

**MINUTES**  
**WEST BOYLSTON CONSERVATION COMMISSION**  
**JANUARY 9, 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. Hadley made a motion to open the meeting. Mr. Mercurio seconded. All in favor.

**Public Hearing, Catherine Walsh, Division of Asset Management and Maintenance, Notice of Intent, 5 Paul X. Tivnan Drive (Worcester County Jail and House of Corrections), West Boylston, MA:**

(Chelsea Christenson and Preethi Sreeraj represented). (Ms. Eaton read the legal advertisement aloud). Ms. Christenson began by stating that the Notice of Intent was for improvements to the Worcester County Jail, and she mentioned that they appeared at the December 19, 2016 meeting informally to talk about these improvements, primarily addition of a new building in the grassed area and widening of an existing road to allow two-way traffic; she showed the Commission members and all present maps, showing existing buildings, location of the proposed new building, the existing road, and the proposed widening of the road. They propose widening the road away from the wetlands. She discussed the limit of work proposed, as well as erosion controls in the form of silt fence along the edge of the limit of the work. She pointed out that a small part of the new building will be located within the buffer zone and the majority of the pavement widening will be within the buffer zone. Regarding water drainage, Ms. Christenson explained that the new building will be directed to a below grade infiltration system, and the pavement from the roadway will be directed to a water quality swale along the south side of the roadway and into an infiltration system. She added that the majority of the site's drainage is currently directed to the wetlands in various ways.

Mr. Chase asked when work would begin? Ms. Christenson replied that they would begin in the spring. Mr. Chase asked about stockpiling of work materials. She replied, pointing out on the maps, where materials for the roadway work would be stored and where materials for the building work would be stored, and noted that the project will take place in two phases for reasons involving securing of the perimeter. In response to a question from Mr. Hadley, Ms. Sreeraj replied that parking will not be added, and in response to a question from Mr. Mercurio, Ms. Christenson replied that there should be about 18 months of construction time.

At this point, with no further questions or comments from the board or the audience, Mr. Hadley made a motion to accept the plans submitted and move forward with the project, and grant the Order of Conditions for the Notice of Intent, DEP File #327-0267. Mr. Mercurio seconded. All in favor.

**Request for Extended Order of Conditions, CECO Realty, LLC, DEP File #327-0257, 165 Shrewsbury Street:**

(Joseph Ransom of Bowditch and Dewey represented). Mr. Ransom explained that the project had not been started yet, and the property owner was seeking an extension to the Order of Conditions. Mr. Chase noted that the Order of Conditions was given for three years, and suggested to the board that they issue a one year extension at this time. Ms. Eaton asked Mr. Ransom if there were any changes to the project since the Order was issued? He replied that there were no changes. With no further comments or questions, Mr. Hadley made a motion to approve the extension of the Order of Conditions for one year. Ms. Eaton seconded. All in favor.

**Update on Changes to Conservation Restriction on Minnich Property:**

Mr. Chase began by saying that there has been nothing new regarding this subject since the December 19 meeting, where the Commission members discussed reviewing the current Conservation Restriction and suggesting edits. Mr. Chase explained that the Concomm cannot hold the certificate to the property; the Greater Worcester Land Trust, a third party, holds the certificate. Mr. Chase and Mr. Hadley stated that the Town, however, owns the property, and they explained to Mr. Haarmann where the land is located. Mr. Haarmann asked if the Commission needed to place restrictions on the use of the property? Mr. Chase explained that the board needs to file a governing document to try to keep open the possible uses of the property. Mr. Hadley explained to the newer Commission members how the purchase of the property took place. Mr. Chase explained that, because of public funds purchasing the land, the Concomm cannot hold the certificate, but Concomm needs the ability to define what can be done with the property. He also explained about Open Meeting Law, and that the Concomm members will work on comments to edit the Conservation Restriction and meet to discuss them.

**Gates Brook and Cumberland Road Drainage Problems:**

(Butch Jackson of DPW represented). Mr. Jackson explained that the stream was plugged up at Gates Brook and Cumberland Road, causing a drainage problem at Meadowbrook Plaza; DPW hired a vacuum truck and pumped down the water, finding two four-foot long logs cut by a chainsaw. He said that he heard hearsay reports of neighbors dumping leaves and other debris into the trench, and a tenant of Meadowbrook Plaza wants to put in a legal claim against the Town for the water damage to her business. Mr. Jackson said that he notified DCR, giving them the information and house numbers in the area as DCR volunteered to send out letters because it is under their jurisdiction. Mr. Chase responded that this has been a long-standing issue.

Mr. Chase then asked Mr. Jackson if there were culverts in the Town that needed rebuilding, as the board was notified that there was money for this type of work available. Mr. Jackson replied that he would speak to Michael Coveney of the Water District and let the board know.

**Update on 264 Prospect Street Filing of Petition for Special Permit with ZBA:**

(This subject was discussed at the December 19 Concomm meeting, as there were possible conservation issues regarding the above property and the request to divide lots for building homes, involving an aquifer protection district). David Femia, ZBA Chair, who was present in the audience, informed the Commission members this evening that the ZBA received an email from a resident who lives across from the property that supposed endangered species, a family of New England Cottontail Rabbits and Monarch Butterflies, are on that property, and Mr. Femia contacted Mass Wildlife, who told him to call a specialist in Westboro. Mr. Femia added that the ZBA would be speaking with Mr. Brossi, the property owner, at their next meeting on January 19, 2017. He said that the board was working with Mr. Brossi to obtain testing reports involving the soil and botulism. Mr. Femia said that he spoke with

Robert Barrell of the Board of Health, and both agreed that the 21E report done in 2000 provided to them by the engineers for Mr. Brossi did not show anything about botulism. But, Dr. Robert Tashjian asserted in minutes from 2005 of the Open Space Advisory Committee (OSAC) that botulism was found in the soil, confirmed by an expert at the University of Pennsylvania. Mr. Femia explained that the main problem for him was if there is botulism present, and if so, what is the level and what is a safe level? Also, if digging is done on the property, will the botulism spores spread to the Town well nearby? Mr. Femia and several of the board members discussed various parties that they asserted were interested in the property. They discussed that it would be difficult to prove the presence of botulism without test pits being done, and the fact that, according to the bylaws, Mr. Brossi could build four lots by right, but he wants six. (Mr. Femia added that a resident who lives nearby the property said, at the last ZBA meeting, that he would pay for soil testing). Mr. Hadley explained the 21E report to Ms. Eaton.

Mr. Femia continued that, the property being in an aquifer protection district (APD), 150 feet of frontage is required on each lot, with 50,000 square feet of area, and Mr. Brossi wants to reduce the frontage of five lots to 120 feet, and one to 108 feet. He noted that, through a special permit, the ZBA can set conditions on the property owner. Mr. Chase noted that it is a secondary aquifer, with water running from the hill downward, and added that he did not know how far the houses would be from the Town well as the applicant did not provide plans with that information. Mr. Femia noted that 40% of the Town's drinking water comes from the Lee St. well. Mr. Femia also informed the Concomm that Mr. Brossi was originally, in 2000, going to develop a 40B project with 150 units on that property. Mr. Chase opined that, at that time, problems causing the 40B to be abandoned could have included the fact that septic (sewer was not present at that time) could not handle a development of that size, and there was no public transportation available there. Mr. Chase opined that the money needed for a 21E would be worth it for the property owner especially for public relation reasons. Mr. Femia mentioned that mainly the abutters were in favor of building, but were concerned about the botulism. Mr. Chase responded that he thought it would be a good project for the Town, and suggested that the board work with the applicant, and added that botulism is confined because the property owners probably buried whatever was there in one area. Mr. Haarmann commented that it is still being determined if there is botulism or not, as the results were inconclusive. Mr. Femia mentioned that Dr. Tashjian and Dr. Whitlock (from Univ. of Penn.) still were in communication with each other. He added that the Water District would like to see the 150-foot frontage be done. Mr. Chase responded that they need to see the footprint and asserted that there was not enough information given to them to make a decision, and that it depends on what the applicant wants to do with the land. Mr. Hadley expressed concern that the applicant could want to try for another 40B if he is refused the special permit. Mr. Mercurio discussed that the applicant might have to go for subdivision control under certain circumstances. In response to a question from Ms. Eaton, Mr. Chase asserted that the botulism would stay encapsulated if the ground is not disturbed. Mr. Mercurio agreed. Mr. Femia asked what would happen if a homeowner wanted an in-ground swimming pool? Mr. Hadley replied that it could be installed 20 to 25 feet from the house. In response to a question from Mr. Haarmann as to what ZBA needed, Mr. Femia replied that the main issue was the botulism (along with the APD issue), which was not present in the 21E but was present in 2005. Mr. Haarmann asserted that botulism is everywhere, and it depends on the location of where they want to build. Mr. Chase suggested that the ZBA could stipulate that the test pits needed to be done before hand, probably where the foundations would be going.

Next, the Concomm members and Mr. Femia discussed where the test pits would be done and what places have testing labs for botulism. Mr. Chase reiterated that they need to know where the houses are planned, and test pits done at those locations. He added that, if the soil is not being disturbed where there is botulism, nothing will happen, so they should have the test pits done where

the homes will be built and opined that, if one lot will have frontage of only 108 feet, that it should be allowed.

**Update on 491 Prospect Street:**

The Commission received e-mail correspondence from DEP regarding pending ruling on the property owner; the property owner just began on the test pits required by the Commission. In response to a question from Mr. Mercurio, Mr. Chase replied that the owner knows that the Commission needs to receive a report on the test pits. Mr. Hadley mentioned that the email stated that the owner was going to have a 300 day extension; the Clerk was instructed to clarify that information.

**Minutes of December 19, 2016 Meeting:**

After review of the draft minutes by the Commission members, Mr. Hadley made a motion to approve the minutes as submitted. Ms. Eaton seconded. All in favor.

**Update on Gerardo's Bakery:**

Mr. Chase informed the Commission members that the Commission addressed DCR, and probably Gerardo will be able to get the other side of his driveway paved. It was re-engineered and now outside of DCR's jurisdiction. Mr. Hadley then talked about proposed work at West Boylston Seafood, neighbor to Gerardo's.

With no further comments or business to discuss, Mr. Hadley made a motion to adjourn the meeting at 8:07 p.m. Mr. Mercurio seconded. All in favor.

Submitted by: \_\_\_\_\_

Date accepted: \_\_\_\_\_