

APPROVED

MEETING MINUTES
Belmont Conservation Commission
May 1, 2012 Town Hall, Room 2
7:00 pm



Attendance: Jeffrey North, Margaret Velie, Tino Lichauco, Jim Roth, William McCants, Vice Chair: David Webster, Chair: Miriam Weil

Peter Boyajian
Mona Lomas Anne Marie Lambert
Scott Goddard Goddard Consulting
Ellen Maas
Brian O’Neill O’Neil
Steven Corridan O’Neil
James Savard O’Neil
Dick Perry
Richard Kirby

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BELMONT, MA.
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7:00 Call to Order

Miriam Weil called the meeting to order at 7:00 PM

7:10 Review Minutes of April 3, 2012

No minutes to review

7:15 Judy Otto and Sponsorship of Western Greenway Presentation on 9-5-12

No discussion on this topic

7:20 Mitzvah Day Work Party on May 20, 2012 at Rock Meadow

Projects need to be determined. Bridge to repair, wood chips, and work at Belmont Acres Farm, too. Miriam Weil to lead the effort. Volunteers will meet around 9:30.

7:25 Community Preservation Act project priorities and criteria

Coming up at Town meeting next week. Town Meeting will be asked to appropriate \$108,000 to the open space – the required 10%. Margaret Velie explained the current status and funding amounts. “Restoration” may be available for open space funds in the future. The MA house

recently passed a bill to allow CPA funds to be used to “restore and renovate” open space. The bill would also increase the state match. The bill still needs to be passed by the state senate.

7:25 Community Gardens Update (mowing, garden registration)

Discussion did not take place as Mary absent. Miriam reported there is concern that the gardens have expanded.

7:40 Notice of Intent for 265 Marsh Street (DEP 106-xxx)

Richard Kirby explained that the unauthorized clearing of trees and all vegetation had occurred in March and April within the buffer zone 100 feet of the wetland border at 265 Marsh Street. On behalf of the owner Mr. Dick Perry, Mr. Kirby presented an post-alteration Notice of Intent, a letter report dated April 24, 2012, and plan modified 4/23/12.. The Order of Conditions resulted from April 3, 4, and 11 site inspections by Mary Trudeau and a request to stop work and install erosion and sedimentation controls by Mary Trudeau. Although not immediately apparent from letter report or Mr. Kirby’s initial presentation, in 2010 Mr. Kirby had flagged the bordering wetland boundary wetland boundary for this property and the adjacent property, 253 Marsh Street and presented a report to Mr. Dick Perry, the owner of both parcels. Mr. Kirby marked this boundary in the filed with flags WF-1 to WF-13. Based on this 2010 delineation both Mr. Kirby and Mr. Perry had knowledge that the clearing activity in 2012 was within the 100-foot buffer zone. In April 2012, Ms. Trudeau also requested further wetland boundary investigations which lead to the placement of new, additional flag WF-0 which was mapped on the 4/23/12 plan modification and which increased the area that Mr. Perry cleared of all vegetation within the 100-foot buffer without an Order of Conditions. In Mr. Kirby’s initial presentation and in his letter report dated April 24, 2012, the Applicant proposed to convert the land cleared within the 100 foot buffer into “lawn and/or landscaped area.” No further vegetation plan was prepared or presented. During the course of the meeting Mr. Kirby and his client Mr. Perry proposed planting 12 native trees in this area to aid in mitigating the unauthorized clearing. A motion was made for an Order of Conditions, including 1) a vegetation plan with at least 12 1-2” caliper native trees to be planted and maintained in the cleared 100-foot buffer area beyond the limit of erosion control as shown on the 4/23/12 modified plan, 2) the placement of permanent concrete monuments along the limit of erosion control as shown on the 4/23/12 modified plan to prevent lawn or landscaping encroachment during and after construction, and 3) the BCC standard conditions. The vegetation plan is to be approved Mary Trudeau. The motion was seconding and passed with one opposing vote by David Webster.

8:00 Request for Determination of Applicability for 15 Grey Birch Circle

On behalf of his client and owner, Mr. Goddard presented a request for a negative determination of applicability (NDA) for the razing an existing house and building a new one. Mr. Goddard presented a plan that the Commissioners had not received (but he claimed he had mailed) that included a limit of work and a new connection to the municipal stormwater system on Grey Birch Circle. Mr. Goddard explained that wetland abutting the back yard of 15 Grey Birch Circle was subject to an ANRAD to country club property years ago. Mr. Goddard had asked Mary Trudeau do a file review, but files were not located. Therefore, it was not confirmed whether a

connection, perhaps a pipe connection, exists between the wetland abutting the back yard of 15 Grey Birch Circle and other bordering vegetated wetlands or streams or whether this may be an isolated wetland. This was not resolved at the meeting, with the Applicant waving the jurisdictional issue when obtaining a negative determination of applicability with acceptable conditions. The applicable type of NDA was discussed as well as the appropriate conditions for a NDA. Concern was expressed by the Commission regarding the discharge of stormwater to the municipal storm water system in the front of the house rather than infiltration. David Webster moved to issue an NDA - 3, per the design plan of April 25 2012, with the following conditions:

- Collection of runoff from all impervious surface shall be direct to infiltration on site, such as to a dry well or other subsurface structure.
- No collected stormwater shall drain to the municipal storm water system.
- The backyard shall be stabilized with vegetation.
- No impervious areas beyond what is shown on the plan dated 4/25/2012
- The BCC standard conditions.

The motion was seconded by Jim Roth. Vote was unanimous.

8:15 Request for Certificate of Compliance 65 Oliver Road (106-106)

After general discussion, and an account of the site visit by David Webster and William McCants, and per Mary Trudeau's written recommendation in a letter to the Conservation Commission April 24. Jim Roth moved to issue a certificate of Compliance, Tino Lichauco seconded, unanimous vote.

8:30 UPLANDS (DEP 106-0072) update and discussion

Mr. Brian O'Neill and two other representative of the Uplands developer attended this portion of the meeting which was to discuss the pending Uplands legal case and associated issues and concerns. Anne-Marie Lambert and Ellen Mass also were present for the discussion.

General updates and legal motions described and reviewed.

Mr. Corrigan explained that the developer has begun meeting with the Belmont tree warden, as required by the ZBA permit, to look as trees close to the limit of work to see if they can be saved. A question was raised about blue flags on the DCR land. No one present knew about them.

No changes to the development plan were presented by the developer. Mr. O'Neill described his business as brownfields remediation and expressed frustration about how much money this development was costing him. Mr. O'Neill presented an offer to the Town \$200,000 for scholarships for needy Belmont students in exchange for dropping legal action and said he would then add an additional \$100,000 to a nonprofit for planting trees in Belmont, or any other environmental initiative. He noted he intended to make the same offer to the Board of Selectmen the next day. He indicated this is approximately the amount of money he expects to spend on legal fees to see the case to closure. He also indicated that he would start cutting the trees at the Uplands as soon as he was allowed to. The commission was appreciative of his thoughtfulness and generosity. It explained that the commission deliberates as a body and its function is to enforce the Wetlands Protection Act. The commission asked if he would consider additional measures to reduce stormwater. He stated that the project will remain the same. No decisions were made.

The Conservation Restriction, as required by the ZBA, was also mentioned. Mr. Corrigan stated that the holder of the restriction was being worked out and that it likely would be the DCR or the Belmont Conservation Commission.

David Webster moved, and was seconded by William McCants to enter executive session to discuss litigation strategy. After a roll call vote, the Commission voted unanimously to go into executive session to discuss strategy related to litigation on the Uplands Project (OADR Docket No. Wet 2008-072-R)

The Commission came back into open meeting at approximately 10:44 and adjourned at approximately 10:45.