



**Minutes of  
Danvers Conservation Commission  
Thursday, October 22, 2015  
Danvers Town Hall**

The Danvers Conservation Commission held a public meeting on Thursday, October 22, 2015, at the Danvers Town Hall, Daniel J. Toomey Hearing Room, located at One Sylvan Street, Danvers, MA 01923.

**Members present:** Jeffrey Cary, Chairman  
Neal Waldman, Member  
Michael Splaine, Vice Chairman

**Members absent:** Matthew Lallier, Member

**Staff present:** Kristan Farr, Planner  
Christine Marshall, Secretary

Mr. Cary opened the Conservation Commission meeting at 7:20 p.m. with a reading of the "Commission Statement."

**Request for a Certificate of Compliance**

- 9 Endicott Street (Lot 1); DEP File No. 14-1204

Kevin Murdoch, requested a continuation until November 12, 2015.

**MOTION:** Mr. Splaine made a motion to grant the applicant's request to continue the Request for a Certificate of Compliance for 9 Endicott Street (Lot 1), DEP File No. 14-1204 until November 12, 2015; Mr. Waldman seconded; motion passed unanimously.

**Request for a Certificate of Compliance**

- 35 Bates Street; DEP File No. 14-603
- 35 Bates Street; DEP File No. 14-1115

xxxx xxxx (couldn't understand his name) and Lisa Burman, 35 Bates Street, were present. Mr. xxxx explained that the owner is looking for Certificates of Compliance on two projects; one is 20 years old and the other is 8 years old. Kristan Farr conducted a site visit last week. The previous owner was responsible for the 20 year old project, which included leveling the backyard, putting down loam, and removing a fence. Ms. Burman made repairs to the sea wall, and everything has been completed.

**MOTION:** Mr. Splaine made a motion to issue the Certificate of Compliance on 35 Bates Street, DEP File No. 14-603 and to issue the Certificate of Compliance on 35 Bates Street, DEP File No. 14-1115; Mr. Waldman seconded; motion passed unanimously.



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**Request for a Certificate of Compliance**

- **11 Bridle Spur Road; DEP File No. 14-1150**

Todd Cormier, 11 Bridle Spur Road, was present. Mr. Cormier reported that the continuation of rip rap has been completed, and Kristan Farr has inspected the property.

**MOTION:** Mr. Waldman made a motion to issue the Certificate of Compliance on 11 Bridle Spur Road, DEP File No. 14-1150; Mr. Splaine seconded; motion passed unanimously.

**Public Hearing – Notice of Intent**

- **35 Cabot Road; DEP File No. 14-1262**

Jae Guttadauro, 35 Cabot Road, was present. Mr. Guttadauro is proposing an addition to a single family home. The addition will be on the side of Cabot and Colegate, which is the opposite side of the stream side. It is within the 200 foot buffer zone, but outside of the 100 inter-riparian zone. Kristan Farr reported that DEP had no comments. The property is flat, and there are no issues with drainage. The current structure has no gutters. The soil will be removed from the property, and there is no need for erosion controls.

**MOTION:** Mr. Splaine made a motion to issue an order of conditions for 35 Cabot Road, DEP File No. 14-1262; Mr. Waldman seconded; motion passed unanimously.

**Continued Public Hearing – Notice of Intent**

- **17 Florence Street; DEP File No. 14-1258**

Renee McDonough and Scott Goddard, Goddard Consulting, were present, as well as Robert Scarano. Ms. McDonough handed out plans with the revision date and documents regarding the site visit explaining how it qualifies as a redevelopment project, as well as details of the soil test pits. Ms. McDonough reiterated that the plan is the same as the one emailed to Kristan Farr; the only change is the revision date has been added. Ms. McDonough explained that the test pits were added to the plan as well as the gully. The test pits were conducted by Renee McDonough and Robert Scarano.

Ms. McDonough summarized that the project meets redevelopment standards, Items A thru G 10.585, exceeding mitigation that is required under redevelopment. Mr. Splaine asked Ms. McDonough to explain about the test pits. Ms. McDonough explained the photo from May 7, 1996 showing asphalt, as well as the test pits showing asphalt six inches below the ground.

Scott Goddard explained that in order to qualify for a redevelopment project, the area needs to include both degraded and previously developed areas. Lawns are considered previously developed and the degraded area contains buildings, shed, and pavement. Mr. Goddard explained that it is exciting to see the opportunity to



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improve the riverfront area from lawn to wildlife area, by doing mitigation of 4,900 square feet, which is almost double of what is required by 10.585, Section G.

Mr. Cary is not excited about this because redevelopment is only supposed to happen on the existing footprint. He has spoken to other conservation agents regarding the existing footprint. He also feels that there is already plenty of wildlife in that area of the riverfront. Mr. Goddard explained improving the riverfront area, and lawn is not beneficial to wildlife. There was discussion regarding the vegetated buffer, and Ms. McDonough reviewed the planting plan. Mr. Scarano discussed the cul-de-sac and the request for a waiver to the Planning Board. If the cul-de-sac is necessary, it fits and is included in the calculation of impervious area. Ms. McDonough reviewed the existing buildings and impervious areas, as well as the test pits, which were six feet deep where the asphalt was found.

Mr. Cary opened the hearing to public comments:

- Mike Juliano, Eaglebrook Engineering, was present representing Janet and James Morose. Mr. Juliano distributed documents regarding degraded area. Mr. Juliano discussed the definition of degraded areas in the wetland protection act. Mr. Juliano also described the photographs from 1963, 1965, 1980, 1990, and 1998. Sometime between 1980 and 1990 is when the driveway out back and two sheds were constructed. Mr. Juliano also included in the back of the packet parol evidence from residents in the area and what they have seen over the years. There was discussion regarding the test pits being done within the sewer easement area, excerpt of the wetland protection act regarding temporary impacts of easements, storm water management regulations, and verification of the location of elevation 10.
- Mr. Scarano responded to Mr. Juliano's comments, and outlined that the Historic Commission shows Hardy Street continued to the river with a boat ramp and shown on the town plans as early as 1888. Mr. Scarano added that the test pits were not dug in the easement. He also pointed out in the photos of the test pits the roadway of pavement at the same elevation in each test pit; not chunks of pavement. He stated that the area is degraded because there is top soil on top of the pavement. Ms. McDonough pointed out the sewer easement line and the test pits to the right of the line which are upland of the easement. Mr. Scarano also discussed parol evidence and feels that it is unacceptable evidence and biased.
- Mr. Goddard responded by explaining his credentials since he is now know in this area. He has 20 years of experience and owns his own firm. He is a PWS, CWS, certified soil evaluator. He has 225 active projects. He has done peer review for conservation commissions, has worked with conservation agents, judicial hearings. He has a graduate degree from MIT and a civil engineering degree from WPI, and is qualified as an expert to speak on these matters.
- Mr. Goddard responded to Mr. Juliano's three matters:
  1. Flood plain elevation – the plan is stamped by a professional land surveyor and they are relying on the information provided. They are not granting permission for an independent survey of the property.



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2. Storm water standards – Mr. Scarano read the regulations of why this project is not triggering storm water standards because of the number of units. However, they are providing storm water management making this project more compliant with the river protection act.
3. Definitions of previously developed and degraded. Mr. Goddard stated that misinformation has been represented from Mr. Juliano regarding redevelopment standards, and that he has lead the Commission to believe that all redevelopment sites are only degraded properties. That is not the case, and Mr. Goddard read from 310 CMR 10.585. Mr. Goddard discussed previously developed riverfront areas and explained that improvements of existing conditions are covered in items A-G. Mr. Goddard explained the reuse of degraded or previously developed areas and read the definitions of both. Lawn areas are definitely previously developed. The purpose of Section G is to allow areas to be altered that exceed the footprint. Mr. Goddard described the site as containing both previously developed and degraded areas. Mr. Goddard read Section E in regards to the amount of proposed work not to exceed 10%, except in accordance with 310 CMR 10.585 section F and G, which are the mitigation performance standards. The proposed project includes mitigation. Mr. Cary feels that there is no need for mitigation because the site already has wildlife.

- Mr. Juliano stated that there is so much information that a third party should look at it in accordance with the regulations with regards to the degraded area.
- Mr. Scarano responded to Mr. Juliano's comment. Mr. Scarano stated that a third party review is for a dispute with technical data, and these issues are regulations that are applied at every hearing. He disagrees with the engineer disputing another engineer's plan. He states that this is a permissible project as it stands and exceeds ever standard. He asked that the Commission render a decision this evening.
- Peter Clement, 9 Jersey Lane, grew up in this area and is interested in this project. He has listened to both parties and saw the large packet of information distributed. He doesn't know how a decision can be made when they haven't had time to look at the packet.
- Mr. Scarano corrected Mr. Clement and stated that the information and plan was submitted over one month ago.
- Jim Morose, 20 Hardy Street, discussed the easement when the work was done and it was all over that area. Photos were also distributed.

Mr. Splaine wants someone to tell him that lawn is redevelopment. The Commission discussed that there could be two no votes tonight. Mr. Scarano asked the members voting no to site what performance standards are not met, what doesn't comply on the plan, and reference any regulations necessary. Mr. Goddard asked for two votes under the by-law and the wetland protection act. Mr. Goddard is going to ask the Commission to close the hearing tonight and the Commission will have 21 days to vote. Ms. Farr stated that the applicant needs to agree to continue the hearing. Ms. Farr also stated that if the hearing is closed, the Commission will not be able to take into consideration any new information.



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Mr. Goddard discussed the Commission's objections of the definitions of previously developed and degraded under the wetland protection act. Mr. Goddard asked the Commission if they feel the project is permissible under the by-law. Mr. Scarano wants to close the public hearing tonight, and does not think they need to provide any additional information. Mr. Waldman stated that if they close the public hearing, then they will not be able to request a peer review. Mr. Scarano will not allow a peer review, or allow Mr. Juliano on the property. Mr. Waldman stated that if a peer review is denied, then the Commission could deny the project for lack of information. Mr. Waldman explained that the Commission had lots of questions and additional information was provided all along. Mr. Scarano corrected Mr. Cary with regards to the plan which was delivered over a month ago; the only change on the plan is the date.

There was additional discussion of whether lawn is considered previously developed. Ms. McDonough described the asphalt found under the lawn. Mr. Goddard asked the Commission what is considered previously developed, and Mr. Splaine would like to research previously developed. The Commission would like to hear that from an independent source.

- Michael Duffy, 18 Hardy Street, has seen several plans over the past several years, and the plans have changed by different surveyors. He feels it is a good idea for a peer review. Mr. Scarano addressed the question and the surveyor who stamped this plan would not risk losing his license.

Mr. Cary asked Mr. Goddard questions regarding how the mean high water is defined. Mr. Goddard mean high water is defined by elevation not by field criteria. Mr. Goddard described how the surveyor calculates the mean high water using the NOAA title station. Mr. Goddard also pointed out the wetland line and the salt marsh line, and explained that the analysis doesn't change if the line shifted.

Mr. Goddard wants comments from the Commissioners on previously developed. Mr. Cary believes the site is undeveloped. Mr. Splaine feels that the site is not degraded. Mr. Cary doesn't like the building inside the 100 foot inter-riparian. Mr. Goddard states that the building can be there with mitigation.

- Michael Duffy, 18 Hardy Street, described the property during a Nor'easter.

Mr. Splaine asked Ms. Farr to call DEP with what circumstances lawn is considered redeveloped area. The Commission wants to get more information. There was discussion about the lot split.

Mr. Goddard asked for a recess because the applicant will need to concede to a continuance.

Mr. Scarano returned from the recess and reported that from a technical standpoint of material before the Board they have submitted everything that they are going to submit. Information from DEP would be considered an interpretation and not new information. The Commission feels that they also want information on a peer review and the mean high water. Mr. Goddard requested that the public hearing is closed tonight under the by-law and wetland protection act. Mr. Waldman feels that they may receive more information from DEP, and if the public hearing is closed, then they will not be able to consider that information.



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**MOTION:** Mr. Splaine made a motion to continue the public hearing to November 12, 2015 to allow the Commission to receive more information on 17 Florence Street, DEP File No. 14-1258; Mr. Waldman seconded; motion passed unanimously. Mr. Scarano and Mr. Goddard did not assent to the continuance.

**Minutes – August 27, 2015, September 10, 2015**

**MOTION:** Mr. Splaine made a motion to approve the minutes of August 27, 2015 and September 10, 2015; Mr. Waldman seconded; and the motion passed unanimously.

**New Business**

**Staff Updates - none**

**Violations/Enforcement Orders - none**

**Adjournment**

**MOTION:** Mr. Splaine made a motion to adjourn at 9:20 PM; Mr. Waldman seconded; motion passed unanimously.

Respectfully submitted,

Christine Marshall  
Conservation Commission Secretary