

Arlington Conservation Commission
DRAFT Minutes
September 7, 2017

Mr. Stevens called the meeting to order at 7:43 p.m. in the second floor conference room of the Town Hall Annex. Present were Commission Members Nathaniel Stevens, David White, Mike Nonni, Curt Connors, Janine White, Charles Tirone, Susan Chapnick, and Conservation Agent Lela Shepherd. Also present were Abbi Matheson, JmeDorthee Vanthong, Bruce Whelittle, Susan Whelittle, Tania Wilcke, Megan Burns, Fred Heger, J. Matuhyg, Peter Durning, Esq. (Mackie Shea, PC), D. Stiles, Carol Beggy, Justine Covault, Crispin Wood, Christine Rutzkowski, Natthia Ritkh, Virginia Hutchinson, Gregory Ginete, Robert McConnell, Patricia Ballient, Steven Schaede, and Elizabeth Pyle, Esq.

Administrative:

Approve 8/2/17 Minutes

D. White moved to approve the 8/2/2017 Minutes as amended, C.Tirone seconded the motion, all were in favor. The 8/2/2017 Minutes were approved.

Vote to approve invoice from Nobis

The second of two invoices was received on 9/5/2017 for a bill date of 8/29/2017 for peer review work. The total owed to Nobis for work performed is \$5,000.00; this second bill is for the remaining balance of \$3,496.04. S. Chapnick/J. White moved/seconded a motion to approve payment of the invoice, all in favor, none opposed, motion passed.

MWRA Borings Program

MWRA is proposing the replacement of 50,000 feet of new storm drain, which would require 3 exploratory borings within the FEMA 100 year floodplain. Mr. White/S. Chapnick moved to approve the borings without requiring a permit, all were in favor, and the boring program was approved as proposed. The Commission noted that MWRA will need to appear before the board should any non-exploratory work begin. J.White commented that MWRA should coordinate with Jean Crouch of VHB, the consultant for the Algonquin Pipeline Project, since it may cross into the same boundary.

Spy Pond Project

The Commission noted in their discussion that Parks and Recreation should be kept up to speed on new developments, and to specifically include Jon Marshall and Don Vitters.

General Discussion:

C. Tirone commented that the Jason Russell house is looking for additional funding. This is privately owned and is not Town-owned.

Request for Certificate of Compliance-343 Mystic St.

Documents considered:

Letter and Survey Plan from Richard Mede of Richard Engineering

Mr. Mede stated that riprap has been added beyond the stairs (outside the Commissions jurisdiction), tall shrubs were added along the northerly and southerly lot lines, and a secondary path was added for construction purposes to avoid vehicles in the 100 foot buffer zone. Stairs made of 6x6 recycled wood beams were placed within 100 feet of the resource area, Commission jurisdiction is within ¼ of the resource area. Mr. Mede pointed out where the steps have been placed using the survey plan. Mr. Mede stated that they aligned all of the natural stones found around the water to create a natural edge near the shoreline. The stairs were put in about 2 years ago.

C.Tirone asked if they had permission to do work inside the sewer easement, and asked about the new grass area that was not on the last plan.

Mr. Mede stated the lawn is a mix of native species, and is no mow. He removed the Japanese

Knotweed, and didn't do any leveling or land disturbance activity.

C. Connors moved to issue a certificate of compliance that work was done in compliance with the permit, M. Nonni seconded, all were in favor, the motion passed. No ongoing conditions are required. The Commission signed the certificate of compliance and notified Mr. Mede that he can remove the file number sign at the property.

General Discussion:

C. Connors inquired about the Spy Pond sediment developments.

C. Tirone responded that he spoke with Peter Schweich over the phone earlier today. Mr. Schweich is concerned that the sandbar is exposed and birds are landing on it and creating an unsightly area. He does not want to remove the sandbar, but is seeking to relocate the culvert farther down the pond.

C. Tirone informed Mr. Schweich (via phone) that relocating the culvert would not be possible.

Mr. Schweich may or may not appear before the Commission to further discuss solutions in the near future.

S. Chapnick suggested that if the sediments were contaminated with arsenic and other substances that this would be considered a "release" and should be reported to DEP.

N. Stevens remembered that a 401 WQC was required from previous sampling. He also reminded the Commission that MassDOT had installed some stormwater BMPs along Route 2, on the Belmont side, that might be reducing sediments going into Spy Pond via this pipe.

C. Tirone suggested that this requires a two-step process, dealing with what to do with the sediment, which is illegal fill, versus how to modify the pipe to create a detention basin that can filter the sediment before release into the pond.

C. Connors commented that he would like to add this issue as a recurring topic for further discussion at future Commission meetings.

Deliberation on Notice of Intent - 88 Coolidge Road (DEP#91-278)

Public hearing closed on 8/17/2017

Documents Considered:

Application, Revised Plan

N. Stevens announced that this discussion would be tape recorded by Bruce Whelple and stated that

S. Chapnick is eligible to vote as she has reviewed the documents and listened to a tape recording of the one hearing she missed; she filed the appropriate certificate to that effect. C. Tirone is not eligible to participate in this vote, as he missed two hearings.

C. Tirone gave his opinion on the matter: stating that no habitat protection and no abutter protection has been provided; the action violates the Town Bylaws; a smaller house would have less impact while maintaining a profit; a smaller house would allow for fewer infiltration units; the house chosen wasn't designed for the size of this lot; and the cantilever section shades what is left underneath it.

S. Chapnick stated that she believed that the plan had been revised to include native plants that meet the current conditions, which are shade tolerant, and thrive under Norway Maples.

C. Tirone commented that the retaining wall will be designed by "others", and the Commission should not approve plans that do not include all design elements.

N. Stevens stated that a revised cross-section of the wall had been provided.

J. White commented that they were provided but that they do not have design concepts, and she would not feel comfortable approving the action without those specific design elements. J. White requested conditions to see the design plan.

C. Tirone does not believe that the Commission should approve something that hasn't been approved by Mike Byrne in the Building Department. C. Tirone also stated the permit would not allow the adjacent land owner (Bruce Whelple) to prune the trees on his property.

J. White would like to condition a design with crushed stone underneath. She questioned whether we could condition these design plans.

C. Tirone commented that with as much time as the developers have spent in front of the Commission

they should already have stamped plans from the Building Department, and then stated “less house, less implementation measures, less problems.”

J. White stated that what C. Tirone is asking is outside of the Commission's jurisdiction and asked whether engineering has looked at this project.

N. Stevens believes the Commission had input from Wayne Chouinard in engineering. N. Stevens noted that the applicant's engineer did stamp the plans.

D. White stated that our relationship with the Building Department is a larger discussion for another time and asked if the concern is about more surface water flow than currently exists.

C. Tirone restated that reducing the size of the house, would solve many of the concerns and better fit the lot.

S. Chapnick reminded the Commission that the original house design footprint has already been reduced by approximately 30%.

C. Connors requested that C. Tirone provide a Bylaw-defendable reasoning for denying the permit.

C. Tirone cited section 25 and stated that while this house is allowable within the Bylaws, it doesn't protect the wildlife habitat, and is within the Commission's discretion. C. Tirone stated he did not feel that the infiltration system was located in an optimal location at the side of the house, where there is a retaining wall that has no access for maintenance. C. Tirone stated he is assessing the impacts to the neighboring lots, as required by the Bylaws.

S. Chapnick reminded C. Tirone that every decision must be defended.

C. Connors and S. Chapnick agreed that the Commission has discretion on this matter.

C. Connors stated he still has concerns about groundwater presence during the dig, and if a solution doesn't present itself, he does not feel comfortable leaving the dig open.

S. Chapnick inquired about adding a strongly-worded condition if this project were approved, in the case that water was encountered during construction which would provide what would be the next steps required by the Applicant under such circumstances.

C. Tirone commented that water problems could present many years later after the build is complete, but does not believe there will be a major water issue during the excavation.

S. Chapnick stated she is really conflicted about the project and sees analogies with 47 Spy Pond Lane.

S. Chapnick commented that this house would be in a highly urban area, not considered highest value for vegetation given the number of invasives on the property, and habitat not contiguous with a large protected area like Spy Pond; therefore, the disturbance of the construction and house may not that wouldn't affect the wildlife observed at the site any more than other isolated urban areas in Arlington.

N. Stevens asked J. White to share her opinion.

J. White stated that she feels conflicted because the applicant has responded to all of their concerns and many of the other concerns presented.

M. Nonni stated he too was conflicted, but recognizes that the applicant did respond to many initial concerns, however, the size of the house doesn't allow much open space once built, and that even though the building process might scare off wildlife initially, it would come back afterwards.

D. White noted that this property isn't a high value resource area- has a lot of invasives, and is quite fragmented.

C. Tirone argued that while one house might not make a large impact, its effect on the impact to open space in Arlington as a whole is much larger. He stated that the protected trees are very likely to be trampled and would later die because of the construction process.

S. Chapnick questioned the jurisdiction of the Commission to consider potential adjacent developments in the decision making process under the “cumulative effects” language in the Bylaw. If it is decided that this is in the Commission's jurisdiction, than S. Chapnick desires more information about such potential development.

M. Nonni stated that the Commission cannot consider hypotheticals.

N. Stevens read aloud the Bylaws section pertaining to the definition of cumulative impact.

C. Tirone stated that the mitigation does not match the size and scope of this project.

Commissioners went back and forth about design standards, stating that the Commission is not supposed to be designing the project.

M. Nonni stated that the house has not yet been designed, the discussion now is about the footprint of the foundation with the assumption that it will be two-story.

C. Connors stated that he has more and more doubts about the property in its totality because it is a lot crammed into a little space.

S. Chapnick noted that the footprint is 21.6% of the lot, but it isn't the largest percentage of a lot in the neighborhood and proceeded to ask why the Commission wasn't previously concerned about the size of the house footprint.

N. Stevens responded that the hydrological and hydrogeological impacts dominated the conversation early on.

S. Chapnick noted that the planting mitigation is acceptable according to the Commission regulations, regardless if it presents issues on a larger scale, and that the wildlife observed there is not generally wetland wildlife.

M. Nonni commented that the planting plan was a good idea.

N. Stevens asked for a vote on the project under the Wetlands Protection Act, stating that an expert opinion, from a geologist, was given, stating that there was no impact to the wetlands and stream.

S. Chapnick made a motion to approve the project under the Wetlands Protection Act with the following conditions:

- See Findings and Special Conditions Handout

C. Connors seconded, all in favor, no oppositions, with C. Tirone ineligible to vote, the motion passed.

N. Stevens requested a motion to approve/disapprove based on the Bylaw.

D. White motioned to approve under the same conditions, J. White seconded the motion.

D. White, J. White, M. Nonni, and N. Stevens voted in favor.

S. Chapnick and C. Connors voted against.

Four in favor to two against, motion carries, and the project is approved with conditions under the Town Wetlands Protection Bylaw.

The next meeting of the Conservation Commission on 9/28/17 will discuss prepared draft orders and will vote to approve and issue draft orders.

Motion to continue the hearing on revisions to the Town wetlands regulations to 9/28/17 was made by C. Connors and seconded by D. White, all in favor.

N. Stevens moved to adjourn the meeting, all in favor.

The meeting was adjourned at 10:20 pm.

Respectfully submitted,

Lela Shepherd
Environmental Planner/Conservation Agent