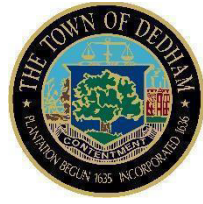


Tim Puopolo, Chair
Erik DeAvila, Vice Chair
Stephanie Radner, Clerk
Nathan Gauthier, Associate
Leigh Hafrey, Associate
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CONSERVATION COMMISSION

Minutes of April 18, 2024

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:

Tim Puopolo, Chair
Erik DeAvila, Vice Chair
Stephanie Radner, Clerk
Elena Taurasi, Associate
Nathan Gauthier, Associate

The following Staff were present:

Meredith LaBelle, Conservation Agent

The following Commissioners were absent:

Leigh Hafrey, Associate

The following Applicants and/or Representatives were present:

Jason Mammone, Applicant, Town of Dedham Engineering Department
Felix Sanchez, Applicant, 34 Hyde Park St
Stephen T. David, Representative for 34 Hyde Park Street
Jerry Romano, Representative, 18 Powers Street

Commissioner Puopolo called the meeting to order at 7:03 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. Public Comment

Commissioner Puopolo opened the floor for general comments from members of the public.

Jason Mammone, Director of Engineering for the Town of Dedham, introduced himself and requested that the RDA for DPW roadwork be taken out of order as the first agenda item. Commissioner Puopolo agreed to move this item to be the first agenda item after public comment concluded.

2. New Applications

2.1. DPW Roadwork - CY2024 Roads Program – RDA 2024-07

Commissioner Puopolo introduced the project and invited Mr. Mammone to describe the proposed roadwork project.

Mr. Mammone explained that the proposed work is part of the Dedham Department of Public Works' annual roadwork to repair and improve sections of roadway around town. He explained that the RDA is for roadwork along 3 streets that are partially or entirely in the 100' wetland buffer zone. The roads in buffer areas were stated as being Pine St., Lowder St., and Wilson Ave. He explained that the roads would be repaired by mill and overlay or by reclamation. He said that repairs to the roads would not involve any grading or change in width or change in path of the roadway. He stated that he was ready to respond to any questions or concerns raised about the proposed work.

Commissioner Puopolo responded that he understood that there would be no alterations beyond the replacement of asphalt on existing roadways.

Commissioner DeAvila inquired whether proper erosion and sediment controls would be in place around work areas as needed. Mr. Mammone stated that these protections are required in the Special Conditions for the project and that these measures had been followed during previous years.

Commissioner Radner raised the topic of the scheduling of the roadwork, stating that it was her hope that the roadwork could be completed at a time when water levels were lower. Mr. Mammone replied that while scheduling was not his personal responsibility, Joe Flanagan, DPW Director, tries to avoid flooded conditions when scheduling roadwork. He stated that the work would likely begin in May or June of 2024.

Commissioner Puopolo added that this work is related to critical infrastructure and thus exempt from the Wetlands Protection Act. He explained that this work is only covered by the Dedham Wetlands Bylaw and that it meets all of the standards under the Bylaw.

At this time, Commissioner Gauthier joined the meeting and was marked as present by the Chair.

A member of the public, Daniel Kazachkov, 18 Sawyer Drive, inquired what work would be done on Lowder St. as part of the proposed project. Mr. Mammone responded that there would be milling and overlaying of the asphalt, and that there would be no widening of the roadway, referring the resident to DPW for any questions related to timing/scheduling.

Commissioner Puopolo recommended that the proposed work be granted a negative Determination of Applicability due to its limited impacts on resource areas.

Commissioner Radner made a motion to close the public hearing and issue a negative Determination of Applicability. Commissioner DeAvila seconded. Commissioner Puopolo held a roll call vote. All Commissioners in attendance voted "Aye". The motion passed by a 5-0 vote.

3. Notices of Violation

3.1. 5 Lower East St- Mishkan Tefila Cemetery (continued from 4/4 meeting)

Agent LaBelle informed the Commission that Steve Burns was experiencing an unexpected delay that may cause him to miss the meeting, but that he would try to join before the end of the meeting. She suggested that the agenda be altered so that Notices of Violation are addressed after the Request for Extension. Commissioner Puopolo agreed with this reorganization of the meeting schedule.

When the Commissioners returned to this agenda item, Mr. Burns had still not arrived at the meeting, so the Commission proceeded to discuss the 18 Powers St. retaining wall violation.

3.2. 18 Powers St – Retaining Wall

Commissioner Puopolo stated that this was the first meeting to discuss this violation. He explained that the Commissioners would like to take this opportunity to ask Jerry Romano, the homeowner at 18 Powers St., some questions related to the violation. He invited the applicant to give a brief background on the project, justification for the decision to carry out the project, and any insight on the project.

Mr. Romano began by explaining that he bought the property about 3 years ago and that he had noticed the previous retaining wall on the property was in a state of disrepair. He stated that his intent in building the new concrete wall was to create a stable surface on which to put a fence to prevent his children from being injured from falling on the hillside. He reiterated that his goal was safety.

Commissioner Puopolo thanked Mr. Romano for coming to the Commission and stated that, ideally, Mr. Romano would have come to the Commission with his plan for the project before beginning this project. Mr. Romano stated his willingness to do whatever it takes to make things right.

Commissioner Puopolo explained that the normal process for a project in the buffer zone is that an applicant works with the Commission to develop a plan that will achieve the project goals while protecting wetland resources and mitigating any alterations to wetland resources. He explained that mitigations, including plantings, are generally necessary for work in the buffer zone to be permitted under wetlands regulations. He stated that this project was an instance of an applicant looking for an after the fact permit following a violation. He recommended that Mr. Romano work with Agent LaBelle to file an after-the-fact Notice of Intent, including a property boundary survey. This would provide a means to share relevant information about the project with the Commission, assisting the Commissioners in determining how to proceed with the permitting process.

Commissioner Puopolo asked Mr. Romano to confirm the height of the concrete retaining wall. Mr. Romano responded that the wall was 16 to 18 feet in height. Commissioner Puopolo asked Mr. Romano to state the height of the smaller wooden wall that was previously on the site. Mr. Romano responded that there was a steep drop off beneath the previous wooden wall. Commissioner Puopolo asked Mr. Romano to confirm that fill had been introduced to make the new concrete wall taller than the original wooden wall. Mr. Romano responded that yes, this was the case. Commissioner Puopolo asked Mr. Romano how much soil had been brought onto the site as fill. Mr. Romano replied that approximately 10 or 12 truckloads of soil had been added to the site. Commissioner Puopolo asked what contractor assisted with transporting the fill. Mr. Romano replied that several friends in the construction business had brought him this fill and that the fill had come from multiple sources. Commissioner Puopolo asked how many trees were removed to complete this project. Mr. Romano responded that 3 trees were removed for the project and stated that they needed to come down because they wouldn't have survived after the fill was added. Commissioner Puopolo explained that there is a 2:1 replacement policy for trees over 6" diameter removed in the buffer zone.

Commissioner Radner stated that an after-the-fact NOI would require an accounting for the number of trees removed. She noted that she was curious to see a plan of the property and surrounding land to see if the work was entirely on the owners' property, and if it was at all within the Town's land. Commissioner Radner asked what was done with the original timbers that were removed. Mr. Romano responded that the timbers were removed from the site.

Commissioner DeAvila asked if the stumps of the trees that were removed were also removed prior to backfilling. Mr. Romano responded that they were not removed. Commissioner DeAvila stated that this could pose a structural risk due to formation of cavities as the stumps decayed beneath the fill. Commissioner DeAvila asked if the wall was engineered. Mr. Romano stated that he had access to an engineered drawing of the blocks used that was provided by the manufacturer, but that there was no engineered drawing of the project or the project site.

Commissioner Puopolo asked if the blocks were sitting on a base or directly on the soil. Mr. Romano responded that they were placed on a crushed stone base.

Commissioner Radner asked if a patio had also been installed on the side of the house, to which Mr. Romano responded that yes, there was a patio in this location. Commissioner Radner asked when the patio was installed, to which Mr. Romano responded that it was installed two years ago. Commissioner Radner stated that this project would have required a stormwater permit. Agent LaBelle stated that she would share this information with Stormwater Manager Patrick Hogan.

Commissioner Gauthier shared that the patio project should have been captured by the stormwater permitting process, but that he was unsure how this would proceed given that the stormwater permitting process had changed since the time of the original patio construction. He stated that this type of patio would likely be counted as an impervious surface under the Town's stormwater standards.

Commissioner DeAvila asked with what materials the patio was constructed and also asked Agent LaBelle if the patio was within the buffer area. Agent LaBelle responded that the patio was almost entirely within the 200' riverfront buffer area and that the patio would need to be included in the after-the-fact NOI since this work did not have a permit at the time of construction.

Commissioner Taurasi asked Mr. Romano to clarify whether the concrete retention wall was at the same height as the original retaining wall and asked for an explanation of the process of replacing the wooden retaining wall and installing the concrete wall. Mr. Romano responded that the wooden wall and all fill that had been used behind the wooden wall were removed, followed by construction of the new wall and backfilling over the hillside.

Commissioner Puopolo asked Mr. Romano to confirm that the new wall was closer to the wetland than the previous wall, to which Mr. Romano assented.

Commissioner Gauthier asked what materials were used beneath the patio pavers, to which Mr. Romano responded that stone dust was used beneath the pavers. Commissioner DeAvila stated that stone dust is an impermeable surface for the purposes of the Town's stormwater standards.

Commissioner Gauthier stated that the after-the-fact NOI would be considered by the Commission as if it were a proposed project (i.e. work had not yet begun). He added that Mr. Romano should consider any potential resource area improvements- such as native replanting- that would have been part of a proposed project and include those in the after-the-fact NOI. Later in the discussion, the Commission advised that thorough documentation of the site before the construction began would be required for the NOI.

Commissioner DeAvila stated that he did not understand the intent or purpose of the rough stone wall adjacent to the concrete wall. He also noted that there was a significant pile of brush at the base of the wall. Mr. Romano responded that the stone was put in place to prevent any fill from falling downhill. He stated that he would be willing to clean up the brush.

Commissioner DeAvila suggested a site visit, to which the homeowner agreed. Commissioner Puopolo agreed that a site visit would be a good idea. He stated that a range of mitigation measures might be needed in this case- including but not limited to: a redesign, restoration plantings, and complete removal of the structure. He stated that these options were among those that would be considered in assessing the NOI.

Commissioner DeAvila stated that he would like to hear how the Building Department, Stormwater Manager, and Zoning respond to this violation.

Commissioner Radner asked what the length of the wall is, to which Mr. Romano responded that it was 90 feet in length. Commissioner Radner stated that a complete ceasing of work on the wall would be advisable until the permitting process proceeds.

Commissioner Radner asked if there are any erosion controls in place. Mr. Romano responded that there is a straw wattle installed at the base of the wall. Commissioner Radner stated that she would like to see more extensive erosion controls installed. Commissioner DeAvila suggested that a temporary safety fence be installed on top of the wall to prevent injuries, noting that this was a recommendation, not an official order. The other Commissioners agreed that this would be a good idea.

Commissioner Puopolo summarized the items requested of Mr. Romano including: checking the wetland delineation, site plans indicating square footage, and details of cutting, filling, and grading. He added that the application should include existing/proposed conditions in addition to previous conditions before the work began.

Agent LaBelle suggested that the applicant be held to a deadline of June 1st, with the stipulation that the applicant could take longer as long as he provides a formal explanation to the Commission for why the deadline wouldn't be met as well as proof that work was progressing on the NOI. Commissioner Puopolo stated that he was comfortable with this deadline. Commissioners Radner and Gauthier Both stated their support for this plan while expressing their concern that the NOI deadline not be extended for an unreasonable length of time.

Mr. Romano asked what changes he would be able to make to the area of the violation before the completion of the NOI submission and review process. Commissioner Radner replied that he should not make any modifications to the area, with the only modification allowed being the suggested safety fencing at the top of the wall.

Commissioner Radner made a motion to authorize Agent LaBelle to have control over the process of working with the applicant to gather information and documentation. Commission Gauthier seconded the motion. Commissioner Puopolo called a roll call vote. All commissioners present voted "aye" and the motion passed by a 5-0 vote.

Agent LaBelle stated that she had filed a Notice of Violation, but that an Enforcement Order had not been issued. She stated that this remained an option if cooperation with Mr. Romano were to be unsuccessful.

Commissioner Puopolo reiterated the deadline of June 1st for the submission of the NOI or for an extension request.

Given that Steve Burns still hadn't arrived at the meeting, Commissioner Puopolo suggested that they proceed to agenda item 5. Minutes. The Commission proceeded to this agenda item.

4. Request for Extension

4.1. 34 Hyde Park St – New SFD – DEP 141-0575

Commissioner Puopolo introduced the project applicant, Felix Sanchez. He noted that the Request for Extension was for an Order of Conditions which was issued in 2020 and expired in 2023. He requested that the applicant give a brief explanation of why the project would need an extension.

Stephen T. David, legal representative for the project, introduced himself and stated that he was representing Mr. Sanchez. He stated that delays related to the Covid-19 pandemic caused the project to progress more slowly than expected. He stated that the project's current condition is that the structure is water-tight, mechanicals are being installed, and project completion is likely within 90-180 days. Mr. David explained that the applicant is seeking a two year extension on the permit in order to finish work on

the project. He said that Agent LaBelle had met his client at the project site a few days before and that she had requested that erosion controls be put in place.

Commissioner Puopolo thanked Mr. David for clarifying that this single-family housing project had been under construction since the permit expired and for stating that his client had agreed to putting down improved erosion controls at the site. Mr. David stated that he would inform Agent LaBelle once the erosion controls were in place, as well as inviting her for another site visit.

Agent LaBelle asked Mr. David if the Request was for a two year or a one-year extension. Mr. David replied that the applicant was requesting a two-year extension.

Commissioner Radner asked if anything had changed from the original Order of Conditions the Commissioners had approved. Mr. David replied that nothing had changed from the original.

A member of the public, Vicky Papaionnaou at 62 Orchard St, asked what the nature and extent of the work at Wilson Ave would be. Commissioner Puopolo stated that he believed this question was in regard to a previous agenda item, the RDA for DPW's annual roadwork. Commissioner Puopolo stated that the road would be milled and repaved, but that no change in road size or damage to wetland resources was likely to occur because of the work. The resident from 62 Orchard St clarified that her question was related to the retaining wall repairs at the intersection of Washington and Wilson. Agent LaBelle stated that she believed the resident's question related to a different project that was permitted by the Commission back in August of 2023, , and that she would share the permit documents related to this project with the resident via email.

Commissioner Radner made a motion to approve the two-year permit extension for the work at 34 Hyde Park St. Commissioner Gauthier seconded. Commissioner Puopolo held a roll call vote. All Commissioners in attendance voted "Aye". The motion passed by a 5-0 vote.

The Commission then returned to agenda item 3: Notices of Violation.

5. Minutes

Commissioner Radner asked that the Far Eastern Smartweed not be described as invasive in the minutes because it has not been officially labeled as such by the state.

Commissioner Radner motioned to approve the minutes from April 4th with the 1 proposed edit.

Commissioner Puopolo seconded. Commissioner Puopolo led a roll call vote. All attending commissioners voted "aye." The motion carried 5-0.

6. Programming & Events Discussion

Agent LaBelle provided updates on her efforts to coordinate a meetup between the Conservation Commission and the Open Space Subcommittee on Dedham's conservation lands. She stated that the survey results from the Subcommittee and Commission members indicated support for a visit to the Dedham Town Forest on either Sunday May 5th from 3 pm to 5 pm and Saturday May 11th from 9 am to 11 am.

The Commissioners requested that another poll be sent with additional dates listed, to which Agent LaBelle agreed.

7. Agent's Report

Agent LaBelle asked the Commissioners to state their preferences for email contact from members of the public, stating that the existing system is to use the general conservation email address.

The Commission discussed several options for email communication, including each Commissioner creating a dedicated email address for Conservation Commission work or having the general conservation email address forward to the Commissioners' inboxes. The Commissioners agreed that listing their personal emails publicly would not be the best course of action. Commissioner DeAvila inquired if an email were sent to a quorum of Commissioners, would there be any issues related to Open Meeting Law. Agent LaBelle replied that it was her understanding that, as long as the responses of the Commissioners were not "reply all", this would likely not be an issue.

Agent LaBelle shared that she had been working on updating the Wetlands Bylaw as well as the Wetlands Rules and Regulations. She requested that the Commissioners share any insights they had about the update process with her. She stated that she would share the proposed changes with the Commissioners once an initial draft was completed and incorporate their suggested changes. She stated that the draft would likely be ready by the end of May 2024. After, the draft changes would be reviewed by the Town's legal counsel.

Agent LaBelle stated that there had been two administrative approvals since the last meeting. The first was for a section of fence at 19 Bates Street. She stated that this section of fence was entirely outside of the buffer zone, and that this was indicated on the administrative approval. The second was for a pair of trees at 5 Liberty Lane. The homeowner was concerned that the trees were a hazard to the home, which Meredith agreed with, issuing an administrative approval to remove one Norway Maple and one unknown tree.

Agent LaBelle stated that there may be applications coming in soon for the open seat on the Commission.

Agent LaBelle also shared that the peer review process had begun for 125 Stergis Way.

Given that the Commissioner's made it through the agenda and the representative for 5 Lower East Street had not shown up, **Commissioner Puopolo made a motion to continue the 5 Lower East Street Notice of Violation to the next hearing.** Commissioner Gauthier seconded the motion. Commissioner Puopolo led a roll call vote. All attending commissioners voted "aye." The motion carried 5-0.

The meeting was adjourned at 9:03 pm.