

**MINUTES**  
**WEST BOYLSTON CONSERVATION COMMISSION**  
**FEBRUARY 2, 2017 MEETING**

**MEMBERS PRESENT:** William Chase (Chair), John Hadley (Vice-Chair), David Mercurio (Vice-Chair), Emily Eaton, Carl Haarmann (Associate Member) and Clerk Toby Goldstein.

**MEMBERS ABSENT:** Mark Meola.

At 7:00 p.m., Mr. Mercurio made a motion to open the meeting. Mr. Hadley seconded. All in favor.

**Request for Extension of Order of Conditions, DEP File #327-0227, 11 Malden Street:**

(Tom Murphy and Michael Cheung represented). Mr. Cheung had purchased the lot from James Zingarelli, who had obtained the original Order of Conditions. He described that work completed included a walk-out basement and installation of septic. Mr. Cheung discussed with Mr. Mercurio the height of the foundation and gravity affecting the septic. Mr. Murphy added that the water line was installed, along with brand new asphalt. Mr. Chase explained that, if the Order expires, the applicant will have to do the septic work again. Mr. Murphy responded that Coyle designed the septic and has to inspect it. Mr. Chase responded that the Town inspected it and Title 5 was issued. Mr. Murphy explained that there was still no tank. Mr. Mercurio explained that the design engineer, installer and the Town need to sign off on the septic, and the owner can build a house but needs all of those signatures in order to obtain an occupancy permit. He added that, when the foundation is in, the tank can be installed, and the signature from the one who installed the system is only a partial sign-off but, for a complete one, they need the three signatures. (The board then discussed with Mr. Murphy what the applicant needs to do for the septic system).

With nothing further to discuss, Mr. Hadley made a motion to extend the Order of Conditions to 2/2/19, for two years. Ms. Eaton seconded. All in favor. (The board then discussed with Mr. Murphy and Mr. Cheung probably starting and completion times for the work).

**Vote on Performance Review:**

Mr. Chase had completed a mandatory performance review for Ms. Goldstein. After review of the forms by the Concomm members, Mr. Hadley made a motion to accept the performance review. Mr. Mercurio seconded. All in favor.

**Minutes of January 9, 2017 Meeting:**

After review of the draft minutes by the Concomm members (Mr. Chase suggested changes), Mr. Hadley made a motion to accept the minutes as corrected. Mr. Mercurio seconded. All in favor.

**Update on 491 Prospect Street:**

Mr. Hadley explained to the board that 300 days had passed from the violation notice to the property owner from DEP in March, 2016, and the applicant had not remedied the situation. Mr.

Mercurio asked if the applicant will file for bankruptcy? Mr. Chase responded that the property owner will be responsible for the violation bills anyway, and perhaps DEP could sell the property. Mr. Mercurio then explained the situation on this property for Ms. Eaton and Mr. Haarmann, describing that the owner had been dumping waste from construction on his property rather than clean fill, and even though it is beyond the 100-foot buffer zone, there are wetlands down below. Also, the owner was given 300 days to clean it up but did nothing. Mr. Hadley added that MaryAnn DiPinto of Three Oaks Environmental did not work on this situation anymore. Mr. Chase added that eventually the waste would bleed out into the wetlands, and that this was beyond Concomm's and DCR's jurisdictions, therefore DEP had been handling it. Mr. Hadley suggested to Mr. Chase that the board send a letter to James McQuade at DEP and to the property owner to update them.

#### **Update on 264 Prospect Street:**

(This property was the subject of a petition for special permit filed with ZBA; possible Concomm issues were discussed at the January Concomm meeting). David Femia, Chair of the ZBA, was present this evening to update the Concomm members. He stated that there was still an issue regarding possible botulism on the property. Mr. Femia explained that, at the January 19 ZBA meeting, Dr. Tashjian, who submitted botulism data and information to the ZBA for their public hearing, did testing of the property for botulism but could not prove that the test results were from that particular property. Mr. Femia continued that, since the property is in an aquifer protection district, it was not clear in the zoning bylaws if the ZBA had the authority to reduce frontage; the applicants agreed to continue the public hearing to February. At this point, the board was still waiting for an opinion from the applicant's attorney regarding this matter, which would be reviewed by Town Counsel.

#### **Update on Conservation Restriction Edits and Wetland Bylaw:**

Mr. Chase informed the Concomm members that changes that he requested in the document were allowed, and that, if the wetland bylaw passes, that the Commission will do ticketing for uses of the conservation restriction property. Mr. Mercurio asked Mr. Chase if the 4-paragraphs of enforcement in the wetland bylaw could be placed in the conservation restriction? Mr. Chase said that he would ask the Greater Worcester Land Trust, who holds the certificate. Mr. Mercurio suggested, that it could be worded so that it will "enforce the State Wetlands Protection Act of 1973" so that the WPA is attached to it. (Mr. Hadley and Mr. Mercurio agreed that they were fine with submitting the four paragraph bylaw draft to the Town Meeting in May).

(Next, Mr. Hadley mentioned an issue discussed at a previous Concomm meeting, regarding 15 Pinecroft Ave., where the property owner discussed flooding on her property; he explained that a camera was used to investigate the problem with the drainage. It was found that the pipe was too small, and, built 40 years ago, there was nothing that the Town could do to remedy this. Mr. Chase explained that all that the owner can do is build up her foundation or build a concrete retention pond with a gate valve).

Returning to the subject of the wetland bylaws, Mr. Chase reiterated that he will speak with the Land Trust's attorney about attaching the short form of the wetland bylaw to the conservation restriction, and will put that draft of the bylaw before the Town at the Town Meeting in May. With no further discussion, Mr. Mercurio made a motion to put this version before the Town on the warrant for the May Town Meeting, as worded. Mr. Hadley seconded. All in favor.

With no further comments or business to discuss, Mr. Mercurio made a motion to adjourn the meeting at 7:40 p.m. Mr. Hadley seconded. All in favor.

Submitted by: \_\_\_\_\_  
Date accepted: \_\_\_\_\_