

TOWN CLERK

**Weymouth Conservation Commission
McElroy Room, McCulloch Building
182 Green Street, Weymouth
June 27, 2012 Meeting**

Present: Laura Harbottle, Chairperson
Steve DeGabriele, Vice-Chairman
George Loring, Commissioner
Scott Dowd, Commission Clerk

Not Present: Greg Shanahan, Commissioner

Also Present: Mary Ellen Schloss, Administrator

Recording Secretary: Patricia Fitzgerald

Cmmr. Harbottle called the June 27, 2012 meeting to order at 7:00PM in the McElroy Room, McCulloch Building, Weymouth, MA.

Minutes

Cmmr. Loring moved to approve the May 23rd minutes as written and amended, seconded by Cmmr. DeGabriele. UNANIMOUSLY VOTED

28 Lintric Drive - Request for Determination of Applicability - Hearing

Faith and Michael Dewsnap

Map 50, Block 572, Lot 24

Cmmr. Dowd moved to open the public hearing, seconded by Cmmr. DeGabriele. UNANIMOUSLY VOTED

Appearing before the Commission was Faith Dewsnap who explained they would like to put up a (21) ft. above-ground pool with a 5' x 13' deck to be constructed (30) ft. from the edge of the property where, according to the map, there is a stream.

Cmmr. Dowd asked if the stream was intermittent; Mrs. Dewsnap explained that it was originally run-off from the South Weymouth Naval Air Station which has standing water in the spring, but 'right now' it can be walked on.

Cmmr. DeGabriele commented that the main issue is the stream's location and the distance between the stream and the pool.

Cmmr. Harbottle said she went out to the site. The location is about (30) ft. from a stone wall and is thick with vegetation but nothing was noticeably wet and it is very sharply separated from the lawn and the wild area.

Ms. Schloss said that the stream comes from the former base and is piped into the drainage system and is released downstream to 28 Lintric Dr. and (per the map) begins again up-gradient. The area is by a Bordering Vegetated Wetland and she saw no evidence of bank. She added that the stream starts in earnest a bit down-gradient.

Ms. Schloss asked if the deck would go all around the pool; Mrs. Dewsnap said no, just to one side of it, nearer to house #18 than to #42.

When asked, Mrs. Dewsnap said that no fill will be needed as they'll be using a charcoal filter, there will be no back wash and when the pool level is lowered seasonally, it will be drained into the storm drain in front of #42.

Ms. Schloss said that, ideally, the water should flow into the yard. Cmmr. DeGabriele said it could be drained, a little at a time, into the lawn.

Cmmr. Loring moved to close the public hearing, seconded by Cmmr. DeGabriele. UNANIMOUSLY VOTED

Cmmr. DeGabriele moved to issue a Negative 3 Determination with Special Conditions (discharge water into the lawn after dechlorination, use a cartridge filter, no back wash and no disturbance any closer than (25) ft. to the wetland edge), seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

116 Clinton Road – Request for Determination of Applicability - Hearing
Adele Daughenbaugh
Map 15, Block 195, Lot 25

Cmmr. Dowd moved to open the public hearing, seconded by Cmmr. DeGabriele. UNANIMOUSLY VOTED

Appearing before the Commission was Adele Daughenbaugh; abutter information has been submitted. She stated that this property borders river and saltmarsh and is (40) ft. above the marsh. She wants to extend a room 10' x 13' and build a 16' x 10' deck.

Ms. Schloss explained that there is a steep drop at the lawn edge, there are some pavers, it is heavily treed on the slope, and beyond that is the Back River saltmarsh. She told the Commission that the architectural rendering was revised and the addition will be on sona tubes. She also said that if the erosion controls are at the top of the slope, there should be no impact on the down-gradient wetland.

Cmmr. DeGabriele moved to close the public hearing, seconded by Cmmr. Loring. UNANIMOUSLY VOTED

Cmmr. DeGabriele moved to issue a Negative 3 Determination with Standard Conditions and a Special Condition about the erosion controls, seconded by Cmmr. Loring. UNANIMOUSLY VOTED

21 Weyfair Path – Notice of Intent – Continued Hearing
DEP File #81-1104

Ms. Schloss requested this hearing be continued until July 25, 2012

Cmmr. DeGabriele moved to continue the hearing until July 25th, seconded by Cmmr. Loring.
UNANIMOUSLY VOTED

**0 Finnell Drive – Notice of Intent – Continued Hearing
DEP File #81-1103**

Cmmr. Loring moved to continue the hearing until July 25th, seconded by Cmmr. DeGabriele.
UNANIMOUSLY VOTED

186 Main Street – Notice of Intent (Local Ordinance Only) – Continued Hearing

Appearing before the Commission were David Kelly, Kelly Engineering Group, and Michael Gardner, owner; abutter cards were submitted.

Mr. Kelly explained that this location is the site of the old Mass. Electric building on Route 18 and that on the south side of 'the old campus' there is a depression that the Commission was asked about in 2010. It was agreed that it was not a state jurisdictional resource area but, by definition, it was locally jurisdictional as an Isolated Land Subject to Flooding (ILSF) and a vernal pool. He said in February 2012, there was an informal meeting to try to determine the limit of work line; Mr. Gardner has not been able to properly market it because it is a Town regulated resource area. Mr. Kelly said he hopes the limit of work and rules of engagement for work adjacent to the resource area can be established.

Mr. Kelly pointed out the resource area on the plan and the 100-ft. area around the pool in purple or pink. He said he ran calculations regarding the limits of the vernal pool and ILSF, to determine the 1-year volume of run-off contributed to that area. He said he used the State guidelines for 'no recharge' and determined approximately 8,600 cubic ft. that will occur during a 1-year, 24-hour storm. So, using the calculation and a topographic area survey, the elevation was determined to be 101.7.

He said the second item was to determine the value of the resource area and how to protect it. He listed the (3) items under Section 3.05 (4), regarding waivers for ILSF:

- A. Avoid flood damage: He said they won't impact the vernal pool or the 101.7 elevation and they will not be putting in a slope, as previously discussed.
- B. Avoid adverse effect on ground water supply: Three borings were done and they found that it was underlain by pervious material and doesn't overflow.
- C. Avoid adverse effect where the area is underlain by pervious material and covered by organic muck: It is underlain by pervious material and is covered by organic peat.

Pointing to the building and parking areas on the diagram, Mr. Kelly said they are proposing to determine the limit of work, adding that this may change due to changes in marketing. He told the Commission that the impact portion of the 100-ft. area is approximately the limit of the existing pavement. He said they will be pushing in toward the vernal pool on the west side and reminded those present of the significant amount of mitigation they are proposing:

- A stormwater management program to comply with DEP standards.
- An operation and maintenance program.

- Water quality inlets.
- A series of catch basins.
- Subsurface recharge system.
- Reduce paved area.
- Sustainable landscaping program with native or readily adaptable plants.
- Conservation restriction area with permanent easement.
- Resource area remediation plan
- Hand-clean debris from the pool area.

Mr. Kelly explained the 'resource and buffer area mitigation plan' (with (2) different types of landscape remediation) will include removal of 3,600 sq. ft. of invasive species (to be replaced with native species) and they will pull the pavement out that is adjacent to the (3600 sq. ft.) area.

Ms. Schloss stated that:

- Any infiltration of water may not be where soils are contaminated.
- The Town's jurisdiction is 100-ft. from the mean annual boundary of the vernal pool and another (100) feet from the buffer zone and would require a waiver to work in the area.
- The Town has a Stormwater Ordinance requiring that land alterations, if greater than (1) acre, comply with DEP standards.
- Con Comm may want a review engineer to confirm compliance with stormwater standards.

Ms. Schloss asked what is happening in the terms of the quantity of impervious surface; Mr. Kelly replied that there has been "substantial net reduction" in terms of the pond, and there has been "substantial reduction in paved area".

Relocation of buildings and parking areas were discussed. Mr. Kelly's reply to all suggested alterations was that the most (economically) valuable portion is along Route 18 and there was really no other way to change the limit of work and keep the project viable.

Removal of invasives was discussed and Mr. Kelly stated that the removal will be done under Bob Gray's review.

Cmmr. Dowd commented that there is pretty serious encroachment into the vernal pool resource area from the proposed bank platform and found it hard to approve the present proposal. He said he likes the mitigation for the stormwater restoration of the resource, but he would also like to see the landscape wording tightened to 'native' rather than 'adaptable' (plants).

Cmmr. DeGabriele said the area he is most concerned about is the area next to the smaller proposed building on the west side (regarding the proposed retaining wall structure and parking locations to the east of the proposed building). He then asked where the wall was in relation to '101 and 107'.

Mr. Kelly explained where the wall was on the plan, adding that it will be about 2.3 ft. above the 1-yr. elevation.

Cmmr. DeGabriele asked why the wall couldn't be located further west and expressed that he would like to see it greater than the '107'. He concluded by saying he would like to see the accuracy of the stormwater calculations confirmed.

Cmmr. Harbottle said she would feel better if the stormwater level spreader or outlet was on the down slope of the retaining wall. She said she was wondering about erosion and the roof run-off and said she would like to see the numbers on the existing impervious and pervious and what is being considered. She continued by saying that her concerns include:

- The height of the retaining wall and its impact on the natural vegetation and buffer area that will be removed; she would like to see a 3rd party review concerning that.
- She hopes some alternative will be considered if it turns out that the drive-through area has an impact on the vernal pool.
- She would like maintenance of the stormwater management system built into the conditions, for whoever is the owner.

Cmmr. Harbottle asked if all the parking proposed is above the number that is required; Mr. Kelly responded that this amount is typical and (16) spaces complies with zoning but he will look at pulling them back.

Cmmr. Loring asked if the carwash was staying; Mr. Gardner stated that it was and said the entire area will be cleaned at the same time.

No one from the public was present.

Cmmr. Loring suggested that an outside agency check the stormwater system.

Cmmr. Harbottle asked if any change will be made to the amount of impervious area; Mr. Kelly said, based upon Commission comments, they will look at pulling it back and putting in a steeper slope.

Cmmr. Dowd asked why the bank has to be in the no-disturb zone and if it could go further north and Ms. Schloss asked if the larger building could be moved further east.

Mr. Kelly responded that after (25) years' experience he feels that frontage is the most valuable part of the property.

Cmmr. Loring moved to continue the hearing until August 15th, seconded by Cmmr. DeGabriele.
UNANIMOUSLY VOTED

Other Business

188 Idlewell Blvd. – Request for Certificate of Compliance (Local Ordinance)

Ms. Schloss explained that this single-family home, next to Newell Park, has been built and the builder, Larry Agnitti, is looking for a Partial Certificate of Compliance; an as-built has been provided by the engineer, Scott Arnold. This project was not appealed under the local ordinance (there was also a DEP superceding order). She reported that they are in compliance with rules for construction in a flood zone, an elevation certificate has been obtained, debris has been removed from the salt marsh area, mitigation planting behind the house has been done and conservation posts have been put in. She stated that some plants had been affected by the salt water and, in response, Mr. Agnitti has re-planted with bayberry, a more salt tolerant species.

Ms. Schloss mentioned continuing conditions include:

- Alteration of a Riverfront area is capped at 5,000 square feet per WPA.
- Required mitigation: an 8" and a 12" cherry tree on Town property were removed because of a connection to sewer lines.
- Town Arborist wanted juniper shrubs planted on the Town slope; this has been done.
- Engineer's letter and as-built have been received. Letter certifies "substantial compliance"; deviations noted include: 1) First floor elevation is (2) ft. higher. 2) Depth of dwelling is (2) ft. longer. 3) Railroad ties at the back of the driveway are slightly different.

On June 13th, Ms. Schloss asked the Commission about the concrete apron and this was okayed.

Mr. Agnitti explained that when the driveway into the park was built, an asphalt berm was put in and it made accessing the driveway difficult; Ms. Agnitti said they have removed the berm, but if that doesn't improve driveway access they'll want to put in an apron.

Cmmr. DeGabriele moved to issue a Partial Certificate of Compliance and to look at the project in the fall for consideration of a Final Certificate of Compliance, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

30 Unicorn Lane – Certificate of Compliance DEP File #81-975

Ms. Schloss told the Commission that this work was never started and the work was moved out of the resource area.

Cmmr. Dowd moved to issue a Certificate of Compliance as the Order of Conditions has lapsed and is no longer valid, seconded by Cmmr. DeGabriele. UNANIMOUSLY VOTED

Other Business (continued) and Conservation

- Route 3 Median Project, DEP File # 81-979: Ms. Schloss reported that the work has been completed and will be ready for a Certificate of Compliance shortly. A project review found some discrepancies. Analysis and an as-built will be provided by the town's consultant. DPW will come in for the July 25th meeting; Ms. Schloss will tell them that more information is needed prior to that meeting.
- Peer Reviews: Possible names included DeSheng Wang, John Chessia and the firm, Beals and Thomas. Cmmr. DeGabriele suggested using people rotationally.
- Enforcement case - 868 Middle Street: Notice of Violation and Cease and Desist has been sent for the retaining wall that is being built, and there are signs of fill in the back (by Whortleberry Pond). Ms. Schloss will make a visit to check on the fill.
- Artie Mathews is looking to see if the Town can do some vegetation management by the boat ramp on the bank - it is very overgrown.
- Wessagusett Yacht Club is looking to expand; they will need to come before the Commission to file for that.

- Whitman Pond Vegetation Management Plan: sampling has been done and vegetation mapping will be done soon.
- 401 Water Quality Certificate at Iron Hill Dam: met with DEP and, hopefully, will be moving forward.
- Herring: Cmmr. Loring reported over 400,000 adults have been counted during the in-migration and babies have been going down in large numbers. DEP closed the (now working) sluice gate (pumping was stopped on Saturday but, due to the amount of water in Swamp River, water was still going over the gate).
Ms. Schloss asked if work needs to be stopped during out-migration; Cmmr. Loring said it wouldn't affect the out-migration which may be going on all summer.
- Work is going on in Hingham within (300) ft. Weymouth Research Road (expansion of the Industrial Park); Ms. Schloss will look into it.
- New England Cottontail: Weymouth resident Monica Mulligan is looking to re-introduce this rabbit to the park off Broad St.

Weymouth Salvage – Violation Hearing 307 Middle Street

Mr. Eacobacci did not appear for the hearing.

Ms. Schloss reported that Mass. DEP has been working with the owner to create a consent order. The owner started to remove material from the wetland (using large equipment) without approval. Ms. Schloss went out and the required erosion controls had not been put down, but these are now in place. The Commission should consider whether to issue an enforcement order (she has issued a Violation Notice). She said a wetland specialist will need to prepare a plan and narrative and delineate the wetland boundary – they will also need to attend the Con Comm meeting. The planting of seed and shrubs will need to be followed up next spring and it will need to be determined if a monitoring report is needed.

Cmmr. DeGabriele asked if an environmental assessment is necessary to check for oil, gasoline, antifreeze, etc.; Ms. Schloss said she will get a copy of the DEP order.

Cmmr. DeGabriele asked if samples can be taken before planting is done and if stream testing can be done.

Ms. Schloss said erosion controls should be kept in place so there is no additional impact to wetlands.

Cmmr. DeGabriele suggested that some level of verification (to determine whether there is chemical contamination or not) is advisable, before the owner spends a lot of money.

Cmmr. Harbottle suggested that the restoration phase can be worked into their enforcement order.

Ms. Schloss will express the Commission's concerns to Kathy Kiley.

163 – 169 Libbey Industrial Parkway - Certificate of Compliance DEP File # 81-842

This property is actually (2) office buildings (# 163 and #169) that operate like a condo. Building 1 (#163, the Gale Bldg.) was built along with all the utilities and stormwater management, and a partial COC was issued, then the second building (#165) was constructed from the ground up; the final COC is just for Building 2.

Ms. Schloss said the main issue is relative to the maintenance, but she is not convinced they're doing annual clean-up of catch basins and water quality units; orders require a contract and she said she thinks proof of clean out is now needed, adding that the outlets by the detention basin could not be seen.

Cmmr. DeGabriele asked what their engineer said; Ms. Schloss said the P. E. is satisfied that it is as it should be.

Cmmr. DeGabriele commented that, as it hasn't been maintained they did not meet the original condition so how can future compliance be assured?

Cmmr. Harbottle asked if the COC could be held up until reports are received and it has been cleaned up. She also asked if money could be held in escrow for a couple of years to cover drainage maintenance.

Cmmr. Loring moved to approve the Certificate of Compliance contingent upon clean-out of entire system and it is visible and is functioning and (2) years of maintenance is performed.

Adjournment:

Cmmr. Loring moved to adjourn the meeting at 10:00 PM and to meet again on July 25, 2012 in Council Chambers at Weymouth Town Hall, seconded by Cmmr. Harbottle. UNANIMOUSLY VOTED

Respectfully submitted,
Patricia Fitzgerald

Approved:

Scott Dowd, Conservation Clerk

Date