

application so that it could let the state law process play out. We have filed our appeal in Superior Court of the Bylaw decision. We have not yet served it in the hope we can resolve this with a global agreement to address the Commission's error as well as the established rights granted by the Planning Board approval of subdivision and waiver of construction.

I will suggest that if the DEP does issue an SOC approving the project, that just like with the prior proceeding, the Commission also approve it under the Bylaw consistent with the DEP approval as a settlement of the Superior Court appeal.

Matt

From: Patrick Ahearn <pahearn@townhall.westwood.ma.us>
Sent: Tuesday, January 4, 2022 12:57 PM
To: Matthew Watsky <Matt@Watskylaw.com>
Cc: scott@goddardconsultingllc.com
Subject: RE: Mill Street

I am not planning on attending and I would have to move some things around to go.

Pat

From: Matthew Watsky [<mailto:Matt@Watskylaw.com>]
Sent: Tuesday, January 4, 2022 11:32 AM
To: Patrick Ahearn <pahearn@townhall.westwood.ma.us>
Cc: scott@goddardconsultingllc.com
Subject: Mill Street

CAUTION: This email originated from outside of the Town of Westwood Email System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Pat:

I understand that the DEP is holding its site meeting on the appeal of the Conservation Commission's decision.
Are you planning to be there?

I was not planning to go, but if you are there it would be an opportunity for us to talk about this property as a whole, and finally in person.

Karon Catrone

From: Patrick Ahearn
Sent: Monday, February 7, 2022 3:57 PM
To: Nora Loughnane; Abigail McCabe; Karon Catrone; Joe Doyle
Subject: FW: Mill Street

FYI let's discuss.

Pat

From: Matthew Watsky [mailto:Matt@Watskylaw.com]
Sent: Monday, February 7, 2022 3:22 PM
To: Patrick Ahearn <pahearn@townhall.westwood.ma.us>
Cc: scott@goddardconsultingllc.com; Rachel Watsky <rachel@watskylaw.com>
Subject: Mill Street

CAUTION: This email originated from outside of the Town of Westwood Email System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Pat:

We should try to set a time to meet and go over this.

I would of course like to have you confirm you agree with my conclusions as set out in my email on December 21. But we will need to also figure out how to deal with the appeal of the Conservation Commission's rulings under the Wetlands Protection Act and under the Bylaw. I anticipate the DEP will overturn the Commission's ruling under the Act. The question then will be how to deal with the Commission's decision under the Bylaw.

When this property previously was before the Commission, with an application seeking an ORAD, the Applicant withdrew the local Bylaw application in order to have the state law decision issued. The Commission apparently was not then aware that an applicant has the absolute right to withdraw an application before the hearing is closed and it is acted on, and went ahead with issuance of an ORAD under both the Act and the Bylaw. We appealed both decisions. DEP issued an SORAD, and we ended up settling with the Commission and agreed to dismiss the Certiorari and Dec J appeal of the Bylaw decision upon the issuance by the Commission of an amended local ORAD that set the wetlands boundaries and types of resource areas by adopting the DEP SORAD findings.

Now, here we are a few years later, and the same scenario has played out – with the Commission and its peer reviewer disregarding the wetlands boundaries that were set in the earlier proceeding; and remarkably again issuing what purports to be a local bylaw decision even after the applicant withdrew the local