



TOWN of WILMINGTON
DEPARTMENT OF PLANNING & CONSERVATION

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 2020 DEC -3 AM 10:00
 TOWN OF WILMINGTON, MA

CONSERVATION COMMISSION MINUTES
 November 4, 2020

Donald Pearson called the meeting to order at 7:05 pm after stating the following:

"Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L.c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place. This meeting of the Wilmington Conservation Commission is being conducted via remote participation. **No in-person attendance of members of the public will be permitted,** but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. Members of the public who would like to participate in the meeting via Zoom can do so by clicking on this link: <https://us02web.zoom.us/j/83034939368?pwd=RWWkeHBXa2RlcEZ3ZGVTRzUxNGJkdz09>.

Members of the public who would like to listen to this meeting while in progress may also do so via telephone by dialing 1-646-558-8656 and enter meeting ID 886-0210-4608 then press # and press # again at the next voice prompt. Members of the public attending this meeting virtually will be allowed to make comments if they wish to do so, during the portion of the hearing designated for public comment, by following the steps previously noted then press *9 on their telephone keypad. This will notify the meeting host that the caller wishes to speak. All callers using this feature will be placed in queue in the order they entered the prompt. In the event that despite our best efforts, we are not able to provide for real-time access, we will post a record of this meeting on the Town's website as soon as we are able."

The following members were in attendance: Donald Pearson, Theron Bradley, Vincent Licciardi, Alexander Rittershaus, Laura deWahl, Thomas Ollila, and Michael McInnis. Valerie Gingrich, Director of Planning and Conservation, Cameron Lynch, Conservation Agent, and Catherine Pepe, Senior Clerk of Planning & Conservation were also present.

REQUEST FOR DETERMINATION OF APPLICABILITY – 34 King Street – Map 54 Parcel 86

Documents: Request for Determination of Applicability application, received October 19, 2020
 "Proposed Subsurface Sewage Disposal System", dated October 8, 2020

Present in Interest: Steve Eriksen, Norse Environmental Services, Inc.
 Jeffrey Senarian, 34 King Street, LLC

S. Eriksen presented the demolition of the existing single-family dwelling that is about 96' from the wetlands and construction of a new single-family dwelling. The new dwelling is outside the 100' wetlands buffer zone, but the retaining wall and some grading is within the 100' wetlands buffer zone.

V. Gingrich did not have additional comments.

Debora Selig, 32 King Street, an abutter, voiced concern about the elevation of the proposed new single-family dwelling and the possibility that the drainage will affect her property. S. Eriksen advised that the existing home has an elevation of 79' and that the proposed single-family dwelling will be at a higher elevation of 81'. The property has a 4' water table and the new home will not impact the water table. D. Selig asked if that was a guarantee and S. Eriksen guaranteed that the new home would not have any effect on the water table.

Upon motion duly made by T. Bradley and seconded by L. deWahl,

V. Licciardi, T. Bradley, M. McInnis, T. Ollila, L. deWahl, A. Rittershaus, & D. Pearson voted 7 - 0 to issue a Negative (3) Determination of Applicability for 34 King Street – Map 54 Parcel 86

REQUEST FOR DETERMINATION OF APPLICABILITY – 14 Patch's Pond Lane – Map 29 Parcel 56

Documents: Request for Determination of Application, received October 26, 2020
"Site Plan", dated October 13, 2020

Present in Interest: Edward Ratcliff, ESS

V. Gingrich stated that M. McInnis recused himself from the meeting.

E. Ratcliff presented the proposed expansion of the existing backyard out to the 108 contour, which will bring the backyard to about 61' from the wetlands. The expansion requires minimal grading.

C. Lynch did not have any comments. V. Gingrich advised that all previous work is outside the 100' buffer zone and confirmed that the proposed work will expand the proposed backyard to about 61' from the wetlands.

T. Bradley advised that the 15' no disturb and the 25' no build lines on the plan are reversed and suggested that the plan be corrected.

Jim Diorio, 10 Patch's Pond Lane, an abutter, stated that he did not have any objection to the expansion and regrading of the backyard.

Upon motion duly made by T. Bradley and seconded by L. deWahl,

V. Licciardi, T. Bradley, T. Ollila, L. deWahl, A. Rittershaus, and D. Pearson voted 6 - 0 to issue a Negative (3) Determination of Applicability for 14 Patch's Pond Lane – Map 29 Parcel 56

CONTINUED PUBLIC HEARING – NOTICE OF INTENT – Shady Lane Drive – Map 79 Parcel Road ROW near Parcel 15A – DEP File #344-1461

V. Gingrich stated that M. McInnis has rejoined the meeting.

Documents: Letter from Paul Alunni, Town of Wilmington Engineering Division, dated October 26, 2020

V. Gingrich advised that P. Alunni submitted a letter requesting to continue the Public Hearing for Shady Lane Drive to the December 2, 2020 Conservation Commission meeting.

Upon motion duly made by L. deWahl and seconded by V. Licciardi,

V. Licciardi, T. Bradley, T. Ollila, L. deWahl, M. McInnis, A. Rittershaus, and D. Pearson voted 7 – 0 to continue the Public Hearing for Shady Lane Drive – Map 79 Parcel Road ROW near Parcel 15A – DEP File #344-1461 to the December 2, 2020 Conservation Commission meeting.

CONTINUED PUBLIC HEARING – 687 Main Street – Map 31 Parcel 11A – DEP FILE #344-1451

Present in Interest: Attorney John McKenna
Stephen Dresser, Dresser, Williams, & Way, Inc.

Documents: Letter from Stephen Dresser, Dresser, Williams, & Way, Inc., dated October 21, 2020

Attorney J. McKenna briefly reviewed the history of the Notice of Violation and the Notice of Intent (NOI) filed to correct the violation and introduced S. Dresser. S. Dresser advised that the parking lot was previously a graveled area, installed between 1971 and 1978 and that area was recently paved up to the wetlands without proper permitting. The design submitted with the NOI will increase plantings and flood storage, enhances the buffer zone, and treat stormwater prior to draining into the wetlands. This will be done by removing the pavement around the outer edges of the parking lot and plant fifty (50) shrubs and fifteen (15) trees in the 15' buffer zone. The stormwater runoff will be directed to the rear of the property and into the wetlands through a pea stone diaphragm and into an infiltration basin that will handle small storms and pre-treat the water before it enters the wetlands. For larger storms, the overflow from the infiltration basin will overflow into a sediment forebay that will overflow into a constructed gravel wetland. The environmental standards they are trying to meet include flood storage, riverfront area, redevelopment, and stormwater management. S. Dresser advised that redevelopment of the riverfront area is acceptable under CMR 10.58 5, the re-use of degraded or previously developed areas which he advised fit the area. S. Dresser stated that the impasse is the difference between the gravel and the impervious area. S. Dresser considers the previously installed gravel as impervious. This allows the applicant to qualify for stormwater redevelopment and the Town of Wilmington's Engineering Division disagrees.

D. Pearson advised that the Commission requested information at the October Conservation Commission meeting that has not been submitted yet. S. Dresser advised that they have supplied the information they felt was required. S. Dresser does not know how they can fully comply with the Massachusetts Stormwater Standards and that the system designed and submitted improves what was previously on the site.

V. Gingrich advised that her comment letter from August 31, 2020 and the Engineering Division's comment memorandum from September 2, 2020 have not been responded to satisfactorily. The Town would like the following comments answered:

- Riverfront Area – before the back of the parking lot was paved, the area was not a neat and tidy gravel lot, but a dirt surface with potholes and some vegetation. Repavement of that surface is not considered redevelopment of Riverfront. The applicant needs to provide an argument as to why it would be considered redevelopment. Using that dirt surface for parking was not authorized. DEP confirmed that the applicant must supply additional information explaining why this meets redevelopment criteria.

- The previous surface was uneven and the applicant was asked how paving that surface effected floodplain and was their fill brought in to prepare the area for paving. That information has not been supplied by the applicant.

-The Riverfront line shown on the plans was drawn on using aerial photography. The applicant was asked to supply field indicators of where the Mean Annual High Water (MAHW) line exists as required by the regulations, but the information was never submitted. The applicant has previously stated that they could not access the Riverfront Area and were unable to delineate it.

-The area is in The Groundwater Protection District and requires a certain percentage of recharge. The Town Engineer asked the applicant to provide information on different areas on the site for groundwater recharge and the applicant has not provided that evaluation yet.

-When the Engineering Division looked at the 10-Year Floodplain associated with Maple Meadow Brook they saw that it is above the outlet of the proposed stormwater system. This means that the water could potentially come in from Maple Meadow Brook. The applicant was to address that potential issue and submit an evaluation. That evaluation has not been submitted.

-The Engineering Division advised that the Curve Number (CN) equation range should be from 72 to 91 for gravel and dirt and asked the applicant to clarify their response.

-The Engineering Division advised that the site is subject to Standard 5 of the Stormwater Policy and is considered a Land Use of Higher Potential Pollutant Load (LUHPPL) due to the exterior fleet storage and parking. DEP had the same comment. .

-The applicant did not apply for or obtain the required local approvals consisting of Site Plan Review, a Stormwater Management permit, and Board of Appeals Special Permit. The applicant did not supply satisfactory answers and evaluations for not doing this.

L. deWahl advised that typically, the CN for dirt and gravel is not in the high 90's and that it is reasonable to lower the number. The regulations are in place and the applicant must comply.

M. McInnis asked if the permeability could be tested. S. Dresser stated no because the area is no longer gravel and that the entire area has been paved up to the wetlands.

Alex Rittershaus asked for clarification on the 10-year Floodplain and V. Gingrich explained the Engineering Division's comment.

S. Dresser reviewed his interpretation of redevelopment and the language "reuse of degraded or previously developed area" and their opinion that this site was previously developed.

V. Gingrich reconfirmed that the Engineering Division and the Planning and Conservation Department are looking for an analysis to determine what was there before the area was paved to determine if it qualifies as a previously developed area. D. Pearson advised that if nothing was done to the site, it would perform the same, but it has been changed and there is an additional obligation to make sure the changes work well with the environment, and to answer the questions. S. Dresser stated that the documentation supplied support the redevelopment of the area and making the documentation more robust does not change their interpretation.

Attorney McKenna stated that in an attempt to improve the site and water treatment it is the most they can do and asked for clarification of D. Pearson's statement of making the reports "more robust". D. Pearson deferred to V. Gingrich for clarification. V. Gingrich advised that the Department of Planning & Conservation and the Engineering Division are looking for more robust, detailed information to substantiate that if they cannot meet a requirement then they should supply additional documentation to support that. V. Gingrich states that there are other options that the applicant has been asked to explore.

A. Rittershaus advised that the record is deficient and the least the applicant should do is provide the documentation requested by the Town and the Commission. D. Pearson stated that the Town

has stated what documentation is missing. After repeated requests, the Town and the Commission are not satisfied with the documentation that has been provided and the Commission will move forward with denying the application.

Attorney McKenna stated that they would like to work with the Town.

D. Pearson stated that this application has been in front of the Commission for a long time without any resolution. The Commission is looking to deny the project as proposed and ask the applicant to either restore the site or develop it as compliant as it can be.

Attorney McKenna asked that S. Dresser be allowed to speak. S. Dresser reiterated that in his opinion, he did respond to all the requested items.

Upon motion duly made by L. DeWahl and seconded by T. Bradley,

V. Licciardi, T. Bradley, L. deWahl, T. Ollila, M. McInnis, A. Rittershaus, and D. Pearson voted 7 – 0 to close the Public Hearing for 687 Main Street – Map 31 Parcel 11 – DEP File #344-1451

Upon motion duly made by L. deWahl and seconded by M. McInnis,

V. Licciardi, T. Bradley, L. deWahl, T. Ollila, M. McInnis, A. Rittershaus, and D. Pearson voted 7 – 0 to deny the Order of Conditions for 687 Main Street – Map 31 Parcel 11 – DEP File #344-1451

Enforcement Order – 687 Main Street – Map 31 Parcel 11

V. Gingrich reviewed two (2) proposed options for an Enforcement Order. One (1) option is to ask for a restoration plan by a certain date and the other is to require that an NOI be submitted with the additional information that was lacking in the previous filing. V. Gingrich recommended that the Commission give the applicant until the December deadline for the January 2021 meeting. V. Gingrich advised that it makes sense to have the applicant submit a new NOI that will meet all the standards that are involved as opposed to a restoration plan for restoring of the resource areas to their pre-disturbed condition.

Attorney McKenna would like a copy of the denied Order of Conditions so they can move forward and come up with answers and a plan to resolve the issues and improve the site.

D. Pearson confirmed with V. Gingrich that the denied Order of Conditions would give a list of what is required for the new submittal. D. Pearson asked if the applicant could make a December 16, 2020 deadline for the January 6, 2021 meeting. Attorney McKenna would like the January 20, 2021 deadline for the February 3, 2021 meeting.

D. Pearson polled the Commission if they would like the December 16, 2021 deadline for the January 6, 2021 meeting or the January 20, 2021 deadline for the February 3, 2021 meeting. V. Licciardi and T. Bradley agreed to the January 20, 2021 deadline for the February 3, 2021 meeting. L. deWahl, M. McInnis, T. Ollila, A. Rittershaus, and D. Pearson agreed to the December 16, 2020 deadline for the January 6, 2021 meeting. M. McInnis requested that the minutes clearly state the applicant will make substantial progress for that meeting.

V. Gingrich explained that the Enforcement Order has a “hard” deadline that must be met or penalties could be issued. D. Pearson confirmed that the Enforcement Order will include the wording to generate a new NOI that includes all the information that was missing from the previous NOI.

Upon motion duly made by L. deWahl and seconded by T. Bradley,

V. Licciardi, T. Bradley, L. deWahl, M. McInnis, T. Ollila, A. Rittershaus, and D. Pearson voted 7 – 0 to issue the Enforcement Order for 687 Main Street Map 31 Parcel 11 with a December 16, 2020 deadline for the January 20, 2021 Conservation Commission meeting for submitting an NOI

CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 378 – 384 Middlesex Avenue & 200 Jefferson Road - Map 89 Parcels 8, 9, 10, 13A, & 13B – DEP File E344-1467

Documents: Letter from David Cowell, Princeton Properties, dated September 22, 2020
Email from Joseph Peznola, Princeton Properties, dated October 29, 2020

V. Gingrich advised that J. Peznola submitted a letter requesting to continue the Public Hearing for 378 – 384 Middlesex Avenue and 200 Jefferson Road to the December 2, 2020 Conservation Commission meeting.

Upon motion duly made by L. deWahl and seconded by V. Licciardi,

V. Licciardi, T. Bradley, L. deWahl, M. McInnis, T. Ollila, A. Rittershaus, and D. Pearson voted 7 - 0 to continue the Public Hearing for 378-384 Middlesex Avenue & 200 Jefferson Road - Map 89 Parcels 8, 9, 10, 13A, & 13B – DEP File #344-1467 to the December 2, 2020 Conservation Commission meeting

REQUEST FOR CERTIFICATE OF COMPLIANCE – 205R Aldrich Road – Map 9 Parcel 54 – DEP File #344-1356

Documents: Email from Attorney Michael Newhouse, dated October 27, 2020

V. Gingrich advised that Attorney M. Newhouse emailed a request to table the Request for Certificate of Compliance for 205R Aldrich Road to the December 2, 2020 Conservation Commission meeting.

Upon motion duly made by L. deWahl and seconded by V. Licciardi,

V. Licciardi, T. Bradley, L. deWahl, M. McInnis, T. Ollila, A. Rittershaus, and D. Pearson voted 7 - 0 to table the Request for Certificate of Compliance for 205R Aldrich Road – Map 9 Parcel 54 – DEP File #344-1356 to the December 2, 2020 Conservation Commission meeting

REQUEST FOR CERTIFICATE OF COMPLIANCE – 0 North Washington Avenue – Map 53 Parcel 14-114 – DEP File #344-1413

Documents: Request for Certificate of Compliance, received October 20, 2020
Letter from Patrick Seekamp, Seekamp Environmental Consulting, Inc., dated November 4, 2020

Present in Interest: Patrick Seekamp, Seekamp Environmental Consulting, Inc.
John Cucinotta, applicant

P. Seekamp stated that he has overseen the planting of the trees that were cut down and the replanting of some trees that did not survive the first growing season. The second growing season report has been submitted. One (1) item needs to be completed and that is the placement of three

(3) signs per the Order of Conditions. The signs will be installed as soon as they are completed which should be later this week.

Upon motion duly made by L. deWahl and seconded by V. Licciardi,

V. Licciardi, T. Bradley, L. deWahl, T. Ollila, M. McInnis, A. Rittershaus, and D. Pearson voted 7 - 0 to issue the Certificate of Compliance for 0 North Washington Avenue – Map 53 Parcel 14-114 – DEP File #344-1413

DISCUSSION – V. Gingrich asked the Commission to review the proposed meeting dates for the 2021 calendar year and advise if they are acceptable as soon as they can.

MINUTES – October 7, 2020

Upon motion duly made by L. deWahl and seconded by V. Licciardi,

V. Licciardi, T. Bradley, L. deWahl, M. McInnis, T. Ollila, A. Rittershaus, and D. Pearson voted 7 - 0 to accept the minutes for the October 7, 2020 Conservation Commission with one (1) amendment

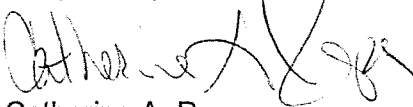
Next meeting – December 2, 2020

There being no additional business to come before the Conservation Commission, it was

Upon motion duly made by L. deWahl and seconded by D. Pearson,

L. deWahl, V. Licciardi, T. Bradley, M. McInnis, A. Rittershaus, T. Ollila, and D. Pearson to voted 7 – 0 adjourn the meeting at 8:38 pm.

Respectfully submitted,



Catherine A. Pepe
Senior Clerk

