

Arlington Conservation Commission  
Minutes  
October 19, 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, Susan Chapnick, Chuck Tirone, Cathy Garnett, and Conservation Agent Lela Shepherd. Also present were Pam Heidell, Normand Gamache, David Haines, Aimee D'Onofrio, Ben Ferber, Todd Mansfield, Pam Hallett, Imad Zrein, MaryAnne Morrison, Tom Nee, Jonathan Wallach, Jim DeVellis, Neil Mongold, and Maria BocRika.

**Administrative:**

2018 Hearing Schedule

D. White motioned to approve the schedule, S. Chapnick seconded, all in favor, motion passed.

10/5/17 Minutes Approval

S. Chapnick motioned to approve minutes with edits as discussed, C. Tirone seconded, all in favor, motion passed.

9/28/17 Minutes Approval

N. Stevens stated his comments and questions on these minutes and stated he would make those edits and send to L. Shepherd. S. Chapnick discussed her changes to the minutes, which were incorporated earlier by L. Shepherd. D. White requested page numbers to be added to the Minutes. N. Stevens requested draft and date on the header. S. Chapnick requested the property name be displayed in the file name when sending electronic copies of any documents to the Commission. C. Garnett requested to put zoning recodification as a standing item under "Committees" in the agenda. Minutes will be edited and approved at the next meeting on 11/2/17.

Consideration of Pam Heidell for Commissioner

Introductions were made. Ms. Heidell gave a brief introduction of her background. She works at MWRA and will be retiring at the end of the year. She is involved in permitting, managing the water system-selling public water in 25 communities, writing FEMA grants, and state and local policy. She has been with MWRA for 28 years and sat on the ZBA for three years.

N. Stevens clarified that a recommendation needs to be made to the Town Manager for appointment.

C. Connors motioned to recommend to the Town Manager to appoint Ms. Heidell, D. White seconded, all were in favor, no discussion, motion passed.

**Committee Business**

Reservoir Committee

D. White noted that the Master Plan is being developed and there will be a public meeting next Thursday, October 26th @ 6:30 pm.

**Certificate of Compliance – 17 Mill St.**

**David Hanes & Norman Gamache**

Mr. Gamache gave an overview of the tree replacement that took place in July, 2016. The contractor removed 2 trees and replaced with 3 trees. Gypsy moth treatment was also done, as recommended by C. Garnett.

M. Nonni motioned to approve the Request for Certificate of Compliance, C. Connors seconded, C. Tirone asked about ongoing conditions, N. Stevens stated that none would be imposed, all were in favor, motion passed.

L. Shepherd will prepare and notify Mr. Gamache when the Certificate of Compliance is available for pick-up.

**Working Session – 17 Mill St Wall Repair and Japanese Knotweed Control**

**David Hanes & Norman Gamache**

Pictures and plans were presented by Mr. Gamache. He stated that the retaining wall along Mill Brook is failing and unstable in its current state. He sought the advice of a structural engineer who suggested a steel plate be installed right against the stone with a layer of concrete behind it. Mr. Gamache stated that this site is in a flood

zone and is restricted.

D. White suggested that Mr. Gamache speak with Wayne Chouinard or Bill Copithorne in Engineering.

C. Garnett stated that a recommendation from Engineering needs to accompany their filing.

Mr. Hanes stated that the compensatory storage will be at lower elevations but bigger.

M. Nonni asked about the speed of the water current in that area.

Mr. Gamache replied that a rainstorm can impact the flow and the speed can be quit fast.

Mr. Hanes explained his treatment plan for the Bittersweet Tartarian Honeysuckle, and Japanese Knotweed.

The Commission agreed that August was the best time for treatment.

Mr. Hanes stated that the garlic mustard needs to be either manually sprayed or pulled out.

Mr. Gamache asked if the Commission would issue a certificate of compliance with ongoing conditions for managing the invasive species.

C. Tirone asked that the Applicants submit an Operations and Maintenance (O&M) Plan with their NOI filing, which would refer to invasive species management.

S. Chapnick commented that using chemicals near an impaired waterway such as Mill Brook requires some research to know the effects, referencing Trichlorophor and Glyphosate.

The Applicants were advised to file an NOI.

#### General Discussion

C. Garnett commented on the zoning recodification public meeting held on 10/18/2017. She stated that she clarified at the meeting with Jenny Raitt, Director of Planning & Community Development, that the recommendation to take out the inland wetland overlay district and floodplain district regulations during the recodification process was her idea and not the Conservation Commissions, though the Commission agreed with her recommendation but reiterated that they support whatever the zoning recodification working group wants to do.

C. Garnett was told that the floodplain zoning overlay district could not be dropped because it is a FEMA requirement for flood insurance, and suggested that a private consultant be hired to review the zoning bylaw and the Conservation Commission's Bylaw to make sure only repetitive language or areas where the Town's Wetland Bylaw is more restrictive is removed.

N. Stevens responded that the Commission maintains its previously stated position that it does not oppose the recommendation to remove the inland wetlands overlay district.

C. Garnett will relay the message that if something is decided to be removed from the zoning bylaw that pertains to wetlands and flooding, the Commission is in agreement with that decision.

#### **Notice of Intent: 11 Princeton Rd** **Aimee D'Onofrio and Ben Ferber**

Ms. D'Onofrio is requesting to remove the current concrete deck and structure and replace it with a wood deck, eliminating 184 sq. feet of impervious surface. The current structure is 8x11 feet and will be expanded to 11x24 feet with crushed stone underneath. Ms. D'Onofrio disclosed that the structure is outside of the 25 ft. buffer but within the 50 ft. buffer zone (44 feet from Spy Pond) and the new structure would remain in the 50 ft. buffer. She then described her erosion control measures; they will be using a silt fence and straw wattles.

N. Stevens asked what type of equipment would be used.

Ms. D'Onofrio responded that a small bobcat would enter along the side of the house.

S. Chapnick asked how many footings would be used.

Ms. D'Onofrio stated it would be built with 3 main footings, a cantilever beam, and some smaller footings for the stairs, and 2 footings in the back of the structure.

D. White asked if the footings are all the same size.

Ms. D'Onofrio stated the larger footings are 18 inches and the smaller are 10-12 inches.

N. Stevens asked about their plantings plan.

Ms. D'Onofrio responded that there are currently no plants along the side of the house and in the back. They will be adding plants to that area, and have researched which plants to put there and decided on 3 large fruiting shrubs, including the inkberry and winterberry and swamp azalea.

C. Garnett requested that their preferred list of plantings be provided for the file.

S. Chapnick asked about the coating on the existing structure and whether it might contain lead.

Ms. D'Onofrio stated after the Commission's site visit on Monday, October 16, 2017, they went out and got a lead test and can confirm that the concrete structure is lead free.

L. Shepherd and C. Connors gave a recollection of their impressions at the site visit. C. Connors stated he believed the elimination of the impervious surface will be an improvement for the resource area.

Mr. Ferber described how the wetlands delineation was conducted previously for their addition in 2016. Cori Beckwith, former Conservation Agent, advised how to delineate the wetlands and the Commission came out and approved the location of the flags.

S. Chapnick asked about the raised bed gardens and whether the Commission has jurisdiction to permit those, asking solely as a point of reference since they are within the 25 foot zone of the resource. The Applicants stated that these raised beds were in place when they purchased the property.

C. Connors read aloud the regulations as to what counts as a structure, raised bed gardens were not included.

C. Tirone stated that it is a temporary structure and would not have permanent impacts.

S. Chapnick motioned to close the hearing, C. Connors seconded, all in favor, no discussion, all in favor.

D. White motioned to approve a permit with the condition that the Applicant submit a plantings plan with number of plants, type, and location, and that the Commission was not approving any resource delineation, C. Connors seconded, all in favor, motion passed.

#### MWRA 130 Meter Replacement

The MWRA is beginning Phase 2 of their project on the Arlington-Winchester Town Line on Ridge Street and is informing the Commission as it did for Phase 1. The Commission agreed that this work falls within the State exemption but is not exempt from the Arlington Wetlands Bylaw; however they may proceed with the work. L. Shepherd will draft and send a letter to MWRA stating conditions similar to Phase 1.

#### Spy Pond Erosion Control Project

C. Tirone gave an update of the last meeting with Don Vitters and Jon Marshall from Parks and Recreation. C. Tirone stated that Leslie Mayer felt that she was not kept in the loop and was concerned about making cuts in the existing black fence for public access as shown on concept plans for the feasibility study phase.

C. Garnett reminded everyone that the contracts for this Phase II were only just issued in September and the project is not substantially behind schedule.

L. Shepherd noted that Hatch Chester's latest update had the project two weeks behind schedule. C. Garnett stated that she should have been included in the last meeting, and requests better communication between all parties and wishes to remain involved. N. Stevens reminded the Commission that all communication about this project should include C. Garnett and L. Shepherd, and that they should be the only ones speaking with the contractor. L. Shepherd reminded the Commission when the upcoming meetings will take place, the working group on 10/25/17 and joint Commission public meeting with Park and Recreation Commission on 11/14/17.

**NOI: 19R Park Ave – Downing Square Development**  
**Pam Hallett-Housing Corporation of Arlington**  
**Jim DeVellis-DeVellis Zrein (consultant)**

The Applicant is proposing to build two low-income rental buildings, a 3-bedroom house at the north end of the property, and a 28 unit building with 4 stories and a parking lot that is located within the floodplain and the 100 ft. buffer zone to No Name Brook, with buildings crossing into the 50 foot resource area buffer.

The hearing began with a discussion of the request to waive the bylaw fees, these fees would amount to roughly \$3,600.00. Ms. Hallett explained who the development was for and that most renters are within 30% of the AMI (Area Median Income), and in order to qualify the applicants need to be within 60% of the AMI. The project has a strict budget, and any costs not considered will have to come out of the building itself.

N. Stevens asked for discussion and a vote on the fees waiver.

C. Tirone felt that the information submitted was not organized well enough to understand the level of profit for the site, he asked for an explanation and elaboration of the income restriction. Because the waiver request was vague he was not comfortable approving a fee waiver.

Ms. Hallett explained as non-profit they operate on a very thin margin. The developer fee pays for her organization's staff to do the development and any additional cost comes from the development fund. The state policy doesn't allow more than 10-12% of a project as a development fee, part of the funding source is a deferred fee which comes out of future rents, but often they don't recover what they expect.

C. Tirone asked what the range of deferment is.

Ms. Hallett stated that it was less in pocket and more into the building, and that it is capped at 10-12% since its public money.

C. Tirone asked if HCA has tenants below 60% of AMI, and if they could reduce that to about 50%.

Ms. Hallett stated that 20% of the renters are in the 35% AMI range and are evaluated by a social worker, noting that these are the type of people that need a lot of support, and operating costs go to helping support them.

C. Connors asked if the Commission has discretion to waive its fees.

N. Stevens stated that under the variance provision, the Commission has authority to do so, and reminded the Commission that the fee covers the cost to the Town to administer and process the application and permit; since the resource boundary is well defined, it may not require as much time from the Conservation Agent.

S. Chapnick asked if a partial waiver was possible.

C. Garnett stated that there would be resource area issues.

N. Stevens suggested a partial waiver to cover some of the costs associated with visiting the site.

S. Chapnick stated that she supports a partial waiver as a citizen, but as a Commissioner, she believes the fees are there for a reason.

C. Tirone commented that he sees the major benefits of this project for the town and the fee is small in comparison, stating he is in favor of either a partial or full waiver.

C. Connors stated he was not in favor of a waiver, as the fee involved is a de minimis component of a large project but represents a significant amount to the Commission.

D. White stated he believed it would be a good public service to reduce the fee.

M. Nonni stated that the Commission has to consider its own operating costs.

S. Chapnick motioned to reduce the Bylaw fee to \$1500, based on the discussion and reasons given by the Applicant. D. White seconded, C. Tirone counter-motioned to reduce to \$800, D. White seconded.

N. Stevens asked for a vote on S. Chapnick's motion to reduce to \$1500, 5 were in favor, C. Tirone opposed, motion carried.

The hearing on the proposed development then began.

Mr. DeVellis stated the project is within 100 feet of a resource area and in the 100-year or 1%-storm floodplain. The property encompasses a total of 0.88 acres. The main building is almost entirely within the 100 foot buffer zone. The main building is entirely within the 1% percent floodplain; the floodplain elevation is 149.5 ft. Both buildings are accessed from Lowell Street. The Applicant is proposing a 6 foot walkway over No Name Brook down to the Minuteman Bikeway. Mr. DeVellis then described the large plans that had been submitted.

S. Chapnick noted that overflow discharges into No Name Brook.

C. Tirone noted that they achieved 1.8:1 for storage and not a 2:1 as required under the Bylaw and asked if it was a physical limitation.

C. Garnett asked what the USACE regulations are pertaining to this case, and asked if the Applicant has filed with USACE yet, since that could change the design of the plan.

Mr. DeVellis stated there is no requirement for 2:1 storage from USACE. He proceeded to say that they had miscalculated the tree tabulations and there will be 17 trees at 3 inches total, one more than previously claimed.

N. Stevens asked if the Applicant can verify what trees were there before they began testing work to make sure they are replacing what they remove as required by the Commission's regulations.

S. Chapnick stated that structures are discouraged within 50 feet of resource areas. She asked if they have looked at moving out of the 50 foot buffer zone and considered that option.

Mr. DeVellis stated that there is floodplain storage under the building and the Applicant tried to keep the building farther from the abutters to maintain community relations.

C. Garnett stated that there are major implications for how other applicants are going to view the decision of the Commission and could be subject to a lawsuit if there appears to be a double standard since the Commission has generally not approved new structures within the 50 foot buffer zone.

Ms. Hallett stated that there were previously structures along the southern property line and foundations still remain there.

N. Stevens asked to see a more robust alternatives analysis for why the building can't be located further away from resource, and outside of the 50 foot buffer zone.

C. Tirone stated he would like to see some infiltration with pervious surfaces in the parking area and to flip the parking area with the building.

Ms. Hallett stated that this would cause excessive shade on neighbors which is a significant issue.

C. Garnett requested a sketch of the alternatives and a robust description as to why alternatives do not work.

N. Stevens noted the zoning constraints.

N. Stevens stated the Applicant needs to file a variance request for the 1.8:1 compensatory flood storage.

C. Tirone asked if before they get their rooftop infiltration, they are anticipating 44% TSS removal.

S. Chapnick commented that she would have a concern about vapor intrusion.

C. Connors stated a Sub-Slab Depressurization System (“SSDS”) should be part of the design to mitigate vapor intrusion.

Ms. Hallett stated that they checked the soil and there are PCBs that they will need to remediate by removing soil from the site.

S. Chapnick stated she would want to see erosion controls in place while the soil contaminants are being removed.

C. Garnett restated why this use is good for the site but noted that an alternatives analysis would help the Commission make a solid determination.

C. Tirone asked what stage they are at with the Massachusetts Contingency Plan (“MSP”) cleanup.

Ms. Hallett stated that they know where the worst contamination is and are now determining how deep and how much they are removing. The site was a former junkyard with volatile organic compounds (VOCs) and polychlorinated biphenyl compounds (PCBs) found as the main contaminants in soil. The Applicant is using GEI as the environmental consulting firm to do the cleanup. The Licensed Site Professional (LSP) for the cleanup is Eileen Gladstone of GEI.

C. Tirone stated the Commission needs all of the MCP information in order make a decision.

C. Connors requested a copy of their latest filings with DEP and EPA under the Toxic Substances Control Act (TSCA).

C. Garnett noted that the biggest concern is not where the building is in relation to the Brook but rather deterring contaminations from reaching the Brook.

S. Chapnick mentioned that the structures, including buildings and parking lot, could act like a “cap” for any residual soil contamination remaining after cleanup.

C. Tirone asked if the storm drain system is offline or connected to the Town, and why aren't they infiltrating at the top.

Mr. DeVellis responded that for economy they just wanted one simple system.

C. Tirone stated he wanted to know more about the lighting plan and for them to consider bank stabilization for the Brook, based on the velocity of the water coming through the pipe.

D. White commented that the bikeway sometimes floods and he has seen about a foot of water at times when there is heavy rainfall.

C. Tirone noted that watershed area pr-1 in the stormwater calculations is just sheath flow and perhaps they could

do some type of vegetative buffer to capture that flow, and he requested a wetlands data sheet and delineation.

-The hearing was opened to public comments-

**Mary Ann Morrison:** Commented that this project is an unprecedented opportunity to construct housing for a low income population that has consistently been priced out of housing in Arlington. She urged the Commission to consider who the housing is being built for and by, because it is an important development.

**Maria BocRika:** Stated that she lives on 126 Lowell St, in front of the property and she is concerned about the shade, and would, therefore, like the height decreased on the building.

N. Stevens reminded her that building height is not within the Commission's jurisdiction.

**Neil Mongol:** Stated that he lives at 12 Brattle Place and is a board member of the HCA. He commented that the location of the building has been carefully placed to maintain a good relationship with their abutters while being able to place the right amount of parking on site. He commented that the HCA is taking a lot of risk to remediate the site, and they will try to satisfy any concerns, but that they are developing the site in the most responsible and community-friendly way possible, compared to potential other developers that may come along for this property.

C. Connors explained that the Commission may not hold them to 2:1, but that they need the justification as to why it cannot be provided.

N. Stevens restated Janine White's concerns about a 2:1 compensatory flood storage AND a stormwater water storage system.

S. Chapnick asked the Applicant to revise their NOI to include resource areas not properly documented on the WPA Form 3 submitted.

C. Connors asked if peer review is needed on the contaminants data.

S. Chapnick asked for a copy of the remediation plan, when complete.

C. Tirone emphasized that he would like to see the building moved back and a good reason provided why it can't be, if that is the case. He urged the Applicant to give this a great deal of thought.

S. Chapnick restated that the justification for the parking lot acting as a "cap" must be in the NOI and noted that contaminants would come through a pervious surface option.

C. Tirone commented that the Applicant had certified that they met the stormwater criteria, but that the O&M plan does not meet the requirements.

C. Tirone motioned to continue the hearing to the meeting date of 11/16/17 @ 8:00pm, and reminded the Applicant that any information must be provided 10 days prior to the hearing. C. Connors seconded, all in favor, motion carried.

Summary of Commission's requests for the next hearing:

1. Reports on site contamination and remediation
2. Alternatives analysis including evaluation of moving the project outside of the 50 foot buffer, altering design elements of parking lot and building placements, and how structures might fit into the remedial design (e.g., acting as soil "caps")
3. Variance for flood compensation
4. More detail in O&M plan
5. Corrected WPA Form 3

## General Discussion

**Town APP:** L. Shepherd asked the Commission if they would like to be part of the Request/Answer system through the new Town APP. There was general consensus that the Conservation Agent should make this decision.

**Tree Marking:** C. Tirone requested that the tree warden discuss every tree removal within Commission jurisdiction with the Town's Conservation Agent.

**Wetlands Regulations:** S. Chapnick motioned to continue the wetlands regulations revisions to 11/2/17, D. White seconded, all in favor, motion carried.

C. Tirone motioned to adjourn the meeting, N. Stevens seconded, all were in favor; the meeting was adjourned at 10:36 pm.

Respectfully submitted,

Lela Shepherd  
Environmental Planner/Conservation Agent