



TOWN OF ARLINGTON

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ARLINGTON CONSERVATION COMMISSION

Arlington Conservation Commission
Minutes
November 15, 2018

Mr. Stevens called the meeting to order at 7:31 p.m. in the Community Safety Room in the Arlington Police Department Building. Present were Commission Members Nathaniel Stevens, David White, Charles Tirone, Pam Heidell, Susan Chapnick, Curt Connors, and Mike Nonni; Associate Commissioner Cathy Garnett; Town Counsel Doug Heim; and Conservation Agent Emily Sullivan. Also present were Elaine Alexis, Mary Trudeau, Scott Seaver, Vincent Cotroneo, Steve Ricci, Assistant DPW Director Teresa DeBenedictis, Brad Barber, Attorney Elizabeth Pyle, Peter Musial, Monika Musial-Sivek, Lally Stowell, Colin Blair, Judith Russo Stichter, Alice Trexler, Ed Boucher, Ginna Reeder, Harold Boucher, Mary Boucher, Richard Lacroix, Martha Ingols, Attorney Matthew Watsky, Rachel Watsky, Cathie Desjardins, David Desjardins, Victoria Ford, Heijung Kim, Downing Cless, as well as other members of the public who did not sign in. A majority of attendees arrived in time for the 47 Spy Pond Lane NOI hearing.

Administrative

11/01/2018 Meeting Minutes

Edits to the draft minutes were discussed, D. White motioned to approve the minutes as edited, C. Tirone seconded, all were in favor, motion approved.

Spy Pond Edge and Erosion Control Project

E. Sullivan updated the Commission that the project team had received the project's bid and construction package, which was being reviewed for revision. Once revisions are made, the project will go out to bid.

Working Session- Watermill Place Condominiums, Elaine Alexis

E. Alexis presented to the Commission the issue of storage of construction materials within the courtyard of Watermill Place. E. Alexis explained that there is no alternative storage location farther from Mill Brook. The courtyard and storage area are within the 100-foot wetland buffer and 200-foot riverfront area of Mill Brook. The storage area limit of work is contained to an area of the courtyard, defined by silt socks for erosion control. The materials are being stored as part of a larger EIFS, windows, and doors maintenance project on the outside of Watermill Place which is expected to last a year. The Commission approved measures to protect the brook, such as the silt socks and fences installed. E. Alexis will present a Request for Determination of

Applicability to the Commission during the 12/06/2018 Conservation Commission meeting for work within buffer/resource areas.

Health of Spy Pond- Spy Pond Committee

Committee Co-Chair S. Ricci summarized the concerns of the Spy Pond Committee for Spy Pond's health, particularly invasives control and water quality. The Spy Pond Committee believes that more funding for a comprehensive environmental assessment would enhance understanding of quality issues and enable more strategic treatment and long-term management plan. Currently, the aquatic contractor provides annual reports that include the treatments applied, some water quality data as available, observations of invasive vegetation, and recommendations for the following year's treatment. The most recent comprehensive pond assessment was published in 1982 and so is outdated.

Committee Co-Chair B. Barber proposed changes to treatment schedule and treatment plan, which is currently administered by Solitude Lake Management. T. DeBenedictis stated that the Solitude contract expires in December 2018, which would create the opportunity to select a new contractor or revise the management plan. B. Barber suggested putting treatment work out to bid.

S. Chapnick suggested reaching out to the Mystic River Watershed Association (MyRWA) for recommended vendors and conducting the desired comprehensive environmental assessment. B. Barber expressed that he had been in contact with MyRWA. P. Heidell suggested the possibility of working with Tufts or an academic institution for the assessment. C. Tirone recommended applying for CPA funding for the assessment.

S. Ricci advocated for better collaboration between the Conservation Commission, the Department of Public Works, and the Spy Pond Committee. S. Ricci expressed concerned that increased boat traffic has resulted in new invasives.

N. Stevens recommended that the Spy Pond Committee meet with the Water Bodies Committee to discuss next steps. N. Stevens also recommended revising the Spy Pond treatment Order of Conditions if necessary to support a better management plan.

The Commission's water bodies working group (S. Chapnick, C. Tirone, and D. White) will schedule a future working meeting with the Spy Pond representatives.

Deliberation- Notice of Intent for 46 Spy Pond Parkway

Documents Reviewed: Revised documents dated 10/23/2018 (existing impervious details, proposed impervious details), planting plan dated 10/20/2018, land plan dated 9/04/2018, drainage calculations dated 9/27/2018, climate change resilience compliance dated 10/22/2018, vegetated buffer plan dated 10/20/2018, NHESP letter dated 10/30/2018.

Resource Area: Spy Pond, BVW, Bank, Buffer Zone/100 Ft Adjacent Upland Wetland Resource Area (AURA) under the Arlington Wetland regulations

The Commission discussed and deliberated the Notice of Intent presented for the demolition of an existing single-family house and the construction of a single-family house at 46 Spy Pond Parkway.

D. White requested a condition for permanent boundary markers along the proposed vegetated mitigation buffer to prevent destruction through mowing or unnecessary foot traffic. P. Heidell requested a condition for slow release nitrogen fertilizers and prohibitions for fertilizer applications during the summer months (except for establishment of new lawn). S. Chapnick requested a condition about fertilizing only in the first year of planting and no rodenticides.

C. Tirone requested a condition to install all pervious pavers to a depth of two feet. C. Tirone also requested a condition for daily street sweeping.

S. Chapnick and C. Garnett requested a condition that the Commission must receive and approve planting plan details (discussed at prior meeting) prior to landscape installation.

E. Sullivan will write the Order of Conditions and send them to the applicant by Wednesday, 11/21/2018.

N. Stevens stated that Commissioner C. Connors was eligible to vote on this hearing due to satisfying the Mullin Rule.

D. White motioned to approve the Notice of Intent with the discussed conditions, C. Connors seconded, all were in favor, motion approved.

Notices of Intent- 47 Spy Pond Lane, Lots 1/A and 2/B, Scott Seaver – Continued Hearing

Documents Reviewed:

Revised plans for Lot 1 and Lot 2, dated 11/07/2018 ;Details from plans dated 10/25/2018; NHESP letter dated 10/29/2018, letter from S. Seaver dated 10/24/2018, letter from W. Copithorne, Realtor; dated 11/15/2018, Christopher Mulhern, Architect, dated 11/14/2018; letter from Attorney E. Pyle dated 11/1/2018, Table of Properties Abutting Spy Pond by P. Heidell submitted 11/14/2018..

Resource Area: Land Under Water Body, BVW, Bordering Land Subject to Flooding (BLSF), Bank, and AURA (Town Bylaw)

N. Stevens reviewed the commission meeting and public hearing procedures that would be followed during the continued hearing. In the interest of making sure all comments could be heard, N. Stevens asked everyone to not repeat the same concerns or comments from the 10/18/2018 hearing. N. Stevens stated that Commissioner C. Connors was eligible to vote on this hearing due to satisfying the Mullin Rule.

M. Watsky explained the revisions of the NOIs since the 11/01/2018 hearing, including additional planting plan details, use of pervious pavers for driveways, and an updated alternatives analysis. M. Watsky said the applicant is now proposing pervious pavers and surfaces for walkways and driveways, further reducing the amount of impervious surface on the entire lot, even in areas outside the Commission's jurisdiction, that will help to protect the water quality of Spy Pond. M. Watsky suggested that the NOIs proposed are the most environmentally protective and include a reasonable and practicable alternatives analysis.

Conservation Commission Questions

P. Heidell stated that the architect's letter, dated 11/14/2018, addressed E. Pyle's concerns only, not the Commission's. P. Heidell expressed concern with the intensity of land-use within the 100-foot wetlands buffer and requested to look at a house on Lot 1 with reduced width/ one-car garage configuration. C. Tirone questioned the need for two houses instead of one house. M. Trudeau stated that Arlington's zoning permits the division of this lot into two lots, each with a single-family home.

S. Chapnick stated that Lot 1 increases impervious surface, while Lot 2 meets the viable alternatives outline in the Conservation Commission's February 2018 denial of the permit.

N. Stevens asked M. Watsky to clarify the property lines in the submitted stormdrain plan. M. Watsky explained it was easier to see on a larger copy of the plan.

C. Connors asked if a single home was a legal impossibility or construction impossibility, or both, due to the sewer line, and asked whether there was any waiver process with the Town (such as MWRA sometimes allows). M. Watsky stated a legal impossibility because approval for moving the sewer line would have to go through Town Meeting.

Public Comments

E. Pyle stated that it is the applicant's burden to show whether reasonable and practicable alternatives exist, which they have not done, and thus this standard has not been met. E. Pyle stated that the Arlington bylaw first and foremost directs the Commission to avoid resource area loss. E. Pyle stated that engineered solutions could be implemented to abate driveway runoff. E. Pyle stated that the barriers listed in the architect's letter, dated 11/14/2018, are not credible; land acquisition costs and soft construction costs are not valid concerns. E. Pyle stated the proposed homes do not have to be high end. E. Pyle stated that this property has sufficient conservation constraints to merit a one car garage. E. Pyle stated that smaller homes with one car garages are still profitable. E. Pyle stated that the division of land has been the largest driver of environmental degradation in past NOI denials for this project. E. Pyle stated that the applicant was facing a self-created hardship through these NOIs. E. Pyle requested that prior correspondence from 2016 (two letters from 2016 and a memo from N. Stevens from 07/11/2016) be included in this record of this proceeding. E. Pyle expressed that although something will be built on 47 Spy Pond Lane, this was not the right project

P. Musial expressed concern over the math calculated in the proposal and said it was “insulting” because applicant was misrepresenting footprint and livable area. P. Musial said he was insulted that the applicant had not presented architectural plans for this proposal.

M. Engles stated that she purchased a home in this neighborhood so that her family would not need to buy a second car given the proximity to public transit.

D. Klebanov stated he lives in this neighborhood and his family only has one car and uses alternative transportation. D. Klebanov stated that a single house is a reasonable alternative because construction will require earth moving equipment to dig foundations. D. Klebanov stated that a pervious driveway was better than roof infiltration for stormwater runoff.

B. Ferber expressed concern over the math calculations in the proposal. B. Ferber stated that the calculations of living space are disingenuous and at minimum wrong. B. Ferber stated that since Spy Pond Lane is a private way, residents can park on the street.

M. Watsky asked a procedural question about the deliberation and drafting of a response to the NOIs. N. Stevens suggested that the Commission deliberate on 12/06/2018 and draft decisions be discussed at its meeting on 12/20/2018 if the Applicant would agree to extend the 21 day deadline for issuing the decisions to 12/21/2018. Town Counsel D. Heim agreed that this revised procedure was valid and did not need to be in writing. M. Watsky agreed for the Applicant to extend the deadline to 12/21/2018 and that M. Trudeau would pick up the decisions at Town Hall on 12/21/2018.

M. Watsky stated that the interior of the houses is irrelevant to Commission discussion. M. Watsky stated that the alternatives provided are practicable and reasonable and best protect the resource area.

Conservation Commission Questions

C. Connors asked E. Pyle a zoning question about parking requirements, because of recent zoning amendments approved at the 2018 Town Meeting. E. Pyle stated that a one car garage and one car space behind the zoning set back was feasible under the current Town zoning bylaw as revised a year ago by Town Meeting.

N. Stevens asked if there was a law that prohibits drains in the garage. M. Watsky said that garage drains are not included in building code. He suggested the Commission could condition the projects to prohibit drains in the garage.

Public Comments

L. Stowell asked if having a limited footprint in the 100-foot wetland buffer was to minimize damage to resource bylaw values. L. Stowell asked if this is true, how would the Commission's decision be impacted if the proposal enhances resource values. N. Stevens and S. Chapnick replied that when the Commission deliberates, it would consider that issue.

B. Ferber expressed frustration that the applicant did not submit all items requested by Commission. C. Tirone clarified that although the Commission may ask for something, it does not mean that the applicant will provide the request, though everything submitted and not submitted will be considered during deliberation.

J. Russo Stichter expressed concerned over viable alternatives.
No concern over design of house.

S. Chapnick suggested that in the next Town Wetlands regulation revision, the Commission should clarify expectations for the alternatives analysis and should provide more guidance for the alternatives analysis. S. Chapnick also reminded the Commission that the Commission cannot and should not design the homes presented, since the design and floor plans of a proposed structure are not under the Commission's purview.

C. Garnett suggested that in the next Wetlands regulation revision, the Commission should clarify expectations and provide guidance for vegetation mitigation.

C. Tirone reminded the Commission that these NOIs do not have a DEP file number because they were only filed under the Town's local bylaw.

C. Tirone motioned to close the hearing on the Lot 1/A NOI, S. Chapnick seconded, all were in favor, motion approved.

C. Tirone motioned to close the hearing on the Lot 2/B NOI, S. Chapnick seconded, all were in favor, motion approved.

The NOIs will be deliberated during the 12/06/2018 meeting at 8:15pm.

Notice of Non-Compliance- 12 Clyde Terrace Planting Plan, Gregory Hochmuth

The applicant requested a continuance to the 12/06/2018 meeting. D. White moved to continue the hearing to the 12/06/2018 Conservation Commission meeting at 8:45 pm, C. Connors seconded, all were in favor, motion approved.

Administrative Continued

Wellington Park Project

E. Sullivan reviewed the Wellington Park Project timeline.

Reeds Brook Sampling at McClennen Park

S. Chapnick updated the Commission that sampling is scheduled for 12/05/2018, with a rain date of 12/06/2018.

Spy Pond Sand Bar Project

S. Chapnick informed the Commission that she had not heard anything new about the project.

Community Preservation Act Funding

C. Tirone updated the Commission that all projects that applied for CPA funding were qualified.

Planting Plans

M. Nonni stated he had reviewed a draft guidance for planting plans, that could be discussed during the 12/06/2018 meeting.

Meeting adjourned at 9:59pm.

Respectfully submitted,
Emily Sullivan