

Tim Puopolo, Chair
Erik DeAvila, Vice Chair
Stephanie Radner, Clerk
Nathan Gauthier, Associate
Anne Gotay, Associate
Leigh Hafrey, Associate
Meredith LaBelle, Agent



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TOWN OF DEDHAM

CONSERVATION COMMISSION

Minutes of January 4, 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
Leigh Hafrey, Associate

The following Staff were present:

Meredith LaBelle, Conservation Agent
Patrick Hogan, Stormwater Manager

The following Commissioners were absent:

Nathan Gauthier, Associate
Anne Gotay, Associate

The following Applicants and/or Representatives were present:

Matthew Smith, Representative for 750 Providence Highway
Alexander Kraplin, Representative for 750 Providence Highway
Matt Watsky, Representative for 750 Providence Highway
Paul McManus, Representative for 750 Providence Highway
David Spiegel, Applicant for 750 Providence Highway

Commissioner Puopolo 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. Public Comment

Commissioner Puopolo opened the floor for general comments from members of the public. He received no responses.

2. Stormwater Update

Stormwater Manager Hogan stated that he issued two permits since he last updated the Commissioners: the first was for the parking lot improvements at Costco, and the second was for the parking garage improvements at the Mother Brook Condominiums. He added that he also received two new applications: the first is for a proposed parking garage at 1 Rocky Ridge Road, and the second is an application from the Noble and Greenough School for a new paved parking lot and recreation space. Stormwater Manager Hogan added that both of the new projects have buffer zone impacts and will be submitting applications to the Conservation Commission in the coming weeks. Commissioner Radner noted that there are a few potential vernal pools near Rocky Ridge Road and depending on their proximity to the proposed subdivision should be included on the site plans. Stormwater Manager Hogan added that MassDEP has issued draft updates to the Wetlands Protection Act, as well as a new draft of the Massachusetts Stormwater Handbook which is a huge improvement from the previous version.

3. Continued Applications

3.1. 750 Providence Highway – WPB 2023-01 – Site Redevelopment (Local Bylaw Filing Only)

Applicant: David Spiegel, Representative: Matthew Smith, Norwood Engineering Co., Inc.
Dedham 800 LLC

Commissioner Puopolo began the hearing for this item by stating that this application is for the Dedham Local Wetlands Bylaw only and explained that MassDEP has already issued a final Superseding Order of Conditions for the project under the Wetlands Protection Act.

Matt Smith from Norwood Engineering Company introduced himself, along with Environmental Scientist Paul McManus with EcoTec Consulting, project attorney Matt Watsky, engineer Alex Kraplin with Norwood Engineering Company, and owner and applicant David Speigel with Dedham 800 LLC.

Mr. Smith gave a brief history of the project: the project was previously approved by the Dedham Conservation Commission in August of 2017, afterwards which the project was appealed to MassDEP. He explained that following extensive discussions between MassDEP and the applicant as well as revisions to the proposed plans, a final order of conditions was issued by MassDEP in September of 2023. Mr. Smith added that although their project is approved under the Wetlands Protection Act by MassDEP, they still need to obtain approval under Dedham's Local Wetlands Protection Bylaw.

A plan depicting the proposed project was shared with the Commissioners. Mr. Smith explained that the existing driveway that extends from the TGI Fridays restaurant to the adjacent property will be relocated to the west (towards Wigwam Pond), and that a new building will be constructed towards the western portion (closest to Providence Highway) of the lot. He explained that the proposed design is very similar to the plans originally approved by the Commission in 2017, however he highlighted the following changes that were a result of discussions with MassDEP: the proposed building was reduced in size by 2,000 square feet and moved 27 feet northward to lessen the impacts to the wetland area, the impervious area on the site was reduced by 1,200 square feet, 4,000 square feet of additional BVW (from what was previously approved) was added to the design, Land Under Water area has been increased by 6,300 square feet, 100-year flood storage has been increased by 11,000 cubic feet since the last approval, and a wildlife passage was added as part of the driveway design. He summarized that all of these changes to the plan were a direct result of conversations with MassDEP, and one of the unique features of the proposed design is that part of the retail building will be constructed on piles which will require less fill to the Land Under Water area than with the previously approved design. Mr. Smith added that he believes this project is a great enhancement to the resource areas that are currently there, including wetlands that were historically filled in the 1960s. He highlighted some of the sustainability features of the project, including a new building with solar panels and electric car charging stations, extensive wetland restoration, and stormwater and water quality improvements including two rain gardens and stormwater detention ponds.

Commissioner Radner asked Mr. Smith if he could highlight the major changes and their locations on the plan, and Mr. Smith described the various changes and showed their locations on the plan. He summarized that by reducing the size of the proposed building, they increased the amount of resource areas on the property including the restoration areas. Commissioner Radner explained that when the project was previously approved by the Dedham Conservation Commission in 2017, the owner had agreed to provide \$15,000 to the Town of Dedham for the purposes of improving access to Wigwam Pond, as a contribution to the town's larger master plan to improve Wigwam Pond. She asked if this is something that the owner of the property would still be open to providing to the Town. Mr. Smith answered that he was agreeable to providing funds for an access point to the pond, however when they did a site walk they found that the more favorable and safe location for an access point would be on the owner's adjacent property at 800 Providence Highway. David Spiegel, owner of 750 and 800 Providence Highway, stated he had some safety concerns with installing a canoe launch at either property, however he is still willing to work with the town and potentially provide funds. Agent LaBelle added that the applicant will need to bring this final design back to Planning Board for a minor modification and it would be helpful to get their input on any safety or parking constraints with potential access points. Commissioner Radner added that former Conservation Agent Elissa Brown had reached out to MA Fish & Game for potential funding for a boat launch at this point, but things took a pause when the decision was appealed.

Commissioner DeAvila informed the applicant and representative of the Wigwam Pond Access Improvement plan that was approved by the Planning Board this past Fall. Agent LaBelle added that she could send a copy of the plan to the applicant and representative. Commissioner Radner also noted that she observed back in 2017 that the ash trees currently located on the landscaped islands are infected with Emerald Ash Borer, and it's recommended that when those trees are removed the wood should be chipped and left onsite to prevent spread. Agent LaBelle confirmed she will send that info to the applicant and owner. Commissioner Puopolo asked if the applicant had an estimate of how many trees will need to be removed as part of the project, and Mr. Smith answered that they do not currently have this information, but they can provide this to the commission. Mr. McManus added that many of the trees that will be removed are the ash trees that are currently infested with the Emerald Ash Borer. Commissioner Puopolo reiterated that they would like to have confirmation of all trees over 6-inch caliper that will need to be removed so they can confirm if the 2:1 tree replacement ratio can be met in accordance with Dedham's Tree Bylaw.

Commissioner Puopolo asked about the waiver request for a dumpster to be installed in the 100' buffer zone, and asked if the dumpster will be contained with a chain-linked fence. Mr. Smith confirmed, and highlighted the two proposed dumpster locations on the plan and confirmed that the dumpster pads will be installed in previously disturbed areas and have not changed location since the last plan that the Commission approved in 2017. Mr. Smith added that the work in the UBA will consist of both wetland replication as well as some disturbance. Commissioner Puopolo suggested it would be helpful for them to breakdown the percentage of work in the UBA that is wetland replication versus other disturbance when they write their waiver. Commissioner DeAvila asked if there is a designated snow storage area on the plan. Mr. Smith answered that there is designated snow storage on the northeastern corner of the parking lot, as well as the landscaped islands. Commissioner DeAvila also asked whether the roadway will be re-graded or modified since he has noticed significant flooding on that road during heavy rain events. Mr. Smith answered that the road will be regraded and there are three box culverts proposed under the roadway which will help during flooding events. Mr. Spiegel acknowledged that the road has been in poor condition over the last few years because they've been waiting to make updates until they were finished with the permitting process, and this design will be a great improvement to what is there now. Commissioner DeAvila asked if there is an Operation & Maintenance Plan for the project, and Mr. Smith confirmed. Mr. McManus provided some further details on the three box culverts and explained that two of the three box culverts will be aquatic crossings from pond to pond, and the third corrugated metal culvert will be a terrestrial crossing connecting the two BVW areas.

Commissioner Puopolo explained that the applicant is also requesting a waiver for the bylaw filing fee, since the applicant already paid the bylaw fee under the first application they filed with the Dedham

Conservation Commission before the project was appealed. Commissioner Puopolo explained that under Dedham's Local Wetlands Protection Bylaw, the commission is able to waive a filing fee if the project is deemed to have an overwhelming public purpose, which is left to the Commission's discretion. Agent LaBelle suggested that it would be helpful if the applicant could explain the reasoning behind the waiver request. Mr. McManus stated that in terms of the project serving a public purpose, this is the second-largest voluntary mitigation project he has been involved with in his 35-year career, and there are substantial ratios between the impact versus the mitigation as part of the proposed work which would have great public benefit. Mr. McManus added that this entire area was historically filled wetland, therefore he is confident that the hydrology is ideal for wetland replication since the entire area was BVW 50 years ago. Commissioner Hafrey asked if in terms of public benefit, the commission should consider the waiving of this fee linked to the potential access to Wigwam Pond. Agent LaBelle advised that the two topics should be considered separately. Commissioner Radner agreed and stated that since the access would be on the adjacent parcel, it shouldn't be tied into the permit for this parcel. Commissioner DeAvila stated he would be fine with waiving the bylaw fee, and separately he hopes that the applicant would take a look at the Wigwam Pond plan and consider helping with access. Agent LaBelle informed the Commission that the applicants paid \$17,411 in fees when the applicants first applied for the project.

Commissioner Puopolo opened the floor for comments from the public. Stephen Greenbaum, of 88 Broad Street in Boston, MA, introduced himself as the attorney for the direct abutter of the project, Pearl Realty Associates, which is where the BJs and Best Buy currently are located. Mr. Greenbaum stated that they had appealed the previously issued Order of Conditions issued by the Dedham Conservation Commission in 2017, and suspects that is why MaDEP suggested revisions to the plan and eventually issued a Superseding Order of Conditions. He added that they were unaware that the applicant was in deliberations with MaDEP, and they were not made aware of this ongoing process until Attorney Richard Nysten notified them of the Superseding Order of Conditions in mid-December of 2023. Mr. Greenbaum stated that he felt MaDEP kept them in the dark during this process but recognized that is a separate matter from the discussion of the current application under the Dedham Local Bylaw. He added that in terms of this application, they are having their own third-party review completed which they would like to share with the commission once completed. He also stated that he wishes Mr. Spiegel would have provided the revised plans to his client sooner. Commissioner Puopolo stated that Agent LaBelle can provide Mr. Greenbaum with the contact information for the MaDEP Case Manager assigned to the project. Commissioner DeAvila asked if there was an abutter notification for this project, and Mr. Smith confirmed.

Steve Ivas, a Professional Wetland Scientist with Ivas Environmental at 315 Winter Street in Norwell, MA, asked Mr. MacManus to elaborate on the shading impacts from the building proposed over the Land Under Water. Mr. Watsky asked that, if possible, all questions could be directed through Chair Puopolo. Commissioner Puopolo stated that he would like to give Mr. McManus the opportunity to answer Mr. Ivas' question about shading Land Under Water Body and elaborate on conversations had with MaDEP about the building location. Mr. McManus answered that there were conversations with MaDEP about the partial shading of the Land Under Water Body, and the revised design intends to reduce this and reduce the impact to the Land Under Water Body, which was viewed as a substantial improvement. Mr. Smith added that it was the suggestion of a MaDEP engineer to put the building on piers instead of filling the Land Under Water Body, and ultimately the applicant was open to the design change. Mr. Ivas asked what the light green color on the plan signifies, and Mr. Smith answered that the light green depicts constructed pocket wetlands and rain gardens.

Commissioner Puopolo summarized the suggested changes discussed and stated that they'd like to wait until a Stormwater Management Application is filed with Stormwater Manager Hogan until they make any decisions.

Commissioner Radner motioned to continue the public hearing for WPB 2023-01 until the next meeting on January 18th, 2024. Commissioner DeAvila seconded. Commissioner Puopolo led a roll call vote. All attending commissioners voted "aye." The motion carried 4-0.

4. Discuss Transition of Open Space Management Roles & Responsibilities

Agent LaBelle explained that Article 12, which designates an Open Space and Recreation Plan Sub-Committee and places responsibility of managing and overseeing open spaces initiatives to the Conservation Commission, is expected to be approved by the Attorney General in the coming months. Therefore, she wanted to kick off the conversation about how this transition of roles and responsibilities. She presented the results from the survey she put out to the Conservation Commission and the Open Space and Recreation Committee. She stated that everyone who took the survey agreed that the existing Open Space and Recreation Committee members should automatically becoming members of the Open Space and Recreation Plan Sub-Committee under Conservation. Commissioner Puopolo agreed this would be the best way to ensure a smooth transition of the groups. Commissioner DeAvila also agreed and stated he wants to continue having representation on OSRPSC from other boards and committees like Select Board, Parks and Rec, and Planning. He also emphasized that the Open Space members will want to work on all aspects of implementing the plan, and not just writing the plan.

Commissioner Radner stated that there are similar set ups in other towns where the Conservation Commission oversees a sub-committee such as open space or a trails committee. She added that Open Space will now have access to some additional municipal resources now that it will be under the oversight of Conservation, and that the way the article is written there will still be designees from Conservation, Planning Board, Select Board, and Parks & Recreation on the Open Space and Recreation Sub-Committee. She also added that there are currently dozens of tasks in the Open Space and Recreation plan that are delegated to the Conservation Commission, so revisiting those tasks could be a good place to start. Commissioner Radner also mentioned that there will be two designated members of Conservation on the Open Space and Recreation Plan Sub-Committee, so they will need to decide which members they should designate for those roles. She added that it would be helpful to make any future applicants for the Conservation Commission vacancies aware of the upcoming changes with Open Space. Agent LaBelle stated she would prepare a list of duties delegated to the Conservation Commission by the Open Space plan and share it with the Commissioners. Commissioners DeAvila and Radner asked about the target submittal date for the next plan, and Agent LaBelle answered Fall of 2026, therefore they would request funding during Spring Town Meeting of 2025.

The Commissioners discussed the frequency that Open Space and Recreation Plan Subcommittee should report back to Conservation. Agent LaBelle read off some of the other responses from the survey and stated that she'll keep this discussion as a standing item if people have more ideas in the coming weeks. Commissioner Puopolo suggested it would be helpful to have another joint meeting with the Open Space and Recreation Meeting, and Commissioner Radner suggested that we could schedule some publicly posted site walks on some of the Town-owned Conservation Land.

5. Meeting Minutes

Commissioner DeAvila motioned to approve the minutes from December 21st as drafted. Commissioner Hafrey seconded. Commissioner Puopolo led a roll call vote. All attending commissioners voted "aye." The motion carried 4-0.

6. Agent's Report

Agent LaBelle provided an update that MassDEP has issued a draft update to the Wetlands Protection Act as well as a draft of a New Stormwater Handbook. She informed the Commissioners that there are two info sessions and a public hearing coming up in January that she encourages everyone to attend. She summarized that some of the major changes include updating stormwater management standards to more closely align with MS4 standards, as well as additional restrictions to building in coastal communities. She added that letters of support for the draft changes are due on March 1. Commissioner

DeAvila asked if the proposed changes will affect Dedham's Local Bylaw, and Agent LaBelle answered that the draft changes will not affect Dedham's Local Bylaws.

Agent LaBelle reported that issued one administrative approval for tree trimming at 400 West Street. She explained they have an active Order of Conditions and are in the process of constructing a new home, and there was one tree that is leaning very close to the roof of the house therefore they needed to cut back a few of the branches.

The meeting was adjourned at 8:59 p.m.