

**MINUTES**  
**WEST BOYLSTON CONSERVATION COMMISSION**  
**DECEMBER 19, 2016 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 7:04 p.m., Mr. Hadley made a motion to open the meeting. Mr. Mercurio seconded. All in favor.

**Informal Discussion of 264 Prospect Street, Petition for Special Permit with Zoning Board of Appeals:**

(Stephen O'Connell represented). Mr. O'Connell explained that his client, David Brossi, had filed a petition with the ZBA for the above at the above address, and it was recommended that they meet informally with the Concomm to discuss possible wetland concerns (the ZBA public hearing was opened on November 17, 2016). Mr. O'Connell explained the relief desired by the applicant for the special permit; Mr. Brossi wanted to be allowed to create six individual, single-family residence lots from the property. He asserted that, according to the bylaws, Mr. Brossi could create four lots by right. He mentioned that the lots would be hooked up to Town sewer and water. In response to questions by the Concomm members, Mr. O'Connell described where, and how far, the sewer runs past the property and that it at least runs in front of the property; he had survey maps and mentioned that there are sewer manholes in the road. He added that the property is also hooked up to Town water.

Next, Mr. Chase asked how far away the houses will be from the aquifer, and asserted that a lot of information such as the location of the foundations and the topography was missing from the plan that he had. Mr. O'Connell responded that the property is not within the aquifer from a water supply standpoint, but within the aquifer protection district; he also explained to Mr. Mercurio where the property is on Prospect Street, and showed the board on GIS maps the locations of the property, the Lee Street well, the aquifer protection district and the abutting aquifer wireless communications overlay district. He also pointed out DCR land, public water and a portion of Malden Brook, and explained that the physical aquifer zone that supplies the well follows the river, which he asserted was very common. Mr. Chase explained that he would like to see the foundations of any building to be at least 200 feet from the aquifer, and that is why he wanted Mr. O'Connell to come in and speak with the board so that they could see what was intended.

Next, Mr. Hadley asked Mr. O'Connell about reports of botulism on the property (this was brought up at the ZBA meeting)(Mr. Chase added that he knew of botulism being found on the property when the testing was done before). Mr. O'Connell added that it was his understanding that DCR typically did not buy property with buildings on it but, at that time, there were quite a few buildings on the land (the board members agreed that buildings and debris were broken up and left on the property) and this evening he was providing a 21E, Phase II report that included information about soil samples, borings, lab results and a map. Mr. O'Connell added that the Fire Dept. used a building on the property for training, and said that a lot of cleanup was done on the site (he showed the Commission members a

map of the property, explaining that there was a farm there, and showed Ms. Eaton in response to a question of hers what the distance was to the well from the farm). Mr. Hadley asked Mr. O'Connell if there was going to be cluster housing built? Mr. O'Connell said that there was not, and explained that the developer wanted six lots instead of the four allowed by right in the bylaws, and discussed the frontage requirements in the bylaws for an aquifer protected district (150 feet) and for an underlying zone (120 feet), and also square footage requirements. He said that the requirements were met for all except two lots, as the aquifer protected district imposes further frontage requirements. Mr. Chase responded that he wanted the board to have the exact information regarding foundations and footage and wanted it all explained for the board.

Mr. O'Connell then told the board that, in 2002, there was a proposed 40B project for that property, and he showed them the plans for that; it was not explained why the project did not take place (Mr. Chase responded that he did know of that project at that time).

Mr. Chase continued that a secondary aquifer is within the Concomm's purview, and Mr. O'Connell came before the board and provided and explained the information that he wanted. Mr. O'Connell responded that they will be on the agenda for the January ZBA meeting, and the applicant, Mr. Brossi, will attend as the ZBA requested that he come to answer questions. Mr. O'Connell also said that he reached out to Dr. Tashjian in order to see the lab results that the doctor discussed. In response to a question from Mr. Mercurio, Mr. O'Connell said that he did not know what would be done next if there is found to be botulism on the property. Mr. Chase opined that the botulism came from the other side of the property, which DCR had bought, and asserted that, with the 21E, Mr. Brossi's property is clean as far as the Concomm is concerned. Mr. O'Connell responded that, as the 21E was from 2002, it is a challenge to convince the public. Mr. Chase thought that John Scannell of DCR would know about this, and thought that the other side of Lee Street is where horses were buried and is where the problem is. Mr. Chase added that he feels comfortable about the situation and the applicant's proposal. (The Commission members then discussed the gravel soil and the sewer for the property, including how far it goes). The board then had no further questions.

David Femia, Chair of the ZBA, was present this evening. He explained that he requested that Mr. O'Connell attend the Concomm meeting because of the aquifer and Lee Street well and also reached out to the Water Dept. for their input, and asked, if the board is satisfied, that they send a letter to the ZBA stating this. (In response to a comment from Mr. Hadley, Mr. Chase said that, if the property can be hooked up to sewer, that is not an issue for the Concomm). Mr. Chase responded that the only thing that the applicant could do is put some fertilizer on the lawn, otherwise they cannot touch it. Mr. O'Connell responded that, as part of the petition to the ZBA, the ZBA could grant the special permit with restrictions (they could not do this for only four lots, which would be the owner's right to have). Mr. O'Connell said to Mr. Femia that Mr. Brossi will attend the next ZBA meeting, and that he did not contact Dr. Whitlock (a botulism expert that Dr. Tashjian had consulted) because they only had secondary correspondence with him, but did contact Dr. Tashjian. In response to a question from Mr. Mercurio, Mr. O'Connell explained to him that botulism is natural in soil, and in this region, asserted that contamination in this region had to do with a farm in Sterling, and veins of rock were broken open with the construction of I-190, and particles were sent into the air. Mr. O'Connell further explained that Dr. Tashjian had provided minutes of an Open Space Committee meeting where the botulism was discussed, and offered to buy the property but it did not work out; Mr. Brossi ended up buying the property from the Antanarellas (sp?), who had the farm.

#### **Informal Discussion Regarding NOI Filing by Worcester County House of Corrections:**

(Chelsea Christenson and Preethi Sreeraj represented). Mr. Christenson explained that they are both engineers with the Division of Capital Asset Maintenance and Management (DCAM) that are part of a team planning improvements to Worcester County Jail. She said that, as the work would be in the middle of DCAM's property, there were no abutters to notify of the proposed work. She pointed out to the Commission members (on a DEP Wetlands Map) the existing access road that runs along the edge of the wetlands, hydraulic connections, and followed a high area between the two wetlands areas up to eventually the hospital road. She explained that the plan was to widen the existing access road away from the wetlands (she showed the board the 100-foot buffer location), and also showed them a drainage swale below the existing road; she continued that the existing and proposed buildings would be partially within the buffer zone, and explained that the roof water would flow into a recharge system and to the edge of the wetlands, and the drainage would remain as country drainage with the swale. Ms. Sreeraj then gave a description of the swale, which will take sheet flow from the roadway, and there will be an underground infiltration basin with two-tier treatment of the water. In response to a question from Mr. Mercurio, Ms. Christenson showed the Commission members the erosion controls on the map. Ms. Sreeraj asked Mr. Chase what the Commission wanted for erosion controls (silt sock was proposed)? Mr. Chase replied that silt sock would be fine. Mr. Hadley asked if they had a drainage cleanout plan? Ms. Christenson and Ms. Sreeraj replied that it is in the stormwater report, and in response to a question from Mr. Hadley, they replied that they would have maintenance twice a year, rather than once a year. Also in response to a question from Mr. Hadley, Ms. Christenson replied that the existing building will remain, and grass is now between the buildings within the security perimeter. Ms. Sreeraj explained that the existing building will be for intake. In response to a question from Mr. Mercurio, Ms. Christenson replied that there is only grass and walkways there now; Ms. Sreeraj showed the board where the new building is to be built. She explained that the road is Phase I of the project, and the building Phase II. In response to a question from Mr. Mercurio, Ms. Christenson replied that they will hire a contractor for the road. In response to a question from Mr. Hadley, Ms. Sreeraj replied that there will be a grass channel/swale; Mr. Chase asked if there will be drainage on the road? Ms. Sreeraj replied that there will be a slope towards the grass channel/swale. Both representatives replied to Mr. Mercurio that asphalt will be used for the surfacing. David Femia asked if they have submitted anything to the ZBA yet? Ms. Sreeraj replied that they had not yet, but Ms. Christenson opined that, with DCAM, she did not believe that they had to do that. In response to a question from Mr. Hadley, Ms. Sreeraj pointed out the parking at the location. In response to another question from Mr. Femia, the representatives added that there will be no change to the parking, and no parking will be added. Mr. Femia questioned the need for Planning Board Site Plan Review, as there was a new building proposed, but the Concomm members discussed the building and did not think that would be needed.

Mr. Chase and the Commission members concluded that they were satisfied with the planned project. Ms. Christenson said that they will return on January 9 with the NOI public hearing. In response to a question from Mr. Femia, Ms. Christenson estimated that the building would take about 15 months, with the work beginning in the spring, and explained that, with the high security needed and the checking in and out of all contractors needed, the project will take longer.

#### **Other Business:**

a. **New Associate Member Carl Haarmann:** The Commission was notified that Mr. Haarmann was voted in as an Associate Member by the Board of Selectmen on November 16, 2016. He was absent from this evening's meeting.

b. **Revision of Conservation Restriction on Minnich Land:** Mr. Chase explained to the Commission members and anyone else present that conservation land was acquired by the Town through the

Community Preservation Committee. The Greater Worcester Land Trust, who holds the certificate for the land, had imposed quite a few restrictions on what could be done to the property. Mr. Chase said that he spoke with his attorney about options; he mentioned that he had concerns about what could be done with the property on Lee Street, mentioning possible projects such as something similar to the Rail Trail, a parking area (which GWLT does not allow) and a pole barn, but he did not want to inundate the property with traffic. Mr. Chase continued that he met with a committee about this (which included John Hadley), and they would like to be able to do several things with the property, and it was determined that Mr. Chase should give the present conservation restriction to the Commission members for their input on changes that he suggested. Mr. Hadley agreed that the committee went over the restriction with Mr. Chase, and they gave suggestions of changes. Mr. Chase further explained that the Concomm will run it, and there will be fees for permits for people to use the property. Mr. Mercurio asked who would patrol and maintain the property? Mr. Chase responded that the Town gives the Land Trust money to do that, but explained that Concomm cannot hold the certificate for the land, a third party must do that, as it could be considered a conflict of interest; GWLT holds it. Mr. Hadley explained how GWLT came to hold the certificate for the property. Mr. Chase explained that the Concomm can regulate what they put into print (they will do this with two other parcels of land and he discussed examples of possible projects), and they want the ability to do what they want later on. Mr. Mercurio asked about the Goodale Street Conservation Restriction? Mr. Chase replied that the Town cannot do anything on it, and cannot even go onto the land.

The Commission members then discussed different ideas of what they might want to do with the land, and agreed that they want latitude in what they can decide to do. Mr. Chase and Mr. Hadley replied to Mr. Mercurio that the GWLT would not have to approve their ideas, but Concomm and CPC would do that. Mr. Chase continued that his lawyer will write up the restriction, and give it to KP Law, attorneys for the Town. Mr. Femia asked if the Town has to take a vote on it? Mr. Hadley and Mr. Chase replied that the Town will not take a vote, they already voted on the restriction, but the Board of Selectmen will vote on it. Mr. Chase added that the Concomm will pass out permits, and people will pay fees; because they will have to come to the board, the board will have some control. Mr. Femia asked where the fees would go? Mr. Chase replied it would go into probably a Conservation Commission general fund, but asked Mr. Hadley to check with the Town Administrator about that.

c. **Wetland Bylaws:** Mr. Chase explained to those present that the bylaws were turned down by the Town at the May, 2016 Town Meeting, and the Commission's power is caught between the citizens and DCR; they would like to have some ability to fine citizens and force them to come before the Commission. Mr. Hadley gave some examples of situations in the Town where the Commission would like to stop certain actions from taking place. Mr. Chase continued that a wetlands bylaw had been denied several times by the Town, and explained that the Concomm wants guidelines, wants to bring citizens before them, and wants the ability to fine. Mr. Mercurio then asserted that citizens do not want to go from a 100-foot to 200-foot restriction that is not on the USGS. Mr. Chase responded that Route 12 is the main concern. Mr. Mercurio continued that he was in favor of the enforcement part of the proposed bylaws, but did not want more restrictions than what there already was. He then referred to the USGS map and asked if the Cohen Bill language could be adopted? He explained that, on the quad map that DCR uses, that takes in the 200-foot and 200 to 400-feet, and suggested if they take the language, "200-foot no-build zone" it would give them more jurisdiction, and they might say "reflecting the regulations of the Cohen Bill."

In response to a question from Ms. Eaton, Mr. Chase asserted that, what defeated the bylaws last time, was that long-time citizens of the Town did not want the regulations in the bylaws. Mr.

Hadley asserted that it was not worded correctly. Mr. Mercurio then explained to Ms. Eaton the chain of people that the proposed bylaws had passed through for approval-the Bylaw Committee, Town Counsel, then the people of the Town at the Meeting. Ms. Eaton asserted that the people need to be educated and suggested that enough changes may mitigate issues. Mr. Chase continued that he wants every Town board to be 100% in favor of it. Mr. Mercurio and Mr. Chase said that a lot of information is superfluous. Mr. Mercurio reiterated that they should reference the Cohen Bill, and asserted that it will apply to the Town 100%. Mr. Chase added that they want to eliminate marginal areas. He and Mr. Mercurio agreed that they do not want any gray areas. They also suggested that they would leave out smaller areas of concern.

Ms. Eaton then discussed her background. The Commission members also asked her to prepare the new draft of the bylaws and to contact Vinny Vignaly for his input.

d. **MA DOT Cleaning Out of Culvert on Route 12:** Mr. Chase discussed an e-mail from Michael Coveney of the West Boylston Water District describing the work done up to this point, cleaning of debris from the culvert, and they will be working with MA DOT in the future to try to mitigate this problem.

e. **Update on 491 Prospect Street:** Mr. Hadley explained to the board that the owner of the property was supposed to have test pits done today on the property according to previous instructions from the Concomm but they need the Commission's approval to begin. Mr. Hadley made a motion to approve starting of the test pits and, based on the results, the Commission would vote at the next meeting on how to proceed. Mr. Mercurio seconded. All in favor. (The Commission discussed the previous email sent to the owner with specs for the test pits, and the Clerk was instructed to e-mail the owner the approval for the test pits, but include the fact that they needed to do eight test pits).

f. **Update on Pinecroft Ave. Drainage Problems:** At the last Concomm meeting, Tammy Hubbard of 15 Pinecroft Ave. spoke before the Commission about drainage problems on her property, and the possibility of using a camera to document the problem was going to be discussed with the Town Administrator. Mr. Hadley informed the Concomm members that DPW put out a bid for the camera and whoever gets the job will go to the property with the camera. Ms. Eaton asked what the options would be if the pipe is too small and that is causing the problem? Mr. Chase replied that there are no options, as after so long a time it is no longer the Town's responsibility. Mr. Hadley and Mr. Chase discussed the possibility of the property being regraded, with stone wall and a drain being placed in it.

g. **Questions about Tree Cutting at 10 Pinewood Drive:** Mr. Chase had spoken with Mr. Sherblom, who lives at that address and had questions about tree cutting there; Mr. Chase had told him that, as he was using a crane to remove the trees, he saw no problem with what Mr. Sherblom was doing.

h. **Curtis Industries Roundtable:** This roundtable with the Town boards regarded work at 70 Hartwell Street. Mr. Chase discussed the drainage system, which includes a retention wall on the back side of the building, storm drains, and a permanent drain, all going into a recharge system. He also mentioned shrubs for a sound barrier. Mr. Chase explained that runoff of water from the roof was the only reason that the Concomm was involved in the discussion as it is within their purview. Mr. Femia, who also attended the roundtable, mentioned that Steve Migridichian, CEA owner, answered all questions about the project satisfactorily, including those from Angell Brook residents who attended.

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i. **Minutes of November 7 Meeting:** After review of the draft minutes by the Concomm members, Mr. Hadley made a motion to accept the minutes as submitted. Ms. Eaton seconded. All in favor.

With no further business to discuss, Mr. Hadley made a motion to adjourn the meeting at 8:21 p.m. Mr. Mercurio seconded. All in favor.

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

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