

**CONSERVATION COMMISSION
MAY 6, 2009
AGENDA**

7:00 Conservation Restriction – Grace Land – Paulina Knibbe (010)

7:15 Notice of Intent - 70 Newtown Road – S & R Kelley (020 - 022)

Patrick Garner - proposed restoration of an approximate 1,000 s.f. area of tree removals and construction of an enclosed deck within the 100' buffer zone.

7:30 Notice of Intent - 348, 350 & 352 Main Street – Next Generation Children's Center

Walker Realty LLC - Hancock Associates. Proposed construction of a child care facility, access, parking, associated drainage and utilities within 100' of a wetland.

7:45 Request for Determination - 64 Washington Drive - MJ Mann and Company (040 - 041)

Storage of fill material within 100' of wetlands.

8:00 NOI - Continuation - 208 Parker Street (050)

Amended plan & certified mails receipts received.

MINUTES

April 15 comments rec'd by TMak, TM, PL, FP, JA

ahr:concom.minutes.2009.050609

CONSERVATION COMMISSION
MAY 6, 2009
MINUTES

COMMISSIONERS PRESENT: Terrence Maitland, Janet Adachi, Fran Portante, Patty Lee, Bill Froberg, Linda Serafini

ASSOCIATE: Toros Maksoudian, Toni Hershey

CONSERVATION ADMINISTRATOR: Tom Tidman

RECORDING SECRETARY: Andrea Ristine

VISITORS: Paulina Knibbe, Katie Enright, Mark Schulman, Dick Krieger, Kevin Fleming, Frank Kling, Patrick Garner, Peter Clark, Linda Noone, Emily Cunningham

7:05 Conservation Restriction – W.R. Grace – Paulina Knibbe (010)

Ms. Knibbe gave an overview of the agreed-upon conservation restriction (CR) on a portion the W.R. Grace parcel; the signing of final documents is in process. The CR land will remain in Grace ownership. Grace reserves the right to develop the land adjacent to the CR parcel. The Town will have the right to enter and monitor the CR parcel. Grace will be remediating the land, adjacent to the CR parcel, that includes the lagoon where arsenic has been detected in the first top inch of top soil.

Upon query by Mr. Maitland, Ms. Knibbe stated that she is not sure of the remediation method/process but it will involve off-site disposal; she is also not sure if there will be replacement fill for the first inch of topsoil removed. The proposed deadline for completion of the remediation is August, 2011. The EPA and DEP will monitor the clean up. Prevention of air-borne contamination of adjacent residences will be important.

Upon query by Ms. Lee, Ms. Knibbe reported the Grace parcel is zoned as Technology District; the zoning precludes housing development but not Chapter 40B development. A 40B development would be more valuable to Grace but is unlikely.

Upon query by Mr. Tidman, Ms. Knibbe noted that the access to the Grace parcel will probably be from Parker Street.

Upon query by Mr. Maitland, Ms. Knibbe stated that the signing of final documents is subject to Bankruptcy Court approval but should be very soon.

7:20 Notice of Intent - 70 Newtown Road - S & R Kelley (020 - 022)

Patrick Garner from Patrick C. Garner Co., Inc., presented plans for the proposed restoration of an area of approximately 1,000 s.f. from which the Applicants removed trees; and the proposed construction of an enclosed deck within the 100' buffer zone.

Attorney Peter Clark, also representing the Applicant, noted that this NOI filing stemmed from an Enforcement Order that the Commission issued in response to the Applicants' clearing of trees from an area of approximately 1,000 s.f. within the buffer zone; he and Mr. Garner have been working with Mr. Tidman and there have been several site walks over the past year in connection with two previous filings.

Mr. Garner presented the proposed plan for restoration in the area of the tree removals. In January of 2008 the owner/applicant cut approximately 23 trees plus one dead tree within the buffer zone, which were mostly White Pines. The plan would restore that area with Red Maples, Oak, Silky Dogwoods and Arrowwood. The cleared area currently exhibits a lot of vegetative regeneration. Proposed restoration will not involve any surface disturbance or grading, and there

will be no topographical changes. The proposed restoration plant species are Facultative (FAC) or FAC Wet species which should work well within the buffer zone. The Applicants also propose to construct a screened-in porch over half of the existing patio on the northwest side of the house; sono-tubes will be used without a full foundation.

Mr. Clark stated that he is aware of the owners' history with the Commission and does not want to have any future activity become a problem. Mr. Clark suggested that the Applicants include any future plans in this NOI.

Mr. Garner also provided proposed signs to be mounted on 4"x4" posts 25' apart marking the edge of the buffer zone so potential future owners know that the area is protected zone. Mr. Clark noted that the Commission can issue a special condition pertaining to the placement of the markers since they are not depicted on the plan.

Mr. Garner also recommended that the Commission make a special condition requiring that the restoration area be monitored for two growing seasons to ensure at least a 75% growth success rate.

Upon query by Mr. Maitland, Mr. Clark reported that the Applicant does not have any architectural drawings of the proposed screened-in porch; the building code does not require such drawings for a porch of the size proposed.

Mr. Maitland noted that the historic difficulties relating to the property have been due to the Applicants' making assumptions about what the Commission had authorized; the Commission will require that the Applicants provide a drawing of the proposed screened-in porch so there can be no assumptions that further complicate issues.

Mr. Clark stated that the Applicant may not construct the porch this year but would accept a special condition that that the Building Inspector be satisfied. The Applicant is not prepared to provide architectural drawings during this NOI process. Mr. Tidman noted that the Building Permit Application will circulate through his office as part of standard procedure, so he will have to sign it to approve it.

Ms. Lee expressed concern regarding the minimum height size of the proposed tree plantings. Mr. Garner stated that he is more concerned about monitoring of the plantings but the trees would be two-inch caliper.

Upon query by Mr. Maitland, Mr. Garner stated that this project is small enough for staff or a Commissioner to perform follow-up monitoring of the plantings but the Commission can also condition the OOC as specified in the Restoration Report submitted with the NOI to have a professional of the Commission's choice perform the monitoring. Mr. Clark stated that the hired monitor should be appropriate for the project, and not generate a lot of unnecessary expense for his clients, and suggested that Mr. Garner be the hired monitor.

Upon query by Mr. Maitland, Mr. Garner stated that he would visit the site three or four times over the course of two growing seasons to monitor the health of the plantings and check for disease and invasive species and submit a report to the Commission.

Upon query by Ms. Lee, Mr. Clark noted that the tree stumps on the driveway-side of the stone wall would be ground down but not removed.

Upon query by Mr. Clark, Mr. Maitland suggested that the Applicant request an Extension of the existing OOC (85-984) to coincide with the terms of the OOC associated with this NOI.

7:53 Hearing no further comments or questions, Mr. Maitland closed the hearing.

7:54 Notice of Intent - 348, 350 & 352 Main Street - Next Generation Children's Center - Walker Realty LLC
Katie Enright from Hancock Associates presented plans for the proposed construction of a child care facility, access, parking, associated drainage and utilities within 100' of a wetland. Ms. Enright noted that the site is currently developed with two single family homes which will be demolished and the

construction of a 24,000 s.f. child care facility. All proposed activities meet the required setbacks under the Bylaw. Proposed stormwater management will meet Mass. DEP Stormwater Regulations with the water from standard deep sump hooded catch basins transmitted to a combination of underground and sub-surface detention systems. An infiltration basin will be constructed at the rear of the property to meet recharge requirements

Upon query by Mr. Maitland, Mr. Tidman stated that he agrees with the wetland delineation.

Upon query by Ms. Lee, Ms. Enright reported that the bottom of the basin will be two-feet above groundwater.

Upon query by Mr. Froberg, Ms. Enright reported that there are 27 parking spaces proposed, excluding the turf stone area, as required by Zoning; the site plan regulations allow 30% parking but the Applicant is only proposing 28%.

Upon query by Ms. Lee, Ms. Enright reported that there is one proposed grass parking lot island. The underground retention basin will be checked every storm event for the first year and twice a year thereafter.

Upon query by Mr. Froberg, Ms. Enright reported that DEP recommends monitoring of the stormwater management system as noted in the NOI; stormwater discharge should be clean water since flow would have passed through entire system filtering total suspended solids (TSS).

Upon query by Ms. Lee, Ms. Enright stated that the detention basin is only intended to be loamed and seeded and remain open to naturalize. The location for the basin was chosen since it is currently cleared and will involve little tree removals. Children will not be allowed outside of the fenced area.

Upon query by Ms. Adachi, Ms. Enright noted that there is a small detention basin proposed at the south corner of the property along the existing retaining wall associated with Route 27.

Upon query by Mr. Froberg, Ms. Enright reported that there is currently 6,000 s.f. of impervious surfaces on the site; the proposed site plan proposes 49,000, which includes the proposed widening of Route 27.

Linda Noone from 61 Washington Drive expressed concern regarding potential lead contamination during the demolition of the two existing homes, and inquired about potential remediation and proposed grade and elevation changes. Ms. Enright reported that the proposed building will be at existing grade at the mid-point of the property; some material will be removed from the 352 Main Street lot to level the grade. The proposed parking lot will be slightly higher than Rt. 27 making the proposed building at eye level as viewed from the roadway.

Upon query by Mr. Maitland, Robert Walker, owner/developer, stated that both buildings tested clean for lead content.

Upon query by Mr. Froberg, Ms. Enright reported that clean fill will be needed on-site but she is not sure of the amount at this time.

8:29 Hearing no further comments or questions, Mr. Maitland closed the hearing.

Decision – 348, 350 & 352 Main Street - Next Generation Children's Center

Ms. Adachi moved that the Commission issue an Order of Conditions for the plans as presented with the special condition that any stockpiled materials shall to be stored outside of the 100' Buffer Zone; Ms. Portante 2nd, unanimous.

8:32 Request for Determination - 64 Washington Drive - MJ Mann and Company (040 - 041)

Mark Schulman presented plans for the storage of fill material within 100' of wetlands. Approximately 20 yards of material have been stockpiled within 100' Buffer Zone. Mr. Tidman had been called to the site and required that activity cease and a filing be submitted to the Commission. Mr. Schulman reported that there is a vacant house on the property that is flood damaged and will likely be

demolished. The owner of the property has reviewed the site and will need clean fill for redevelopment; the fill currently on the site was hauled on-site and inadvertently dumped within the Buffer Zone.

Upon query by Mr. Maitland, Mr. Schulman stated that the fill material will be used to fill the existing foundation hole if the house is demolished.

Upon query by Ms. Adachi, Mr. Schulman provided a photography, depicting the driveway and fill-pile in an area that is level.

Upon query by Mr. Froberg, Mr. Schulman stated that the owner is currently investigating possibilities with respect to the property, and will decide this month whether or not to demolish the house.

Upon query by Mr. Maitland, Mr. Tidman reported that he estimates that 45 yards of material was dumped on the opposite side of the driveway from wetlands; haybales have been placed around the material.

Upon query by Ms. Lee, Mr. Tidman reported that the fill is glacial till material with a lot of rocks.

Dick Krieger from 62 Washington Drive inquired about the long term plan for the property. Mr. Tidman noted that any future activity within 100' of wetlands on the site will require a filing with the Commission, with notice to abutters at that time.

Upon query by Ms. Portante, Mr. Schulman stated that it is his belief that the existing house will have to be demolished and the fill will be needed.

Linda Noone from 61 Washington Drive expressed concern in that the house has been empty and the property has not been maintained and she does not want it to be turned into a dumping ground.

8:50 Mr. Maitland closed the meeting.

Determination of Applicability – 64 Washington Drive - MJ Mann and Company

Mr. Froberg moved that the Commission find the activity to be within its jurisdiction but will not impact the wetland (-3) with the special condition that the stockpiled material shall be moved to an area outside of the 100' buffer zone within 90 days of receipt of this Determination; Ms. Lee 2nd, unanimous.

8:51 NOI - Continuation - 208 Parker Street - Gregory Gardner (050)

Amended plan & certified mails receipts received.

Kevin Fleming from Cyprus Design presented an amended plan, noting that abutters at the previous meeting expressed concern about the proposed location of the new single family home. In response the Applicant has shifted the location of the proposed home 20' toward the existing house location and will be able to use the existing driveway. Additional plantings have been added along the 75' setback and in the area of the existing house to be razed.

Ms. Lee suggested that a different species of tree other than White Ash be considered in the planting plan since White Ash are susceptible to disease and are dying out. Mr. Fleming agreed.

Upon query by Mr. Maitland, Mr. Fleming stated that some of the changes from on the plan were based on his meeting with abutters after the April 15th Conservation meeting.

Upon query by Mr. Froberg, Ms. Lee stated that she felt that the proposed plantings were sufficient along the 75' setback, the planting plan provides a good tree line and visual limit to the end of the yard and setback.

Upon query by Mr. Maitland, Frank Kling reported that there is nothing on record with the Health Department as to the location of the cesspool; he has located the house outlet at the back of the house which will be crushed in place and backfilled.

9:00 Mr. Maitland closed the hearing.

Decision - 208 Parker Street - 85-1015

Ms. Lee moved that the Commission issue a standard Order of Conditions for the plans as amended 4/22/2009; Ms. Serafini 2nd, unanimous.

9:05 MINUTES

Ms. Lee moved that the Commission accept the minutes of April 15, 2009; Mr. Froberg 2nd, unanimous.

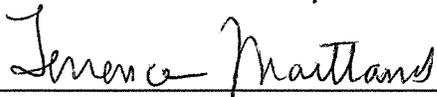
9:07 Decision - 70 Newtown Road - 85-1014

Ms. Adachi moved to issue an Order of Conditions for the plans as presented with the following special conditions:

1. The "Protected Wetlands Buffer Habitat" signs shall be attached to four-inch by four-inch (4" x 4") wooden posts that are four feet in height above the ground and are placed at 25-foot intervals along the north side of the restoration area depicted on the NOI Plan, and the east side of the restoration area, adjacent to the leaching field area.
2. Trees to be planted in the restoration area, as identified on the NOI Plan, shall be a minimum of 1½"-caliper at the time of planting.
3. The design plan for the proposed screen-enclosed deck, which the Applicants submit in the future as part of their building permit application for the proposed deck, shall require the review and approval of the Town Conservation Agent, before construction begins.
4. The Applicants shall retain a wetland restoration expert, acceptable to the Commission, for a period of two growing seasons, commencing upon the completion of the initial re-planting of the restoration area. The wetland restoration expert shall submit monitoring reports to the Commission at the end of the first growing season and mid-season during the second growing season, and a final, summary report at the end of the second growing season. If, at the end of the second growing season, the Commission is satisfied with the success of the wetland restoration, the Applicants may request a Certificate of Compliance.
5. The Applicants or their authorized representative shall meet on-site with the Town Conservation Agent to identify and mark tree stumps to be removed from the property. Only stumps on the north side of the stone wall adjacent to the driveway may be considered for grinding.

Ms. Lee, unanimous.

9:17 Meeting adjourned.



Terrence Maitland
Chair