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CONSERVATION COMMISSION OFFICE
METHUEN, MA
Minutes of a Meeting – June 15, 2023

The City of Methuen Conservation Commission held a hybrid meeting via in person and Zoom video conferencing (VC) on June 15, 2023, at 7:00 p.m. in the Searles Building 2nd floor conference room, 41 Pleasant Street, Methuen MA 01844. Present for this meeting were Matthew Davidson, Chair, Cara Seaman, Financial Secretary; Leah Santone and Sandra Boulay. Also present was Conservation Officer (CO) Joseph Giarrusso and Head Clerk, Amy Priante-Walkowicz.

The Chairman, Matthew Davidson, announced that Pursuant to Chapter 20 of the Acts of 2021, this meeting will be conducted via remote means, in accordance with applicable law. This means that members of the public body as well as members of the public may access the meeting via virtual means. The meeting may be accessed remotely via Zoom video conferencing (VC) by contacting the Conservation Office. When required by law or allowed by the Chair, persons wishing to provide public comment or otherwise participate in the meeting, may do so by in-person attendance, or by accessing the meeting remotely, as noted above. For this meeting, members of the public who wish to listen/watch the meeting may do so in the following manner: to be contacted by phone or by VC, please contact the Commission Office. In the event that access and participation is not achieved, then the Commission will post, on the City of Methuen website, an audio or video recording, transcript, or other comprehensive record of proceedings as soon as possible after the meeting. The following are actions, comments, and concerns regarding the information submitted for the Commission’s meeting of June 15, 2023.

I. NOTICES OF INTENT:

- A. Amendment to Orders of Conditions – DEP File #219-1248 – MCC File #20-007 – 18-20 Ayers Village Road – Sonny Valley, LLC – Greenman Pedersen, Inc. (CONTINUED from 6/1/2023)**

Mr. Giarrusso shared the following written report, verbatim, with the Commission:

“The Amendment Notices of Intent filed by Sonny Valley, LLC with information and plan sheet 1 of 1, dated November 15, 2022, revised June 2, 2023, prepared by GPI Engineering is for the additional parking area that was constructed within the proposed redevelopment of existing garden and greenhouse facilities with demolition of existing greenhouses and the construction of three new 10,000 sq/ft contractor buildings along with improvements to Stormwater treatment, which will be within the 100’ Buffer Zone of Bordering Vegetated Wetlands (BVW) and 99 sq/ft of impacted Bordering Vegetated Wetlands (BVW). Proposed erosion control will consist of double staked hay bales and silt fencing. It should be noted that this project is also being permitted under the City’s Stormwater Ordinance, MCC Chapter 30.

I have reviewed the revised information submitted received on June 2, 2023 and have the following comments, which have been placed in **BOLD**:

- The applicant should provide the Commission with a detailed description of each deviation to the approved project and detailed information that supports the change in design.

(The applicant has not provided a detailed description of the scope of the Amendment request.)

- It appears that 99 sq/ft of BVW has been impacted and has been filled with gravel. This is a violation of the Order of Conditions and should be restored and possibly mitigate these impacts. The applicant should provide a restoration plan of the resource area and its buffer, so the Commission can determine if this violation can be corrected with just restoration of original BVW or if additional mitigation is needed. **(The applicant has provided limited information on the proposed restoration of the impacted resource area. It does not provide adequate information of the soils and grading of the existing BVW and how the proposed restoration plan will effect the system. The edge of this wetlands is within the stone rip rap slope. It is my opinion that this will result in impacts to both the hydrology of the resource area and sloped area. I would recommend that if this can not be designed in a matter that does not impact the resource area that the Applicant be required to build this as approved.)**

- There appears to be a section of buffer that is being used as a pathway from the lower to upper section of the site. The applicant should provide information on how they are going to stop the impacts to the buffer and prevent further damage. **(The applicant has proposed to remove this material from the site, but has not provide a Construction sequence/time table or detail information on the proposed matting.)**

- There appears to be to be a 6" HDPE pipe that is connected to the BVW that is draining into the forebay of the detention pond located between buildings 1 & 2. The draining of the resource area is a violation of the Order of Conditions and this should be removed. The applicant should provide a detailed description of how this will be removed without further impacting the resource area. **(The applicant has proposed to remove these structures that have been installed in violation of the Order of Conditions, but has failed to provide a detailed description of how this will be removed without further impacting the resource area.)**

- The submitted as-built plan shows several areas of "Gravel (typ.)" but on-site inspection, it has been determined that this material is a ground asphalt material. It should be correctly shown on the plan and there should be an operation and maintenance plan submitted that includes these areas, including but not limited to the proposed year round use. As a result of this material there is a section of the site that is eroding (see included image). This area should be stabilized immediately.

Image above shows a view looking to the Northeast of the erosion of the landscaped slope as a result of the runoff associated with the constructed ground asphalt material areas shown above the slope.

(The application has proposed to stabilize this area with matting, there should be detail information provided on the type of matting and installation of this material.)

- The applicant has failed to construct a proposed retaining wall between buildings 1 & 2 and adjacent to the impacted wetlands buffer. The applicant should provide detailed information on how this deviation to the approved plan will not impact the hydrology of the area and resource area.

The edge of the wetlands is within the stone rip rap slope. It is my opinion that this will result in impacts to both the hydrology of the resource area and sloped area. I would recommend that if this can not be designed in a matter that does not impact the resource area that the Applicant be required to build this as approved.)

The Commission should refer to the Engineering Divisions for comments regarding the Stormwater compliance.”

Chris Tymula, project manager with Greenman Pedersen, presenting on behalf of the client, reported that since the last meeting he had formalized the draft of the landscaping plan that was presented on the June 1st meeting. They tried to incorporate the additional restoration details into the landscaping plan with the formal plan submitted on 6/2/23. Additional information on wetland impact area restoration was supplied, including a detailed replication plan, which outlines additional soil to be replaced in the wetland impact area, an additional silt sock on the back edge of the restoration area to protect the wetland resource areas, and proposed additional plantings within the resource area. Over the past two weeks there has been much work to resolve the conservation requirement for wetland restoration and also address comments arising from the city Engineering and Community Development reviews. They went to the Community Development Board meeting last night with this same plan, showing the work that's taken place since the last meeting and since the site walk they had with Mr. Giarrusso and staff on May 30th.

The rip-rap and stone gravel has been removed and it has been loamed and hydroseeded, with jute matting to prevent erosion. Mr. Tymula has instructed his client to stay clear of the wetland area and the buffer zone around the work area. The engineering review indicated that the hydrant was too low, and it has since been raised. The sewer line was also raised and fixed as discussed with Mr. Gagnon, and it was approved. The Community Development Board approved the site changes that pertained to their requirements. The client cleared and replaced a variety of dead trees on the site. The only outstanding Engineering Department item was with regards to the as-built plan and Mr. Gagnon not being able to identify the inverts that were shown on that plan. They will update the plan to name which inverts relate to which pipes more clearly.

The applicant did receive subsequent comments from Mr. Giarrusso requesting clarification and further information on the restoration plan. Mr. Tymula said he does feel that the existing plan sufficiently addresses the restoration plan, but if Mr. Giarrusso thinks more information is needed, the firm will engage a wetland scientist to gather that further information. If the Conservation Commission doesn't feel it can approve the plan tonight the applicant will request a continuance for one to two months to get a wetland scientist and work with Mr. Giarrusso to acquire the additional information needed to satisfy the Commission's concerns. Mr. Tymula then invited comments from the Commission.

Mr. Giarrusso commented that Mr. Tymula is in front of the Commission for request of an amendment to the approved plan. However, significant additional deviations from the approved plan have occurred, such as a larger parking lot, encroaching on wetlands, and a pipe and gravel that were draining the wetlands. Mr. Giarrusso applauds the client for speedily addressing issues but reviewing so many alterations to the plan will take time to determine if the existing Order of

Conditions can be approved. So many changes have taken place and that there is a need to carefully review them all to identify exactly what amendments the Commission is being asked to approve. The current plan has become quite complicated because it includes items already accomplished as well as corrections of deviations which have not been described in enough detail. Mr. Giarrusso was not on-site to witness whether the removal and restoration of materials was done properly, and so he asked Mr. Tymula if he had observed exactly what was done. Mr. Tymula said he also was not present when the loam and seeding happened. He isn't sure if the material was removed completely and replaced with new material, or if loam and seed was added on top of existing material, but feels that the intent was to restore it to a grassy area, and therefore, it will essentially be what was originally proposed for the area.

Mr. Giarrusso commented that the restoration needs to ensure that the wetlands area will be properly restored, and there is information lacking on the details of their restoration. The applicant must provide specific information on what amendments are being requested, and considering the many changes, the process needs to slow down so the Commission can receive a clear document that identifies what amendments the client is looking for. The Commission has been generous in giving the applicants time to address their violations, but the wetland-impacting information has been lacking. If the client had proposed to impact the wetlands they should have provided additional information, and now that the impact has happened, taking away material and putting back the same volume of material doesn't necessarily provide the same hydrology necessary for a wetland. Mr. Giarrusso understands that the client is in a hurry, but the Conservation Commission has been patient in waiting for the violations to be corrected and for the additional required information to be provided, and now needs more time to properly assess the situation.

Mr. Tymula stated that his client understands that they need to make things right and that the plans show a clear picture of what has been done on site. He detailed that some plantings were removed and high bush blueberry bushes were added. The current plan is just memorializing what was discussed at the June 1st meeting.

Mr. Giarrusso said he hasn't had an opportunity to conduct a thorough investigation on how the applicant filled in the wetlands, and they may not have restored the proper hydrology and grading for a proper wetland, and this information is not shown in detail on the plan or any restoration report.

Mr. Tymula said the impacted wetland area in question previously had 2 sheds. His understanding is that when work started, the workers unintentionally disturbed the wetland. However, Mr. Tymula believes that the current grade is very close to where it was before, and doesn't feel there will be any negative environmental impact arising from the work. The slope is still about 8 feet higher from the edge of the wetland down to the pavement. Mr. Tymula stated that the loam and seed and plantings have already been made and he is not sure how much more can be done to restore the wetlands at this point. He said if the Commission and Mr. Giarrusso don't agree with that assessment, the client will hire a wetland consultant, and it may take 1-2 months to reply to the Commission after their analysis has been completed. Mr. Tymula also stated that there were two letters sent to the Commission, clearly indicating all the deviations

from the plans, including work affecting the wetlands, but if the Commission needs these deviations memorialized in an amendment request to the Commission, the client can do that.

Mr. Giarrusso stated that there is also a proposed retaining wall described in the original plan, that is now not being built. That wall was supposed to provide a stable buffer between existing wetlands and the proposed area of work. The wetlands area is 8 feet higher than the paved area. Furthermore, there is no description as to exactly what type of material was used to fill it.

Mr. Tymula stated that, in any event, the water will drain down the hill away from the wetlands.

Mr. Giarrusso observed that, because the applicant's work changed the conditions of the wetland, that work may well also have changed the hydrology of the wetlands, the status of which must now be ascertained.

Mr. Tymula argued that the 8-foot drop was the same elevation difference as before, and that the hydroseed and stone should return the wetland to the way it was before. However, the applicant will hire a wetland scientist to investigate Mr. Giarrusso's concerns if that is what is needed to move the project forward.

Mr. Tymula reported that paving was done prior to winter to allow for pavement settling, and once spring arrived and everything thawed, they started addressing the Engineering comments and dealt with the inverts and manhole structures and were able to move forward.

Mr. Giarrusso said that the Commission's duty is to protect the wetlands and that the applicant still hasn't been able to answer conclusively whether the effects of changing grade, changing material, and the changes in design, as to whether these changes significantly affected the wetlands and its hydrology dynamic.

Mr. Tymula acknowledges that he is not a wetland scientist, so he can't say definitively one way or another as to the impact on the wetlands and hydrology.

Mr. Giarrusso noted that the Commission has patiently waited many months for the applicant to address the Commission's concerns. It is now necessary for the applicant to provide to the Commission the information necessary for the Commission to make the correct decisions.

Mr. Tymula doesn't think there will be substantial changes to the plan after a wetland scientist investigates the area, but he understands that there is additional information being requested. They will have to meet again with the Commission at a future date to provide that information.

Mr. Giarrusso stated that he is only asking for the appropriate information that would have been provided if the client had not already impacted areas in violation. Normally, there would have been information provided about how a project would impact an area before the impact occurred. In this situation the impact happened before the information was provided.

Mr. Tymula said that he thinks they would need until at least the August 3rd meeting to get the necessary information from a wetland scientist.

Mr. Giarrusso said he would go out to the site and do a comprehensive review of the impacts and file a report, and hopefully that information will help them to address these issues.

Motion made by Ms. Boulay, seconded by Ms. Seaman, so voted UNANIMOUS to CONTINUE this matter to the August 3, 2023. ✓

B. Notices of Intent – DEP File #219-1278 – MCC File #22-010 – (VPOB) Hampshire Road – Julio Romero – Norse Environmental Services, Inc. (CONTINUED from 5/18/2023)

Mr. Giarrusso provided the following written comments to the Commission, verbatim:
“The applicant has requested that this item be continued to the July 20, 2023 meeting to allow for the completion of revised plans. Please refer to the submitted request for further information.”

Norse Environmental Services, on behalf client Julio Romero, sent an email on 6/15/23 requesting to continue this matter to the July 6, 2023 meeting. Head Clerk, Mrs. Priante-Walkowicz read the email to the Commission.

Motion made by Ms. Seaman, seconded by Ms. Santone so voted UNANIMOUS to CONTINUE this hearing to the July 6, 2023 meeting.

C. Notices of Intent – DEP File #219-1285 – MCC File #23-003 – (Lot 2B) 799 Lowell Street – O’Brien Homes, Inc. – Norse Environmental Services, Inc. (CONTINUED from 5/4/2023).

Mr. Giarrusso submitted the following written comments to the Commission, verbatim:
“The applicant has requested that this item be continued to the July 6, 2023 meeting to allow for the Natural Heritage Program to complete their review. Please refer to the submitted request for further information.”

Norse Environmental Services, on behalf of client Kevin O’Brien, sent an email on 6/13/23 requesting to continue this matter to the July 6, 2023 meeting. Head Clerk, Mrs. Priante-Walkowicz read the email to the Commission.

Motion made by Ms. Seaman, seconded by Ms. Santone, so voted UNANIMOUS to CONTINUE this hearing to the July 6, 2023 meeting.

D. Abbreviated Notice of Resource Area Delineation – DEP File # 219-1283 – Lowell Boulevard (Map 320, Block 166, Lot 12) – William Ahearn – Cornerstone Land Associates, LLC (TABLED from 05/18/23)

Mr. Giarrusso submitted the following report, verbatim, to the commission:

“The applicant has requested that this item be continued to the July 6, 2023 meeting to allow for revised plans to be submitted. Please refer to the submitted request for further information.”

Cornerstone Land Associates, sent an email on 6/15/23 on behalf of their client, William Ahearn, requesting to move this to the July 6, 2023 meeting. Head Clerk, Mrs. Priante-Walkowicz read the email to the Commission.

Motion made by Ms. Seaman, seconded by Ms. Santone, so voted UNANIMOUS to CONTINUE this hearing to the July 6, 2023 meeting.

- I. **CALL TO ORDER:** The Chairman called the regular meeting to order at 7:39 pm.
- II. **ACCEPTANCE OF AGENDA / AMENDMENTS (IF ANY):** A motion was made by Ms. Seaman, seconded by Ms. Boulay, so voted UNANIMOUS, to ACCEPT the Agenda for the 6/15/2023 meeting as posted.
- III. **ACCEPTANCE OF MINUTES:** Minutes from the 6/1/2023 meeting will be voted on at the July 6, 2023 meeting.
- IV. **NEW BUSINESS: None.**
- VI. **OLD BUSINESS:**
 - A. Enforcement –
 1. **NOV #23-001, EO #23-001– 268 Lowell St – Karla Gibbons –**

Mr. Giarrusso submitted the following report, verbatim, to the commission:

“Because of weather and other issues no progress has been made. Please refer to submitted email message, dated June 15, 2023.”

Mr. Giarrusso also noted that Ms. Gibbons sent an email stating that because conditions have only gotten wetter with all the rain, they have not been able to have the landscapers remove the debris and put the loam in. They will try to do it as soon as the weather permits.

Mrs. Priante-Walkowicz noted that Ms. Gibbons is waiting for quotes from several different plumbing agencies regarding her sump pump. Ms. Gibbons is also waiting to hear from DPW to schedule an appointment for them to go out to her house and evaluate the problem. Mrs. Priante-Walkowicz further clarified that Ms. Gibbons, in her email, noted that one of her plumbers contacted the Building Inspector, who redirected the plumber to the DPW to schedule an appointment.

Mr. Giarrusso said there was concern because loam has already been brought in and the debris has not been removed yet.

Mr. Davidson confirmed that this issue will be continued to the next meeting on July 6, 2023.

2. **Certificate of Compliance – MCC File # 13-004 – 210 Howe Street, Phase IV – Carriage Homes, LLC – (CONTINUED from 05/18/2023)**

Mr. Giarrusso submitted the following report, verbatim, to the commission:

“No update or revised plans have been submitted, therefore the site has not been completed as approved.”

Andover Consultants, sent an email on 6/15/23 on behalf of their client, asking to continue this to the 7/20/23 meeting. Head Clerk, Mrs. Priante-Walkowicz read the email to the Commission.

3. Partial Certificate of Compliance – 219-844 – 2 Dunrobin Cir. #28 (Stone Castle)

Mr. Giarrusso submitted the following report, verbatim, to the commission:

“In review of this cited lot, it was part of a project that was outlined of the Buffer Zone, but covered under the OOC, it is my opinion that a PARTIAL Certificate of Compliance should be issued.”

Mr. Giarrusso commented that this lot is part of the Stone Castle project but the lot itself is outside of the Commission’s jurisdiction, and because of the way the Order of Conditions was recorded and because of this being a communal property, everything got encumbered. In his observation, this particular lot is outside of the Commission’s jurisdiction and the house appears to be built as proposed.

Motion to issue Partial Certificate of Compliance by Ms. Boulay, seconded by Ms. Seaman, so voted UNANIMOUS to ISSUE a Partial Certificate of Compliance.

Mr. Giarrusso also commented there are a few locations that have violations:

10 Pandy Lane – The residents placed debris in the wetland, and there are conditions that remain in perpetuity. There is a detention area which should have a structure which has disappeared. There is also a driveway that had a total of 22 rhododendron plantings along the driveway of which only one remains, and the 10-foot maintained driveway has been extended to 26 feet. There are further issues regarding cleared and maintained upland vegetation. Mr. Giarrusso will create a comprehensive report for the Commission to review.

109 Milk Street – the property owner has filled in his backyard. There has been a significant amount of material put into wetlands. He is attempting to set up erosion control. Mr. Giarrusso will provide a comprehensive report for the Commission so the Commission can decide what needs to be done for restoration of the wetlands.

31 Salem Street – Mr. Giarrusso will be meeting with a biologist regarding this property. The property has a violation that the residents have been addressing, and they will work on a restoration plan. Mr. Giarrusso will meet with Maureen Herald from Norse Environmental at the property next week, and they will determine a restoration plan that will make sense and will not cause further environmental impact.

Also, the city is moving along with the compost bin and rain barrel distribution and there was a meeting the prior evening discussing this with the public.

IX. ADJOURN: Motion to adjourn the meeting, made by Mr. Seaman, seconded by Mrs.

Santone, so voted UNANIMOUS to AJOURN the meeting at 7:54 pm.

Respectfully submitted by:

Amy Priante-Walkowicz
Amy Priante-Walkowicz
Head Clerk

Reviewed by:

Matthew Davidson
~~Kenneth Sateriale,~~
~~Secretary~~
Matthew Davidson
Chairman

Approved on:

7/6/2023
Date Approved