



TOWN OF ARLINGTON

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ARLINGTON CONSERVATION COMMISSION

Arlington Conservation Commission
Minutes
December 6, 2018

Mr. Stevens called the meeting to order at 7:36 p.m. in the Mural Room on the ground floor of the Senior Center. Present were Commission Members Nathaniel Stevens, David White, Charles Tirone, Curt Connors, Pam Heidell, Susan Chapnick, and Mike Nonni; Associate Commissioner Cathy Garnett; Town Counsel Doug Heim; and Conservation Agent Emily Sullivan. Also present were Vicki Hibbard, Elaine Alexis, Marissa Valentino, Attorney Matt Watsky, Ben Ferber, Martha Ingels, Lisa Fredman, Harold Boucher, Ed Boucher, Karen Grossman, Greg Hochmuth, Mary Trudeau, Bill Copithorne, Colin Blair, Lally Stowell, Peter Musial, Heijung Kim, Dan Klebanov, as well as other members of the public who did not sign in (including John Worden and Patricia Worden).

Administrative

Draft Guidance for Planting Plan Contents

The Commission reviewed the draft guidance document that N. Stevens prepared. M. Nonni stated that an example of a plant schedule should be included in the guidance document. C. Connors noted that these guidelines will not be enforceable since they were merely guidance, and not part of the local regulations. D. White moved to approve the guidance document with the addition of an example plant schedule, C. Connors seconded, all were in favor, motion passed.

Spy Pond Project

E. Sullivan updated the Commission on the presentation she made to the Friends of Spy Pond Park during their annual potluck meeting. E. Sullivan requested planting guidance from M. Nonni and C. Garnett on which types of plants would act as effective barriers to sensitive slope areas in the park. She asked specifically about plants that would prevent park users from walking off-trail, exacerbating erosion and slope instability.

2019 Meeting Schedule

The Commission reviewed the following dates for the 2019 meeting schedule: January 3rd, January 17th, February 7th, February 28th, March 7th, March 21st, April 4th, April 25th, May 2nd, May 16th, June 6th, June 20th, July 11th, July 18th, August 1st, August 15th, September 5th, September 19th, October 3rd, October 17th, November 7th, November 21st, December 5th, December 19th.

M. Nonni moved to approve the meeting dates, S. Chapnick seconded, all were in favor, motion passed.

11/15/2018 Meeting Minutes

The Commission will vote to approve meeting minutes during the 12/20/2018 meeting.

McClennen Park and Reeds Brook

S. Chapnick updated the Commission on the sampling that occurred in the brook in early December, 2018. All but one of the proposed samples were collected. S. Chapnick stated that the initial observations indicate that floc is not causing any immediate irreparable harm and that the ecosystem is healthy. S. Chapnick reminded the Commission that these samples are only measuring metals. E. Sullivan asked S. Chapnick if the samples taken could inform the Board of Health of the soil type in another section of the brook, which they plan on dredging for mosquito control. S. Chapnick stated that the Board of Health would need to test the soil separately since dredging requirements are more extensive.

Wellington Park

E. Sullivan updated the Commission on the Wellington Park project.

EPA Stormwater Collaborative

E. Sullivan reminded the Commission that Arlington was selected to be a part of a stormwater collaborative with the EPA, MassDEP, MyRWA, and Winchester. The first meeting is scheduled for 12/10/2018 and C. Tirone will be participating in the program.

Mystic Restoration

E. Sullivan updated the Commission on the Mystic Restoration Project.

Working Session- 66 Hutchinson Road, Vicki Hibbard

V. Hibbard presented the backyard redesign project under construction at 66 Hutchinson Road. V. Hibbard stated that she was unaware that the yard was under Conservation Commission jurisdiction and within the 100-foot wetlands buffer. The Commission requested that V. Hibbard stop all work and submit a Notice of Intent for the project.

Certificate of Compliance- 71 Dothan Street

E. Sullivan stated that a request for a Certificate of Compliance was filed in 2016. The Order of Conditions requires a final planting plan monitoring report to be submitted in 2019. The Commission will wait until that report is submitted to decide on the Certificate of Compliance.

Request for Determination of Applicability- Watermill Place, Elaine Alexis

Elaine Alexis presented proposed work at Watermill Place Condominiums. The proposed work is within the 200-foot riverfront area and 100-foot wetlands buffer of the Mill Brook. The work includes the installation of staging around the entire exterior of the building in order to replace EIFS (Exterior Insulation Finish System), unit windows, exterior doors, and greenhouse window systems. Work may also include spot replacement of brick mortar and brick replacement, as well as cleaning of existing exterior brick masonry.

The Commission discussed how materials and equipment would be staged onsite. D. White asked what type of process occurs when replacing EIFS. E. Alexis explained that the material is removed in chunks and collected and contained.

C. Tirone motioned to issue a Determination of Applicability that Conservation Commission has jurisdiction but no NOI is necessary for the project. C. Connors seconded, all were in favor, and the motion approved under the condition that E. Sullivan inspect the site when construction is occurring over the brook.

Notices of Intent- Deliberation: Lots 1/A & 2/B, 47 Spy Pond Lane

N. Stevens reminded the Commission that these NOIs are being considered under the 2015 local regulations. N. Stevens reminded public attendees that the public hearing portion of this process has been closed, but that all public comments have been recorded in previous meeting minutes, and that no new information would be received during deliberations.

Lot 2/B Deliberation

D. White noted that the proposed home on this lot is only 10-feet into the AURA.

S. Chapnick noted that the proposal meets Finding 13D from the February 2018 Denial. S. Chapnick stated that therefore, the proposal satisfies the alternative analysis required under the 2015 local regulations and Bylaw.

S. Chapnick stated that the proposal creates the following disturbance areas per the 2015 local regulations: 0-60 feet of the AURA will be a temporary disturbance area due to the plant mitigation installation, 60-90 feet of the AURA will be a limited disturbance area due to the infiltration system installation, and 90-100 feet of the AURA will be a permanent disturbance area due to the home construction.

S. Chapnick and C. Connors stated that the Commission should be consistent with deliberation over determined impacts to the AURA, including taking into account existing impervious areas, and how that determines approval or denial of a proposal.

The Commission discussed the Cultec infiltration system, which has been designed to accommodate a home footprint larger than the one proposed, and stated that it will sufficiently infiltrate stormwater runoff. Additionally, the vegetated mitigation buffer, which will be planted with native plants, sufficiently mitigates the project.

C. Garnett stated that the Commission should, in reviewing future projects, a professional wildlife ecologist to review proposed vegetated buffers for wildlife habitat value, like the vegetated buffer proposed in this NOI.

Lot 1/A Deliberation

C. Connors stated that the alternatives analysis has not been met, and that the house could be reduced and still be saleable. House reduction would prevent the proposed removal of the sycamore tree.

P. Heidell agreed that alternative analysis has not been met.

C. Tirone noted that the current backyard lawn is not really a viable habitat.

C. Connors noted that Lot 1 proposes to double the amount of impervious surface currently onsite.

N. Stevens reminded the Commission not to compare the proposal to past denials, but to the 2015 regulations. N. Stevens noted that this is a new proposal with new information and new information received during the public hearing process. For examples, during the hearing it became much more evident that the sewer line and easement are impediments on this property, thus eliminating reasonable alternatives the Commission had identified when reviewing this Applicant's prior applications of the property (one house on the property not subdivided that is fully outside the AURA)..

P. Heidell noted parking changes in the Zoning Bylaw in 2018 now allowed for a one-car garage where previously a two-car garage would have been required for Lot 1.

The Commission discussed if the impacts of the two NOIs should be deliberated cumulatively or separately. N. Stevens stated that cumulative impact may be difficult to apply given the ambiguity of cumulative in the context of legal matters.

C. Connors stated that impact deliberation should take into account the proposed Cultec infiltration system and mitigation vegetated buffer.

C. Tirone stated that it is the Commission's responsibility to determine what is reasonable. N. Stevens referenced the Bylaw to determine what is reasonable. N. Stevens also read aloud the definition of reasonable in Black's Law Dictionary.

C. Connors suggested that the deliberation requires a two step analysis: 1) can the proposed house be reduced to save resource area values, and 2) if the proposed house is reduced, is the property and reduced house still reasonably saleable.

C. Connors noted that it is not the Commission's role to say how much the house should be reduced, but find that it could be reduced at least enough to preserve the existing sycamore tree.

S. Chapnick noted that the Commission should not design homes, but needs to determine if the presented alternative analysis is reasonable. S. Chapnick noted that the Commission was not to

be involved in house redesign. M. Nonni agreed that the Commission was discussing aspects of the proposal outside of the Commission's purview.

C. Garnett reminded the Commission that Spy Pond is not a pristine habitat or pond.

S. Chapnick stated that the Commission can deny this Lot 1 proposal, but cannot deny building in general.

C. Connors moved to deny the Lot 1 proposal for the reasons discussed, including: the alternatives analysis was insufficient, the house could be reduced to save the sycamore tree, the proposal almost doubles impervious surface cover, and the proposal extends into AURA resource area to an unreasonable extent. C. Tirone seconded, all were in favor, motion passed.

N. Stevens stated that he will draft the decision for next meeting (12/20/2018) and the Commission will conduct an official vote at that meeting.

Lot 2/B Deliberation Continued

S. Chapnick stated that the alternatives analysis was sufficient and that the proposal includes a reduction of impervious surface in the AURA.

P. Heidell questioned how the proposed dock location change will be included in the Commission's decisions. D. Heim read the dock text from the settlement agreement and noted that the Commission can handle the dock however it sees fit. N. Stevens recommended leaving the dock as an option for the Applicant, that they can pursue the location change and leave the path to the dock as proposed.

The Commission discussed the special conditions for the Lot 2/B approval, including: stockpiling, as-built plan submittals, the operation and maintenance of the Cultec infiltration system, and limited or prohibited use of pesticides, herbicides, fertilizers, and rodenticides. the Commission divided the Restricted Zone into the following in which various project activity will occur:

- a. Temporary Disturbance Area (0 to approximately 60 feet) – mitigation planting will be installed and the field stone wall will be constructed;
- b. Limited Disturbance Area (approximately 60 to 90 feet) - the stormwater infiltration units installed underground and left in place; and
- c. Permanent Disturbance Area (90 to 100 feet) – the house will be constructed.

S. Chapnick noted that the proposed driveway will be made of a porous material. Although the driveway is outside of the Commission's jurisdiction, the Commission applauds the Applicant's efforts, but it cannot be part of the official Commission findings.

N. Stevens stated that he and E. Sullivan will draft the conditions for next meeting (12/20/2018) and the Commission will conduct an official vote at that meeting.

C. Tirone asked the Commission if any deed restrictions should be applied to the conditions. N. Stevens stated that he was not comfortable with deed restrictions, but that the Commission could add continuing conditions for maintaining the mitigation vegetated buffer and stone wall.

S. Chapnick motioned to approve Lot 2/B based on the findings and conditions discussed. C. Connors seconded, all were in favor, motion passed.

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

C. Garnett and E. Sullivan summarized their site visit to the property in September 2018. C. Garnett summarized that the installed plants do not conform with the approved planting plan.

G. Hochmuth presented a planting plan modification request. G. Hochmuth assured the Commission that the property owners now know that there is a no mow area in their backyard.

C. Garnett expressed worry with plants selected for the site because there was evidence that rabbits were eating plants during the site visit.

G. Hochmuth proposed replacing the redbuds, which have died, with sour-woods.

C. Garnett requested that the modified planting plan displays the plants at mature growth.

M. Nonni noted that the proposed modified plan looks sufficient, and C. Garnett agreed.

C. Garnett discussed the replacement regulations for trees, and that all new sour-woods would need to be between 2-2.5 inches in diameter.

The Commission discussed the three-year monitoring reporting requirement that was included as a condition of the order of conditions.

D. White asked if it was problematic for all four tree replacements to be the same species, in the event that a disease wipes them out. D. White suggested more tree diversity. C. Garnett and G. Hochmuth agreed that a red maple tree could be included to diversify the trees.

G. Hochmuth agreed to submit the revised planting plan by 12/20/2018.

D. White motioned to close the meeting, S. Chapnick seconded, all were in favor, motion passed.

Meeting adjourned at 10:08pm.

Next meeting scheduled for Thursday, December 20, 2018 at 7:30pm.

Respectfully submitted,

Emily Sullivan