



TOWN OF MERRIMAC
CONSERVATION COMMISSION
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Conservation Commission Meeting Minutes

Tuesday, August 23, 2022

Merrimac Public Library – Library Meeting Room

Members Present: Jon Pearson, Chair; Jerome Mathieu, Vice Chair; William Andrulitis; Greg MacLean; Greg Hochmuth; Arthur Yarranton (arrived at 7:02 PM); and Michelle Greene
Conservation Agent

The meeting was called to order at approximately 7:00 PM.

Public Hearing: Notice of Intent (under Wetlands Protection Act only) (continued): 0 West Main Street, Map 49-1 Lot 7 (across from Kenoza Vending), The Flats @ Merrimac Square, Applicant: Ray Cormier – AA @ Merrimac Square LLC, Re: Construction of a main access road, secondary access road, grading and infrastructure including underground utilities, parking areas, apartment building, and installation of stormwater management features, DEP# 045-0315

Ms. Greene advised that the applicant has requested a continuance to the Commission's September 27th meeting and that the next ZBA meeting on the comprehensive permit application is scheduled for August 24th.

Public Hearing: Request for Determination of Applicability: 1 Quail Ridge Road, Applicant: Karen and Stephen DuBosky, Re: Construction of a 12' x 24' patio and 10' x 12' artificial pond

Karen DuBosky appeared before the Commission and describe her property and the project which proposes installing a paver patio with pergola and a small artificial pond with a recirculating waterfall as well as proposed plantings and the conversion of the turf lawn to dwarf mondo grass or similar low maintenance, no mow groundcover.

Mr. Pearson questioned the location of the proposed pond as it appears to be located on top of the underground rooftop runoff infiltration system. Mike Mahalati of Titan Landscaping who is contracted for the work advised that the infiltration system is typically 1.5' underground. The proposed pond should not interfere with the system and he will hand dig to locate and avoid disturbance to the system. The pond will be constructed like a series of shelves with the deepest point being 3' and the spoils from excavation used to construct the waterfall. He added that the pavers proposed for the patio are 6" x 6" with small stone placed in between and provided a construction detail diagram to the Commission. Mr. Andrulitis questioned if the pond will hold water year-round and Mr. Mahalati advised it would, that the pump will be removed for the winter, and ice may form but the depth should ensure fish survival. The Commission also

discussed approving additional trees just on the opposite side of the fence to be removed as long as stumps and roots remain in place, equipment is kept on the driveway and lawn, and wood chips are disposed of offsite. Ms. Greene went over draft Special Conditions should the Commission issue a Negative 3 Determination.

Mr. Andrulitis motioned to close the public hearing. Mr. MacLean seconded the motion and the motion passed unanimously.

Mr. Hochmuth motioned to issue the requested waiver under the local bylaw for work within the 50' no build buffer and issue a Negative 3 Determination with conditions as discussed. Mr. Andrulitis seconded the motion and the motion passed unanimously.

Public Hearing: Request for Determination of Applicability: 5 Alnette Road, Applicant: Shawn Nicklas, Re: after-the-fact permitting of an existing seasonal dock

Shawn Nicklas appeared before the Commission and explained that the Commission had issued a permit previously for construction of a garage conditioned on a Chapter 91 Waterways license being obtained for the dock. The Determination for the existing dock is required from the Commission as part of the Waterways licensing. Ms. Greene went over draft Special Conditions should the Commission issue a Negative 3 Determination.

Mr. Mathieu motioned to close the public hearing. Mr. Hochmuth seconded the motion and the motion passed unanimously.

Mr. Hochmuth motioned to issue a Negative 3 Determination with the conditions as discussed. Mr. Mathieu seconded the motion and the motion passed unanimously.

Violation: 0 River Road – Wallace Boat Yard, George Lay, Re: Vegetation clearing and land disturbance within the 200' riverfront area without a permit

George Lay appeared before the Commission and provided them with information on the history of the boatyard and a copy of the boatyard's Chapter 91 License dated April 4, 2001 for dock, storage of up to 30 boats, and an earthen pier. Mr. Lay advised he would like to purchase and restore the boatyard but currently, he has done some work with a York rake to remove 15 years' worth of leaves and debris that had accumulated at the site. He has also under taken maintenance to reduce fire hazards which he indicated that former Conservation Agent Jay Smith had verbally stated there were no issues with. Mr. Lay advised the site is infested with poison ivy and that he has spoken with neighbors who want to see the boatyard restored. Additionally, Mr. Lay indicated that there are drain lines on the site which have not been located but are likely clay pipes which are now rootbound and failing.

Mr. Pearson advised that the state passed the Rivers Protection Act in the mid-90s which provides a 200' riverfront area that extends out from a river's mean annual highwater mark which is regulated under the Wetlands Protection Act. Any vegetation removal, ground disturbance, or construction within this 200' area requires a permit. Mr. Hochmuth advised that the site is now mapped priority habitat for rare and endangered species and work would likely be subject to a MESA review. Mr. Pearson explained the new stormwater standards which any new

paving or impervious surfaces on the site will need to comply with. Mr. Lay stated that the work is approved by legislature and that he intends to rebuild the original building on the site within the existing footprint but build the building shorter and pulled back from the river which he believes would not qualify as a disturbance. Mr. Lay advised that the Chapter 91 License allows for maintenance of the property as it was and that he will file a NOI and for a building permit and he hopes to receive both without restrictions as he needs all the available space at the site. He advised he is delayed in filing for both to the costs associated; once pricing goes down, he plans to work on designing the building.

Mr. Pearson advised that Mr. Lay has to follow the current permitting process and that rules have changed since his Chapter 91 Waterways license was issued. Mr. Pearson reiterated that no additional work may be done on the site without a permit. Mr. Lay advised he know what to do and will be hiring a wetlands consultant having a plan with elevations and a building design drafted and then he will file.

Partial Certificate of Compliance Request: 34 Hansom Drive, DEP# 045-0038

Ms. Greene explained that this property is encumbered by the Order of Conditions issued for the subdivision however, there are no wetlands or buffer zones on this property and she recommended issuing a partial Certificate of Compliance to release this property from that Order.

Mr. Hochmuth motioned to issue a partial Certificate of Compliance. Mr. MacLean seconded the motion and the motion passed unanimously.

Insignificant Change Request: 117 River Road*, Applicant: Charles Covahey & Dan Schultz, Re: Expansion of patio dimensions, DEP# 045-0308

****The correct property address is 117 River Road however this was posted to the agenda incorrectly as 177 River Road.***

Ms. Greene explained that Mr. Covahey is seeking an insignificant change to the patio surrounding the inground pool because as proposed, the patio is not wide enough to cover the required utilities. Mr. Hochmuth advised that they will also need to expand the infiltration trench out along the new patio edge.

The Commission approved the insignificant change.

Other Business

Mr. Pearson advised that for the last 5 or so years, he has represented the Conservation Commission on the Planning Board's Site Plan Review Committee which is comprised of himself, representatives from the Planning Board, and the Building Inspector. Since being appointed as Chair of the Commission, he would be willing to give up his role on the Site Plan Review Committee if someone else wished to do it. Mr. Pearson explained that the commitment requires attending public hearings held by the Committee and offering opinions on wetlands and the Wetlands Protection Act. The Planning Board typically meets on the 1st and 3rd Tuesdays of the month and attendance is only required if the Site Plan Committee is meeting. Mr. Andrulitis

and Mr. Hochmuth indicated they would prefer not to take this role on but would be willing to if being Chair and representative on the Committee becomes too much for Mr. Pearson.

Old Business

Mr. MacLean asked if there had been any progress on the bench project in the Town Forest which the Commission previously approved. Ms. Greene provided an update that no work has started yet and the applicant is still working to source the materials and plan the installation of the bench.

Mr. MacLean asked if there had been any updates on 6 High Street, a property with an open Order of Conditions, which had burned down. Ms. Greene advised that the location of the house itself is outside of the 100' buffer zone of wetlands but that she had issued an Emergency Certificate for the removal of the home conditioned that all debris and dumpsters are located near the street, well away from the steep slope and out of the 100' buffer zone.

Mr. MacLean inquired if there had been any movement on the memorial tree for former Commissioner Janet Terry. Ms. Greene advised that there hasn't been, that money may be in the budget to purchase the tree, and this can be added to the September or October agenda for further discussion.

Informal Discussion

Ms. Greene advised that the MACC Fall Annual Conference is scheduled for Saturday October 15th and there is money in the budget for Commissioners to attend if they are interested.

Community Input

None

Approval of Minutes: July 26, 2022

Deferred

Correspondence

None

DEP Comments: Press release from MA Dept. Agricultural Resource regarding spread of invasive spotted lantern fly in Massachusetts

Ms. Greene shared the press release with the Commission and the Commission discussed what the insect looks like and what its preferred host trees are, including ailanthus / tree-of-heaven and many varieties of orchard trees.

Next Meeting: September 27, 2022

Adjourn

Mr. Mathieu motioned to adjourn the meeting and Mr. Hochmuth seconded the motion. The motion passed unanimously and the meeting was adjourned at 7:56 PM.