEPA to complete a focused Environmental Impact Report (EIR) considering the ecological, cultural, and natural resource values of the ACEC. He stated that, in parallel to this situation, the state and the City of Boston have been working to acquire the site for conservation purposes. The City of Boston has allocated CPA funds and the state has awarded a PARC grant to acquire the site. Mr. O'Brien's group is also encouraging the developer to consider selling the site.

Commissioner Radner asked for clarification on the content of the letter Mr. O'Brien is requesting. He stated that since the site is in an ACEC and because the issued Order of Conditions has been appealed, the situation has passed a threshold for review by MEPA. He stated this is an evaluation to advise on what future studies may be needed. His group is arguing this site is significant enough to warrant a focused EIR on the contributing values of archaeology, historical significance, and natural resources.

Agent Brown stated a draft letter template has been submitted to the Commission by Mr. O'Brien.

Commissioner Gauthier and Commissioner Radner expressed support of the Commission issuing a comment letter, especially considering funding exists to acquire the property for conservation purposes.

Agent Brown stated the comment period ends on 10/28 and stated she could draft and submit a comment letter prior to this date if the Commission wished.

Commissioner Hafrey and Commissioner DeAvila expressed support of the Commission issuing a comment letter.

Commissioner Radner motioned to authorize Agent Brown to send a letter on behalf of the Commission in support of the focused EIR and the other stated efforts. Commissioner Garlick seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

4. Request for COC –

4.1 MIT Endicott House (DEP #141-0581)

Agent Brown stated the permitted removal of vegetative debris, tree removal near the spillway entrance, and the tree fallen across the access path has been completed. She stated the beavers have begun to block the spillway again with debris, so this will likely be a recurring issue. She stated the applicants are requesting permission to continue to clear the spillway as a general maintenance task.

Commissioner Radner asked Agent Brown to advise the applicants on timing of debris removal to ensure the beavers are not affected when young are present. Agent Brown clarified that the debris accumulation is not a lodge, but just an attempt at a dam.

Commissioner Gauthier noted that debris removal by hand or with hand tools was acceptable without formal approval, but if debris removal required equipment, the applicants should submit another Notice of Intent.

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

Commissioner Radner motioned to issue a Certificate of Compliance for this item and authorize Agent Brown to work with the applicant as needed regarding ongoing maintenance and provide administrative approval for minor management issues. Commissioner Holmes seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

4.2 Partial – MWRA Southern Extra High Pipeline (East Street and Rustcraft Road) (DEP #141-0509)

Agent Brown stated some issues were noted in the project area from the Boston line to East Street, but work has been completed in the portion from East Street to Allied Drive. The two project areas are managed by two different contractors. MWRA is requesting a Certificate of Compliance for the southern portion.

Terry Flynn of MWRA confirmed Agent Brown's comments and stated he has provided as-built plans for the project.

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

Commissioner Radner motioned to issue a partial certificate of compliance for the southern portion of the project. Commissioner Holmes seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

5. Minutes – 9/16/21; 10/7/21

Commissioner Radner stated she had submitted minor edits to the 9/16/21 minutes. She also stated the list of representatives and applicants needed to be completed. She stated she had not reviewed the 10/7/21 minutes.

Commissioner DeAvila stated he reviewed the minutes and had no edits to submit.

Commissioner Radner motioned to approve the 9/16/21 minutes with the edits she mentioned. Commissioner Gauthier seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

6. Agent's Report
400 West Street

Agent Brown asked the Commissioners to express their thoughts following their site visit to 400 West Street on 10/12.

To illustrate, Paul Lindholm, a representative for the prospective applicant, displayed two plans showing the two Undisturbed Buffer Area (UBA) scenarios and reminded the commission he is looking for clarification on whether the stone wall/armored slope can be used as a "limit of previous development" to define the UBA, or if he must define the UBA according to the site's slope. He stated that in the first scenario (using the stone wall to define the UBA), the crews will have room to work on the house, which is expected to maintain about the same footprint. In the second scenario (where UBA is defined by the site's slope), waivers will be needed to allow for the work area.

Agent Brown stated the state and local rules and regulations do not have a very clear definition of "development," but she stated the riverfront regulations have a clear definition which includes impervious surface from existing structures or pavement, absence of topsoil, junkyards, or abandoned dumping grounds. She stated the house and concrete qualify as "previous development" according to this definition, but the previously cleared area around the house does not. If this definition were applied to the UBA determination, the UBA would only stop at the house's footprint and a project rebuilding this house would require a waiver for access for construction activities around the house. Agent Brown noted that the fact the house could not be reconstructed without a waiver could be argued as an undue hardship when considering the waiver. Further, the other requirement for a waiver is that the same level of protection is provided to the resource area as if the project didn't occur. She noted that, in this case, the project would not propose construction down the slope and the limit of work could be established with erosion and sediment controls on top of the slope. She stated she believed the UBA should follow the limit of previous development as defined for riverfront and the Commission should consider whether they are protecting the interests of the Act by allowing a waiver.

Mr. Lindholm noted the absence of topsoil on the driveway may help delineate the UBA under the definition provided by Agent Brown, but the back of the house would not qualify. He suggested an "in-between" option where the well-defined wall at the front could be used to define UBA, but the fallen wall behind the house could not be used. Then, a waiver would only be needed if they need access to the rear of the house.

Agent Brown stated that, in her opinion, the UBA line should be defined by the gravel driveway, the house, and the concrete pad.

Commissioner Foulds asked about fill placed behind the stone wall. Agent Brown stated that is not included in the definition for "previously developed" in the Wetlands Protection Act.

Mr. Lindholm acknowledged and stated he would need to determine the area where the gravel driveway ceases.

Commissioner Gauthier noted that a previously stated definition of “limit of development” included retaining walls. He asked if that regulation was different from the regulation Agent Brown provided.. Commissioner Radner added that retaining walls are mentioned in the Town Bylaw for considering waivers. Mr. Lindholm added that the regulation notes that “limit of development” can be exemplified by thing “like” retaining walls, etc. He stated the use of the word “like” was causing him confusion over whether the wall on this site qualified.

Commissioner Radner noted that a waiver request for this project would be for the state Wetlands Protection Act. Therefore, the state definition for defining the UBA, which is stricter than the definition in the Town Bylaw, should be used.

Commissioner Gauthier asked if it would be appropriate for Mr. Lindholm to present two different UBA’s using the different definitions in his proposal. This way, he would only need to request a waiver from the state regulations and not the Town Bylaw.

Agent Brown noted she had spoken with DEP representatives regarding this situation and they encouraged the Commission to consider this issue in terms of reasonableness and protecting the resource area.

Commissioner Radner recommended the commissioners consider the definition of “practicable” in 10.58. She stated this could help commissioners consider questions like this.

Mr. Lindholm asked for clarification on the final determination regarding UBA. Agent Brown suggested Mr. Lindholm prepare an ANRAD application showing the UBA following the retaining wall until it stops with a limit of development according to riverfront regulations. Mr. Lindholm agreed.

1133 High Street

Agent Brown stated she, Assistant Agent Hogan, Commissioner Radner, and Commissioner Gauthier met with Giorgio Petruzzello of Supreme Development at the site and wanted to update the Commission on their conversation.

Commissioner Gauthier stated the owner is considering creating a subdivision in the area and they met on site to discuss which potential driveway configuration might be the least impactful. One option includes a driveway extending from Meadowbrook Road and the other option is to improve the existing gravel driveway from High Street, which runs immediately adjacent to a wetland.

Commissioner Radner displayed a map of the area to illustrate the situation. She noted there is also a sewer line running through the wetland. She stated that the group initially thought improving the existing driveway might be the best, but subsequent observations by Agent Brown suggested creating a new driveway from Meadowbrook Road might be preferable.

Agent Brown stated she just wanted to introduce the Commission to the issue and informed them formal applications would be forthcoming. Commissioner Gauthier noted that applicants for the development of the few lots on Meadowbrook Road would likely be submitted first and then the builder would return with applications for the road and other lots. Commissioner Radner confirmed that the road and all homes would have individual applications.

Tree Subcommittee Status Report

Agent Brown asked the Tree Bylaw Subcommittee to report progress.

Commissioner Foulds, chair of the subcommittee, stated some information had been assembled, but he hasn't been able to review it yet. Agent Brown suggested the subcommittee schedule time to meet and discuss what they've discovered individually.

Commissioner Gauthier noted that in reviewing different bylaws, he has noted some regulate private trees, some regulate public trees, and some regulate both. He also noted Dedham already has a public tree ordinance. He asked if the other commissioners agreed that they should be considering a bylaw regulating private trees.

Agent Brown stated she has spoken with Joe Flanagan, the Town Tree Warden, and he is very interested in the prospect of having a Tree Committee assist him with making decisions about public shade trees.

Commissioner Foulds noted that the Cambridge bylaw would require regular involvement from a certified arborist. Commissioner DeAvila added that it required a lot of paperwork. Commissioner Gauthier added that there is a large difference in fines/replacement costs between the Cambridge bylaw and the existing Dedham public shade tree ordinance. Commissioner DeAvila agreed.

Agent Brown noted that Assistant Agent Hogan had assembled a spreadsheet of existing tree bylaws statewide and suggested the subcommittee review that list and consider which direction they would like a Dedham tree bylaw to take.

Commissioner Foulds suggested that the subcommittee meet next Thursday since it is an off week for the Commission. Commissioner DeAvila stated he can be available any day except for Tuesday. Commissioner Gauthier stated he had another commitment on Thursday night, but may be able to join the conversation late.

Commissioner Gauthier motioned to adjourn. Commissioner Radner seconded. All attending commissioners voted "aye." The motion carried 7-0.

The meeting was adjourned at 9:22 pm.