

Conservation Commission
Meeting Minutes
September 1, 2022
7:00 PM
140 Main St. – Marlborough City Hall – 3rd Floor (Memorial Hall)

Present: Edward Clancy - Chairman, Allan White, John Skarin and Karin Paquin. Also present was Priscilla Ryder-Conservation officer.

Absent: William Dunbar, David Williams, and Dennis Demers.

The hearing was recorded using Microsoft Teams.

Public Hearings

Request for Determination of Applicability

64 Westernview Dr. - Jason Shafferman

Mr. Shafferman was present and explained that the two-retaining wall at the water's edge are deteriorating, one has collapsed, and the other is severely undermined. He went through his plans and pointed out that they would like to repair the footings, stairs, and ledge area. He explained the sequencing the contractor will use to do this repair as outlined in the permit and noted that unfortunately all work including getting materials to the site will require work all by hand since no machines can make the steep slopes. Ms. Ryder noted that the generic permit has expired so because this is a wall replacement in-kind, they filed a Request for Determination of Applicability (RDA). After some discussion a site visit was scheduled for Sept. 13th at 5:00 PM and the contractor will be asked to attend. The hearing was continued to the Sept. 15, 2022 meeting.

Request for Determination

41 Boivin Dr. – Mahmond & JP Eltorai

JP Eltorai, the homeowner was present. She explained that the wetland and the 30' wetland buffer zone on either side of the stream in her back yard is almost 100% invasive plants. She proposes to remove the invasive plants and dead trees and then replant with native vegetation to restore the area. The Commission noted that this has been the case on many sites, so this could be a test case to determine how best this could be done. Ms. Eltorai explained that she has seen the goats "working" around the detention basin and wondered if she could use the goats to clear out her back yard first before doing the restoration, since they enjoy poison ivy and bittersweet. The Commission noted that they had never seen goats used in wetland restoration areas but are willing to consider it and use it as a test case. Ms. Eltorai indicated that the dead trees are her biggest concern and wondered if they could come down now to prevent them from falling on to the house. The Commission remembered that they were covered with bittersweet and agreed these could be removed now and the restoration area could be done in the spring. The Commission asked Ms. Ryder to draft some conditions that include: 1. Removal of dead hazard trees immediately; 2. Use of goats and the restrictions; 3. Invasive plant removal once goats are done and what timeframe to use for control 4 wetland restoration and planting as the final step. Ms. Ryder will draft. The Commission continued the hearing to Sept. 15th.

Abbreviated Notice of Intent

21 Blaiswood Ave. Helvecio Carvalho

Ms. Ryder reminded the Commission that this Notice of Notice of Intent (NOI) filing was the result of the violation which included the installation of the retaining wall along the water's edge without a permit. She noted that she had asked Mr. Helvecio to measure the distance from the house to the wall in an attempt to see where it fell in relation to the 262' flood elevations shown on the GIS maps. He measured 36' and 37' which puts the wall very close to the 262' elevation, closer than the Commission was willing to make a decision on. The Commission asked the owner to hire a survey crew to locate the wall in relation to the 262' elevation. If the wall is outside this elevation, then some mitigation of the 30' buffer with plantings as suggested by Mr. Helvecio may be appropriate, if the wall is within the 100-year floodplain area then mitigation as outlined in the regulations would be necessary which might require some or all the wall to be removed. The Commission will wait to see the survey. At the applicants request the hearing was continued to the Oct. 6th meeting to allow time to get the survey done.

Notice of Intent

846-850 Boston Post Rd. – Exela Movers

David Cowell from Hancock Associates was present and explained that the proposal is to remove the existing house on the lot and replace it with self-storage units, in keeping with the existing long self-storage building that is on the lot. The work falls within the 100' buffer zone and a portion within the 30' wetland no disturb zone. He explained that if mitigation is needed there is room and opportunity to do some wetland restoration by removing the invasive plants in the wetland area. Mr. Clancy noted that there is new work proposed within the 30' no disturb buffer zone and that is not acceptable, he suggested that they lose a unit and adjust the work outside of the 30' buffer zone. Mr. Clancy asked if a fence was proposed and was told not at this time. Ms. Ryder noted that she believes this project may need City Council approval as well and that the applicant should check with the building department. Mr. Skarin and Mr. Williams asked questions about the parking area/driveway, which is now gravel and just has country drainage, this should be improved to improve water quality. The Commission asked for revised plans in color and at a larger scale. The members indicated they would look at the site on their own before the next meeting. Mr. Cowell will convey the concerns the Commission has to his client and provide a revised plan. The hearing was continued to the Sept. 15th meeting.

Notice of Intent

0 Red Spring Rd. - Robert Durand - Red Spring Road Homeowners Association, Inc. (RSRHA)

Robert Parente and Peter McClure engineers for the project were present, along with several members of the RSRHA. Mr. McClure explained that he made revisions to the plans based on the site visit. Two of the culverts to be replaced were noted as being within a stream so 4' wide by 2' high box culverts are now proposed at these two locations. It comes closer to meeting the "stream crossing" requirements set by the state. They are not able to meet all the "openness ratio" standards because the road depth to the culvert is so shallow and it is not practical given the existing site conditions. These changes were reviewed by Mr. DiPersio, and he also adjusted the plan to reflect the removal of the drainage pipe downstream of the culvert on #41 Red Spring Rd. as reviewed and discussed at the site walk.

Mr. Parente provided a plan showing the areas where they will need to clear 15' from the road edge to allow for the machine to be able to swing around. He noted that they marked the trees. 2 pink flags

indicate that this large tree will stay, and they will work around it. The one pink flag just shows the limit of work. The smaller trees 15' off the roadway will be trimmed or removed (3-15 inches trees in diameter will be removed).

The Commission asked about the standards for the house connections and storage tanks, Mr. Parente will check with engineering dept. on that. This will be reviewed under separate Notice of Intent/Request for Determination of Applicability (NOI/RDA) to review the individual house connections. They will add 10' stubs off the main during this initial sewer line installations, each house will then need to connect from there.

After further discussion about construction sequencing and materials and machinery to be used, the Commission asked Ms. Ryder to draft conditions for the next meeting for review. The hearing was continued to the next meeting on Sept. 15.

Certificate of Compliance

- 212-1183 329-331 Boston Post Rd.- Ms. Ryder tried to inspect the site again but was not able to enter, a site visit is set for next week. Ms. Ryder recommended the Commission sign and approved, and she will hold it until after the site visit, which is intended to review the health of the plantings done on the other side of the fence. On a motion by Mr. Skarin second by Mr. White to issue a full Certificate of Compliance and for Ms. Ryder to hold it until after the inspection. The Commission voted unanimously 4-0.

Discussion/Correspondence:

- 541 Pleasant St – Enforcement Order – continued discussion – Mr. Sampaio. Mr. Sampaio was not able to attend but his lawyer Mr. White did attend. He explained that he has spoken to his client, and he has agreed that they need to hire a contractor who knows how to do wetland restoration and invasive plant control. He asked if the Commission had any recommendations. Ms. Ryder noted that she has a list of contractors who've worked in the city, but that the city can't recommend anyone. After some discussion about process and the need to get something done on this site to begin restoring the damage done, it was agreed that Mr. White and his client will work towards hiring a consultant and then returning to the Commission with a plan when it is ready. The Commission asked that a progress report be provided on Oct. 6th and again on Nov. 4th to keep them informed of the next steps and timeline for the restoration plan to be submitted. This should give ample time to find a consultant and get a plan together. Mr. White agreed and thanked the Commission for this consideration. The Commission noted that failure to submit these reports would constitute a violation, they hoped that would not be necessary.
- Desert Natural Area Wildfire- update. Ms. Ryder explained that she and Ms. Paquin have walked around the 25+ acre wildfire location at the Desert to assess damage. They alerted the Fire Dept. of some still active fire spots. The report back was that as long as the hot spots are within the existing fire ring they should be left to burn. Only when fire is seen jumping closer than 30' to the outer edge of the existing fire does the fire department need to be called. Interesting "charcoal" eating fungus was observed on the forest floor just 3 days after the fire. One of the trail volunteers has agreed to take monthly pictures from one location to document change over time, as was done for the prescribed burn. It will be interesting to see this change. The fire is 100% contained and will continue to burn until we get a substantial rain event or snow, whichever comes first.

- Letter from SVT, RE: How Conserving Open Space provides economic benefits to Mass Communities. – The commission reviewed this document and noted that it has good useful information.
- Ft. Meadow Commission Drawdown Request - Mr. Thomson from the Ft. Meadow Commission explained that they are requesting that the winter drawdown take place on Nov. 1st and then be closed on March 1st. They have spoken with the Red Spring Rd. condo association, and this should not provide any conflict. On a motion by Ms. Paquin second by Mr. Clancy to approve the drawdown start date of Nov. 1st. The Commission voted unanimously 4-0 to approve.
- Phelps St. emergency repair - Ms. Ryder noted that the City Engineer has asked for an Emergency Certificate to repair a hole in the exiting culvert which is getting bigger by the day. They have ordered a sleeve to be installed to fix the problem. The Commission agreed this is an appropriate use of an Emergency Certificate. They will ratify once it is issued.

Next Conservation Commission meetings: September 1st and 15th, 2022

Adjournment - There being no further business, on a motion by Mr. White, second by Mr. Clancy the Commission voted unanimously 4-0 to adjourn at 8:55 PM.

Respectfully submitted,


Priscilla Ryder

Conservation/ Sustainability Officer