



David B. Cohen
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Department of Planning and Development

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CONSERVATION COMMISSION MEETING MINUTES

October 22, 2009

Beginning at 7:30 p.m.

City Hall, Rm 209

Meeting opened approximately 7:40 p.m.

MEMBERS PRESENT: I. Wallach, Chair, S. Lunin, Vice-chair, N. Richardson, J. Hepburn; D. Green (the latter arrived at 7:50).

MEMBERS ABSENT: R. Matthews, D. Dickson

MEMBERS OF THE PUBLIC: Jane Sender, Tom Seniak, Romeo D'Agostino

CSX Vegetation Management Plan RDA – ROW spraying of herbicides in riverfront and buffer to bank of the Charles River, in bordering vegetated wetlands, and possibly floodzone, and in an area proximal to a public drinking water supply.

Report: Applicant has not been able to arrange a site visit. I suggested that if we have not scheduled a site visit prior to the next meeting, he should submit a request to continue to the November meeting.

Meeting: Emailed message received from Stephen Herzog, AMEC, representing CSX, requesting a continuance to the November 10th meeting. The Commission agreed to continue to November 19th.

902-904 Watertown Street – RDA – Deck re-location and enlargement in riverfront and floodzone.

Report: The applicant proposes to expand each of two existing decks on the back of a two-family house. The decks are out of the 100 ft buffer to bank for Cheesecake Brook, but expansion of one deck will place new footings for posts and stairs in 100-yr flood zone. Plan submitted shows silt fence on asphalt driveway. However, owner does not want driveway trenched to install the silt fence. Also, the plan shows a 10 ft long trench proposed for compensatory storage just *outside* the flood zone. Work areas are far enough from brook that likely no erosion and sediment control measure is needed; owner should direct contractor to remove any excess dirt rather than store it in flood zone. Compensatory storage must be provided; plan calculations indicate 5 cu ft needed (see 310 CMR 10.57(1)(a)1 and 10.57(4)(a)1).

Meeting: Thomas Seniak, Seniak Restoration, appeared for the owner, and said a new plan is being prepared to address the above issues. D. Green said Mr. Seniak could just pencil in the changes on the plan, but Mr. Seniak said he is uncomfortable with modifying an engineered plan. Following discussion, the Commission members agreed to continue the hearing to November 19th for a new plan, which must be submitted 10 days prior to the meeting.

46 Farwell Street – Excavation & trenching in the 200 ft riverfront to the Charles without an OOC or negative DOA; EO issued by Anne – needs ratification and owner to appear.

Report: Planner and ISD Enforcement Officer were in neighborhood in response to complaint of violation at an adjacent house, when they observed bulldozer creating sizeable trench alongside building at 46 Farwell Street. When ISD officer asked for names and information, the bulldozer driver and an occupant of the building refused

Conservation Commission

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to cooperate, provide any names or information. No building permit or trench permit had been issued by the city and the entire front of the site (entire lot in riverfront to the Charles River) now consisted of piled dirt. Planner issued Enforcement Order for applicant to stabilize site from erosion or sedimentation (all storm drains on street go to Charles), file NOI for proposed work, and appear at October meeting. CC needs to ratify EO. Mr. Romeo D'Agostino contacted Planner as the owner or owner's representative, said that E&SC was installed, and said he did not wish to file a NOI. Planner checked erosion and sediment control, and informed owner that he did not have to propose work for review, but that he cannot just fill in the trench until the Commission reviews the 'work' to date.

Meeting: Mr. Romeo D'Agostino present as co-owner of property. He said he has been in the construction business in Newton for many years and is aware of the law and knowingly did not apply for any permits. He dug the trench to fill with stone to collect roof run-off to prevent standing water on the property and in the street in front of the property. Planner asked whether the Commission wished to ratify the EO or to vacate it. Following discussion, the Commission members said they would allow the trench to be filled with peastone/stone for drainage purposes, and the applicant should perform mitigation. Since Mr. D'Agostino said part of his reason for doing the work was to keep employees busy, Planner asked if he might be willing to move wood chips from pile onto paths at Norumbega, which really need it to prevent further damage. Mr. D'Agostino said he was willing and he and Planner will visit the site on Friday to reach agreement. **Motion by D. Green to ratify the EO (which can be lifted when mitigation has been performed and site re-stabilized). Second by S. Lunin. Vote: All in favor. Motion carried.**

8:18 – 902 and 904 Watertown Street - Mr. Seniak, representing owner, asked to re-open hearing. He does not want to wait for the November hearing to be able to start work. He presented written statement of proposed changes and said he can have a new plan shortly. **Motion by D. Green to issue negative RDA on condition that Mr. Seniak would amend plan, sign and date it now, and would provide an engineer-stamped plan within two (2) business days of the meeting showing the agreed-upon changes. Second by S. Lunin. Vote: S. Lunin, D. Green, I. Wallach, J. Hepburn voted "aye;" N. Richardson abstained. Motion passed.**

Violations --Updates:

76 Webster Park – Habitat –Update–Utility poles out, and area re-stabilized with loam and seed (annual rye and wildflower seed). Anne signed off on certificate of occupancy and bond refund.

Meeting: Update –Anne reported that one of the new owners called requesting to put a mailbox on Conservation easement land. Anne advised him to discuss this further with Housing Director, Mr. Epstein.

35 Kingswood Road – alteration of bank of Charles – restoration area planted with 20 new lowbush blueberry bushes. Will re-check spring of 2009;

15 Harwich Rd –Violation –Have asked DEP to assist. In a recent e-mail exchange, DEP analyst informed me she has not had time to pursue this violation;

3 Fuller Ave. – awaiting call to inspect erosion & sediment control for new work.

Meeting: Update – Work is about to start on sewer hook-up and plantings.

Announcements & General Business:

Management Plan update - Dan Green – vote to approve? Next step? Planner suggests the Commission pick 3 conservation areas, delegate lead person for each and start identifying key issues/concerns/goals suggest Norumbega, Houghton, Hunnewell, and schedule meeting. Interested 'friends of' groups may be invited at beginning or later meeting.

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Meeting: D. Dickson had suggestions (sent as email and attached to minutes). Norm has some comments for the plan, but wants to work on them a bit more. The Commission agreed that members could start to access individual CAs, and that Norumbega, Houghton and Hunnewell were all areas needing attention. Meeting with neighborhood groups will be part of the assessment process, after members do an initial survey, take photos and check in City Hall to find related (and background) documents. Judy and Susan volunteered to lead on Hunnewell Woods, Jane Sender offered to visit Flowed Meadow, and Doug and Ira will work on Houghton Gardens. Norm will start assessing Norumbega.

Open Space Plan – considerations and member to work on committee and with Conservators?

September 24, 2009 Meeting Minutes for approval.

Meeting:

Meeting: N. Richardson noted date of next site visit for 35 Kingswood Road should be 2010, not 2009.

Motion by S. Lunin to approve with correction. Second by D. Green. Vote: All in favor. Motion

Crystal Lake Path – Work completed; working on signage.

Outstanding issues – discussion

Rules/policy/procedure for Alternate members – see packet.

Meeting: D. Dickson had proposed edits to the wording of the Conservation Commission policy adopted in 2000 to include alternate members. The editing is to incorporate alternate members into the policy and allow alternate members to vote when a quorum is needed but not enough regular members (four, 4) are present.

Discussion resulted in additional modifications.

Motion by D. Green to approve revised policy. Second by S. Lunin. Vote: All approved. Motion passed.

Revised policy will be sent to the City Clerk's Office.

Performance Bonds – in light of last MACC newsletter article – see packet.

Meeting: An article published in the July/August 2009 newsletter raises questions about whether Conservation Commissions can impose, or even accept security bonds for performance unless the City/Town has a by-law. Following discussion, D. Green offered to contact MACC and try to clarify whether the Commission can accept a performance bond without a city by-law for wetlands work if it is offered, and not imposed.

Non-criminal ticketing –Q: Does the Commission wish to ticket under the Watershed/Flood Zone only?

Meeting: The proposed ordinance was approved by Zoning and Planning committee, but Finance was waiting for more information for several years. Feedback from MACC, DEP, and the Law Department is that the CC can fine and ticket only under a by-law or for violations on Conservation Land. The ordinance should be withdrawn and re-written for non-criminal ticketing. The Commission indicated they would like this done.

Anne will follow up on it.

Respectfully submitted,
Anne Phelps, Sr. Environmental Planner

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