



Arlington Conservation Commission

Date: March 04, 2021

Time: 7:30pm

Location: Conducted through Remote Participation using Zoom

Minutes

Attendance: Commission Members Susan Chapnick (Chair), Mike Gildesgame, Pam Heidell, Dave Kaplan, Nathaniel Stevens, Chuck Tirone (Vice Chair), and David White; Associate Commissioner Cathy Garnett and Doug Kilgour; and Conservation Agent Emily Sullivan. Members of the public included Kelly Lynema (Department of Planning and Community Development), Rich Kirby (Representative for 55 Orient Ave), Liz Stanton (Owner of 55 Orient Ave), and member of the public G Sonder.

1165R Mass Ave 40B Comprehensive Permit Update

The Commission discussed the 1165R Mass Ave comprehensive permit application. The Zoning Board of Appeals will review the stormwater and wetlands components of the applicant on Tuesday, March 23. The ZBA has requested that the Commission provide comments regarding the proposal prior to the hearing.

The Commission discussed the proposed relocation of Ryder Brook. Ryder Brook currently bisects the property from north to south. The proposed relocation would relocate the brook along the northern boundary of the property. The relocation would reduce the daylight portion of Ryder Brook from 120 linear feet to 100 linear feet, a reduction of 20 linear feet of daylight brook. The proposed relocation would also include increasing the capacity of the pipe for the underground culverted portion of the brook.

In 2020, the Conservation Commission issued a determination of Applicability that Ryder Brook was only jurisdictional under the local Wetlands Bylaw, and not jurisdictional under the Wetlands Protection Act. The RDA did not seek a determination under the Bylaw; the Commission noted that Ryder Brook previously has been deemed jurisdictional under the Arlington Wetlands Bylaw.

S. Chapnick stated that the Applicant agreed to use the NOAA Atlas+ data for the project's stormwater calculations.

The Commission discussed the wildlife habitat value of Ryder Brook. Some of the Commission agreed that there was limited habitat value to the brook, but the most habitat value can be found in the upstream section of Ryder Brook, closest to the bikeway.

D. Kaplan asked whether the relocation of the brook and new shading patterns along the brook would impact the vegetation growing along the daylight portion of the brook. D. Kaplan also asked whether the daylight portion of the brook could be enlarged.

N. Stevens stated that the Arlington Wetlands Bylaw and regulations do not explicitly state that brooks cannot be relocated; rather, the Bylaw and regulations state that ~~performance standards~~ certain characteristics and functions must be maintained or enhanced. N. Stevens stated that the relocated brook's water carrying capacity cannot be inhibited, but relocation is not the same as inhibition. However, N. Stevens stated that he was skeptical of the engineering of the relocation, since the proposal included adding a 90 degree angle to the brook's conveyance.

C. Tirone asked if there were any open determinations on Ryder Brook. E. Sullivan said that the only open determination was the determination issued in 2020 for 1165R Mass Ave asserting that Ryder Brook is jurisdictional under the Arlington Bylaw, and not the Wetlands Protection Act.

C. Tirone stated that the proposed relocation did not appear to be a 2:1 value replacement for Ryder Brook's resource area functions. C. Tirone stated that he did not interpret the regulations the way N. Stevens had interpreted them.

P. Heidell stated that she was willing to work with the Applicant so that they did not have to file for a waiver for the Bylaw. P. Heidell stated that the relocation could comply with the Bylaw's performance standards and the Applicant could enhance the resource area. P. Heidell stated that she was amenable to the relocation.

C. Tirone asked if the Commission had to sign something stating that Ryder Brook was not jurisdictional. N. Stevens stated that the Commission was not asserting that the brook was not jurisdictional, but that the Commission would be asserting that the brook has limited resource area functions and the proposal could maintain ~~complies with the performance standards of~~ those resource area functions. N. Stevens stated that the resource area functions appeared to him to be included storm damage prevention and flood control. C. Tirone and D. White stated that wildlife habitat was also a resource area function served by this stream.

D. Kaplan stated that the Town Engineer should review the proposed relocation to assess the 90 degree angle and the increased capacity of the conveyance pipe. D. Kaplan expressed concern that increased pipe capacity could result in exacerbated downstream flooding.

S. Chapnick stated that when the Commission conducted a site walk of Ryder Brook in August 2020, it did not observe any hydric soils.

D. Kaplan and P. Heidell stated that the Applicant should create a vegetated buffer between the Mill Brook and the proposed walking path.

| D. White and N. Stevens recommended that the Applicant look at the Brigham Square stormwater swale, and try to create a similar swale as part of this project.

C. Tirone stated that the project should include 2:1 resource area enhancement, and noted that the current proposal does not seem to meet that enhancement. C. Tirone stated that he was not amenable to relocating Ryder Brook.

D. White and D. Kaplan agreed to draft a comment letter to the ZBA, which the Commission would review at its 03/18/2021 meeting.

Working Session: 55 Orient Avenue

The Commission discussed the jurisdiction of a drainage ditch that flows along a portion of the northern property line that eventually discharges to a bordering vegetated wetland. The drainage ditch originates from a private catch basin installed on a neighboring property.

R. Kirby stated that he conducted an investigation of the site to assess soils and vegetation. R. Kirby did not observe any hydric soils and did not see a preponderance of wetland plants. R. Kirby stated that he would do another vegetation assessment once snow had melted.

R. Kirby asked the Commission whether this drainage ditch was considered jurisdictional with a 100-ft Wetlands Buffer, Adjacent Upland Resource Area, or 200-ft Riverfront Area. S. Chapnick stated that the drainage ditch is considered a jurisdictional intermittent stream and therefore has a 100-ft Wetlands Buffer, but does not have a 200-ft Riverfront BufferArea. The drainage ditch is jurisdictional under the Arlington Wetlands Bylaw from the point of pipe discharge.

| P. Heidell stated that the drainage ditch should not be considered jurisdictional because it is man-made, it was not historically a ditch. N. Stevens ??? stated that the Commission only assesses historical conditions using USGS StreamStats data.

| S. Chapnick and N. Stevens stated-felt that the drainage ditch had limited resource area functions similar to Ryder Brook.

Spy Pond Treatment Plan for 2021

The Commission reviewed the draft Spy Pond Treatment Plan developed by Brad Barber and the Spy Pond Committee, with input from the Water Bodies Working Group. D. White motioned to approve the treatment plan, D. Kaplan seconded, all were in favor, motioned approved. A roll call vote was taken. S. Chapnick voted yes, M. Gildesgame voted yes, P. Heidell voted yes, D. Kaplan voted yes, N. Stevens voted yes, C. Tirone voted yes, and David White voted yes.

E. Sullivan stated that she would work with Solitude Lake Management to file a new Notice of Intent for the treatment of Spy Pond, since the current permit will expire in June 2021.

Regulatory Update: Full Draft

The Commission reviewed and discussed a full draft of the updated regulations. The Commission particularly discussed which brooks and streams should have the 200-ft Riverfront Area and the definition of the Riverfront Area. [N. Stevens to discuss with Town Counsel.](#)

Map Jurisdictional Areas

The Commission reviewed the jurisdictional resource areas delineated on the [Town's Town's](#) Wetlands GIS map. P. Heidell stated that she would use USGS StreamStats to assess the brooks and streams to determine Riverfront Area. E. Sullivan stated that she would assess the culverted sections of the brooks and streams to determine Riverfront Area.

D. White motioned to close the Commission meeting, N. Stevens seconded, all were in favor, motioned approved.

Meeting adjourned at 9:50pm.

DRAFT