

# MINUTES

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## Millbury Conservation Commission TOWN OF MILLBURY CONSERVATION COMMISSION

MUNICIPAL OFFICE BUILDING • 127 ELM STREET • MILLBURY, MA 01527-2632 • TEL. 508- 865-5411

### Conservation Commission

Ronald Stead, Chairman

Paul DiCicco

Christopher Weagle

Jeffrey Raymond

Mathew Ashmankas

Date: November 1, 2023,

Time: 6:30pm

Present: Ron Stead, Jeffrey Raymond, Christopher Weagle, Paul DiCicco, Mathew Ashmankas  
Conservation Agent: Don Flynn

Call to order 6:30pm

Old Business:

### DEP # 224-0856 135,137 139 Worcester Providence Turnpike

Glenn Krevosky EBT Environmental Consultants, Inc. gave an update on the project addressing the DEP requirements and submitting modified stormwater plans and management report. Chairman Stead asked for a motion to close the meeting, Jeffrey Raymond made the motion, Mathew Ashmankas seconded, all in favor, unanimous. Chairman Stead asked for a motion to approve the project, Paul DiCiccio made the motion to approve the project, Mathew Ashmankas seconded, voted all in favor, unanimously. Approved.

### 2 Shore Terrace NOI:

Deheng Wang of Creative Land & Water Engineering represented the applicants of 2 Shore Terrace to redevelop an existing single-family home and associated site work including modular retaining wall. He stated that they would replace the existing home in the same footprint of the existing home and spoke about the retaining wall on the waterfront.

Agent Flynn spoke of the project that the plans did not indicate that the project was a demolition and replacement. He also stated that he could not find a record that retaining the wall on the waterfront with Dorothy Pond had been permitted by the Commission. He also indicated that research using aerial photographs indicated that the wall was built sometime between September of 2020 and June of 2021. Daniel Rizika and Amy Rizika, the property owners of 2 Shore Terrace also spoke of the project. Mr. Rizika stated that during Covid everything was shut down and they had to replace the retaining wall.; Chairman Stead ~~stated~~ responded that the Conservation Commission was in full operation during Covid, that the Commission did not shut down and was here for the Town during the pandemic. Agent Flynn also stated that the new retaining wall makes it hard to see the property lines and it seems that the wall also restricts public access to the right of way to Dorothy Pond. The Agent also stated that that the aerial photographs also indicated that the new wall was built further into the pond and that that action would constitute taking Land Under Water which is prohibited under the WPA unless compensated for. Discussion of measurements made from aerial photos by Mr. Wang and the Agent were made. Katherine Fairbanks of address? also spoke of the proposal for the property stating that she would like to see it cleaned up. She also stated that the replacement of the wall was February 24-26, 2021. Ms. Fairbanks said her concern is that the wall does exceed the property lines and is on her property. Chairman Stead began a discussion questioning the integrity of the wall. Mr. Rizika showed the Commission photos of the old wall demonstrating its poor condition and showing segments that had fallen. The Chairman responded

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that he was not questioning that the wall may have needed replacement but that the new wall be demonstrated to be properly engineered so the Commission would have assurance it would last and not cause damage to the pond by failing. The Chairman stated that Mr and Mrs. Rizika were to be required to hire an independent engineer and bring the report back to them at the continuation hearing. The Chairman further directed the Agent to perform another analysis of the new wall's location with the Rizika's engineer and to report back to the Commission. Jeffrey Raymond made the

motion to continue the hearing to December 6, 2023. Paul DiCicco seconded, all voted in favor; motion carried unanimously.

### **NEW BUSINESS?**

#### **Scott Koneczny 58 Davis Road. Informal meeting.**

An informal discussion of the OOC they received in 2016 had expired, and they didn't come back to the Commission to extend the conditions. Agent Flynn stated he had visited the property, and they did not conform to the approved plan or conditions. The Agent reminded the Commission that Mr. Koneczny had filled more buffer zones, possibly wetland areas, and had been contacting the Koneczny's monthly to obtain a new filing. Kate O'Donnell from Eco Tec, representing the Koneczny's spoke to the commission about a proposed plan and a Restoration Protocol for removal of fill within the wetland and within the Buffer Zone on the property. Agent Flynn stated that he has reservations on letting them start the project without the input from the Boria's who abutters are, Mr. Weagle suggested that the Commission ask the Boria's to come to the meeting on the 15<sup>th</sup> of November to listen to the plans of the restoration plan and then decide from there if they can start the work or file a new NOI. Ecotec stated they were hopeful of implementing the Restoration Protocol while replacement tree planting time of year was still available under an Enforcement Order and then filed an NOI. The Agent offered to contact the Boria's and discuss the proposal and determine if there were any objections. The Chairman accepted the Agent's response and authorized him to communicate with both parties and proceed if the Boria's did not object to the Restoration Protocol proposal.

#### **Katherine Fairbanks, 192 Millbury Ave, Informal.**

Ms. Fairbanks would like to have a tree removed from the buffer zone of Dorothy Pond and wanted to know if she needed to make a filing or if she could perform this under an existing OOC.

#### **-142 Riverlin Street, follow-up on tree cutting in Riverfront Area:**

The Agent reported that the new owner cut down many trees in the Riverfront Area and possibly the BVW of Dorothy Brook without a filing. The Agent described that Lawrence Dien had telephoned Agent Flynn to find out about cutting down one dead tree near the water., The trees cut are in inner and outer Riparian Area possibly impacting the riverbank and BVW. Agent Flynn stated that he was going to write up an enforcement order and but that the property was for sale and was looking for authorization from the Commission to record the Enforcement Order on the property deed at the Worcester Registry of Deeds in order to prevent transfer of the property to an uninformed buyer -The Commission directed the Agent to proceed with and, record the Enforcement Order on the deed of 142 Riverlin Street.

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**Agent's report Millbury Conservation Commission October 19\_November 1, 2023, meeting**

### **Events of Importance.**

-58 Davis Road -Ecotec response.

### **Site Visits:**

-3 & 7, and Roadway Upgrades, Colton Road NOI's for Bond release and Preliminary for COC.

-Greenleaf Terrace; with Scott Morrison of ECOTEC & Owner regarding reflagging of Wetlands, new Survey, and release of Enforcement Order & Cease & Desist from Planning.

- 31 Tainter Hill Road-Wetland Signs are installed, erosion controls improved, trees and brush removed.  
2-Shore Terrace-NOI

### **Plan reviews:**

-2 Shore Terrace-Rizika property-Dorothy Pond

### **Other Matters:**

-Follow-on to report of tree cutting in Riverfront Area142 Riverlin Street-new Owner cut down many trees in Inner and Out Riparian Area possibly impacting the riverbank and BVW.

-Trust Fund-\$135, 930. 34

-Lake Singletary Draw Down is not for weeds-Gate Control not required to be Town Controlled

-By-Law- 1) Setbacks for certain activities or Exemptions (like fencing as minor activity)

2) Additional funds

3) Tree Replacement

4) Culverts-Openness Standards,

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Don Flynn, Agent

Mathew Ashmankas made a motion to accept the minutes from the October 4, 2023, meeting and Jeffrey Raymond seconded the motion, all in favor, unanimous.

Paul DiCicco made a motion to accept the minutes from the October 18, 2023, meeting, Mathew Ashmankas seconded the motion, all in favor, unanimous.

Paul DiCicco made a motion to close the meeting, Jeffrey Raymond seconded the motion, all in favor, unanimous.

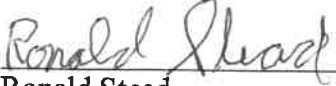
Respectfully submitted,

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Christine Marden  
Secretary

  
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Ronald Stead

  
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Christopher Weagle

  
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Jeffrey Raymond

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Paul DiCicco