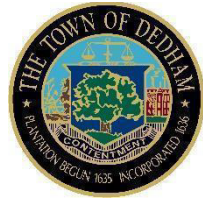


Tim Puopolo, Chair
Erik DeAvila, Vice Chair
Stephanie Radner, Clerk
Nathan Gauthier, Associate
Leigh Hafrey, Associate
Elena Taurasi, Associate



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TOWN OF DEDHAM

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CONSERVATION COMMISSION

Minutes of September 5, 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:

Erik DeAvila, Vice Chair
Stephanie Radner, Clerk
Nathan Gauthier, Associate
Leigh Hafrey, Associate
Elena Taurasi, Associate

The following Commissioners were absent:

Tim Puopolo, Chair

The following Staff were present:

Meredith LaBelle, Conservation Agent

The following Applicants and/or Representatives were present:

Steve Ivas, PWS, Representative for 688 Providence Highway
Ariel Peguero, Applicant for 142 Milton Street
Pamela Peguero, Applicant for 142 Milton Street
Andrew Magee, Representative for 142 Milton Street
David Gorden, Representative for 142 Milton Street

Vice Chair DeAvila, who was filling in for Chair Puopolo, called the meeting to order at 7:05 pm in accordance with the Wetlands Protection Act, M.G.L. Chapter 131, Section 40 and the Dedham Wetlands Bylaw.

AGENDA:

1. Public Comment

Commissioner DeAvila opened the floor for any conservation questions or general comments from members of the public. He received no responses.

2. Proposed Wetlands Bylaw Amendments (Chapter 271) Discussion

Agent LaBelle presented the final two changes to the proposed bylaw amendments. The changes included: adding language to align the exemptions of the Bylaw with the exemptions of the Wetlands Protection Act, and a minor change to the violation fine schedule. Agent LaBelle explained she would be submitting this on September 6th for the Fall Town Meeting Warrant.

Commissioner DeAvila opened the floor for any comments from members of the public. He received no responses.

Commissioner Radner motioned for the Bylaw Amendments to be submitted for the Fall Town Meeting Warrant. Commissioner Hafrey Seconded the motion. Commissioner DeAvila led a roll call vote. All Commissioners present voted “aye” and the **motion passed by a 5-0 vote**.

3. Request for Extension

3.1. 688 Providence Highway- DEP 141-0577- Drainage and Landscape Improvements

Steve Ivas, PWS and representative for Pearl Realty, explained that they are seeking a request for extension on the drainage and landscaping project at 688 Providence Highway. Mr. Ivas added that the northern half of the project area is growing in well, but the southern half isn't growing in as well due to a high volume of water, salt, and sun. Mr. Ivas explained that they anticipate that another few years of growing will allow for the area to achieve 75% growth. Commissioner DeAvila stated that this would be the second permit extension, and while they do not normally allow a second extension to be issued, in this situation he would support it since the project is complete, it just needs more time for the plants to thrive. Commissioner Radner, Gauthier, and Hafrey agreed.

Commissioner DeAvila opened the floor for comments from the public. He received no responses.

Commissioner Radner motioned to grant a three-year extension for DEP 141-0577. Commissioner Gauthier seconded the motion. Commissioner DeAvila led a roll call vote. All Commissioners present voted “aye” and the **motion passed by a 5-0 vote**.

4. New Applications

4.1. 688 Providence Highway – RDA 2024-16 – Parking Lot Repaving (After-the-Fact)

Steve Ivas, PWS and representative for Pearl Realty, explained that this is an after-the-fact RDA application for a re-paving project that occurred at 688 Providence Highway. He stated that Pearl Realty did not realize Conservation Commission approval and a Major Stormwater Permit would be required for the re-paving project. Agent LaBelle clarified that a Major Stormwater Permit was filed with the Stormwater Manager, and he is working on reviewing. No additional site work is currently being proposed as part of the Stormwater Application, but if additional site work is needed then the applicant would come back with a separate application depending on the scope. Commissioner DeAvila asked if it was a mill and overlay project, and Mr. Ivas confirmed. Commissioner Radner asked if there was any grading and if any part of the conducted work would have triggered a waiver, and Mr. Ivas stated there was no re-grading of the site and a waiver would not have been required.

Commissioner DeAvila opened the floor for comments from the public. He received no responses.

Commissioner Radner motioned to issue a Negative Determination of Applicability as drafted for RDA 2024-16. Commissioner Hafrey seconded the motion. Commissioner DeAvila led a roll call vote. All Commissioners present voted “aye” and the **motion passed by a 5-0 vote**.

5. Continued Applications

5.1. 142 Milton Street – DEP 141-0637 – Dog Kennel (After-the-Fact Application)

Andrew Magee, Landscape Architect with Landscape Oasis LLC introduced himself as a representative of the project, along with David Gorden wetland scientist with Thunderchase Environmental. Mr. Magee explained they are presenting an after-the-fact Notice of Intent for the unpermitted structure in the rear of 142 Milton Street as well as a restoration plan, all within the 200' buffer zone to Motherbrook. He introduced the applicant, Ariel Peguero's daughter Pamela Peguero and stated she would like to say a few words. Pamela Peguero, of 142 Milton Street, thanked the Commission for hearing their project. She explained that their dogs are family pets and they bring her great joy.

Mr. Magee then presented the site plan, which included the existing unpermitted kennels structure and the proposed restoration areas. He explained that the kennel structure has a concrete base and contains interior drainage structures for dog waste. He added that the restoration areas are intended to capture and treat runoff to prevent contaminants from flowing to the rear of the yard towards Motherbrook. Mr. Magee provided an overview the entirely fenced-in yard, and explained that the top of bank is located just beyond the existing fence with a quick drop-off beyond the top of the bank. He also added that the slope is manmade and quite disturbed, and little is currently growing on the top of bank area.

Mr. Magee summarized that currently stormwater sheet flows across the rear of the yard. He explained they are proposing two large berms planted with native species that are constructed with gravel and loam to capture and infiltrate runoff, as well as an 18" deep curtain drain along the rear of the yard that is filled with 3" stone. Mr. Magee also added that the soils are Merrimack Series soils and very well-draining. He then described the proposed planting plan to the Commission, which included a restoration area outside of the fence that will be vegetated with sweet fern and native grasses that would serve as a final buffer between the yard and Motherbrook, and native berm plantings including native trees and shrubs. Mr. Magee also added that the homeowners are diligent about cleaning up pet waste.

Commissioner DeAvila asked about the concrete slab surrounding the kennel. Mr. Magee called out the concrete slab areas on the site plan and confirmed that this area is approximately 711 square feet. Commissioner DeAvila asked where the pens inside the kennel drain to, and Mr. Magee answered that the drains within the kennel area all connect to a 6" pipe that ultimately drains to the town sewer system. Mr. Magee added that the dog pen area has a cover that can be taken on and off of the pen area during rainstorms, and that the floor is pitched towards the center of the structure. Commissioner DeAvila added that he has concerns that stormwater could be entering the town's sewer system through these drains, and asked if there was any tie-ins to any storm drains on the property. Mr. Magee responded that a gutter could be added to the structure but wasn't sure about tie ins to any storm drains. Ariel Peguero, 142 Milton Street, confirmed that there is no storm drain in front of the garage. He also added that there is an existing infiltration system in the rear of the yard.

Commissioner Taurasi asked about the frequency with which the concrete slabs are cleaned, and the method used to clean the concrete. Mr. Peguero responded that the surface is cleaned daily. Commissioner Gauthier clarified that it is OK for sprayed water used for cleaning the concrete to enter the sewer system, but rainwater should never enter the sewer system. He added that rainwater should be treated and re-infiltrated back into the ground and suggested adding a gutter and downspout that directs water towards the existing infiltration system. Agent LaBelle added that the project does not meet the threshold to need a stormwater permit, but the Commission can still require certain stormwater features to be added such as the downspouts and gutters. Commissioner Radner added that when the dog pens are hosed down, the hose water should be directed towards the interior drains. Commissioner Radner stated that sweet fern and native grasses will work well to stabilize the rear of the property but added that a few of the selections such as River Birch are more suited to moist soils so they may want to rethink a few of the plantings.

Commissioner DeAvila asked about how dog waste is handled in the grassy area directly outside of the kennel. Mr. Magee answered that the homeowner is rigorous about keeping the yard clean of waste, and that the dogs are rarely in that location and it's more of a transition space on the way to the larger yard. Commissioner DeAvila added that he recently conducted a job involving digging footings at a doggy daycare, and the soil beneath the play area was soaked with urine, which gives him concerns for the design of this project. Mr. Magee pointed out that a doggy daycare can have hundreds of dogs a day, whereas this is far less than that. Commissioner Radner stated that although the amount of dogs in this building are not under the Commission's purview, she still would like to know the current and expected amount of dogs at the residence to understand the amount of dog waste at this site. Pamela Peguero answered that they have 8 dogs in total, but only 4 currently living on the property. Commissioner Radner asked if the kennel receives permits from all other required town boards, if the total number of dogs in the kennel would be 8, and Ms. Peguero confirmed. Commissioner DeAvila asked if there would be a time when there would be more than 8 dogs on the property, and Ms. Peguero answered 8 would be the maximum amount of dogs they would ever have on the property.

Commissioner Taurasi asked whether there is a lip or edge that would prevent water from the hose from washing off the concrete slab during washing activities, and Mr. Magee answered that there currently is not. Commissioner Gauthier asked about what the area outside of the fence looked like prior to work being completed. Mr. Magee answered that this area is woodlands, but highly disturbed from previous uses and erosion. Commissioner Gauthier asked if the planting area beyond the fence is counting towards the mitigation area, and Mr. Magee answered yes since this area will help stabilize the site and infiltrate runoff. Commissioner Gauthier stated he understood that, but would like to see the planted berm areas extended so that they take up a greater part of the Undisturbed Buffer Area. He also suggested installing some boulders to prevent mowing in the restoration areas. Commissioner Gauthier asked about the reasoning for the gate within the fence, and whether any landscaping debris is dumped onto the slope. Mr. Peguero answered that the access gate was there when he built the fence, and that they own the land beyond the gate and fence. Commissioner Gauthier stated it's unfortunately very common for landscapers to dump debris over the fence, so he would like to see a condition incorporated into the permit to prevent this. Mr. Gorden added that the sloped area behind the fence has been bare and eroded for many years, which is why ferns are now being proposed there as part of this project.

Commissioner Radner stated she viewed the property from a neighboring friend's property, and she did not note any landscaping debris being dumped. She also noted that although the unpermitted work was conducted in the UBA, the site has been quite disturbed over the years, so this planting plan would definitely be an improvement. Mr. Gorden stated that the soils beneath the slope consist of Puddingstone, fill, and other rocks, which will make it very difficult to revegetate, but added that he believes the plantings proposed just beyond the fence will be successful.

Commissioner DeAvila opened the floor to comments from the public.

Pauline Albright, of 22 South Stone Mill Drive, asked if the dog kennel is related to any commercial business at 142 Milton Street. Pamela Peguero answered that the dogs are personal pets and not for commercial use or security. She added that the kennel structure is so that the dogs can have their own space outside of the main home. Later during public comment, Ms. Albright clarified that the reason she was asking about commercial use was because the Commission had previously been discussing violation fines, and Commissioner DeAvila clarified that since the applicant is currently working with the Commission on resolving the violation, no fines have been discussed at this time.

Elizabeth Doris-Gustin, of Walker Lane, noted that the kennel appears to have space for 9 dogs, and added that Dedham residents can only have four dogs before needing a kennel license. Ms. Doris-Gustin asked if the kennel could be moved to the far left of the main house outside of the 100' buffer to Motherbrook, and that way the Building department can be involved in the re-construction of the building. Mr. Peguero responded that it would be difficult to relocate the building because of the current location of the infiltration system in the yard. Mr. Gorden added that the structure would still be located

in the Riverfront Area to Motherbrook even if it was moved to a different location in the yard. Commissioner Radner stated that the Commission is determining whether the proposed restoration is suitable to the work that was completed without a permit, and added that the use of the existing structure will be determined by the Zoning Board of Appeals.

Marina Speare, with 4 North Stone Mill Drive, asked if there was ever a permit pulled to build the kennel. Agent LaBelle responded that no application was ever filed with Conservation Commission to build this structure. Ms. Speare asked what the consequences are for not pulling a permit. Commissioner DeAvila stated that the consequence of not pulling a permit with Conservation is that the applicant is required to propose a restoration plan to counteract the unpermitted work, but that ultimately the homeowner will also need after-the-fact approval from the Building Department which will involve going to the Zoning Board of Appeals. Ms. Speare asked if the Building Department could require that the structure is removed, and Agent LaBelle answered that this is a possibility, however it is up to the Building Commissioner. Agent LaBelle reiterated that when the initial violation was issued back in November, the applicant came to a Conservation Commission hearing and was directed to file an after-the-fact application that included mitigation, which is what is being presented at tonight's meeting. Ms. Speare then stated in order to have a kennel in Dedham, it needs to be located on 4 acres of property and asked if this property is more than 4 acres. Agent LaBelle answered that the property is less than 4 acres, which is why the applicant will need to go to the Zoning Board of Appeals to ask for a special permit if they wish to operate a kennel on less than 4 acres of land.

Commissioner DeAvila summarized the revisions they would like to see with the restoration plan, including downspouts and gutters to address stormwater, information about the sewer tie-in, and some minor revisions to the restoration areas. Commissioner Radner stated that she may not be comfortable to vote on approving this plan until this goes to the Zoning Board of Appeals, in case there are major changes. Commissioner DeAvila agreed with this and added that the ZBA may ask for the building to be removed entirely, in which case the plans would change. Commissioner Radner then added that it was her understanding that the Building Commissioner and the ZBA wanted Conservation to make a determination first. Commissioner Gauthier added that if an applicant puts a plan before the Commission, they should make a determination, and a request for modification could always be filed later on. He added that he would like to see another revision with an increase in the restoration area. Commissioner Taurasi agreed that another revision is needed, but the first iteration is a step in the right direction. Mr. Gorden stated that it would be their preference to come back to the next meeting with a revised plan and receive a vote from the Commission if they were ready to do so.

Commissioner Radner motioned to continue the public hearing for DEP 141-0637 until the meeting of September 19th. Commissioner Gauthier seconded the motion. Commissioner Puopolo led a roll call vote. All Commissioners present voted "aye" and the **motion passed by a 5-0 vote.**

6. Minutes

Commissioner Gauthier made a motion to approve the minutes for the 8/22 meeting as drafted with the one correction that was discussed. Commissioner DeAvila seconded the motion. Commissioner led a roll call vote. All Commissioners present voted "aye" and **the motion passed by a 5-0 vote.**

7. Agent's Report

Agent LaBelle provided some updates on Dedham Biodiversity Day, to be held on September 15th from 9 - 3.

Agent LaBelle also update the Commission that the Local Order of Conditions issued for 750 Providence Highway was appealed by the abutter, and she has notified KP Law and will keep the Commission apprised of next steps.

The meeting was adjourned at approximately 9:25 pm.