

AGAWAM CONSERVATION COMMISSION  
February 24, 2022

MEMBERS PRESENT:

Henry Kozloski  
S. Page Fallon  
Sheryl Becker  
Jill Ward  
Frank Meagher  
Keven Brown  
Magda Galiatsos

MEMBERS ABSENT:

ALSO PRESENT:

Taryn Egerton

VIA Zoom Webinar

Mr. Kozloski called the meeting to order at 6:02 PM.

1. REQUEST FOR DETERMINATION OF APPLICABILITY – 497 South Westfield St –  
Depalma & Tirone

Ryan Nelson of R Levesque Associates was present to present the project. He stated that this project has been before the Commission in the past and that the previous Order of Conditions for this 80 unit condo project was issued September 12, 2013 with DEP file 087-593. Mr. Nelson stated that the Order of Conditions was extended to September 12, 2019 and the project had never commenced. He explained that the wetland boundaries were redelineated in the summer of 2021 and the wetland boundaries have expanded in limited areas and encroached in the previously permitted limit of work. Mr. Nelson explained that because the project has been before the commission in the past with a fee in excess of \$20,000, the applicant is submitting the request for determination of applicability in lieu of a traditional notice of intent. He went on to share the site plans, explaining the location of the wetlands, tributary, and riverfront area. Mr. Nelson stated the only work in the riverfront area would be the stormwater basins, which are not determined to be riverfront alteration under the Wetlands Protection Act. He stated that all work would be in the buffer zone with no BVW disturbance. He explained that the units on South Westfield Street will have individual drives with low points for stormwater and routed to a stormwater basin. He explained where the stormwater basins would be located and that they are in the same location and have the same capacity as the previously permitted plans but that the geometry may have changed to stay out of the wetland resource areas. Mr. Kozloski asked how work could be completed within 100' of a wetland without an Order of Conditions. Mr. Nelson

stated that this filing was at the request of the applicant, and whether it is allowed is at the discretion of the commission because there is no real standard for buffer-zone only work. Ms. Ward asked what work was being done in the buffer zones. Mr. Nelson explained that all aspects of the project would be within buffer zone, such as roadways, grading structures, and the units. Ms. Ward asked whether the applicant was asking for work to be completed without an Order of Conditions. Mr. Nelson said that is correct. Ms. Ward asked if this plan has been submitted to the Planning Board. Mr. Nelson said that it was previously approved and would look into how long it is valid. He stated that some of the units have been shifted to stay out of the wetlands but that the number of units remains the same. Mr. Kozloski thinks that if it required an Order of Conditions before the project should require an Order of Conditions again. Mr. Fallon asked whether the impervious area has remained the same. Mr. Nelson said yes it is, as the roadways haven't changed and some units are actually smaller, so there may actually be less impervious surfaces. Ms. Ward believes that the commission cannot issue a permit without an Order of Conditions and that the applicant would need to file again. Mr. Nelson questioned whether the town would be amicable to a reduced filing fee for the town portion and Ms. Egerton said she wasn't sure but could ask around. Mr. Kozloski stated that the applicant should've performed work on the property when they had the opportunity to and that the commission hasn't verified the wetland boundaries. Ms. Galiatsos said that the commission should make sure the wetland demarcation is accurate and Ms. Ward stated that because it's been a long time she believes it would be a good idea. Ms. Ward asked how the conditions of the flags were on the site and Mr. Nelson said they were reflagged in the summer of 2021. Ms. Ward said procedurally, she doesn't see how a permit could be issued without an Order of Conditions. Mr. Nelson stated they wouldn't mind coming back for a notice of intent if the filing fee was reduced and Mr. Kozloski stated the commission shouldn't touch that subject and the fee is determined by the state. Ms. Ward said because there was a lengthy review the last time the project was before the commission, this review may be quicker. Mr. Kozloski said because the wetlands have moved a peer review might be necessary for this project. Ms. Ward said that because the commission already knows where the wetlands are and aren't looking for new information, the review may be quicker. Mr. Kozloski asked whether the applicant wanted a negative determination and Mr. Nelson stated yes, that is what they are requesting. Mr. Fallon said if a negative determination is issued, the commission would be done and would have no say in the project moving forward. Ms. Ward said this is a large project and located where it is, the commission should keep eyes on it. Ms. Galiatsos asked about the town portion of the fee again and Mr. Kozloski stated this would be precedent and other people may request the same thing, and DEP sets the cost and how the money is split. Ms. Galiatsos asked whether the \$20,000 was between the town and state. Mr. Nelson said yes, that the fee is \$1050 per unit in the buffer zone, and he believes the amount was roughly \$26,000 with half going to the state and half going to the town.

Motion was made by Ms. Becker and seconded by Mr. Fallon to issue a positive determination for REQUEST FOR DETERMINATION OF APPLICABILITY – 497 South Westfield St – Depalma & Tirone

ROLL CALL VOTE 6 – 0 – 1 (Meagher)

Mr. Kozloski opened the meeting up to the public and there were no comments.

1. PUBLIC HEARING CONT. – Notice of Intent – 0 South West Street & 0 Pine Street – Town of Agawam

The commission received a request to continue the public hearing until March 24, 2022.

Motion was made by Ms. Ward and seconded by Mr. Brown to continue the public hearing for Notice of Intent – 0 South West Street & 0 Pine Street – Town of Agawam until March 24, 2022.

#### ROLL CALL VOTE 7 – 0

2. PUBLIC HEARING CONT. – Notice of Intent – Aspenwood Associates LLC – 0 Silver Street & 0 Doane Avenue

This agenda item was previously continued to the March 10, 2022 meeting.

3. PUBLIC HEARING CONT. – Notice of Intent – Main Street – Westfield River Interceptor Sewer Relocation Project – Agawam DPW (Continued to May 26, 2022)

This agenda item was previously continued to the May 26, 2022 meeting.

4. ENFORCEMENT ORDER – 618 Barry Street

Mr. Kozloski stated that there is work being done on the property with an expired Order of Conditions and Ms. Egerton stated they expired in the beginning of 2021. Ms. Egerton stated she received a correspondence from Inspection Services who noticed a pile of fill near the resource area without proper erosion controls. Mr. Kozloski took pictures of the site and noticed a backhoe near the resource area as well, and engineering went out and stated the project is definitely still in the process of being complete. Ms. Egerton stated that in order to have the project be completed in compliance with the previous Order of Conditions and site plan, an enforcement order would need to be issued. Ms. Egerton stated that DEP sent information over for the enforcement order stating that since this is work that the commission is requiring to be completed, an enforcement order would be okay. Mr. Kozloski stated that there are certain conditions that need to be followed and Ms. Egerton stated there were engineering comments that were required in the original Order of Conditions regarding the roof and foundation drains and geotextile erosion controls. Mr. Kozloski stated that grading needs to be approved and erosion controls need to be reestablished. Ms. Ward suggested an enforcement order with the conditions and erosion controls. Ms. Egerton stated that the draft enforcement order was sent to DEP to see if the wording would suffice for them. Ms. Ward suggest a cease and desist. Mr.

Kozloski stated that the commission would lose control if that was issued and that if they want the project finished, the commission would have to issue an enforcement order. Ms. Egerton stated that the draft enforcement order may need to be updated as more work on the site has been done. Mr. Meagher asked how long they would have to complete this and that with the storm coming, the fill and sand could impact the wetland. Ms. Ward stated that the erosion controls as placed would not be effective. Ms. Ward asked if the enforcement order could be for the enforcement order and have the order of conditions be a separate issue and Mr. Kozloski stated that the enforcement order would need to include everything that needs to be completed. Ms. Becker suggested to set a date to have erosion controls placed.

Motion was made by Mr. Fallon and seconded by Ms. Galiatsos to issue an enforcement order for 618 Barry St and that first all erosion control measures be implemented and then finish the project in accordance with the Order of Conditions.

Mr. Brown asked whether the motion would include the engineering comments and Mr. Kozloski stated that the Order of Conditions includes the engineering comments.

ROLL CALL VOTE 7 – 0

#### 5. Correspondence and Complaints

Ms. Egerton reminded the commission that the ethics acknowledgement form is due by March 1 and the certificate is required by April.

#### 6. APPROVAL OF MINUTES – February 10, 2022

Motion was made by Ms. Ward and seconded by Mr. Meagher to approve the minutes of February 10, 2022 as written.

ROLL CALL VOTE 6 – 0 – 1 (Galiatsos)

Motion was made by Ms. Ward and seconded by Ms. Becker to adjourn the meeting.

ROLL CALL VOTE 7 – 0

Meeting was adjourned at 6:43 pm.