

MINUTES
WEST BOYLSTON CONSERVATION COMMISSION
MARCH 6, 2017 MEETING

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

MEMBERS ABSENT: Mark Meola and Carl Haarmann (Associate Member).

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

Informational Discussion with David Femia, ZBA Chair, Regarding Afra Terrace:

Mr. Femia commented that there is still no “as-built” from Iqbal Ali (developer) and he wanted to find out what was going on with the development currently, so he instructed Ms. Goldstein (also Secretary for ZBA) to send an e-mail to Ruane Property Management, the management company for Afra Terrace, to obtain an update; Andrea Austin replied that they are still the management company for the development, and in 10/2014, the condo association took over control of the property from the developer. Mr. Femia questioned how that could be done, considering there were outstanding issues with the development? He spoke with Ms. Austin, who expressed being displeased with how the developer handled certain aspects of the property. She said that she sent letters to the Building Inspector, Bentley Herget, asking him not to issue a letter of occupancy to the developer. Mr. Femia asked Ms. Austin to send him all information that she had regarding the project. Ms. Austin expressed displeasure with how the Town handled the situation. Mr. Femia then gave a brief history of Afra Terrace dealings with the Town, and noted that they only came before the ZBA in July, 2014.

Mr. Chase responded that Mr. Femia should send a letter to Ms. Austin, stating that for a Certificate of Compliance to be issued for the entire property, Concomm needs a letter from Ali’s engineer verifying that the snow load will be handled by the retention ponds and the fence will be brought up to 72 inches, which is on his plan; he will forward the information to the ZBA when he receives it. Then the Certificate of Compliance can be requested by the management company.

Mr. Hadley commented on a statement of Ms. Austin, saying that it was not true that the Conservation Commission said that this matter was not their responsibility; Mr. Chase agreed. Mr. Chase and Mr. Hadley explained to Ms. Eaton in response to her question that the Building Inspector not issuing a Certificate of Occupancy (they believed that he should not have issued one) would be a cloud on title and the developer could not sell his property. Mr. Femia commented that, as Mr. Ali did not post a bond, he does not have to do certain things and can leave it for the condo association, as they took control of the property.

In response to a question from Mr. Mercurio, Mr. Femia replied that he asked the Building Inspector for an update on 92 North Main Street, and Mr. Herget informed him that Mr. Ali was cooperating well with him. He mentioned that the Fire Department had one complaint regarding the need for four-feet of fire-resistant lumber; the lumber company said that Mr. Ali told them that he did

not want it, but he was told by Mr. Herget that he needed to tear out what he used and replace it with the fire-resistant material.

Mr. Femia added that he told Mr. Herget that he would like reports on the development occasionally and if he sees anything not right, to let the board know, and if he cannot do it, Mr. Femia would notify VHB to go out there.

Mr. Mercurio asked about financing, and Mr. Femia explained who the financial institutions were.

Mr. Femia offered to give the Commission the information from Ms. Austin, and Mr. Chase wanted to have it and added that the Concomm and other boards may be able to help.

Preliminary Discussion Regarding DCR Enhancement of Gates Brook Between Woodland St. and Route 12:

(Vinnny Vignaly represented for DCR). Mr. Vignaly explained the proposed project, which would be to dig out Gates Brook. He explained that Gates Brook, even though it carries salmon and trout, is a dirty brook and it goes into Wachusett Reservoir. He explained the area of work, pointing out Worcester Street, West Boylston Street, Lombard St. and Woodland Street on a map and showing photos to the Concomm members, and explained that the work was just to repair the stream. (Mr. Chase commented that the width of the brook has greatly decreased over time). Mr. Chase described the clogged up area along the brook. Mr. Vignaly described the work area. This is DCR property. He said that, about 20 years ago, maintenance stopped and sediment started to build up, with sand going into the brook from the roads. Mr. Vignaly explained that DCR decided that they did not have enough people to do the maintenance, but now, it will be done by hand, with shovels and buckets. (Mr. Vignaly showed the Concomm members old photos of how the area was supposed to be, and photos of how it is now). He described that the proposed project should be a three-year project, taking place in the summers. He explained that there is a six-foot wide surface area on the brook, and they will take the bottom out, working on land under water. Mr. Vignaly said that, when they are done, the water will be one-foot wide natural channel, probably will be 1 ½-feet wide, and there will be two-feet of "bank" on each side that was under sediment, and the rest land under water. He continued that material that they dig out will be taken to a gravel pit in Clinton, stored, dried out and used for construction projects. He discussed test holes which did not indicate hazardous materials. He added that they will try not to clear shrubs, as that would alter the wetlands. DCR will still have to file with MEPA as well. Mr. Vignaly mentioned that the work will go as far as Woodland Street.

Mr. Vignaly further explained that they are proposing a forebay on Lombard Street. He mentioned this to Butch Jackson of DPW and they are agreeable to that since DPW wants to work on culverts and Mr. Vignaly will submit a plan to the Concomm. He described that they will dig a ditch and clean out the culverts by hand as much as possible, but DPW will have a back truck. They will put in forebays also; they will put in rocks along side of the channel for a habitat for fish, explaining that forebays will stop sediment from going into the water again. Mr. Vignaly continued that they will resurface by putting in a berm, to keep the water in the street and it will run into the forebays through openings, and not into the brook. Butch Jackson of DPW will do maintenance of this, and it will be cleaned once a year. Mr. Vignaly continued that DCR will try to obtain grant money as funding for the project. (The Concomm members

and Mr. Vignaly then discussed possible options for funding and workers. Mr. Vignaly mentioned that they are intending to use existing DCR labor to dig the ditch, and described any alteration that might take place to the wetlands; he also discussed sediment controls while the forebay is being built).

In response to a question from Mr. Hadley, Mr. Vignaly replied that they would like to begin work in June and work through September; they cannot work in the spring because of the fish. He discussed what he would have to file in paperwork. He said that a couple of forebays have already been constructed when a sewer project was done; he added that they propose to take down a fence on Woodland Street so that they will be able to reach in and scoop. They will also open up a curb, and that will have to be added to the plan also. He described how they will dig out sediment, put it into buckets, and truck out the material, and let the truck sit and let the water drain out.

The board then discussed with Mr. Vignaly proposed work by Joseph Evangelista on Shrine Ave., where it was asserted that Mr. Evangelista wanted to build 8 units rather than the four that he is permitted to do; Mr. Chase had concerns with a culvert that comes down and across there that may have been filled in on the other side of the street. Mr. Vignaly responded that it goes past a certified vernal pool at the outlet. He added that Mr. Evangelista had not come before Planning Board yet for that. Mr. Chase asserted that the property is on an A Zone for secondary aquifer and Mr. Evangelista cannot build on that. Mr. Femia mentioned that Mr. Evangelista withdrew a petition for special permit for ZBA to try to change to 8 units from 4. He explained that that property was going to obtain frontage from its neighbor, but there is an easement for the drainpipe where he was going to put the driveway and Mr. Femia and the Building Inspector couldn't find the culvert across the street. The Concomm members, Mr. Vignaly and Mr. Femia continued to discuss the situation, including how drainage takes place there, gave their opinion that Mr. Evangelista should not build there, and discussed the proposed wetland bylaws with Mr. Vignaly and that it will allow for Concomm enforcement and bring offenders before the board.

(Mr. Femia then discussed the results of the public hearing with ZBA, petition filed by Dr. Robert Tashjian, that took place on February 16. Mr. Vignaly added that he will hopefully file with Concomm for the April 3 agenda).

Minutes of February 2 Meeting:

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

Informal Discussion Regarding Shrine Ave.:

The applicant did not come in, so no discussion took place.

CECO Realty LLC Extension of Order of Conditions:

The attorney had notified the Clerk by e-mail that the Extension signed in January had the incorrect book and page numbers; Mr. Chase said that the board will just issue a new title page with the correct book and page information, to supersede the previous one.

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Update on Conservation Restriction:

Mr. Chase informed the board that they are waiting for legal opinion.

Update on Proposed Wetland Bylaws:

Mr. Chase informed the Concomm members that they are still waiting for legal and Bylaw Committee opinions.

With no further business to discuss, Mr. Hadley made a motion to adjourn the meeting at 8:10 p.m. Mr. Mercurio seconded. All in favor.

Submitted by: _____

Date accepted: _____