



**Waltham Conservation Commission  
December 15, 2022  
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 7:02 PM.

**Attendees:** Chair Philip Moser, Vice Chair Bill Doyle, Gerard Dufromont, Michael Donovan, Bradley Baker, Louis Andrews, Alexander Sbordone.

**Public Hearing**

**Notice of Intent** (DEP File # 316-0812) (Continued from 12-01-2022)

**Applicant:** Keir Evans – 1265 Main Street LLC C/O Boston Properties

**Property Location:** 1265 Main Street

Mr. Moser recused. Mr. Doyle assumed the chair. Mr. Evans updated the commission on the state of discussions with Cambridge Water Department and DEP. The focus is on the wetlands on the west side of the project site, existing zone A outfalls, and stormwater regulation compliance. The road over the wetland is included. Previous MEPA certification was mentioned. They are also looking at some potential off-site improvements to the connected wetland downstream. They hope this to be resolved by the next commission meeting.

Motion to continue by Mr. Donovan, seconded by Mr. Dufromont. **Motion approved.**

**Public Hearing**

**Notice of Intent** (DEP File # 316-0789)

**Applicant:** Paul Boche and Kathy Chen

**Property Location:** 98 Lakeview Terrace

Mr. Moser resumed as chair. Attorney Robert Nislick appeared for the applicant. Mark Manganello, wetland scientist, and Mr. Boche also present. Mr. Nislick briefly touched on project history and noted permits and approvals recently received from other city agencies.

Mr. Moser noted that this has been continued for an unusual amount of time and provided a summary of the project's history before the commission for the benefit of new members and the public. This stems from unpermitted activities of the previous owner in 2018 and 2019 which led to an enforcement order in 2020 and an NOI filing by the current owner in 2021. Issues have included possible fill in floodplain, clearing of vegetation on city property, paving in a paper road/public right of way, fence and stone wall in the public way, storm water management (not Conservation jurisdiction), and multiple driveways on a single lot (this list might not be exhaustive).

Mr. Manganello noted the driveway construction partially in the floodplain; the property is at the upper boundary of the 100-year flood plain (elevation 203'). There is still uncertainty about whether the

driveway added any fill, as there is no precise pre-construction survey and the work documented by the contractor was not definitive. An engineering firm has certified that in their professional judgement there has been no adverse effect on the floodplain. He noted the challenge of finding additional storage volume on this property due to the configuration and elevation. The work is in the buffer zone.

Mr. Dufromont suggested a site inspection to understand the site with a specific review of the fence. Mr. Nislick stated that the fence predates his client's ownership and they do not claim ownership of it. Mr. Dufromont stated that he does not see the fence as the critical issue but cannot vote on this without more information. There was a discussion of use of the paper road and the derelict fee statute. Mr. Donovan focused on the fill issue, which is the primary point of ConCom jurisdiction. An answer needs to be had on this, or the assumption should be that unpermitted fill was added. Mr. Moser also focused on the fill issue and the fact that the status is unknown and the applicant's filing is based on opinion, not data. He stressed longstanding Commission policy to require flood zone fill compensation to the nearest cubic yard, and this site has potentially 15 cu.yd. at issue which needs to be addressed. Mr. Doyle confirmed this policy.

Marc Rudnick, 144 Hardy Pond Road, spoke as a long-term resident of the area as well as founder of the Hardy Pond Association and the Waltham Land Trust, which has or has previously owned nearby property. He disputed the idea of the paper road being long-used as a driveway or of being previously paved. He argued that the material presented by the applicant to show otherwise is hearsay. He objected to the fence and stone wall in the right of way. As Mr. Nislick noted that his client disavows the fence, Mr. Rudnick offered that WLT volunteers would be happy to do the removal work at no cost to the owner. Mr. Nislick provided additional information on case law regarding paper roads. He cited Google Maps photos from October 2012 showing paving. Both the prior existence of a functional driveway and the visual evidence of prior paving were challenged by others. Additional discussion. Mr. Nislick stressed that the applicant was unaware of the violations when they purchased the property and that they accepted in good faith the paving contractor's assertion of having proper permits, and that they are making the effort to correct. It is "an unintentional nightmare" for them.

Mr. Moser noted that the commission appreciates the applicant's efforts. He suggested that the engineer who has been previously consulted and is familiar with the property might be able suggest a workable solution. A site visit by the commission was scheduled for 12/19 at 9 AM.

Motion to continue to next meeting by Mr. Donovan, seconded by Mr. Dufromont. **Motion passed.**

## **Public Meeting**

**Request for Certificate of Compliance** (DEP File # 316-0762)

**Applicant:** Arsen Hambardzumian

**Property Location:** 600 BEF Beaver Street (Bentley University softball field)

Mr. Moser recused, Mr. Doyle assumed the chair. Mr. Hambardzumian was present, also Jon Nattinville for Bentley. Mr. Doyle and Mr. Dufromont have visited the site. Mr. Hambardzumian summarized site conditions and the approved on-site changes. Some discussion of the siting and condition of the city drain pipe adjacent to the site, which while not part of this project drains to it. The city engineer is aware and addressing. Mr. Baker has also visited and thinks it looks great, but raised the issue of regular maintenance. The OOC requires twice yearly cleaning, which Mr. Doyle noted is standard practice and probably adequate in this case.

Motion to issue by Mr. Andrews, seconded by Mr. Dufromont. **Motion passed.**

## **Public Meeting**

**Request for Certificate of Compliance** (DEP File # 316-0731)

**Applicant:** Rosemary Maynes

## **Property Location:** 201 Mokema Avenue

The applicant was present and gave a brief summary. She confirmed that the vegetation has stabilized and erosion controls have been removed. The commission is familiar with the project and had no special concerns. Motion to issue by Mr. Doyle, seconded by Mr. Dufromont. **Motion passed.**

## **Commission Business**

- Approval of meeting minutes from 12-01-2022. Motion to approve by Mr. Donovan, seconded by Mr. Dufromont. **Motion passed.**
- Storer Conservation Land Encroachment. Brief discussion of Engineering Department plan to begin installing new granite boundary markers.

## **Correspondence**

- Brief discussion of the Tracer Lane Solar Field Project. The project is in Lexington and not in Waltham ConCom jurisdiction, but has been high-profile recently.
- DCR invasive management work in Beaver Brook Reservation (316-0777) this week noted.

## **Old Business**

- Discussion and vote on requested changes to special conditions for DCR Charles River Greenway (316-0813).  
As no representative from DCR was present to discuss the changes, the committee tabled this item to the next meeting. Commission office staff have communicated with DEP which confirmed that the changes under consideration can be handled administratively. Mr. Moser noted that while the commission plans to be reasonable and is willing to consider changes, the 10-day appeals period has passed.

## **Site Visit Reports**

- Mr. Donovan reported on the status of the Ailanthus removal at the Paine Estate. He has met with Rec Department staff and they plan to schedule the ranger to do it this winter. There are more Ailanthus than previously thought, but only about 5 are large. ConCom has volunteered to provide spotters if needed during the cutting.

## **Committee Reports**

- **CPC:** Next meeting is February 21, 2023.
- **Trust Fund:** Potential purchases of land, easements, or conservation restrictions using trust funds. Mr. Moser and Mr. Dufromont provided some history of the trust fund, but there was nothing new to report. Mr. Doyle noted that two lots have recently been offered to the city through the CPC, but this might not involve the trust fund.

## **New Business**

- Discussion of the invasive plant management proposal for Hardy Pond Conservation Area from Parterre Ecological Consulting. Mr. Moser provided details. This will be a Recreation Department project, under the existing order of conditions. Work would take place in 2023. Under the proposal, Conservation would fund an expansion of the project to manage a wider area. Half of the funding would come from the filing fee account. The proposal is for one year, but the commission would like to know what the project could do over two to three years. This is a new contractor which has been well recommended. Motion to allocate funding by Mr. Doyle, seconded by Mr. Dufromont. Mr. Doyle asked that for planning purposes Parterre

provide a proposal for years 2 and 3 now (only the first year's funding would be approved).

**The motion passed.**

- Mr. Baker noted that invasive control training is scheduled for 1 PM 12/20 at Mokema. In addition to interested commissioners, he is hoping for at least one representative each from the Rec Dept, WLT, and HPA. The focus will be on planning versus removal.

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

Meeting adjourned at 8:48 PM.