



Town of Danvers

Conservation Commission

1 Sylvan Street, Danvers, Massachusetts 01923
p: 978-777-0001 x. 3095 | www.danversma.gov

Commission Members
Peter Wilson, Chair
Vanessa Curran
Chelsea King
Ann McGill
Joseph O'Donnell
Michael Splaine
Ken Walley

The Danvers Conservation Commission held a public meeting on Thursday, June 25, 2020.

I. ROLL CALL

Peter Wilson, Chair
Vanessa Curran
Chelsea King
Ann McGill
Michael Splaine
Ken Walley
Georgia Pendergast, Staff
David Fields, Staff

Kevin Koufos – 35 Putnam Lane
Bill Manuell - 22 Riverside Street
Bob Griffin – 11 Tibbetts Avenue
Michael & Karen Hubbard – 11 Tibbetts Avenue

Mr. Wilson opened the Conservation Commission meeting at 7:00pm with a roll call as stated in the Open Meeting Law, G.L. c. 30A, sec. 20 by Governor Charles Baker signed on March 12, 2020 on Remote Participation and Remote Conduct for Open Meetings.

Mr. Wilson read the rules of how the meeting would be conducted.

II. REGULAR AGENDA

A. Request for Determination of Applicability [310 CMR 10.05 (3)] 35 Coolidge Road, RDA 2020-04 Applicant: Jeanne Palazola

Jeanne Palazola was present. She is proposing the construction of an addition, which 4 feet is within the 50-foot buffer zone. Ms. Palazola assumes that the area between the addition and pool would be disturbed during construction, so she is proposing either replacing with pavers or concrete.

Ms. Pendergast pointed out on the plan where it states top of bank, this would be the 100-foot buffer zone. For the proposed project to meet the minor activity, it needs to meet the four performance standards – 1. must be entirely in the 100-foot buffer zone, 2. erosion controls must be provided, 3. disturbed areas are loomed and seeded, and 4. all activity is at least 50 feet away from the resource area. As the applicant mentioned it is about 4 feet into that 50-foot buffer. These performance standards are up to the discretion of the Commission.

Ms. Palazola stated that the paver work would be outside of the 35-foot buffer zone. She anticipates that the current paved area will be disturbed during the construction and will require it to be replaced.



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Mr. Wilson inquired about the pool patio work. The applicant stated that the concrete patio deck of the pool would have to be replaced or repaired within the next five years because the coping is pulling away from the concrete deck. She would like to do this project down the road. And currently, just requesting options. Mr. Wilson stated that it would probably require a Notice of Intent filing because this work is within the 25-foot no disturb zone.

Ms. Pendergast confirms that the wetlands are an intermittent stream and the 100-foot measures are from the tops of bank. The drainage is from Cabot Road and feed off-of Frost Fish Brook. It is a hydrologic connection, but a storm water control too. It does provide resource habitat and is classified. At the top of the bank is a fence.

Ms. King asked if the pavers used for the patio could be permeable. The applicant asked for suggestions on type of pavers to use. She was told the smaller the stone, the more permeable. Right now, they are 12x12 inch pavers. Mr. Fields also suggested that it could be the way the pavers laid, not necessarily the type of pavers. For instance, if the joints between the pavers are filled with stone chip or a different variety to allow the water to go through that might be an easier fix. Ms. King is concerned with the disturbance of the patio area within the 25-foot, would this require an Order of Conditions. Mr. Wilson stated that the portion currently being replaced would not, however proper erosion control should be in place. Ms. King expressed that expanding beyond that area would require an Order of Conditions.

Mr. Wilson asked Staff if there are conditions included with the RDA. Ms. Pendergast confirmed there are. And the conditions for an RDA correlate with performance standards such as erosion control and stock piling, usually one to four conditions.

Ms. McGill asked if the existing fence, that the applicant is adding, will make a difference if the concrete needs to be attended to. Would the fencing and silt sock be considered enough to consider this as a minor condition. Mr. Wilson stated that the addition and the patio area between the addition is pool and is considered minor. But any work outside of this area is problematic because it is within the 25 foot no disturb zone. Ms. McGill asked if it were just repair work within the 25 foot no disturb zone rather than replacement would that make a difference for her. The applicant was asked if she is proposing to repair or replace. Ms. Palazola would have to hire a professional to make this determination.

Mrs. Curran agrees with the Chairman that the addition and concrete slab, adjacent to the house, view that work as minor. But the concrete around pool would require a Notice of Intent. In terms of repair verses replacing, it is undetermined without knowing the scope of the work.

Mr. Walley stated that the replacement of the fence would be aesthetically pleasing rather than a repair. The Chairman questioned if Mr. Walley meant the patio rather than the fence. Replacing the fence is not part of the project.



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The Chairman polls the members of the Commission for agreement that the applicant go ahead with the addition and the concrete slab area adjacent to the home. But any work within beyond that and within the 25-foot buffer zone would require filing a Notice of Intent. Ms. King agreed; Ms. McGill agreed; Mrs. Curran agreed; Mr. Walley agreed

MOTION: Mrs. Curran makes a motion to issue a Negative Determination of Applicability for the construction of an addition and possible repair of a concrete slab patio outside the 35 foot no construction zone to 35 Coolidge Road, RDA 2020-04 with the conditions that erosion control set in place and any construction debris must be stored outside the 50-foot buffer zone or removed off site; Ms. King seconded

Roll Call Vote: Vanessa Curran – yes, Chelsea King – yes, Ann McGill – yes, and Peter Wilson – yes

B. Request for Permit Extension – DEP File No. 14-1298

130 Centre Street

Applicant: Tania Hartford

Tania Hartford represented the applicant, Wadsworth Village, LLC. They were granted an Order of Conditions three years ago for the construction of three new buildings on the property. One of the three buildings is within the 100-foot buffer zone. Construction has been delayed and a three-year extension was granted on the site plan review permit, which expires next summer. The applicant is requesting a one-year extension in hopes to move forth on the construction of this project the next six to nine months. The building within the 100-foot buffer zone would begin and be completed first.

Mr. Wilson asked if there were any changes to the plan. Ms. Hartford confirmed that there are not. The magnitude work to be done within the Commission's jurisdiction would be the corner of the foundation of a building. Ms. Hartford is aware that all work must be completed within the one-year extension period and otherwise the applicant would be required to file another Notice of Intent.

Neither Ms. King or Ms. McGill had any comments or questions. Mrs. Curran asked if they could review the plans.

Ms. Hartford pointed out the building that is within the buffer zone. All of this is spelled out within the original Order of Conditions.

Mr. Walley did not respond when asked if any comments or questions.

David Fields and Alicia Linehan confirmed no comments from the public via email or phone calls.

MOTION: Ms. King makes the motion to issue an Extension to the Order of Conditions for one year for 130 Centre Street, DEP File No. 14-1298; Mrs. Curran seconded

Roll Call Vote: Vanessa Curran – yes, Chelsea King – yes, Ann McGill – yes, and Peter Wilson – yes



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C. Informal Discussion 160 Andover Street

Applicant: Brian Levey

Present for the hearing were Brian Levey from Beveridge & Diamond PC who was presenting PMG, Petroleum Management Group; Jesse Cokeley, Project Engineer, and Ray Walker, Wetlands Consultant.

Mr. Levey informed the Commission that the project location is 160 Andover Street which is very close to the junctions of Route 95 and Route 114 and Route 1. This is a high traffic commercial area. Back in 1962, the site was first redeveloped as a gas station. And then again in 1984 there was complete tear and reconstruction of yet another gas station. In 2006 history repeated itself and there was another tear down and reconstruction of a gas station by Cumberland Farms. This site has been redeveloped three times. On the 2006, Cumberland Farms project, a use variance was issued and numerous dimensional variances from the Zoning Board to rebuild the site. And the Conservation Commission granted an Order of Conditions under the state regulations and local bylaw. The main point of the Order of Conditions was that the site was largely in a riverfront about 45,000 square feet and about 37,000 square feet of which was declassified as degraded and was altered. Under the riverfront regulations, one can develop what has been degraded. There was another 8,000 square feet, plus or minus, that was not redeveloped which could have been. Now to 2016, Blue Hills Fuel purchased the site from Cumberland Farms and at that point PMG leased the site from Blue Hills Fuel. And this past January 2020, PMG Mr. Levey's client, purchased the site from Blue Hills Fuel. PMG has inherited a situation where Cumberland Farms did not complete the work which it was required to do under the Order of Conditions. So, there is an open Order of Conditions with no Certificate of Compliance. PMG is now seeking to add a drive thru to the rear of the building. In doing so, they would stay under the 8,000 square foot alteration number. The riverfront regulations are to make sure the applicant improves conditions. To build the drive thru they would be required to go to the Zoning Board of Appeals for further use variance and further dimensional variances. But before that, due to the sensitivity of work in the riverfront, it made sense to check in with the Conservation Commission to review the scope of project and plans.

Jesse Cokeley of Maser Consulting shared images with the Commission. The location is at 160 Andover Street as additional front on Avalon Bay Drive. In the rear is Crane Brook. The site as it is today has about five pump islands under the canopy with an approximate 3100 square foot of convenience store with a Dunkin Donuts within. The existing building is about 93 ½ feet from the rear property line which is basically the center line of Crane Brook.

On the plan displayed, the red area is the approximate 45,237 square foot of riverfront area, which is from Crane Brook to the 200-foot offset. The blue line represents the approximate 37,561 square feet that was part of the 2006 Notice of Intent application of the degraded area. This area is between the blue and red line heading North.



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The next plan shown was the landscape plan from 2006 which called for tree plantings behind the building up to the bank of Crane Brook. However, this area of trees was never installed. This is where the open Order of Conditions exists.

The next image shown was an area of the site today. The river was pointed out on the plan, where the landscape appears to change color. The next plan shown, highlighted the riverfront area in red. The blue area is the previously approved 37,561 degraded areas. Also shown with a purple outline is the approximate area of disturbance where the drive thru would be installed. This would come off the driveway off from Avalon Bay Drive, wrap around the back of the building to the pick-up window and then exit into the site. The existing trash enclosure would need to be relocated which is some additional disturbance. It is worth noting that this disturbance is within the previously degraded area. Also, the right now the edge of the drive aisle almost entirely goes within the lawn area and goes up to the edge of the vegetation. In the open area is where they are looking to install the drive aisle.

In reviewing the 2006 plans it was realized there is an opportunity to provide some improvements in the riverfront area. Initially put together a sketch that identifies curb breaks along the outside of the drive aisle and installing water quality swales and a potential storm water mitigation area. Right now, at that the site there is a single water quality device manhole and discharges into the 35-foot buffer line.

Had some good conversations with Ms. Pendergast and Mr. Fields leading up to this meeting. They reviewed a few options, and Staff provided some feedback as well. Potentially installing some landscape between the drive aisle and the water quality swale to help keep the water quality swales function and keep from collecting debris. This of course would come with a full operation and maintenance plan. The site operator would be required to upkeep these operations features to be sure they are performing as intended. This is the summary of the proposed project.

Mr. Wilson needs to be better educated on all of this.

Ms. King does not have any questions but would like to request a site visit. And agrees that she needs more education on this.

Ms. McGill asked about the 8,000 square is the area not used by previous applicant and this is the area being proposed for the drive thru. Mr. Levey responded, not exactly. What they are proposing is redeveloping of what was redeveloped. And that number, the area they are looking to approve is about 8,000 square feet. This number is pointed out because it dovetails nicely with what happened in 2006. Because as you look at the riverfront regulations, you can develop degraded area and it just so happens that the previous applicant did not take advantage of the roughly 8,000 square feet. And this just so happens to be this number. She also asked if the swale would create any insect issues. Mr. Cokeley responded that they would look to design it with the DEP regulations to provide water quality benefits. Will there be planting, or shrubbery be incorporated. Mr. Cokeley confirms there will be.

Mrs. Curran asked if there will any trees be cut to install this drive thru. There would probably be one small relatively new tree that would be removed. But they would certainly replace in another area on



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the site. She asked if in terms of mitigation plantings that were done, none of that would be removed. It is not the attention of the applicant to do that.

The gray line called the edge of vegetation is where the applicant is looking to place the drive aisle. But after speaking with Ms. Pendergast and Mr. Fields, the drive thru aisle will be decreased to ensure the swale can be installed without minimizing impact to that existing vegetation.

Mrs. Curran asked Ms. Pendergast how the sale of this property was made with an existing Order of Conditions. Legally it is not required, it is up to the buyer to take on this risk of accepting that open permit. Mrs. Curran also agrees that she needs to learn more about the degrade requirements for riverfront areas.

Mr. Walley asked how many additional cars would be going through the drive thru. There are 8 cars stacked within the queue. He was concerned with the amount of traffic. However, this is not the Commission's jurisdiction.

Mr. Wilson asks staff if the existing Order of Conditions needs to be closed out before filing a Notice of Intent. Ms. Pendergast states that she recommended they file an Amendment to the existing binding condition, then request a Certificate of Compliance, and once it is closed out, they can then file a Notice of Intent.

Mr. Levey explains that the degraded area provision speaks to riverfront that was degraded at the time the wetland protection acts were created. They look at what was the area degraded August 7, 1996. If there is surface, pavement, topsoil, etc., then it is a degraded area. Really the question is that this is a site that has been redeveloped three times, this being the fourth, and this is not a complete redo. It is not 1996, so it is not totally degraded anymore, it is improved. And the question is whether the Commission will look at this and say yes this was a degraded area and we are going to allow them in a sense to modify the plan that Cumberland Farms was responsible for in 2006. It is just putting in a drive thru rather than plantings. And still maintain within the limits of what is allowed in redevelopment which is redevelop the entire degraded area which was not done. So, we are asking the Commission to think about is procedurally seeking to amend or modify the current Order of Conditions.

Ms. McGill reads the definition of these regulations - redevelopment means replacement, rehabilitation, or expansion of existing structures. Improvement of existing roads or reuse of degraded or previously developed areas. A previously developed riverfront area contains area degraded prior to August 7, 1996.

The Commission is requesting a site visit.

Staff asked if Mr. Levey could the outline of the drive thru area be staked, flagged, or painted so that when each Commission member visits, they can get an idea of the potential project area. Mr. Cokley stated that this can be done.



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Ms. Pendergast will provide the Commission with some description regulations.

Mrs. Curran asked if it would be accurate to say that the existing Order of Conditions, the applicant proposed to develop a certain amount of square footage of the site, there is 8,000 square feet that they didn't finish or complete the work on. That work was supposed to be mitigation planting and now you are requesting to transfer that 8,000 square feet into a drive thru. Mr. Levey refers to the plan, the degraded area is between the red and blue lines that was not altered, this is the 8,000 square feet. On the next plan, the red area outlined is where the drive thru is being proposed. The conditions will be improved with some major water quality enhancement.

Mr. Wilson confirmed that the applicant is looking to replace the pervious grass with impervious paved surface. And as a trade-off, the applicant is offering these water quality enhancements improvements. The net result is that the Commission must be convinced that this project adds to the quality of the resource area and does not have a detrimental effect.

Next steps will be for the Commission to conduct a site visit and be provided with regulations.

D. Commission Discussion **Discussion of general Zoning Bylaw updates**

In the background Ms. Pendergast and David Fields have been working on regulations and bylaw changes.

Mr. Fields provided the Commission with a presentation:
Bylaws are enabling legislation. They exist to outline powers and duties related to what is being governed. Regulations are used to implement and manage the bylaws enabled by Town Meeting.

On Planning, Zoning and general Land Use side, the Planning Board just adopted a new set of zoning regulations. This is the first time they have had those, and it came out of some of the downtown and zoning work that the Commission may heard about this past February. The Planning Board now operates under a set of zoning bylaws instead of subdivision regulations which only governs subdivisions land instead of zoning regulations. The Zoning Board of Appeals also works within the bylaw, the subdivision and zoning regulations are only for the Planning Board to operate under.

There are about 12 communities using the same structure.

In February 2020, Town Meeting adopted four new sections of the zoning bylaw and all have to do with the redevelopment in Danvers Square and along the High Street area. These included public amenity improvement and transfer of development rights which includes a restriction within districts. Also looking to update sections of the zoning bylaw because some refers back to the mid 50's. Within the Planning office there is a lot of updating of these bylaws.



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Ms. Pendergast has been working on the cluster subdivision special permit which allows if a person were to go forward with a subdivision, a tightening up of that space reducing impervious surface so it is effectively not a clear cut parcel, it would allow for greenery and environmental features to be saved.

Other bylaws would include traffic rules and regulations, wireless communication, and the storm water bylaw.

The Conservation Commission does have a set of bylaw regulations. The 310 CMR Wetlands Protection Act spells out what the Commission is measuring and how they need to measure. The regulations are binding in the way the Commission adopts them. So, if there is anything the Commission would like to see, please offer feedback.

Ms. Pendergast has been working on the changes, on the 310 CMR 10.00, there is the 100-foot buffer zone off the resource area but in the Town of Danvers we adopted our own buffer zone bylaw. In our bylaw we could say we have a 25 and 35-foot buffer zone. In the regulations it would be more specific, such as cannot have x, y, z in the 35-foot buffer zone. Within our bylaw, they are areas we could expand upon. A lot of changes are being compared to what has been successful in other towns. It would include what the state is recommending and what fits best within Danvers. Proposing to eliminate the 25 no build and 35 no disturb and change it to a 35 and 50. With this change comes more performance standards. With these new regulations this lays out what the application needs to provide. As in tonight's hearing, there are existing structure within these new buffers, so provisions will be added to maintain these structures. Also, if allowed to work within the 50-foot buffer, only 50% can be altered. Another in Danvers which is similar in other communities is the minor permit. If we had a single-family home that met all four of the criteria and outside of the 50-foot buffer, then there is no need for them to come before the board. This would streamline the permitting. Another is increasing the waiver standards for those who want to work in the 35 and 50. Also adding more protection for vernal pools. We do not see a lot of that in the Commission right now. A lot of vernal pools in town are potential vernal pools. There is not a lot of activity around then now but that could change in years to come.

In terms of the waterway's bylaw, Ms. Pendergast and Mr. Fields are currently comparing to other towns. And trying to decide wherein the bylaw to place the changes in the regulations.

Mr. Fields emphasized that bylaw changes of any type first need to go the Commission, then to the Selectmen then to Town Meeting. And the regulations need to be voted on by the Commission.

Part of the overall scheme is to discuss trends within town across all town boards.

Bylaws are approved by Town Meeting, but regulations are approved by the Commission.



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Minutes

No Minutes

III. OLD/NEW BUSINESS

The next meeting agenda items will be added to the agenda in the future.

IV. Adjournment

Ms. McGill makes a motion to adjourn the meeting at 8:39pm; Ms. Curran seconded

ROLL CALL MOTION: Peter Wilson – yes, Vanessa Curran – yes, Chelsea King – yes, Ann McGill – yes,
Michael Splaine – yes