

2. Why was the Park construction “stop work order” issued and where does it stand?

Three violations were cited in the stop work order issued on September 6 2022.

1. Soil stabilization. Status: resolved
2. Parking area foundation retaining wall not on-site plan Status: unresolved
3. Work in the floodplain without a permit Status: unresolved

Commentary

Soil Stabilization:

In April of 2022, a DEP site inspection revealed two weak spots in the silt sock. Waterfront Preservation immediately addressed the concern.

Soil stabilization enforcement is under the purview of the local CEO. We were subsequently informed that in addition to the minor fix required by the DEP, Waterfront Preservation was to mulch the entire site at significant expense. This was surprising as the existing surface was pavement sub-base left after the blacktop was removed. Our understanding is that sub-base is considered permanent stabilization by the DEP.

A few days prior to the stabilization violation notice, messages were left on the answering machines of town officials stating that our contractor’s Covid infection was delaying the mulching effort. In a demonstration of how random this stabilization requirement was, the driveway area was ok to leave “un-mulched” despite being the identical surface.

Retaining wall:

A retaining wall was built as part of a new foundation in a small corner of the parking area. The retaining wall was depicted in the supporting documents of our applications but not on the actual site plan. The CEO won’t lift the stop work order until we amend our NRPA permit and our site plan (or knock down the retaining wall).

Waterfront Preservation has written to the DEP explaining that the retaining wall is the replacement foundation of an existing structure versus a new structure. We do not believe an amendment is required and are reluctant to seek one as Waterfront Preservation’s last “minor site plan amendment” is still being adjudicated in Superior Court 15 months after approval.

The DEP has not responded to our request for reconsideration. Our Board has therefore decided to knock down the retaining wall and replace it with fill.

Floodplain Permit:

We have been advised that the violation for working 3 feet into the floodplain without a permit won’t be lifted until the retaining wall violation is resolved. There are numerous examples throughout Boothbay Harbor in recent years of much more extensive work in the floodplain without a permit.

Waterfront Preservation does not believe the stop work order was justifiably issued and expects it to be lifted soon. It was another in a long line of abutter letters prompting action by the CEO to stymie park progress.