

MINUTES
WEST BOYLSTON CONSERVATION COMMISSION
MARCH 10, 2016 MEETING

MEMBERS PRESENT: William Chase (Chair), Charlene Hopkins (Vice-Chair), John Hadley (Vice-Chair) and David Mercurio.

MEMBERS ABSENT: David Eckhardt (Associate Member), Mark Meola and Clerk Toby Goldstein.

At 7:00, Mr. Eckhardt moved to open the meeting. Ms. Hopkins seconded. All in favor. (This evening, Ms. Hopkins took notes for the minutes along with a tape recording, as the Clerk was absent).

Public Hearing, Steve Flagg, Flagg RV, 76 West Boylston Street, Notice of Intent:

(Lance Anderson from Heritage Design Group represented; he gave Ms. Hopkins the return receipt green cards for the abutters' notices that he sent out, and she placed them in the file). Ms. Hopkins read the public notice for the hearing. Mr. Anderson mentioned that DEP had not yet issued a number for their filing, but Ms. Hopkins pointed out that the Commission received an e-mail with the assigned number; he did not receive such an e-mail, so she instructed the Clerk in her notes to forward him a copy. He then reviewed the plan with the Commission members and highlighted the three wetland areas. He pointed out where the two existing buildings were located and explained that the proposed project is to demolish those two buildings and replace with one building (the dimensions of the new building are in the application). Ms. Hopkins opined that the new building will be actually further away from the wetlands in the back of the property and Mr. Anderson confirmed that Mr. Chase asked about a catch basin on the property at the base of the wetlands and specifically how often it is cleaned out? Mr. Flagg came before the Commission members and confirmed that it is cleaned out annually before each winter. Mr. Chase said that he did not see a problem with the project as presented and opened the hearing to any comments from the public.

There was one complaint from Atty. Nicholas Bazoukas (sp?), who has a client that is an abutter to the property. First, the attorney said his client who owns property and paid taxes on it opposes the new Flagg project because he wants to develop his properties, which are located next to Flagg's (.28 acre parcel) and the car wash (.58 acre parcel), but asserted that, because of the Flagg property, his properties are all wet. The attorney presented an old map showing the Flagg parcel, then the .28 acre parcel, then a Town parcel with the pumping station, then the .58 acre parcel, then the car wash. He pointed out that the .58 acre parcel has a stream of water right through the middle of it and the .28 acre parcel is totally wet. Ms. Hopkins asked how he knew for certain that his properties had become wet from the Flagg parcel and not from the road, pumping station parcel or car wash and then the owner came up and said he has owned the properties for 33 years and paid taxes on them and was adamant that they were not wet before Mr. Flagg bought and developed his property. Mr. Anderson marked up the plan with an orange highlighter with an arrow pointing to the abutters' property and the Commission members filed that plan. Mr. Chase responded that he knew about all of those properties for 22 years and that the abutter's two pieces of property were downgradient of the wetlands whereas

all the other properties were on higher ground and that there was also the street water runoff, and that these were most likely were the reasons for the wetness. Ms. Hopkins concluded that there was nothing that the Commission could do for the opposing abutter. Mr. Chase reiterated that he saw no problem with the proposed project and all Concomm members were in agreement. Mr. Hadley then made a motion to close the public hearing. Ms. Hopkins seconded. All in favor. Then Ms. Hopkins made a motion to approve the project and issue an Order of Conditions with erosion controls as identified on the plan and said that when the applicant is ready to begin work with all erosion controls in place that he needs to send the Commission an e-mail notice advising them of same so that they can inspect if desired. Mr. Hadley seconded. All in favor.

All Flagg RV people then left the meeting including the opposing abutter and his attorney, then another abutter named Norman Melendy came up to the board and told them that they should look at the upgradient wetlands on the property because there is a pond that he is concerned about. Ms. Hopkins responded that when the project moves forward and the Commission is invited to inspect the erosion controls, they can also look at this pond. The abutter suggested that they should do so sooner rather than later, but she reminded him that they need to have permission to go onto the property and he understood that.

Discussion Regarding Conservation Restricted Property, Community Preservation Committee, and Chief Minnich:

(Ms. Hopkins has been involved in this matter as a member of the CPC, so she led the discussion). Ms. Hopkins told the Commission members that Mr. Minnich wanted to sell the Town a Conservation Restriction on this property and have the Town buy it with CPA monies. She summarized that Chief Minnich has a 26-acre parcel with roughly 12+ acres in West Boylston and 13+ acres in Holden and she had walked the West Boylston property with Mike Peckar that past Sunday. Ms. Hopkins thought it to be a beautiful piece of property with no visible wetlands, many wildlife, trees and boulders that would be a nice addition to public property in our town. She described that this property abuts the back of Mr. Minnich's farm, with about five acres of forest in between. Mr. Hadley then advised that there was a roundtable discussion regarding the property and that Chief Minnich has a proposed purchase and sale agreement for \$300,000.00 from Iqbal Ali, but is instead willing to sell the Town a Conservation Restriction for \$200,000.00. Mr. Hadley thought that the amount is negotiable. The proposal would have the Town paying the purchase price of \$200,000.00 for acquisition of the Conservation Restriction from the CPA since Holden does not have a CPA and cannot contribute toward it. Ms. Hopkins opined that the Conservation Restriction would be the better option since the property would never be developed and that she felt that is what Chief Minnich wanted because he ultimately would like to build a house on the back of his farm property where there is a beautiful view and that the place where he wants to build abuts the parcel in question and he would probably prefer that it be Conservation Restricted and undeveloped than developed by a builder such that he would have noise instead of the tranquility that is there now. Ms. Hopkins then said that the only matter before the Commission is whether or not they would accept ownership of a Conservation Restricted property and it will be up to the CPC to approve and the Town residents to approve at Town Meeting. The Commission members then all agreed that they would be more than happy to accept the Conservation Restriction should the purchase be approved by CPC and at Town Meeting, so Ms. Hopkins made a motion to this effect. Mr. Mercurio seconded. All in favor.

Questions Regarding Zingarelli Orders of Conditions:

(James Zingarelli and Tony Scola represented). First, the Commission had an informal discussion with Mr. Scola, who was interested in purchasing Lot 24 Malden Street, which is owned by Mr. Zingarelli. Mr. Scola asked about the footprint of the house on the plan and what it would mean if he wanted to change it slightly? Ms. Hopkins replied that the same or smaller would be no problem, but larger or moving it would mean re-filing. Mr. Zingarelli opined that while his Order of Conditions was still in effect that it would transfer to the new owner and he/she could simply file an amendment and Mr. Chase agreed; Ms. Hopkins then said that it would be at the Concomm's discretion whether or not to approve any such amendment and Mr. Zingarelli agreed. Mr. Scola then asked about moving the replicated wetlands again further to the back of the lot so that he would have a larger back yard and Mr. Chase and Mrs. Hopkins said that he could do so, but that would require a new filing with the Commission. He wants to build within the existing footprint but wanted to know if he could change it a bit, and he was told that the Order of Conditions would have to be amended and the Concomm would have to be sure that it will not affect the wetlands. Mr. Chase and Mr. Hadley then continued discussion with Mr. Scola while Mr. Mercurio and Ms. Hopkins talked to Mr. Zingarelli to answer some questions Mr. Mercurio had about the plan. Mr. Zingarelli then asked about continuing to fill the property as he had already done, which areas are further protecting the wetlands, and should he be able to acquire more fill and Mr. Chase said that was acceptable. The Commission members concluded with the request for an Extension of the Order of Conditions, DEP File #327-0227. Mr. Hadley made a motion to approve the extension request for one additional year and Mr. Mercurio seconded. All in favor. The Concomm members signed the extension form. Before leaving, Mr. Zingarelli advised that he is planning to file again with the Commission and have another septic system approved for Lot 23.

Update on Afra Terrace "As-Built" Plan:

(Iqbal Ali represented). Mr. Ali brought to the Commission a stamped plan with snow storage indicated on it, as was requested at the February Concomm meeting. Mr. Chase asked Mr. Ali, since the initial plan and "as-built" are signed by two different engineers, Mr. Chase wants confirmation that the engineer signing the "as-built" will insure its contents. He also wants the plan to show detail on the snow storage capacity, specifically that it will hold all snow from the street so that it does not leach into the wetlands. Mr. Chase wants a letter from the engineer on the initial plan saying that he accepts this plan and signs off on the plan. Mr. Ali said that he would do so.

Questions Regarding Any Wachusett Plaza Wetland Issues:

The Commission had no issues other than the owners will need to do their annual maintenance, and the Clerk will notify the engineer that asked the Commission about this via e-mail.

Discussion of 45 Maple Street Issues:

This property is owned by Richard Ramstrom. Mr. Hadley said that the former Building Inspector sent Mr. Ramstrom a \$100.00 fine for not removing an illegal floor drain from his garage, but Mr. Ramstrom now wants to use the floor drain. Mr. Chase suggested that Mr. Ramstrom speak with him regarding how to remedy the situation and install a new drain.

Update on Angell Brook:

Mr. Hadley informed the Commission members that Vinny Vignaly of Planning Board is going to walk the property to see if the conditions are as the Board of Trustees members wants. This subject was discussed the evening before at the Planning Board meeting. The Commission will wait for Mr. Vignaly to give them results of his visit.

Update on 491 Prospect Street:

Ms. Hopkins discussed that the property owner has been using small rocks as a topcoat to fill in the back of his property as DEP had ordered him to do. Also, the entire back yard is covered with cars. She opined that DCR and/or DEP might have interest in whether or not these vehicles are hazardous to the environment. She reported that the vehicles do have license plates, and come and go from the property, and it appears as if these are his commercial vehicles on residential property. He also has equipment and large trucks out there. Mr. Chase and Mr. Hadley thought that the next step should be contacting the Building Inspector so that he might treat this as a nuisance situation. Mr. Mercurio discussed a section of the bylaws, which states that commercial vehicles can be parked on residential property depending on the size of the vehicles (must be under 18,000 pounds). Mr. Chase opined that the vehicles are smaller than that amount, but questioned how many vehicles are there. Mr. Chase also mentioned the fact that the owner is running a business on residential property. Mr. Mercurio also brought up from the bylaws the question of "home use" and that he may be keeping the vehicles there but they are going to other locations to do the work, rather than conducting a business from his home. Mr. Chase then questioned if the owner is storing materials for his business on the property. Mr. Mercurio responded that the bylaws mention "accessory use" of the property, where someone can store a certain amount of material if it's done discretely and not an eyesore and is protected. Ms. Hopkins commented that the materials appear to be hidden. Mr. Hadley asked Ms. Hopkins what DEP did regarding this matter? Ms. Hopkins replied that DEP made an agreement with Mr. Almstrom (owner of the property) that he needed to remove everything that he filled, and she and Mr. Chase agreed that the area is flatter but there is still a lot of fill left. Mr. Mercurio said that he personally believed that, since DEP and DCR have been involved in this matter, if they are satisfied, then the Commission should be satisfied. Ms. Hopkins added that it should be up to the Building Inspector to decide if Mr. Almstrom is running a commercial business out of his home, and that she has not seen any more piles of debris on the property, and she thought that the topic should be removed from the agendas from this point forward unless a problem arises. The other Concomm members agreed, and the Clerk was instructed to do so.

Update on Wetland Bylaws:

Ms. Hopkins asked Mr. Mercurio, who is a member of the Bylaw Committee, what the status was regarding the Bylaw Committee and the Wetland Bylaws? Mr. Mercurio replied that the Bylaw Committee was having a meeting on Tuesday, March 15, and they would discuss the proposed Wetland Bylaws; the Bylaw Committee has to vote on whether or not they recommend that the bylaws should be passed. Ms. Hopkins asked him to send an e-mail to the Clerk, letting her know of the results so that she could submit the matter for the warrant for the May Town Meeting. However, Mr. Mercurio continued that the Town would have to have the final say on whether or not they pass. On the tape, Mr. Mercurio asked the Clerk to make five copies of the most recent draft of the bylaws so that he could distribute them.

Minutes of February 22 Meeting:

After review of the minutes by the Commission members, Ms. Hopkins moved to accept the minutes as submitted. Mr. Chase (or Mr. Mercurio) seconded (it was not obvious from the tape who responded). All in favor (Mr. Hadley abstained, however, because he did not attend that meeting).

At 9:15 p.m., Mr. Hadley moved to adjourn the meeting. Ms. Hopkins seconded. All in favor.

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Submitted by: _____ for Charlene Hopkins
Date accepted: _____