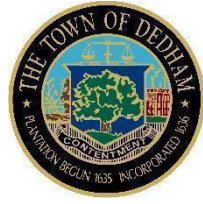


Stephanie Radner, Chair  
Nathan Gauthier, Vice Chair  
Tim Puopolo, Clerk  
Erik DeAvila, Associate  
Anne Gotay, Associate  
Leigh Hafrey, Associate  
Elissa Brown, Agent  
Patrick Hogan, Asst. Agent



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## TOWN OF DEDHAM CONSERVATION COMMISSION

### Minutes of March 16, 2023

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  
Tim Puopolo, Clerk  
Erik DeAvila  
Anne Gotay  
Leigh Hafrey

#### The following staff were also present:

Elissa Brown, Agent  
Patrick Hogan, Assistant Agent

#### The following Commissioners were absent:

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

Ruth Wisialko, Permittee – 177 Meadowbrook Road  
Andrew Magee, Representative – 177 Meadowbrook Road  
Dave Gordon, Representative – 177 Meadowbrook Road  
David Hancox, Representative – 177 Meadowbrook Road

Commissioner Radner called the meeting to order at 7:01 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.

#### AGENDA:

##### 1. Public Comment

There were no comments from members of the public.

##### 2. Requests for Modification

###### 2.1. 177 Meadowbrook Road – DEP 141-0561/MSMP 2019-17 – New Single-Family Dwelling

Applicant: Ruth Wisialko

Representative: Andrew Magee, Landscape Oasis LLC

Commissioner Radner gave a brief overview of the history related to this project. She stated the original application was submitted in late 2019 and the Commission eventually granted approval for the project on April 2, 2020 with one waiver for tree replacement requirements. In June 2022, a Notice of Violation was issued for the project. Approximately one month later, a Request for Modification was submitted to allow the construction of a dog fence on the property. The Commission denied this request and asked that the temporary dog fence be moved outside of the Undisturbed Buffer Area (UBA). The applicant then worked with representatives to fully quantify the violations and devise a proposal for mitigation. In November 2022, the temporary fence was still present and was moved a few weeks later. In February 2023, the Commission granted a Request for Extension for the existing permits. She stated that the recently submitted Request for Modification to be discussed this evening includes measures to address the violations noted in June 2022.

Andrew Magee, representative for the project, stated that this modification is intended to address the items listed in the Notice of Violation. He noted that the owners of the property purchased the land from the original permittee and did not originally understand the requirements that were associated with the issued permits. He stated the owners are now aware of the requirements and are seeking to correct the issues.

Mr. Magee started by presenting the plans for the area to the north of the house, nearer the pond and bordering vegetated wetlands (BVW) on the site. He stated that when the erosion control measures were placed, they were installed well beyond the limit of work. This misled the contractor to allow disturbance up to the misplaced erosion control line. In the UBA, the owners have constructed a portion of a retaining wall and patio. He noted the entire 884 ft<sup>2</sup> patio was supposed to be permeable, but was constructed as an impermeable patio and therefore its runoff is not currently being collected. Mr. Magee stated removing the patio would disturb the installed plants and the current grading, and therefore do more harm than good. They felt a preferable approach would be to provide other remedial work and allow the patio to remain as constructed.

Mr. Magee added that fill has been placed in the UBA beyond the patio. The project team is proposing to use test pits to determine the amount of fill that was placed, remove it, and regrade the area to drain toward a rain garden sized for more than 3" of runoff from the impervious patio. Approximately 100 native plants will be planted on and around the rain garden. The rain garden will be designed to provide treatment, velocity dissipation, and groundwater recharge for the runoff from the patio area.

Mr. Magee noted that some of the plants included on the plan are marked "existing" and some are marked "proposed." He stated he is seeking to recreate a diverse native woodland canopy in the front yard. In total, the plan is proposing 58 native trees and 221 native shrubs on the site. He stated 38 trees were removed without approval, and the proposed plantings provide the required replacement for all removed trees, adding to the ability of the site to support local wildlife.

Mr. Magee stated the owners have also proposed to replace the lawn immediately in front of the house with native shrubs and pollinator-friendly perennials. He noted the eastern side of the parcel was cleared, as well, and will be restabilized with grasses and erosion control blankets where necessary.

Mr. Magee noted garlic mustard and buckthorn are starting to grow in the stormwater detention pond at the front of the property. He stated the proposal includes removal of the top layer of soil in the basin with small machinery, which will be replaced with suitable sandy soil. The basin will then be seeded and planted with a mixture of plants.

Mr. Magee added that, as part of this modification request, a permanent fence has been included to the rear of the house. The bottom of the fence would be 5" from the ground to allow for wildlife passage. The fence would provide an enclosed outdoor area for the owners' dog and grandchildren to play.

Commissioner Radner stated she would like to see an engineering plan showing the current grading vs. the proposed grading. She noted a berm has been constructed around the arborvitae trees along the road and stated the modification includes several cuts to allow run off to enter the basin. She stated the berm was not supposed to be constructed in the original plan and she is concerned with the erosive force the cuts would create, particularly when considering the nearby utility pole. Mr. Magee stated the team can reconsider this issue.

Commissioner Radner also noted the driveway layout has been changed from the original plan. Mr. Magee noted that a portion of the driveway entrance will be removed and a boulder will be placed to prevent traffic from cutting the corner. He noted that the driveway is large, but delivery drivers often back into the driveway and the owners feel narrowing it could result in the drivers driving on the lawn. Mr. Magee also noted the layout of the driveway is less angular than originally approved and was changed to suit the owners tastes and needs. Commissioner Radner stated she was not advocating for its removal, but would like the change noted and would like verification that the current layout meets the same stormwater specifications as the originally-approved design.

Commissioner Radner stated that the original plan included large stones to be placed to mark the UBA. She stated she was opposed to allowing the installation of the new fence into the UBA as proposed. Mr. Magee agreed that a portion of the fence encroaches into the UBA, but stated that the owners are willing to allow additional land to be designated as UBA in the portions where there is land between the UBA and the fence. They are willing to place markers on the fenceposts designating all land beyond as UBA.

Commissioner Radner stated that if the current design was proposed initially, it would have required a waiver for work in the UBA and she feels confident that it would not have been approved. She noted that the Commission worked with the original representative to move the project entirely out of the UBA. She noted many large trees were removed from the UBA and stated she would like to see more large woody vegetation added back to this area. She also asked about the rain garden, noting that she observed a wet area when visiting the site that may be closer to the house than the proposed rain garden. Mr. Magee agreed that water currently sheet flows off the patio, keeping the nearby ground wet. He added that the modification proposes a stone trench and perforated pipe to directly deliver the runoff from the patio to the rain garden.

Commissioner Radner added that she prefers more trees be planted as opposed to shrubs. She also stated that she prefers non-cultivar varieties and added that she is concerned with the lack of genetic diversity provided by the proposed planting plan. She then opened the floor to the other commissioners for comment.

Commissioner DeAvila noted that this is not as much a modification as a response to a violation. He asked if the retention pond at the front of the property has been engineered for the discharging area. Mr. Magee confirmed, but stated Paul Lindholm, the representing engineer who was not present, would be needed to provide details. Mr. Magee stated his observations suggest the system is functioning well. Commissioner DeAvila stated he would like to review calculations that verify the retention pond is sufficiently sized for the project as it was constructed.

Commissioner DeAvila asked if the fence shown on the plan was already installed. Mr. Magee denied and stated a temporary fence is currently in place. Commissioner DeAvila asked why more trees and shrubs could not be planted in the UBA between the fence and the rain garden. Mr. Magee noted that there are a few trees on the perimeter of the area, but the center was left open to allow the owners to have a viewing lane of the pond. Commissioner DeAvila stated he felt there was room for additional trees to be included. David Hancox, an additional representative for the project, stated the owner has requested no large trees be planted between the lake and the windows below the deck if possible, as this is where his home office is. Agent Brown noted that trees were removed from the UBA without approval to create the current view of the pond. Mr. Magee agreed that 12 trees were removed without approval from the 100' Buffer Area. He added that the proposed trees and shrubs account for the required replacement for all

removed trees. Commissioner Radner clarified that the requirement is to replace removed trees with new trees at a 2:1 rate, and the Commission may allow shrubs at a 4:1 rate if trees are not feasible. She also noted that a view of the pond is not a by-right condition of the property. She added that while 38 trees were removed without approval, that figure only includes trees greater than 6" in diameter and does not include the smaller trees and understory that were removed.

Commissioner Gauthier stated he would like contact information for the project manager, contractor, and foreman who misplaced the erosion and sediment controls to be shared so the issue can be discussed, and the Commission can have assurance it will not recur in the future. He stated that he felt the UBA should be wholly observed and if the applicant would like the patio to remain as constructed, they would have to propose something in the disturbed area to the north of the fence that is better than its previously natural state. He noted that the proposed plans keep this area in a very manicured state and he doesn't feel it constitutes a restoration. He added that the proposed rain garden typically wouldn't be allowed so close to the resource area. He suggested moving it closer to the project area and fully restoring the land beyond it. Commissioner Gauthier also reiterated that the regulations required trees be replaced at a 2:1 rate unless it was physically impossible, in which case the Commission may allow replacement shrubs at a 4:1 rate. He stated he did not feel leaving a viewing corridor for the residents was a sufficient reason to forego further tree planting.

Mr. Magee clarified that the project team has informed the resident that no mowing or manicuring may take place beyond the fence, should this plan be approved. Commissioner Radner commented that the proposed fence extends into the UBA, which is beyond where the Commission would typically approve it. She also noted that the Commission typically prefers boulders to be placed to mark the UBA instead of fences with gates, as boulders present a physical barrier to mowers.

Commissioner Radner noted the proposed invasive removal in the front retention pond and stated she is opposed to the use of machinery in this area. She stated hand removal was acceptable. Mr. Magee asked if the residents would be allowed to mow the retention area once per year. Commissioner Radner stated cleaning out leaves and other maintenance activities could be allowed annually, but she felt the retention pond was designed to grow naturally and shouldn't be regularly mowed. Agent Brown added that mowing could allow the invasive species to proliferate.

Commissioner Gauthier noted the proposed double swing gates on the pond-side of the fence. He stated this access should be reduced so mowers and other machinery cannot access the UBA.

Commissioner Gotay agreed with the other commissioners' comments and stated she felt more of a restoration effort could be made. She added that additional trees shouldn't block the viewing corridor as it would already be blocked by the proposed fence.

Commissioner Hafrey asked for clarification on the modification to the mouth of the driveway. Mr. Magee stated the eastern side of the driveway entrance will be narrowed and a boulder placed to prevent shortcutting the entrance.

Commissioner Puopolo stated he supported the other commissioners' comments. He reiterated that as many trees as possible should be used as replacement plantings and emphasized their benefits to stormwater management. He also agreed that the UBA should remain undisturbed and waivers have only been granted when a project results in an overall improvement to the UBA.

Commissioner Radner asked if the Cultec chamber had been installed as originally proposed. Mr. Magee confirmed. Commissioner Radner noted its location would need to be documented on an as-built.

Agent Brown noted the silt fence along the road. She stated it was not toed-in to the ground and didn't seem to be serving any purpose as an erosion and sediment control.

Commissioner DeAvila noted the drain line from the patio to the rain garden and asked if there were any sediment or flow dispersion mechanism at the end of the pipe. Mr. Magee confirmed that gravel would be placed at the end of the pipe to prevent erosion.

Commissioner Radner opened the floor to the public for comment.

Kellie Jenkins, of 65 Deerpath Road, stated several violations had not been addressed during the discussion. She stated the driveway was placed over an existing easement for a neighboring house. She stated that many trees were supposed to be planted between the basin and the house, but they have instead been planted along the road. The new placement of these trees causes traffic to drive on her property when two cars meet. Ms. Jenkins added that the original plans for Meadowbrook Road included pitching road runoff toward the basin at 177 Meadowbrook Road, but the construction on this site has affected that and caused her to have erosion and flooding problems. She also asked that the Commission review the size of the driveway mouth as it is over twice the originally-permitted size and added that deliver drivers do not back into the driveway. She added that the owners of 177 Meadowbrook Road created a road shoulder on her and her neighbor's property by placing and compacting gravel.

Phil DeSimone, of 70 Deerpath Road, stated his main concern is the planting of 14 arborvitae trees along Meadowbrook Road. He stated they are outside the original limit of work and are very close to the road. The placement of the trees prevents road runoff from entering the retention pond as designed and diverts it onto his property. He stated silt fencing along the trees also diverts the water. Mr. DeSimone stated that the placement of the trees force traffic onto his property when two cars meet on Meadowbrook Road, thereby damaging his property. He noted there is a wetland on his property that is also threatened by the traffic diversion. He asked that the Commission require these arborvitae trees be removed.

Commissioner Radner noted that the arborvitae trees in question grow to 30'-40' tall and 10'-15' wide at full maturity, which would impact the overhead powerlines and the adjacent road.

Elliot Davis, of 195 Meadowbrook Road, stated she appreciated the Commission's comments on the proposed plan and their efforts to protect the area.

Commissioner Radner stated the Commission would discuss a revised proposal at a future hearing. After discussion on an appropriate timeline with Mr. Magee, they agreed the hearing should be continued to the 4/20 meeting.

Commissioner DeAvila suggested overlaying current conditions and proposed conditions on one map to help illustrate the changes to the Commission.

Commissioner Radner **motioned to continue the hearing on the modification request for DEP 141-0561 and MSMP 2019-17 to the meeting on 4/20.** Commissioner DeAvila seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 6-0.

### **3. Potential Donation of Land – 115 Providence Highway**

Agent Brown stated that the Town received a gift of land between the Charles River and Providence Highway a year or two ago. Not included in that donation was a parcel in the same area owned by the Boston Architectural College. The Planning Director has been in touch with the college regarding donating that parcel to the Town as conservation land. They have verbally expressed interest in the donation. Agent Brown stated due diligence is still needed before acceptance of the donation, but she wanted to bring it to the Commission's attention to see if they would recommend the Select Board consider acceptance.

The Commission generally expressed support.

Commissioner Radner **motioned to express the Conservation Commission's support of the Town accepting a donation of land at 115 Providence Highway for conservation and passive recreation purposes.** Commissioner Hafrey seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 6-0.

#### **4. Minutes – 2/16/2023 & 3/2/2023**

Commissioner Radner **motioned to approve the minutes from 2/16/2023 and 3/2/2023 as drafted.** Commissioner DeAvila seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 6-0.

#### **5. Agent's Report**

Agent Brown stated this will likely be her last meeting, as she will be retiring within the next few weeks.

Agent Brown reported she had submitted a revised Chapter 91 application for the extension of the dock at Town Landing.

##### **5.1. Eversource Utility Project – Milton Street, Flanagan Place, Cliff Way**

Assistant Agent Hogan stated Eversource will be replacing gas mains on Milton Street, Flanagan Place, and Cliff Way. He stated the work is exempt from Conservation permitting requirements.

Assistant Agent Hogan stated two letters will soon be mailed on behalf of the Commission. The first is reminding past permittees of overdue BMP maintenance reporting requirements. The second letter will be sent to residents along Maple Place and is in response to a report of one or more residents dumping yard waste on the parcel at the end of the street, which is owned by the Corps of Engineers and almost entirely covered by wetlands.

Commissioner Radner stated that she is scouting for certifiable vernal pools and the forecast suggests the next few nights could be Big Nights.

Commissioner DeAvila **motioned to adjourn.** Commissioner Radner seconded. All attending commissioners voted "aye." The motion carried 6-0.

The meeting was adjourned at 9:01 PM.