



**Waltham Conservation Commission
January 18, 2024
Meeting Minutes**

Meeting took place via public Zoom call with participation information posted at City Hall, Government Center, and on the Commission's page of the city web site. Zoom information was circulated directly to all applicants and others on the public agenda.

Meeting called to order at 7:01 PM.

Attendees: Chair Philip Moser, Vice Chair Bill Doyle, Gerard Dufromont, Louis Andrews, Alexander Sbordone. Conservation Agent Meghan Sullivan.

Absent: Michael Donovan

[Mr. Dufromont had an audio problem for approximately the first two minutes of the meeting. The Commission's office assistant, Mr. Daly, read the first item on the agenda into the record.]

Public Hearing

Notice of Intent (DEP File # 316-0824)(continued from 1-4-2024)

Applicant: Marc Alencar

Property Location: 72 Kingston Road

Project Description: Demolition and redevelopment of a single-family home.

Mr. Moser noted that he was not present at the 1-4-2024 meeting when this item was discussed, but he has reviewed the recording and signed a "Certificate of Missed Meeting Form" in compliance with the Mullin Rule (M.G.L. c. 39, Section 23D), so he is able to participate. He also noted that a DEP file number was received earlier today.

Zoe Chang of MP Design presented for the applicant. The commission held a site visit after the previous meeting. Ms. Chang noted revisions to the plan, which will protect the 5 large trees on site. Should conditions require that any of these trees be touched, the commission will be contacted in advance. The limit of clearing was discussed. Comments on the retaining wall, protection of the wetlands, stormwater/runoff issues. Ms. Sullivan asked for more specification of the protection around the trees during work. She would also like to see a clear, permanent delineation of the wetland boundary for future property owners. She noted that while the commission appreciates the storm water measures, this is an Engineering Department issue, exempt from commission jurisdiction.

Mr. Moser expressed his interpretation of the intent of WPA jurisdictional responsibilities and noted MACC best practices in a case like this. MACC recommends against development within the inner 50 feet of the buffer zone because it is likely to have adverse impact. He gave examples of impacts. He suggested that prior to the next meeting the commissioners review the list of impacts as they apply to this project to then have a focused and informed discussion. Work is not explicitly prohibited by the WPA, but the decision to approve this project is discretionary. The burden of proof to show no adverse impact is on the applicant. Mr. Moser noted that he has not previously seen a project this close to a wetland receive approval in Waltham, with one exception (the new Waltham High School), which was appealed to DEP. He is not inclined to approve this one as presented. He would likely

support it with appropriate changes to the location of the foundation, the setback from the wetlands, and keeping the existing retaining wall. He also believes it unlikely that all the trees can be saved, but is not opposed to permitting removal and replacement.

[Mr. Moser stepped away briefly. Mr. Doyle acted as chair.]

Mr. Doyle noted his interpretation of how the WPA applies to this site. He noted that he would approve the replacement of the existing retaining wall in place, with the proposed mitigation measures. He would also support the permanent delineation, suggested by Ms. Sullivan, to prevent additional future encroachment. He believes that all standards would be met.

[Mr. Moser resumed as chair.]

Discussion of vegetation impacts. Mr. Moser feels that under the WPA the commission has an obligation to protect as much of the buffer zone as is possible and reasonable. Extent of existing disturbed area and any new disturbance raised. Size of the structure raised. Ms. Chang noted that vegetation clearing impact is planned to be selective. She added that the applicant recognizes the sensitive nature of the area and plans to minimize impact. The stormwater work, for instance, is understood to be out of jurisdiction but was added to minimize impact. Mr. Moser raised a point on vague definitions and statements such as 'selective clearing' and 'targeting of invasive species.' It is the job of each applicant to be specific about these things when before the commission, to inform their decision. Discussion. Mr. Dufromont agreed that some restriction on clearing should be put in place, especially with the proposed size and location of the structure and foundation. Mr. Sbordone noted that his primary question is of adverse impact, and that the commission should have a consistent policy if a de facto 'no disturbance' zone is implemented. He does not yet feel comfortable voting on this application based on the information presented and questions raised. Mr. Moser suggested that the commission review the MACC list of potential adverse buffer zone impacts to inform the discussion. Ms. Sullivan did not have this list in a format which could be easily shared during the meeting, but will distribute it as soon as possible. Mr. Moser believes that, if the applicant is agreeable, a one-meeting continuance to allow commission members additional review of this project against the MACC list would allow the commission to take a vote. Ms. Chang did not object to this. Mr. Moser noted this is a public hearing. Brigitte Steines, architect on this project, spoke. She noted that they have tried to work within the regulations but have encountered gray areas. They want to do what is right, and clarity is desired. Mr. Moser appreciated the comment; he agreed that these gray areas exist and that clarity benefits everyone. He referred to this as a learning process and suggested one ultimate outcome might be the commission adopting a formal policy to implement a consistent 'no disturb' zone. Mr. Sbordone moved to continue to the next meeting, seconded by Mr. Dufromont. All present in favor. **Motion passed.**

Public Meeting

Enforcement Order

Applicant: Kassem Trad

Property Location: 1036 Lexington Street

Property Description: Destruction of vegetation and addition of crushed stone, pavement, and wooden formwork along Chester Brook stream.

Mr. Trad was not present. Ms. Sullivan provided a brief status update. She does not think Mr. Trad has hired an appropriate consultant to help him achieve compliance. Mr. Moser agreed with this assessment. Brief discussion of this issue. Reiteration that it is not appropriate for the commission to create restoration plans in cases like this, although it might be possible to impose specific requirements to help applicants in designing their plans. Mr. Dufromont asked if the commission could recommend a short list of qualified consultants. Discussion of the ethics and legality of this. Comparison to how other conservation commissions address this. The consensus was that the commission should not endorse any firm, but that maintaining a "reference list" of firms known to have done similar work in Waltham would be useful. Mr. Sbordone felt this would be legally acceptable.

Disclaimers could be included. Ms. Sullivan stated that she has plans to compile such a list; in the meantime, she could direct Mr. Trad to a similar list maintained by a nearby town (such as Newton). She will need to contact Mr. Trad regarding correcting the deficiencies in the current plan, and will provide direction for locating a contractor in that correspondence.

Commission Business

- Approval of minutes from 12-21-2023 and 01-04-2024 meetings. Motion to approve by Mr. Sbordone, seconded by Mr. Doyle. **Motion passed.**

Correspondence

- INFORMATIONAL: Correspondence regarding alleged mishandling of confidential records stored at the Fernald, and lack of commission jurisdiction, noted. Multiple commissioners have read this article and hope that the responsible state and city agencies address this.

Site Visit Reports

- 500 Totten Pond Road Violation. Ms. Sullivan reported that this visit has been rescheduled to 1/19 and invited any interested commissioners to attend.

Committee Reports

- **CPC:** Next meeting scheduled for February 13, 2024. Mr. Doyle reported that they have received two new applications, but both might be incomplete at this time.

Motion to adjourn by Mr. Doyle, seconded by Mr. Sbordone. All present in favor. **Motion passed.**

Meeting adjourned at 7:57 PM.