

## Conservation Commission Meeting Minutes April 4, 2013

Conservation Commission  
Meeting  
Sharon Community Center  
April 4, 2013

Hank Langstroth Acting Chairman, Elizabeth McGrath, Linda Orel, and Christine Turnbull were the members present. Commission Chairman Peg Arguimbau, and Commission Members, Stephen Cremer and Keevin Geller, were absent from the meeting. The Conservation Administrator, Greg Meister, was also present.

7:45 p.m. N.O.I. Public Hearing filed by Regional Industrial Services Corporation for the proposed demolition of the former Sacred Heart Building at 30 East Foxboro Street.:

Hank Langstroth officially opened the hearing for both the Notice of Intent Hearing with the Commission and the hearing for the Stormwater Permit regarding the construction activities for the proposed project in accordance with the Town's General By-laws, Article 38.

Present: Town Engineer Peter O'Cain; Paul Brodmerkle, P.E. - Site Design Professionals, LLC;  
Rob Oppenheim, Project Manager from Regional Industrial Services Corporation;  
Abutters/Interested Persons (See Attached List)

Paul Brodmerkle appeared before the Commission to represent the Applicant and submitted a proposed plan entitled, "Notice of Intent Erosion & Sediment Control Plan, 30 East Foxboro Street, Sharon, MA," dated 4/1/13. He explained the following scope of the proposed project to the Commission:

- The Applicant's proposed project is outside of the 50' Buffer Zone and 50' No Build Zone.
- The Applicant proposes to install the haybale/siltfence outside of the proposed temporary 8' chain

link fence of the proposed project site for erosion control during construction of the proposed project.

- The staging area and the stock-piled materials from the proposed demolition of the former Sacred Heart building will be contained within the existing gravel driveway of the proposed project site.
- No tree clearing is proposed for the Applicant's proposed project.
- The concrete basement will be removed from the maintenance area of the former Sacred Heart Building and replaced with clean fill.

- The proposed project site will be loamed/seeded following the proposed demolition project.
- The public will be allowed continued access into the Dog Park through the northern corner of the

proposed project site by walking on the grass area, outside of the proposed temporary fence area.

Elizabeth McGrath inquired if adequate signage would be installed to help guide the public with access into the Dog Park. She also asked if an alternative path into the Dog Park would be provided during construction of the proposed project.

Town Engineer, Peter O'Cain, indicated that it might be possible to open the gated pathway by Cedar Street for public access to the Dog Path during construction of the proposed project and that the DPW might be able to provide signage, if necessary.

Abutter, Andrew Eidelberg, 84 Cedar Street, inquired as to the hours of operation and the length of time the Applicant anticipates completing the entire proposed demolition project, including the removal of all construction equipment from the proposed project

site.

Robert Oppenheim from Regional Industrial Services Corporation indicated that the proposed project would be completed in three or four weeks. He anticipates that the hours of operation will be from 7:00 a.m. - 5:00 p.m., weekdays.

Abutter, Anne Bingham, 78A Cedar Street, expressed her concern to the Commission about the accuracy of the delineation of the 100' Buffer Zone on the proposed plan from the actual high level of the pond on the proposed project site. She indicated that during heavy spring rain storm events the pond easily meets the 260' – 262' contour line. She believes that the 100' Buffer Zone from the actual high level of the pond travels somewhat further into the Sacred Heart property. She would like to see any potential stormwater runoff downgradient from the steep hill of the proposed project site controlled as much as possible.

Anne Bingham also expressed her concern for the safety of the three large pine trees within the gravel driveway of the proposed project site during the construction of the proposed project.

Town Engineer, Peter O'Cain, explained that it is only the pine tree close to the former Sacred Heart Building that may present a problem concerning the proposed project.

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Hank Langstroth inquired if there are any proposed changes to the existing contour lines of the proposed project site.

Paul Brodmerkle replied that the existing contour lines will remain unchanged from the proposed project.

The Conservation Administrator, Greg Meister, explained that the 100' Buffer Zone outlined on the proposed plan is an approximate delineation as it is defined by an aerial interpretation. He indicated that a Notice of Intent should be filed with the Commission before redevelopment of the proposed project site.

Town Engineer, Peter O'Cain explained that the design phase of the proposed project plan requires a wetland delineation and a full survey of the proposed project site.

Elizabeth McGrath inquired as to when the Applicant anticipates starting the proposed project.

Town Engineer, Peter O'Cain explained that the Selectmen need to sign the Agreement and Notice to Proceed regarding the demolition of the former Sacred Heart building before starting the proposed project.

It was the consensus of the Commission to approve the Applicant's proposed project with the following conditions:

- The Applicant shall install the required erosion control measures inside the proposed temporary 8' high chain link fenced area of the proposed project site during construction of the proposed project to reflect the limit of work area approved by the Commission.
- The Applicant shall notify the Conservation Administrator before starting and upon completion of the proposed project for inspection of the required installation of erosion control measures.
- The Applicant shall file a Notice of Intent with the Commission before redevelopment of the proposed project site.

Hank Langstroth called for a motion to close the hearing pending receipt of the DEP File Number.

Linda Orel moved. Elizabeth McGrath seconded. Voted. 4-0-0. Unanimous.

Hank Langstroth called for a motion to issue the Order of Conditions per submitted plan with the conditions as discussed, pending receipt of the DEP File Number.

Elizabeth McGrath moved. Linda Orel seconded. Voted. 4-0-0. Unanimous.

8:00 p.m. Abbrev. N.O.I. Public Hearing filed by Suzanne Jacobs and Jeffrey Borkan for the proposed modification and addition to the existing dwelling at 46 Massapoag Ave.

Present: Applicants - Suzanne Jacobs & Jeffrey Borkan; Paul Brodmerkle, P.E. - Site Design Professionals, LLC; Thelma Newberger-Hirsch - Designer for the proposed project;  
Paul Sullivan - Contractor for the proposed project.

Paul Brodmerkle appeared before the Commission to represent the Applicants. He submitted a proposed plan to the Commission

entitled, "Abbreviated Notice of Intent, 46 Massapoag Avenue, in Sharon, MA," dated March 26, 2013. He explained the following scope of the Applicant's proposed project to the Commission:

- The proposed construction of a 9.3' x 27.4' porch at the front of the existing dwelling slightly within  
  
the 100' Buffer Zone of Lake Massapoag.
- The proposed construction of a 5' x 27.4' addition to the rear of the existing dwelling along with a  
  
bulkhead and deck within the 100' Buffer Zone of the BVW on the proposed project site.
- The proposed haybale line on the proposed submitted plan defines the limit of work area concerning  
  
the Applicant's proposed project.

The Conservation Administrator, Greg Meister, explained to the Commission that the Applicants received permitting from the Zoning Board of Appeals for a project proposed within the Surface Water District on a non-conforming lot and modifications were made to the original proposal. He performed an inspection of the proposed project site and is satisfied with the Applicant's proposed plan.

The Commission agreed to approve the Applicant's proposed project as presented.

Hank Langstroth called for a motion to close the hearing per submitted plan and to issue the Order of Conditions to the Applicant with the condition that the Applicant contacts the Conservation Officer before starting the proposed project for inspection of the required installation of erosion control measures.

Elizabeth McGrath moved. Linda Orel seconded. Voted. 4-0-0. Unanimous.

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8:15 p.m. Attorney Bob Shelmerdine met informally with the Commission to discuss proposed zoning changes on South Main Street with the Commission.

Attached is a list of attendees present.

Attorney Shelmerdine appeared before the Commission to represent the owner of two parcels of property at the intersection of South Main Street and Rte 95. He explained that the adjacent Sharon Commons property is comprised of approximately 59 acres and Sharon CF II, c/o The Congress Group is the owner of the property. Attorney Shelmerdine is representing the proponent of the residential section of the site located to the right of Sharon Commons. The residential section is comprised of a 10 acre northern parcel and a 5 acre southern parcel. There is currently another one-acre parcel on the southern section of the site that is under agreement. The current zoning on the two parcels is under a 40R Overlay District that the Town of Sharon adopted in 2008. The 40R Overlay District allows for the development of 139 condo units on the northern parcel and 29 condo units on the southern parcel. In 2008, a wastewater treatment facility was designed on the 10 acre northern parcel for the entire 168 units. A 40R Overlay District was voted by the residents at the 2008 November Special Town Meeting that allows for a density of 4 units or more per building in the northern parcel including a wastewater facility and for a density on the southern parcel of 2-3 units per building for the 29 Townhouses. The proponent of the residential section of the site is now seeking to rezone the southern portion of the parcel to develop an assisted-living facility. Attorney Shelmerdine reviewed a plan with the Commission showing the large blue line depicted on the plan as the force main, explaining that the sewage capacity would service the southern parcel by a wastewater treatment facility located on the northern parcel that would also service the 139 units on the northern parcel. The proponent of the residential section proposes to only change the zoning on the southern parcel to change the footprint and the use. He proposes to construct an assisted-living facility on the southern parcel designed for approximately 85 units instead of building the previously proposed 29 condo units with the allowed density of 15 units per acre. Another proposed zoning article on the warrant for the upcoming Town Meeting involves a Wastewater Overlay District that allows for a discharge of 48,000 gpd at that proposed wastewater treatment facility. Attorney Shelmerdine has been working with Tom Houston and Attorney Geleman's office concerning the proposed warrant articles for the upcoming May 6, 2013 Annual Town Meeting. The proposed bylaw amendment seeks to change underlying zoning, not the 40R Overlay District. The underlying zoning on both parcels is for single-residence A. It might not be possible for a 40R Wastewater Treatment Facility, authorized under Chapter 40R, to legally

service cross-district an underlying zoning assisted-living facility or any type of residential use. A second Town Meeting Warrant Article is proposed to establish a Wastewater Overlay District on the northern parcel to be able to service the the southern parcel. It is unknown at this time if any other development is being proposed on the northern parcel in addition to the proposed wastewater treatment facility.

Hank Langstroth expressed his concern as to the drinking water quality from the proposed installation of a wastewater treatment facility within the Groundwater Protection District.

Attorney Shelmedine explained that he is meeting with the Board of Health next Monday concerning the proposed zoning article. Alice Cheyer was present and inquired as to how the 40R Overlay District by-law was drafted in 2008 to allow the proposed wastewater facility on the northern parcel to service both the proposed 139 units on the northern parcel and the 29 units on the southern parcel and why does the zoning by-law need to be amended.

Attorney Shelmerdine explained that the by-law was drafted in 2008 so that the wastewater treatment facility under the 40R could service both the northern parcel and the southern parcel. The proponent is no longer proposing to build pursuant to Chapter 40R on the southern parcel; it would be built pursuant to the Underlying Professional District B Zoning. There is a suggestion by Town Counsel, Mr. Houston and the Town of Sharon, that a wastewater facility that is built pursuant to Chapter 40R cannot service a non-40R

Underlying Zoning District Proposal because it would be crossing zoning districts.

Attorney Shelmerdine clarified for Elizabeth McGrath that with the proposed zoning change, the southern parcel will no longer be part of the original 40R Overlay District by-law. The southern parcel will be in the Underlying Professional District B Zoning.

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The Conservation Administrator, Greg Meister asked what the overriding benefits are to the Town Of Sharon for a development project site under a 40R Overlay District that might be comprised of approximately 93 units with the increased affluent and cumulative affects to the Groundwater Protection District that is upgradient from two Town wells.

Attorney Shelmerdine replied that the Town Of Sharon would benefit from drinking water quality at boundary from the proposed wastewater treatment facility.

Elizabeth McGrath expressed her concern that there would be a significant increase in terms of town services that would be required by an assisted-living facility and would be a significant cost to the town.

Attorney Bob Shelmerdine explained to the Commission that a Fiscal Impact Analyses has been prepared for the proposed assisted-living facility with information provided for by the Town of Sharon. It is estimated that the proposed assisted-living facility would generate approximately \$150,000 - \$250,000 per year revenue to the Town Of Sharon above and beyond what 29 townhouses would generate. The Fiscal Impact Analyses has been submitted to the Finance Committee.

Christine Turnbull requested a copy of the Fiscal Impact Analyses for the proposed assisted-living facility.

Attorney Shelmerdine agreed to provide a copy to all members of the Commission.

Linda Orel expressed her concern of the potential environmental impact to the Town Of Sharon from the proposed assisted-living facility. She requested that more information be submitted to the Commission concerning the environmental impact caused from the proposed assisted-living facility.

Alice Cheyer explained she believes that the first benefit to the town for changing the zoning to a 40R Overlay District back in 2008 was obtaining 168 units toward the goal of meeting the State's 40B requirement. The second benefit to the town was money. It is not clear now what is being proposed to be built on the northern portion of the parcel. She does not see the substantial benefit to the town by changing the zoning for a proposed assisted-living facility on the southern portion of the parcel.

Attorney Shelmerdine explained that the benefits to the town in 2008 from the 40R Overlay District was that the town was going to receive 139 units on the northern parcel and 29 units on the southern parcel. The previous developer agreed to give the town a flat 25% affordable housing component across the board that would count toward the SHI requirement. A \$250,000 payment to the town is awarded from the State upon adoption of the 40R Overlay District for building 168 units. The town has already received \$250,000 from the State in advance.

Elizabeth McGrath indicated from an environmental impact point of view that she would not feel comfortable ruling one way or another concerning a zoning change for a proposed assisted-living facility on the southern parcel until she knows exactly what the proponent proposes to develop on the northern parcel.

Christine Turnbull asked what other uses would be allowed if the zoning is changed to allow an assisted-living facility on the southern parcel.

Attorney Bob Shelmerdine explained that under a special discretionary permit issued by the Zoning Board of Appeals the following uses may be allowed:

- A business and professional office
- A medical or dental office or an out-patient clinic
- Signage – under a special permit issued by the Zoning Board of Appeals

The developer and owner, Old Post Road, LLC, and Mr. James Coughlin, CEO of Northbridge Associates, has an interest in the assisted-living development team.

Abutter, Ed McSweeney, 68 South Walpole Street, reviewed an aerial map of his property, the elevations of the Moose Hill property, and Old Post Road. Ed McSweeney indicated that the proposed wastewater treatment facility is being proposed between two ponds abutting his property.

He also indicated that the proposed assisted-living facility is being proposed approximately 61 feet away from his property. Attorney Bob Shelmerdine explained that Mr. Houston added a 150 foot Buffer inside the Overlay District protecting the abutting properties from the proposed development of the wastewater treatment facility.

The Commission agreed to arrange another informal meeting with Attorney Shelmerdine to address their environmental concerns of the proposed zoning changes.

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9:00 p.m. Old/New Business:

Hank Langstroth read aloud a letter dated March 22, 2013 from David Klayman, 164 East Foxboro Street, formally requesting the Commission to amend the original Order of Conditions issued under DEP File # SE-280-0533 to David Klayman. In the letter, David Klayman expressed his appreciation to the Commission for meeting with him and his wife Bonnie at the Commission's March 21, 2013 meeting. As previously requested by the Commission, David Klayman is proposing to revise the size of the new patio from 32' x 24' to approximately 24' x 24'. The proposed project involves the installation of a new brick paver stone patio with a new fire pit. The construction material for the proposed project includes

4" x 6" techno block concrete paver blocks.

Hank Langstroth called for a motion to accept David Klayman's proposed revised project and to issue an amendment to the existing Order of Conditions under DEP File # SE-280-0533.

Elizabeth McGrath moved to accept the proposed project and to issue an amended Order of Conditions under DEP File # SE-280-0533 in accordance to David Klayman's March 22, 2013 letter submitted to the Commission. Linda Orel seconded. Voted. 4-0-0. Unanimous.

9:20 p.m. Old/New Business:

- Update - Eli Blumen's Eagle Scout Project at Mann's Pond:

Eli Blumen appeared before the Commission. Tracy Blumen was also present.

Eli explained to the Commission that he has completed the proposed project as follows:

- Excavation work was performed to install the gravel bed for the installation of two 4' x 6' recycled wood benches. Due to safety concerns recycled wood material was used to construct the benches as opposed to granite. Concrete footings were installed for the benches.
- Mr. Buermann helped with the installation of the sign information in the parking lot area at the entrance to the trail area. Eli prepared a small site map that included some topographical data and a historic photo of the original mill formerly on the site. Mr. Buermann helped outline features for navigating the existing trail loop area that included some future changes to the Massapoag trail. Plastic trail markers were installed along the existing trail loop area. A warning sign was installed by the slippery stair area adjacent to Mann's Pond.

The members of the Commission expressed their appreciation to Eli Blumen for all of his hard work in rehabilitating the Mann's Pond area.

9:25 p.m. Signatures:

The Commission signed bills. Amended Order of Conditions for DEP File # SE-280-0533, 164 Beach Street. Order of Conditions for DEP File # SE-280-0547, 46 Massapoag Ave. Order of Conditions for DEP File # SE-280-0548, for 30 East Foxboro Street.

9:30 p.m. Adjournment:

Hank Langstroth called for a motion to adjourn.

Elizabeth McGrath moved. Linda Orel seconded. Voted. Unanimous. 4-0-0.