

Weston Conservation Commission - Public Meeting Minutes
January 10, 2017
Approved: January 24, 2017

Members Present: Laurie Bent (chair), Alison Barlow, Joseph Berman, Cynthia Chapra, and Rees Tulloss
Members absent: George Bates, Roberta Pearle Lamb
Conservation Staff: Michele Grzenda
Others Present: See attached sign-in sheet

7:30 p.m. Case Estates Master Plan Update and Presentation; T. Wirth, Landscape Architect; M. Harrity; Board of Selectmen

Michael Harrity introduced the Case Estates Master Plan discussion with a brief history of the land protection process and the history of the town's acquisition process from 2006 to 2016. The Agent described the land management that has been conducted since the town acquired the parcel in July. The work conducted includes mowing of the existing fields and brush cutting all the portions of the Case Estates that became overgrown over the ten years the property was in limbo. This winter, the town will engage a tree contractor for selective removal of additional trees from the property. Tom Wirth, Landscape Architect, described the proposed master plan. The town has funding to conduct the following work over the next year: (1) placement of the spaced "hen's tooth" (vertical boulder) walls to delineate the Area of Use Limitations (AUL), (2) construction of the ADA legacy trail which will span from the parking lot near the Community Center to the former Summer House, (3) construction of the summer house, and (4) installation of roadside and screening trees and shrubs. Other aspects of the master plan such as installation of orchards, vineyards, and nut producing trees, and creation of educational gardens were discussed but there is no implementation plan or funding available at this time. Mr. Harrity indicated that the town will be selling the barn and two structures as the town cannot retain them due to Title 5 septic limitations.

8:00 p.m. Cont. Notice of Intent – Eversource Maintenance Road

The Applicant has requested a continuance. Motion by Joseph Berman to continue the hearing until 9:00 p.m. on January 24, 2017; seconded by Rees Tulloss; vote 5:0:0.

8:15 p.m. Cont. Notice of Intent: 44 Oak Street; Jianjun Peng

The Applicant has filed this Notice of Intent for the construction of a single family home at 44 Oak Street. The work will occur within the Riverfront Area. David Crossmen, Wetland Scientist, discussed the applicant's compliance with the following actions that the Commission had requested from the prior meeting: (1) the proposed limit of work and shed location be staked onsite; (2) A revised plan be submitted showing the corrected lawn edge and the trees to be removed within the natural riverfront area; (3) the Riverfront area lines and buffer zone lines be removed from the landscaping plan as they were not consistent with the survey plan; (4) The Applicant consider reducing the size of the patio (the patio area was reduced to 898 square feet in the revised plan, a 57 % reduction in size); and (5) Riverfront area calculations be revised to reflect the above changes.

Mr. Crossman indicated that the original plan did not reflect the fact that additional lawn would be created over the new septic system as part of the system is being constructed within the natural area of the site. This additional lawn increased the total lawn area to 7,470 square feet including the area where the patio was reduced in size. Overall, the project will result in a reduction of lawn by 2,027 square feet due to the larger house footprint. In addition, the applicant will allow approximately 761 square feet of lawn beyond the limit of work to return to natural conditions.

The Applicant wishes to remove some existing debris and structures (cement blocks) in the natural riverfront area, beyond the approved limit of the work. Prior to any work conducted in the natural part of the Riverfront

Area, the Agent shall be notified for a site visit to review the type of work conducted, discuss the kind of clean-up work proposed, identify the equipment proposed to be used, and determine whether any additional erosion control or restoration actions will be necessary.

The amount of Riverfront Area alteration was reduced by 1176 square feet due to a reduction in the size of the patio. The total area of proposed Riverfront Alteration within the lot is now 3084 square feet. In addition 761 square feet currently marked as lawn will be allowed to revert to a natural condition. Motion by Rees Tulloss to close the hearing and issue an OOC; seconded by Rees Tulloss; vote 5:0:0.

8:45 p.m. Abbreviated Notice of Resource Area Delineation (ANRAD) – 104 Boston Post Road; 104 Stony Brook, LLC. D. Calhoun.

The Commission opened a public hearing on an Abbreviated Notice of Resource Area Delineation (ANRAD) filed by Allen & Major Associates (AMA), representing 104 Boston Post Road, 104 Stony Brook, LLC. The Applicant has requested confirmation of the wetland resource areas boundaries on the site. Specifically, the site is approximately 2.09 acres with a three-story residential structure currently being utilized as an office building with associated parking. The remainder of the site is mostly wooded. Stony Brook, a perennial stream, flows in a westerly direction and is located southeast of the parcel. Stony Brook flows into Stony Brook Reservoir which is to the south of the parcel. Stony Brook Reservoir is part of the City of Cambridge Water Supply. The Agent and Patrick Garner (the Commission's consultant) reviewed the offsite Bank Flags A11-A26 and BVW flags 1-5 and found them to be accurate.

On Monday, January 9, 2017, AMA filed additional information with the Conservation Commission (WCC). Specifically, AMA is argued that an "Historic Mill Complex", as defined by the Rivers Protection Act exists on the property. AMA claimed that the portion of the property containing the 200 foot Riverfront Area is exempt from the Rivers Protection Act because the property contains a "historic mill complex." Under Section 18 of the Rivers Protection Act, "The Riverfront Area shall not include land now or formerly associated with historic mill complexes... in existence prior to 1946 and situated landward of the waterside façade of a retaining wall, building, sluiceway, or other structure existing on August 7, 1996."

AMA claimed that the existence of the boulder foundation and boulder retaining wall that can be discerned offsite, near the confluence of Stony Brook and Stony Brook Reservoir, is sufficient evidence that the mill complex existed prior to 1946 and still existed as of 1996. AMA submitted a sketch entitled "Sibley Mills" redrawn from "Stony Brook Supply, Cambridge Water Works, dated February 27, 1885." This sketch showed a number of building footprints including the Sibley Machine Shop, located adjacent to Stony Brook, Nathaniel Sibley House, located adjacent to Route 20 on 104 Boston Post Road, and three unlabeled structures located between Sibley House and the Machine Shop on 104 Boston Post Road. Currently, only the Sibley House still stands. AMA asserted that the Sibley House and these three structures were associated with the Sibley Mill and should be considered an "Historic Mill Complex."

The Weston Conservation Commission reviewed the definition of "Historic Mill Complexes" found in the Wetlands Protection Act (WPA) and its implementing regulations under 10.04 which states: "Historic Mill Complex means the mill complexes ... in existence prior to 1946 and situated landward of the waterside façade of a retaining wall, building, sluiceway, or other structure existing on August 7, 1996... An historic mill complex includes only the footprint of the area that is or was occupied by interrelated buildings (manufacturing buildings, housing, utilities, parking areas, and driveways) constructed before and existing after 1946, used for any type of manufacturing or mechanical processing and including associated structures to provide water for processing, to generate water power, or for water transportation.

The WCC pointed out that the "Historic Mill Complex" definition in the WPA regulations only excludes the footprint of the area that was occupied by interrelated buildings and does not grant an overall exemption for

the entire parcel. AMA asserted that the Riverfront Area is not applicable on the entire site based on Section 18 of the Rivers Act Statute which does not include language regarding the 'footprint of the area'.

Questions regarding the interpretation of the regulation and the statute ensued. In order for the WCC to make an informed decision on this matter, The WCC asked AMA to supply to following:

- demonstrate how the three buildings were associated with the Sibley Mill
- provide information as to the dates of operation and demolition (if known) of each of the buildings
- Show the former footprints of these three buildings, the existing boulder foundation wall and other mill structures AMA is referring to on a revised plan.
- Provide information from the MA Cultural Resource Information Systems Inventory form about the above referenced buildings and structures
- Proof that abutters were re-notified of a continued hearing to discuss new information that was submitted after the initial filing of the ANRAD
- Submission of any case laws associated with the statute and or regulations relative to the interpretation of historic mill complexes.

The WCC will apprise the Historical Commission and Cambridge Water Department of the information submitted and the summary of this meeting. Motion by Joseph Berman to continue the hearing until January 24, 2017 at 8:15 p.m.; seconded by Rees Tulloss; vote 5:0:0.

9:45 p.m. Request for Minor Plan Change: 168 Beaver Road; J. Fuller (owner, not present); J. Lavoie (Jillson Company) DEP #337-1241

The WCC issued an Order of Conditions in 2014 for the demolition and reconstruction of a single family house within Riverfront Area. Work has been proceeding, with a few challenges along the way. The Applicant proposed a 240 sf expansion in the driveway footprint. The proposed driveway expansion will be an increase in the proposed degraded area, but the final proposed degraded area will still show an overall reduction from the existing conditions. Currently, the area where the applicant wishes to expand the driveway is outside Weston's 25-foot No Disturb Zone, inside the erosion control barriers and is currently gravel. The WCC visited the site that morning and expressed concern that the erosion control barrier appears to be 17 feet from the wetland edge. According to the approved plan, no work was to be conducted within 25-feet of the wetland edge. The WCC asked the Applicant to stake out the NDZ with stakes for a site visit on January 24th. In general, the WCC is amenable to the proposed driveway expansion so long as no work occurs in the NDZ and that any area within the NDZ that was disturbed be restored to a natural condition. The WCC will continue the driveway discussion on 1/24/17 at 8:15 p.m.

In addition to the driveway expansion discussion, Mr. Lavoie provided the commission with a solution to the grading issues that exist in the backyard. Specifically, the current project build-out extends to the furthest extent of the erosion control, with upwards of 18" of fill directly adjacent to the erosion control, causing the erosion control to function as a retaining wall. To fix the current issues, the applicant will temporarily remove the fill (mulch, gravel or soil) within 30" to 36" horizontally of the erosion control barrier. The applicant will then construct a small 18" to 24" retaining wall adjacent and up-gradient of the erosion control barrier by hand. The wall will be comprised of either interlocking blocks, onsite cobbles or something similar. After the retaining wall is constructed, the fill will be placed back in the former location. The WCC agreed to this solution with the following conditions (1) All work related to the erosion and retaining wall be constructed as soon as seasonal conditions allow but no later than April 15th. (2) the retaining wall detail be submitted to the WCC; (3) prior to construction, the Applicant schedule a pre-retaining wall installation site visit b/w the Agent and contractor to ensure that no impacts will affect down-gradient areas.

10:15 p.m. Request for Minor Plan Change: 49 Lawrence Road; Jay Lavoie (Jillson Company) DEP #337-1209

The applicant proposes a change in the construction footprint in relation to the construction of a single family house. The WCC issued an OOC in 2014 for the reconstruction of a single family house. The work is proceeding; however, the Applicant wishes to make changes to the plan, some of which affects work outside the approved limit of work and within the buffer zone. Specifically, the applicant wishes to increase the size of the driveway and construct additional stormwater management structures within a portion of the buffer zone outside the original limit of work. The Revised work will increase the amount of buffer zone disturbance by 1,700 s.f. New work will not be closer to the buffer zone than previously approved work. Motion by Joseph Berman to approve the work as a minor plan change; seconded by Cynthia Chapra; vote 5:0:0. Prior to work in the new area: (1) Jillson Company shall revise the plan to install the erosion control inward from the back property line to ensure that no work occurs on the WFTA trail easement, and (2) The Agent shall be contacted to review the installation of the new erosion control barriers.

10:25 p.m. Admin. Matters –

1. Approval of 12/20/16 WCC minutes – motion by Joseph Berman to approve; seconded by Rees Tulloss; vote 5:0:0.
2. Signing of bills and documents
3. 358 Boston Post Road – Josiah Smith Tavern Preliminary Concept Discussion - The WCC reviewed the diagrammatic design plans entitled “Josiah Smith Tavern, Weston, MA”. The project will involve the construction of a small addition onto the back of the Josiah Smith Tavern, service drive and loading dock to the rear of the building, new parking facility, a stormwater management system, and septic system. A portion of those activities will occur within the buffer zone of two wetland resource areas located between the building and Route 20. A Notice of Intent will be filed with the WCC once the design/engineering plans show details of the proposed addition, grading, septic system, parking lot, stormwater management systems and limit of work. It is the hope of the Conservation Commission that all of this work can occur with no alteration to wetland resource areas and outside Weston’s 25-foot No Disturb Zone.
4. 133 Boston Post Road: Weston Quarry Residences –Comprehensive Permit Site Approval Application – The Commission reviewed the proposed development at 133 Boston Post Road as it relates to the Wetlands Protection Act. Motion by Joseph Berman to submit a letter to the selectmen expressing the commission’s comments; seconded Alison Barlow; vote 5:0:0.
5. Motion by Rees Tulloss to sign onto the MACC letter to Governor Baker asking him to end his support for new interstate gas pipelines. WCC believes that is an important next step after Mr. Baker’s enactment of Executive Order 569: Establishing an Integrated Climate Change Strategy for the Commonwealth. The motion was seconded by Joe Berman; vote 5:0:0.

Meeting adjourned at 10:45 p.m.