



## Medfield Conservation Commission

Town Hall · 459 Main Street · Medfield, Massachusetts 02052-2009  
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### Medfield Conservation Commission PUBLIC MEETING

Zoom

Minutes of Thursday, July 7, 2022 at 7:00pm

**Members Present:** Chair Deborah Bero, Michael Perloff, Mary McCarthy, Cat Scott, Kirsten Poler, George Darrell

**Members Absent:** Bobby Kennedy

**Others Present:** Sarah Raposa, Ted Cannon, Mark Arnold, Nick Dewhurst, Josh Swerling, Ken Deshais, Bob Hartzel, Robert Truax, Scott Colwell, SRodenhi, Kyle Rodenhi, Liz & Alan Blair, Matt Smith, RRichards, Seth Meehan, Dan Kinne, Ed Render, Tim, Sam McDermott, Sue Buckley, Chris McCue

**Open Meeting/Roll Call:** At approximately 7:05pm, Chair Deborah Bero called the Conservation Commission meeting to order.

#### Announcements

- Virtual Meetings approve ends on July 15, 2022 – waiting to hear from the state on extension
- Drought and Water Restrictions – minimize water use and limit outdoor watering to hand-held from 5:00 pm to 9:00 am; non-essential outdoor uses subject mandatory restrictions as noted on the town website
- Agent Transition Period – Technical Support and Consulting Services – Bob Hartzel, Comprehensive Environmental, Inc. (CEI )

#### Continued Hearings

• **Notice of Intent. Applicant: Joanne Delapa Project Location: 26-30 Millbrook Road. Construction of a single-family dwelling. Filing under Massachusetts Wetlands Protection Act and Medfield Wetlands Bylaw. Continued from May 19 to June 16 and from June 16 to July 7, 2022.** DEP File No. 214-0690. The applicant requested to continue the hearing without discussion to August 4, 2022. McCarthy made a motion to continue the hearing without discussion to August 4, 2022. Darrell seconded. Roll call vote: Polar = yes, Perloff = yes, Scott = yes, McCarthy = yes, Darrell = yes, Bero = yes. The vote: 6-0.

• **Request for Determination of Applicability Applicant: Dave Baker, RK Centers Project Location: 230 Main Street. Construction of a restaurant and associated features, including utility and stormwater installations within existing pavement, building construction, dumpster location and landscaping. Filing under Massachusetts Wetlands Protection Act and the Medfield Wetlands Bylaw. Continued without discussion by agreement from June 16, 2022 to July 7, 2022.**

- Applicant's team includes: Ted Cannon (legal representative for RK Centers), Mark Arnold (Goddard Consulting LLC), Nick Dewhurst (Bohler Engineering), Josh Swerling (Bohler Engineering), Ken Deshais (Tetra Tech). The team noted the following. The meeting with ZBA July 13, 2022 will likely be continued until after the meeting with the Planning Board July 18, 2022. Meetings with the Board of Health are finished.

- Project is an RDA. There is a feature used as stormwater basin which the applicant is treating as a wetland resource for the project.
- The Commission requested Tetra Tech conduct a limited peer review to determine whether the feature at the site is a resource and, if so, whether that feature would be impacted by the proposed work.
- The project has been designed to comply with the Wetlands Protection Act, Stormwater regulations and the Medfield Board of Health regulations.
- Tetra Tech only had one major comment about adding the perimeter controls between the sidewalk and the existing resource feature, which detail has been included on an updated plan.
- The Commissioners noted that there were several common invasive species in the wetland resource feature. Applicant's team replied these were not impacting the function of the resource as a stormwater component, the area would be maintained and inspected and invasives cut back every year rather than treated with herbicides). Applicant's team noted that the project would send zero additional runoff towards the wetlands resource (acting as a basin) for all storm events including the 100 year storm, all as approved by Medfield Board of Health stormwater regulations).
- Scott made a motion to close the hearing and issue a negative determination of applicability, with some conditions as noted in the letter from Tetra Tech. Poler seconded. Roll Call Vote: McCarthy = yes, Perloff = yes, Darrell = yes, Poler = yes, Scott = yes, Bero = yes. The vote: 6-0.

**• Notice of Intent. Applicant: Scott Colwell Project Location: Elm Street, Parcel 33-087 (between No. 40 and 46). Construction of a single family home, driveway and ancillary structures. Filing under Massachusetts Wetlands Protection Act and Medfield Wetlands Bylaw. Continued from June 2 to July 7, 2022. DEP File No. 214-0691.**

- Robert Truax (GLM Engineering Consultants), Scott Colwell (applicant), Bob Hartzel (CEI Consulting)
- Truax revised site the plans which were submitted on June 10, 2022.
- Truax Elaborated on the construction sequence schedule – 1) install erosion control barrier 2) build construction entrance pad at the driveway 3) cut the trees/stump site, stockpile what is being used and dispose of the excess 4) construct the driveway down to where the house would be constructed to the proposed upgrade (not 100%) 5) once up to sub-grade, establish the side slopes at the same time between the driveway and the wetland area 6) loam it, seed it, plant it and then protect it by putting a new erosion control barrier from the top of the slope line to the gravel drive 7) house construction – will have gravel driveway to get down to the house to be able to bring in equipment 8) once house is near completion, complete the driveway construction, bringing it to finish grade, putting in the drainage system down alongside of the driveway and also the drainage system for the roof runoff 9) pavement down and top coat of the driveway
- New drainage calculations – increased the size of the recharge trench along the driveway to accommodate the 100-year storm event
- Bob Hartzel – continued concern with Standard 4 and the water quality of the recharge system and TSS removal as well as Standard 6 and the discharge to critical areas. The applicant asserts that the standard was met to the maximum practicable extent, but the NOI and supporting materials do not include analyses of design alternatives, explanations of why alternatives were rejected, or identification of the specific site constraints. The “maximum practicable extent” is at the commission’s discretion and on a case-by-case basis.
- Vernal pool resource area – specific language in town bylaws. In CEI’s opinion, the vernal

pool resource area boundary extends 100' laterally from the flagged vernal pool boundary delineated during CEI's April site visit (subset of GLM wetland flags co-located with approximate Mean Annual High Water level for the vernal pool). As such, the vernal pool resource area define by the Bylaw includes almost the entirety of the site development This proposed activity would be essentially comparable to building a home and driveway within bordering vegetated wetland which is also a resource area, so the standards are different because the bylaw defines it as resource area and not just as buffer zone.

- Perloff noted that he had some recollection that the applicant's wetland scientist had suggested that the construction of the road could be sequenced in timed steps, so the exposed area would be limited during construction and everything be covered and secured at the end of each day. Perloff noted that the hill is heavily vegetated and habitat for protected species of the vernal pool, and that the project proposes to remove virtually all of the vegetation. He questioned whether the proposed replacement would be sufficient to restore reasonable habitat and whether that could be restored in time. Perloff noted the wetland book "In Search of Swampland: A Wetland Sourcebook and Field Guide" by Ralph W. Tiner which recommends that no more than 25% of the habitat should be destroyed, also noting the book is just a guideline. Hartzel noted that the Tiner book was addressing concerns related to work in vernal pool buffer zones (as defined under the MA Wetlands Protection Act) and that in this case the work proposed is in the vernal pool resources area as defined by the town bylaw. He noted that Tiner's recommendations for vernal pool buffer zones should not be confused with recommendations pertaining to work in the Bylaw vernal pool resource area, which would not be permitted. Perloff also asked whether there is a legal or policy basis for denying the project if the project is entirely in the resource area, given that this is an old subdivision.
- Bero asked about the proposed sewer line – still nothing received from Water and Sewer. Applicant Scott Colwell is meeting with Water and Sewer on July 14, 2022 to request permission to connect to the sewer at Stephen Ln. and water in front of the road.
- Commissioners confirmed that the Medfield bylaw for a vernal pool is more stringent than state and federal regulations.
- The applicant's team noted that given the Commissioners concerns about the slope, they will replant trees and revegetate the slope and do everything possible to replace what would be taken down.
- Colwell asked to research other properties that may have been built on/near a vernal pool resource area in the last several years, in particular, Eric Rd. Ext., Woodcliff Hill, Minuteman Rd. and Vine Brook Rd. He believes that the vernal pools were certified, and that the numbers are on the plans.
- The commission unanimously agreed to have Rob Truax work directly with Bob Hartzel to address continued comments and concerns.
- Scott motioned to continue hearing at the applicant's request to August 4<sup>th</sup>, 2022. Seconded by Perloff. Roll Call Vote: McCarthy = yes, Perloff = yes, Scott = yes, Poler = yes, Darrell = yes, Bero = yes. The vote: 6-0.

### **Requests for Commission Action**

• **Request to Amend Order of Conditions (DEP Wetlands Program Policy 85-4 Amended Orders) Applicant: Dan Henessey Project Location: 10 Indian Hill Road. OOC issued August 6, 2021 for improvements and accessories to single-family home including an in-ground swimming pool and patio, tree removal, walkway, and shed. Presently proposed amendments to OOC include reduction of patio area, relocation of shed farther from resource, construction of screened porch in footprint previously approved for deck and landscaping plan of native species. DEP File No. 214-0689.** The Commission unanimously

agreed to add the request to the meeting agenda for July 21, 2022.

## Minutes

- June 2, 2022
- June 16, 2022

Perloff motioned to approve the meeting minutes from June 2, 2022 as presented and to approve the meeting minutes from June 16, 2022 as amended. Seconded by Poler. Roll Call Vote:

McCarthy = yes, Perloff = yes, Poler = yes, Darrell = yes, Scott = yes, Bero = yes. The Vote: 6-0.

## Administration

### 1. Commission Follow Up

- OSRP RFP – to do. Are comments still required from ConCom?
- OSRP Town Committee (Authority and Participation) – ConCom representative needed
- Lincoln Court COC – Bero working on
- MSH Enforcement and Monitoring/AUL – updated AUL information authorization of use limitation information from Bill Massaro. The town is working with the state on reaching an agreement of what the renewed restrictions should be on that site. Still need to follow up on if the Commission has an obligation to look into any enforcement with respect to the 2014 OOC. CEI was the consultant, and DCAM and the state were going to monitor for invasive species and fund the consultant. The monitoring and funding stopped in 2016 and only monitoring started again around 2018. DCAMM recently met with the Commission informally and discussed the concerns with invasives and asked about applying herbicides. The issue is complicated and needs further investigation and discussion.
- 48-49 Ledge tree – COCs and Drainage Easement – will address when the interested party follows up.
- Rail Trail Vegetation and Traffic – most of the works looks to be completed, installing warning lights and signs and painted a crosswalk on Harding St. There was an Osprey nest noted there as well.
- Ponds – Kennedy to update at the next meeting
- Climate Change Response – no update

### 2. Commission Referrals to Consultant – handed off to Bob Hartzel

- Norfolk Hunt Club Bridge/Trail (bridge repair issue) – having their own consultants and wetlands folks take a look at existing bridge, and then they will submit an application.
- 35 Vine Brook Road. (Trees and/or Lawn Extension) – waiting to see the extent they can expand the lawn as determined by the deed restriction, but they could continue to remove trees that may be putting their house at risk. Bob Hartzel has contacted the owner by email and phone message but has not yet received a response.
- 142 South St (removal of some invasives) – homeowner received information about permitting and the RDA process, she is looking for a site visit to assist her in identifying invasives vs. natives.
- 41 Millbrook Rd. (need final inspection) – Commission to look for the NOI and OOC

### 3. Permitting/Enforcement/Monitoring Updates

- Wilkins Glen – (paving) all set now, they know they need to do an RDA next time
- TARC License for Noon Hill Use – paperwork is all set for trail race on August 6, 2022
- Eagle Scout Project (Bay Circuit Trail Bridge Replacement) – all set, but the work has not been completed yet. Kennedy to follow up.
- Algonquin Gas – (river work) Commission can't permit since they do it by right
- West Street/Dover Road – Millis Project – no permit pulled from DEP website for Millis

and nothing from Medfield. The contractor went back out and did some soils and bank stabilization. Kennedy to follow up.

- 73 Noon Hill – concern with possible drainage easement. Hartzel to follow up.

#### **4. Commission Upcoming and Ongoing**

##### **a. Permitting**

- 40 Nebo Street. (Deck Replacement) July
- 87 Philip Street. (Pool) July/August
- 150 Harding Street. (No meaningful information to date) August
- 12 School Street. (No meaningful information to date) August
- 26 Rocky Lane. (Possible Land Donation)
- 39 Vine Brook Rd. (Possible pool and easement)

##### **b. Administrative**

- Agent Position Update
- Consultant Assistance During Transition – Update
- July-August Hearing Dates

##### **c. Other**

- CRWA – Put on Agenda for late August or early September
- NRWA – Put on Agenda for late August or early September
- Community Gardens – update from the Community Gardens on identifying the suckers on tomatoes and how to pull them

##### **d. Education**

- July 11 DEP: DEP & DPWs (lunchtime seminars)
- July 13 MACC: Invasive Plants and Wetlands 12 PM – 1 PM
- July 20 MACC: Drafting OOCs (fundamentals unit) 6 PM – 8:30 PM

#### **5. Commission Protocols/Procedures**

##### **DEP Regs**

- 310 CMR 10.05 (Procedure)
- 310 CMR 10.05(4)(e)(f) (Requirement to obtain or apply for all obtainable permits, variances, approvals prior to sending NOI)
- 310R 10.05 (4)(g) (Expiration of Notice of Intent)
- Attendance Issues and Mullen Rule – keep track of your attendance
- Orders of Conditions Review and Revise Boilerplate
- Sample Motions – Compile for Commission library

At approximately 9:19pm, McCarthy motioned to adjourn the meeting. Poler seconded. Roll call vote: Darrell = yes, Poler = yes, Scott = yes, McCarthy = yes, Perloff = yes, Bero = yes. The vote: 6-0.

Respectfully submitted,  
Kim Chandler, Administrative Assistant

Documents reviewed are available for download from the Commission's webpage:

<http://ma-medfield.civicplus.com/365/Conservation-Commission>

#	Question	Asker Name	Answer
1	And Dave Baker and Ted Cannon too please.	JoshSwerling/BOHLER	Dave Baker is not an attendee
2	Hi - It's Ted Cannon - counsel for RK Centers	Ted Cannon	
3	Please promote me	Ted Cannon	
4	Basic question: What is Bob Hartzel's role? I came in late, so missed it.	Chris McCue	Bob Hartzl is the commission's consultant at the expense of the applicant.
5	I am just looking for clarification. Is the Vernal pool boundary from CEI's peer review being used as the wetland boundary as of this meeting?	RRichards	The wetland boundary shown on the most recent, revised plan has been determined by the consultant (Bob Hartzl, CEI) to be the boundary of the vernal pool resource.
6	Thanks Mary.	Chris McCue	
7	Thank you for the response. I understand now.	RRichards	
8	There has been quite a bit of talk about enforcement of the vernal pool boundary in town history. I want to be sure you are not just seeking out cases where a certified vernal pool boundary was permitted to be violated, but also those in which it was not permitted and the conservation commission denied permits.	dan kinne	
9	Just curious why a "violation" of this vernal pool rule in the past is justification for another one?	Kyle Rodenhi	It could be cited as precedent by the applicant.