

WEYMOUTH CONSERVATION COMMISSION  
RECORD OF MINUTES AND PROCEEDINGS

2021 JUL 29 AM 11:10

Tuesday, April 27, 2021

Remotely Present: John Reilly, Chairman  
Frank Singleton, Commissioner and Vice-Clerk  
Scott Dowd, Commissioner and Clerk  
George Loring, Commissioner  
Al Donovan, Commissioner

Also Present: Mary Ellen Schloss, Conservation Administrator  
Andrew Hultin, Assistant Conservation Administrator  
Eric Schneider, Host, Planning Dept.  
Ann Flynn Dickinson, Recording Secretary

*Chair Reilly called the Commission meeting to order at 7:00 p.m.*

*State of Emergency Message and meeting information:*

*Governor Charles Baker has declared a State of Emergency in Massachusetts to support the state's response to COVID-19 (novel coronavirus). Per the directive of Mayor Hedlund and the Town of Weymouth's "Emergency Declaration and Town-Wide Guidance in Response to COVID-19 of March 13, 2020", the Conservation Commission will meet remotely for the health and safety of the board members and the public during the Massachusetts State of Emergency.*

*The Conservation Commission will be using Webex software to conduct meetings on-line for the immediate future.*

*The online link and dial-in instructions were provided 48 hours in advance of the meeting.*

**1. Procedures for continuing to "spillover" meeting May 4<sup>th</sup>.**

*Due to the volume of business before the Commission, the April 27th meeting will be continued to Tuesday May 4<sup>th</sup> before adjourning at approximately 10 pm. A separate agenda will be prepared for the May 4<sup>th</sup> "spillover" meeting.*

**2. Minutes – February 23, 2021**

*On a motion made and seconded, the Commission voted 5-0 to approve the February Minutes as written.*

**3. Brookpoint Mixed Use Development – Discussion of Stormwater Management**

**22 Washington Street**

**DEP File #81-1191 (Amended)**

**Map 20, Block 202, Lots 13, 17, 18-20**

**Mixed Use Development**

*Nick Dellacava of Allen & Major presented their design for infiltration of some of the roof runoff from the Brookpoint project. This will include dry wells and a run of perforated pipe. Excess water will bypass the infiltration system and discharge directly into Smelt Brook.*

*Cmmr. Loring asked was there anything that can be done to the roof to make it less hot? Raising the temp of the stream is not going to help if there is smelt after spending all this money to daylight the brook.*

*Nick Delacava stated he could not speak to the design of the roof. The ship has sailed now on a green roof since it is already under construction.*

*Ms. Schloss recommended painting the roof in a light color to deflect the heat.*

*Cmmr./Vice-Clerk Singleton added that something reflective may be helpful.*

*Ms. Schloss recommends a vote to issue a Letter of Approval (LOA) with this minor modification noting the items that were discussed tonight such as the color of roof, etc. We would refer to the submitted plans and allow the change as a minor modification which was at our request.*

*Motion was made by Cmmr./Vice-Clerk Singleton, seconded by Cmmr. Donovan that we accept the modification as presented.*

*5-0-0 unanimous rollcall vote*

**4. 126 Wessagusset Road – Request for Minor Modification, Discussion**

**Diane Malby-Pompeo**

**DEP File #81-1254**

**Map 4, Block 49, Lot 1**

**Expand Proposed deck**

*Ms. Schloss summarized this request for minor modification with additional footings that are closer to the sea wall and a cantilever section over the deck. The seawall footing is a stone mound and we have conditions incorporated in the order for protection of that mound for any footing that was closer than 15 ft or so. This proposal was to move some of the footings that were 12.7 ft and 15 ft from the sea wall. There would be four footings at that location. She did discuss this with the Town Engineer, Chip Fontaine and he was comfortable allowing this modification to be required to do the same thing as outlined in the original order for the two footings that were close to the sea wall. That includes*

- *Digging those footings by hand*
- *Notifying Conservation and Engineering prior to digging those footings*
- *Excavation to stop immediately if that stone footing is encountered*
- *The deck footings to be relocated as required by the town*

*There is a continuing condition that is required that the deck section over the footings be cantilevered and be removed at the expense of the homeowner should it interfere with any future maintenance or replacement of the sea wall. That is why the Town Engineer and Ms. Schloss are comfortable with a minor modification that would allow that.*

*Mr. and Mrs. Maltby were present on the video and stated they are mimicking what was just outlined by Ms. Schloss for the left side and continued the same footage all the way to the right.*

*This will provide us a little additional deck space and stay within the parameters we understand that we would have to disassemble things if the sea wall needed to be done. They do agree to this as they did with the deck in the beginning.*

*Ms. Schloss summarized her recommendations:*

- *that we issue a minor modification referencing the sketch they provided us*
- *referencing again those orders of condition requirements. She is comfortable with that and is asking when the work is going to start.*

*Mr. Maltby responded probably in July and August.*

*Motion was made by Cmmr./Vice-Clerk Singleton, seconded by Cmmr. Loring to approve the conditions of the Minor Modification outlined by Ms. Schloss.*

*5-0-0 unanimous rollcall vote*

**5. 102 Flint Locke Drive – Request for Determination, Public Hearing, Continued  
Jonathan Stratford; Map 11, Block 121, Lot 103  
Proposed fill and grading within drainage easement and wetland buffer**

*Motion was made by Cmmr. Loring and seconded by Chair Reilly to open the public hearing  
Unanimously voted 5-0*

*Ms. Schloss explained this is a continuation of a Request for Determination (RFD) of work in the applicant's backyard which is also a detention basin. Conservation and Engineering stated the applicant had to come back with an engineered plan and an analysis from a professional engineer showing that what he is proposing is not going to have an adverse impact on the ability of that detention basin and not impact neighboring properties. This was our position back in September of 2020 and we are now in April 2021 with the meeting being continued a number of times. Most recently we allowed two more months of continuance. I reached out to the applicant and did not hear back. Today she tried to call him and he said he was in the middle of packing up from a camping trip and could not talk. He did email her and ask for another continuance to our next meeting. With this Request for Determination we only have two options:*

- *One is a negative determination which means a Notice of Intent (NOI) is not required as it will not have an impact on the area.*
- *Second would be a positive determination which means it will have an impact on the resource area and a Notice of Intent (NOI) is required.*

*The applicant has requested another continuance, this is a state project under the Wetlands Protection Act you are not allowed to continue it. This is really a local only project where the wet area that exits the outfall area is classified as a Wetland because it was constructed well before the Stormwater Management Standards (SMS). There is a lot of work that needs to be done here if he is going to do anything that is approvable. This application basically said "I want to fill a hole in my backyard." Well it is not a hole in his backyard, it is a detention basin that serves the neighborhood. One of our responsibilities is to protect the Wetland interest of flood control. Since she has not heard back from them, she could attempt to see if he is on this call,*

*but his request was to continue it. We did tell him we thought he should withdraw his application.*

*Chair Reilly stated he did not have a problem continuing it again, but there are only so many times that he can continue. He has requested a continuance until next month. We could give the continuance and if he does not come up with the information to provide to us, he will have to withdraw or we will turn him down.*

*Ms. Schloss added that if we did allow him the continuance, he would withdraw it if he had nothing to provide. That would be at the May 25th meeting.*

*A motion was made by Cmmr./Vice-Clerk Singleton, and seconded by Cmmr. Donovan under the same conditions and promises that were made and this will be the last continuance on this matter. He has to come up with solutions or withdraw the project. We do have a meeting coming up in May and that does fit into the timeframe, but no more continuance.*

#### **PUBLIC COMMENTS**

*Pat Candeleri who lives directly behind the gentleman on Flintlocke asked to be recognized. He has been a resident since 2009 and his concern is flood water. He has had floods in his basement. He is not looking to fill a hole, he is looking to put multiple dump trucks of dirt in his yard and it is not as minimal as he portrays to the Town. It is a lot of dirt that will have an adverse impact on the water in my basement. He stated that he has sympathy for the applicant's situation, however he bought that home with the expectation and understanding that he had an easement in the back of the home. . I do know that the water table in my neighborhood could be adversely impacted.*

*Chair Reilly thanked Mr. Candeleri and told him we are not deciding on this tonight, we are deciding whether we should allow this to go on another month for him to come up with the information that we need to make a logical determination.*

*Christine Cunniff Barrett, her parents are James and Marion Cunniff who live on Sandy Way next to Mr. Candeleri. Christine grew up there and they had water for years until the Town put the drainage retention area in. We have been on this call and spoken to Ms. Schloss since September about this and he has not done his part to get through what he wants to get through. We have been coming to these meetings, always checking this out and he is not doing his part, but we continue to come to these meetings and you keep giving him additional time. It is not fair to the abutters who are spending their time trying to deny this because it is going to harm our neighborhood and cause flooding in the drainage retention area. He bought the house knowing that it had a retention area and you people keep giving him more and more time to get it when he hasn't even bothered to show up for the meetings.*

*Ms. Schloss states she made a mistake here and apologizes. Last time we had this on the agenda was March and we gave him two months. The reason he is not here tonight is because we gave him two months and continued it to May 25th. She apologized again to everyone as this was not supposed to be on the agenda and that is why he is not present this evening.*

*Chair Reilly made a quick ruling that this is not before us tonight and we will deal with it in May.*

*Mr. Candeleri wanted to say something, but Ms. Schloss said it would not be appropriate at this time since we were not supposed to meet on this. He went on to say that it is going to adversely affect his property and as a homeowner.*

*Chair Reilly stated we are finished with this item. We have your remarks on record and we will bring those up and consider them on the 25th of May when we deal with this issue again.*

- 6. 655 Washington Street- Notice of Intent, Public Hearing - Continued**  
**Trinity Green Development, LLC**  
**DEP File #81-1268**  
**Map 29, Block 329, Lot 9**  
**Demolish an existing motel and construct a new four-story mixed-use building**

*Ms. Schloss stated this is a continued Public Hearing.*

*On a Motion made by Chair Reilly and seconded by Cmmr./Vice-Clerk Singleton to open the public hearing.*

*5-0-0 unanimous roll call vote*

*Austin Chartier with Mckenzie Engineering Group is presenting on behalf of the applicant Trinity Green Development. Also on the call is Brad Holmes. This is a continuation of the hearing we presented the project last month in March. Since then, we provided a revised set of plans as well as a restoration plan within the 25 ft buffer zone.*

*Brad Holmes from Environmental Consulting and Restoration is with him and he is presenting now to discuss the restoration plans. He had a chance to meet with the Commission on site and again last week with Ms. Schloss and Mr. Hultin to go over some of the details proposed for a restoration plan. Since that meeting we have updated the restoration plan and submitted it to the Commission to include more of the detail that Ms. Schloss requested. What we are looking to do is totally improve the buffer zone to Bordering Vegetated Wetland on site. The buffer zone is entirely degraded with non native invasive species and debris. What we would like to do is go to the wetland with our erosion controls and clean out that invasive buffer. Bring in new soil and native saplings and shrubs that would now provide a healthy buffer zone to the wetland system. There will be ongoing management of the area and monitoring since the area is heavily surrounded with non native invasives. We know that is going to be an on-going management task, but we are looking to make the situation better by improving the conditions.*

*Ms. Schloss apologized that it was late today that she sent out recommendations on a draft Order of Conditions (OOC). At this point her comments on the site have been satisfied. It just needs to be conditioned to get what we are looking for in terms of what we want to get in that buffer restoration area. Ms. Schloss reviewed the conditions proposed in the email that was sent to everyone today, and asked that they open it up and follow along. This is in addition to our standard order of Conditions for commercial or large projects. The list is just special conditions specific to this project and mostly focus on construction-period stormwater control and the restoration area.*

*Chair Reilly asked Mr. Brad Holmes if he was in agreement with the items Ms. Schloss outlined.*

*Mr. Holmes agreed as he wants this project to be successful too. It is more detailed but he is agreeable to it.*

**PUBLIC COMMENTS**

*None*

*Motion was made by Cmmr. Loring and seconded by Cmmr./Vice-Clerk Singleton to close the public hearing.*

*5-0-0 unanimous rollcall vote*

*Motion was made by Cmmr Loring and seconded by Cmmr./ Vice-Clerk Singleton to issue a Standard Order of Conditions (SOC) along with all the other special conditions mentioned here tonight.*

*5-0-0 unanimous rollcall vote*

**7. 15-17 Front Street Notice of Intent Notice of Intent, Public Hearing - Continued**

**Mike McGough**

**DEP File #81-1269**

**Map 20, Block 278, Lots 7 & 8**

*Motion was made by Chair Reilly to re-open the public meeting and seconded by Cmmr. Loring*  
*5-0-0 unanimous rollcall vote*

*Paul Tyrell is on the call as user name GBSE. He is a Registered Professional Engineer and Registered Professional Land Surveyor; he is representing the applicant, Mike McGough.*

*They met with the Braintree/Weymouth Conservation District who had concerns about providing access to a gate that is on the property of the applicant. They had a very positive meeting with them and both the Braintree and Weymouth Conservation Commission, the Braintree Regional Conservation District as well as the Army Corp of Engineers. The applicant has agreed to improve access to the easement area and to allow the the area to be used maintain the brook back there. He submitted a drawing to represent that easement and also submitted the documents for that today. The other outstanding item was to submit a landscape drawing which was done a day or two ago.*

*Ms. Schloss states there are abutters on the call that are going to want to speak. The Board of Zoning's decision was appealed by those abutters. She did meet with her counterpart Kelly Phelan due to part of this land being in Weymouth where the building is, then 15R, the rear portion where Smelt Brook is and where the gate access is in Braintree, which we refer to as 15 Rear Front Street. This makes everything a little more complex. Again there is an existing recorded easement to allow the Army Corps of Engineers and the Weymouth/Braintree Regional Recreation Conservation District access to the flood control system at Smelt Brook. That runs from Front Street through 11 Front Street to 15 Rear Front Street and that is the recorded easement. One of the things that we discussed last time was ensuring access to that gate can occur as recorded in the easement through 11 Front Street up to 15 Rear Front St. Currently that*

*access by a vehicle is not possible because of some obstructions. There are plantings at both 11 and 15 Front Street and we were looking to have those removed. The applicant did offer to do that work, but they cannot work off of their property, so she did meet with her counterpart Kelly and the abutters, the Currans. They were not willing at that point in time to allow access. So if they do not allow that and this project does go forward we will have to deal with this in some other way with some other enforcement like the Army Corps because that access is an easement where there is supposed to be access and that needs to be provided. She does have a draft Order of Conditions (OOC) which was run by Mr. Tyrell, and run by the Commissioners and would be happy to go through that since there are issues that need to be discussed. She asked Chair Reilly if he wanted to turn it over to the public or she could continue.*

*Chair Reilly replied, turn it over to the public.*

*Mike Richardi, one of the Commissioners of the Braintree Regional Recreation Conservation District asked to speak. He states he has contacted the Army Corps a number of times hoping to hear back. He is not in a position to determine what the Army Corps determines appropriate access.*

*Mr. Tyrell said he appreciated Mr. Richardi's concern, but it is important to recognize it is a matter of law. Neither the Army Corps nor the Braintree Regional Conservation District has a right to pass over the applicant's property to get to that gate. The gate on 15-17 Front Street is only one of two gates. There is one just across the river in Braintree and the Army Corps stated they would take whatever access they needed to if an emergency arose. Mr. Tyrell wanted to reiterate that the Corps really does not have a standing here to opine on the proposed building because they are not a legal authority over the land.*

*Mr. & Mrs. Curran were on the call who are the abutters and have some issues with the project for a number of reasons. One being them accessing the brook in need of maintenance. The other one being severe flooding and sewage issues in the Landing. For this to not be addressed by the Conservation Commission is difficult to understand knowing there is a surge every time there is dramatic rainfall for a number of days. The manhole is located on the applicant's property, it surges and we have videos and pictures of all of the sewerage with all of the feces and fecal matter running down their driveway and flooding into the brook. We felt that number one, should be addressed prior to any project going forward. Exacerbating this issue now they are continuing to build in the Landing and nobody is addressing the capacity issues of whether this infrastructure can even handle this. His building, the lower level, has flooded on a number of occasions as has the Dental Building. The Town of Weymouth has given him multitudes of answers as to why this flooding occurs. They told me it would be addressed when the train went in, that they would be making new connections to the MWRA going underneath the tracks and that this would alleviate the backup in the Landing that occurred, and it did not alleviate the problem. They told me it was a blockage in the Landing and no one has provided any evidence as to who has cleared the blockage and when this clearing took place.*

*Cmmr./Vice-Clerk Singleton states we have a sanitary overflow not just a drainage problem associated with the same runoff from the road. This is news to him about a sanitary sewer overflow.*

*Mr. Curran replied yes, there is a sanitary overflow. When you have dramatic rainfalls the infiltration surges through the system and it's coming out the manhole in the driveway and flooding. I am not sure if Ms. Schloss provided you with pictures or videos of what he has sent her, but there is substantial fecal matter all over his property constantly because of these surges.*

*Cmmr./Vice-Clerk Singleton replied that it is important. He is a retired Health Director with 50 years in public Health. He has dealt with these issues before and normally they have to be addressed with infiltration inflow analysis or something really major in this case. He has also said a number of times that he is concerned with precipitation data that needs to be updated to reflect reality or there will be a lot more problems giving all the building that is going on. He asked Ms. Schloss what they do with this as it is much more than an argument over some easement rights.*

*Ms. Schloss replied that this is serious. After she met with the Currans she did reach out to the Superintendent of Water and Sewer and the Town Engineer who said she needs to speak with the Superintendent. She did not hear back from the Superintendent but she has been told that they did remove a blockage. She did not know if the pictures that Mr. Curran was providing was around the time when that blockage was removed. There is a ton of building in the Landing; this 22 unit is a small portion of what is getting built there.*

*Mrs. Curran asked Ms. Schloss if she showed the video to the Committee showing the feces coming out of the sewer.*

*Ms. Schloss replied that if the Commission wants, she can find it and share the screen with them.*

*Mr. Tyrell asked for more background on this and whether it was an unusual storm event, like a 500 year storm event, that caused the overflow. The stormwater is being significantly improved based on our design. We have much higher infiltration than what is required by the DEP's policy. The Engineering Dept. reviewed his application and they have not given me any comments or concerns about sanitary waste.*

*Mr. Curran would like to address this with all due respect. If that was a 500 year storm event we would have had about 8 of them in the last 20 years. He has had about 8 of these incidences in his building. If it is a 500 year storm surge then we are having them about every 2 years instead of every 500. He thinks it is a little disingenuous to make a statement like that when no studies have been done and nobody is addressing this stuff, no one is addressing the capacity and we are just dumping this stuff into the system. He is the recipient of that at the bottom of the hill. If the Town cleared the blockage let them provide some information of who cleared it, what company did the work and when did they do the clearing, and what was the blockage that they found? He has lived through this about 8 times now and his building and basement has flooded with sewage.*

*Cmmr./Vice-Clerk Singleton wanted to explain that there is a big difference between overflow from stormwater and having a sanitary overflow. He is really concerned about what is going on in the Landing and the fact that we are operating with 30 year old precipitation data.*

*Mr. Tyrell replied that his stormwater system does not connect to the city's sewer in any way.*



*Robert Luongo thinks the issue of stormwater, water, sewage capacity has been addressed by DPW. When any application comes before the Zoning Board of Appeals for a variance or a special permit, it gets vetted through all Departments, specially DPW, Water and Sewer, and Engineering They came back with no comments relative to the capacity issues. He thinks with all due respect, the Conservation Commission is stepping out of line because your obligation is wetlands protection and you are not letting the other departments do their job, or they have done their job and have stated there are no issues.*

*Chair Reilly stated he does not believe they are trying to do other departments' work, Cmmr./Vice-Clerk Singleton is making comments on his concerns and he has a right to do that.*

*Mr. Curran also commented that the Commission does have some responsibility when the stormwater surge is dumping into the environment. When that fecal matter is running through our parking lot, they are not stepping out of bounds, they are merely doing their job in dealing with what the DPW is not dealing with, which is the capacity issues going on in the Landing for 22 years since I have owned the building that he is aware of. No one can prove to him yet that it has stopped because it has happened 8 times so far.*

*Mr. Luongo states all he can say is that DPW has looked at it and they have no issues with it.*

*Cmmr./Vice-Clerk Singleton wanted to make a point that sanitary sewer is not the same as stormwater. If stormwater is sharing the same pipe as a sanitary sewer that is a problem. Are we dealing with a sewer problem or a stormwater problem here? He is confused.*

*Ms. Schloss explained that you get infiltration and inflow (I & I) into the sewer system during large precipitation events and that is the problem. People have to pay very hefty sewer mitigation fees to fund I & I remediation. She does not know if there has been a capacity analysis done for this area*

*Ms. Schloss put together a draft order of conditions, she just sent another email late this afternoon with some revisions together with sending them to the applicant.*

*In addition to our Standard Commercial Conditions:*

- *We need a pre-construction detail of the stilling basin for the outflow of the infiltration system.*
- *We are looking for something other than just a pipe, we want anything that is an overflow to be handled and not just runoff uncontrolled.*
- *We need the Landscaping plans pre-construction which were already sent to us for our review and comment.*
- *We would recommend the use of native drought tolerant plants We also need the plans for the surface treatment accommodating the vehicle access over the access easement over 15 Rear Front Street.*

*Ms. Schloss stated that the Weymouth/Braintree Regional Conservation District had mentioned they would be a lot more comfortable if the plans could accomodate vehicle access on one side of the building. Could the hardscaping and landscaping be done so a vehicle could drive on either side?*

*Mr. Richardi replied that the point was made when they visited the site with the Currans and the two Conservation agents. His only concern is that the Army Corps. will turn around and blame*

*the District for not doing our due diligence and at that point deem the project unacceptable due to a lack of access, then the Federal Government does not have to respond to any potential flood problems that they may have to respond to in the Landing. It becomes a problem for both Towns if the Districts fall down on this job.*

*Mr. Tyrrell stated that his client has no encroachments on his property and the request to provide an easement will be a detriment to the property value. The reality is that my client would be happy to allow access under emergency conditions. He does not wish it to be an Order of Conditions (OOC). I want to again point out that we gave all the land in Braintree to the Braintree Conservation and we have significantly improved the ability for the Corps to maintain that area because that area they had previously under easement was very limited. We A deed and an easement and have already been submitted to the Commissions. My client is willing to clear the vegetation and the obstructions that are currently on the property line and the abutter has refused to allow us to do that.*

*Ms. Schloss said the Commission is going to have to make a decision on how we word this. She understands Mr. Tyrrell's comment about not requiring access along the side of the building as an easement. She just wants to ensure that whatever they do with hardscapes and landscapes doesn't make it impossible to get a vehicle back there in an emergency.*

*Mr. Tyrrell states that under the current design nothing would stop a tractor from going down there. The sidewalk design is not designed for H2O loading. We would be happy to talk about the landscaping plan when it is submitted.*

*Ms. Schloss continued with regards to the infiltration system that is proposed to be underneath the new building. In conversation with our Engineering Division we would like to see a test pit prior to the demolition of the building to ensure that the assumptions made about seasonal high groundwater are accurate. Those systems have to be designed to be two feet above seasonal high ground water. We need to understand where that is.*

*Ms. Schloss discussed other items in the draft Order of Conditions including:*

- Dewatering*
- Removal of encroachment (paving) on neighboring property if agreed to by the abutter*
- Submit erosion control plan prior to construction*
- Prior to construction adequately address all comments in Weymouth's Engineering Division memo of March 5th, 2021 including submittal of plans for interior garage columns and walls to ensure infiltration system under garage can be maintained.*
- Prior to the start of building demolition, the applicant shall remove obstructions to accommodate vehicular access to the maintenance gate at 15 Rear Front Street within the existing access easement. Applicant shall demonstrate he has made good faith efforts to coordinate such access improvements with the abutter at 11 Front Street.*
- Vehicular access to the main gate at 15R Front Street via the existing recording easement shall not be blocked during construction.*

- *Deed and access easement granted to the Recreational Braintree Weymouth Recreational Conservation District over 15 Rear Front Street in Braintree to be recorded prior to issuance of Certificate of Compliance (COC) or prior to Conservation Sign Off on Building Occupancy Permit (BOP), whichever comes first. DA draft deed and plan shall be submitted to the Conservation Commissions in Braintree, Weymouth and to the District for review and comment prior to recording.*
- *Provide standalone operation and maintenance plan incorporates additional maintenance elements.*

*Chair Reilly entertained a motion to close the public hearing.*

*On a motion made by Cmmr. Loring, seconded by Cmmr./Vice-Clerk Singleton to close the public hearing.*

*5-0-0 unanimous rollcall vote*

*A motion made by Cmmr. Loring was seconded by Cmmr./Clerk Dowd to issue an Order of Conditions (OOC) with standard conditions in addition to the special conditions reviewed and recommended tonight.*

*Unanimously voted 5-0*

**8. 234 River Street - Request for Determination, Public Hearing**  
**James Colabro**  
**Map 3, Block 2, Lots 34**

*Chair Reilly asked Ms. Schloss to read the letter from Council Molisse for the record.*

*Motion was made by Cmmr. Loring, seconded by Cmmr./Clerk Dowd to open the public hearing. Unanimously voted 5-0*

*Ms. Schloss read the letter which was dated April 27, 2021. It was addressed to her.*

*Hello Mary Ellen,*

*I am reaching out to you and the Town of Weymouth members of the Conservation on the matter for the Request for Determination for construction of a garage at 234 River Street, Weymouth, MA. 02190. I have visited the site after concerns from neighbors of the proposed garage. After my review I believe any garage in this proposed location would certainly be a detriment to the neighbors. I believe this proposal would impede the waterflow from the residence behind this proposed structure, along with my concern that the proposed site would become a commercial storage garage as 234 River has been housing commercial vehicles in my past visits which gives me concern of spillage of construction vehicles. I would encourage the Board to visit the proposed site prior to any approval of such a project. If you could please read this letter into the meeting, it would be much appreciated as I have a meeting to attend at the same time. Thank you for your consideration and work.*

*Sincerely,  
Michael T. Molisse, VP  
Weymouth Town Council*

*Mr. Hultin and Ms. Schloss did visit the site on Friday along with the applicant, we got to meet with them and talk with them. She has been speaking with them and their representative Jed Hannon as well.*

*Ms. Schloss posted photos of the property with the equipment parked on it.*

*She pointed out stakes on the property where the proposed garage is intended to be built. Much of the proposed garage would be on the existing driveway, but also some lawn area would be taken up as well.*

*Chair Reilly asked if there was some kind of approval needed by the Zoning Board.*

*Ms. Schloss replied, yes. There were two issues of considerable concern: one of those was regarding lot coverage. The lot is within an R1 district which has a maximum lot coverage requirement of 30%. This is quite a large structure proposed. It would result in 40% lot coverage, which would require a Zoning Variance from the Zoning Board of Appeals. That was one issue, the other issue is with regard to the Wetland Protection Act Regulations, Riverfront Performance Standards. This does not meet RiverFront Performance Standards which allow additional work in RiverFront areas that would degrade up to 10% of the RiverFront area on the lot. Beyond that you would have to provide on-site or off-site mitigation but there is no mitigation proposed.*

*Chair Reilly asked if they received a copy of a variance from the Zoning Board.*

*Ms. Schloss stated this issue was just raised with the applicant today and not as of yet.*

*Chair Reilly asked if that variance has to be issued prior to us making a determination.*

*Ms. Schloss responded that the way the Wetlands Protection Act reads, it has to be at least applied for.*

*Chair Reilly asked if the variance was applied for by Mr. Hannon.*

*Mr. Hannon states, no. This is the first he has heard of this.*

*Chair Reilly said he believes the regulations call for either a variance or an application for a variance being in existence prior to us bringing this issue up. He asked Ms. Schloss if he was correct.*

*Mr. Schloss replied yes, that is typically the case with a notice of intent. This is a request for determination, but she believes it is appropriate as well. In fact, she believes that this garage really should be done as a Notice of Intent (NOI) rather than a Request for Determination (RFD)*

*because the project is entirely in Riverfront. She apologized to Mr. Hannon, because he did reach out to her and ask if an RDA was appropriate, she said yes without or knowing a lot of details about the site or the application.*

*Chair Reilly said in the meantime we do not have jurisdiction at this point because the original request for a variance has not been requested or acted upon by the ZBA. He believes the Committee is spinning their wheels tonight and can not do anything on this application.*

*Ms. Schloss thinks they could issue a Positive Determination that would give the applicant the ability to move on. It would be a Positive 3 Determination that says the work described in the referenced plans and documents is within an area subject to protection under the Act and will remove dredge or fill that alter that area, therefore said work requires the filing of a Notice of Intent (NOI) and we could include and submit with that Notice of Intent (NOI) should not be filed until such time that they have filed for that variance as required. That is her recommendation.*

*Mr. Hannon states he is certainly not an expert in the Weymouth ZBA and Planning Board requirements. He knows that in other towns and cities in Massachusetts they have appeared before their Conservation Commissions without having a special permit in hand. It is obviously within your jurisdiction and we are willing to work with you to amend the layout to reduce impervious area. We are proposing downspouts at each corner of the garage to discharge below grade to recharge the runoff to the existing ground. Their position is to try and keep it as an RDA because it is really a small project of a one story garage. He can speak with the owners and see if there is a way to reduce the size of the garage and then also shift the location of the garage so it is more over the existing driveway so that impervious percentage decreases. With all of that said, if the Commission is amenable to it, we would like to have you continue the hearing and he will get with the owners to see what they can do to minimize the footprint, decrease the imperviousness, etc.*

*Chair Reilly asked Mr. Hannon if we were to continue this, would he be ready to continue on May 25th at our next regular meeting?*

*Mr. Hannon asked Ms. Calabro if that date would work for them and she responded yes.*

*Ms. Schloss said technically under the Wetlands Protection Act Regulations we are supposed to make a determination, under the state they say you have to make a determination in under 21 days of receiving the request. There is no provision for continuing an RDA meeting under state regulations. We have done it and our local ordinance does allow for the continuance.*

*Chair Reilly asked if it would be appropriate to have the applicant withdraw the Request for Determination (RFD) and file a Notice of Intent (NOI) for the hearing on May 25th?*

*Ms. Schloss does not think they need to withdraw it because we would just make our determination and a Notice of Intent (NOI) is needed. That is a Positive Determination.*

*Chair Reilly suggested without further debate that the Commission vote to make a Positive Determination and then come back next month and deal with the Notice of Intent (NOI). If the conditions include a requirement of a Notice of Intent (NOI), is that appropriate?*

*Ms. Schloss stated she thinks so.*

*Mr. Hannon asked if there was any way to vote for a Negative Determination subject to minimizing the size of the garage, readjusting the garage footprint so it is more over the existing driveway which will then thereby decrease the impervious percentage to comply with the required?*

*Ms. Schloss stated that we need more information to comply with performance standards and we need that Zoning Board Appeals approval. It is up to the Commission what they would like to do.*

*Cmmr. Loring's recommendation is going with the Positive Determination. That is what has been presented to us.*

*Mr. Hannon repeated that he had a conversation with Ms. Schloss prior to making the filing. We both agree that the entire property is within the 200 ft Riverfront area. The proposed single-story garage is approximately 100 ft from any resource area with a two-lane road in between and that the work by the definition of the RDA is minor in nature. They are seeking a Negative Determination subject to making some dimensional modifications on the garage and impervious areas.*

*Cmmr./Vice-Clerk Singleton asked Ms. Schloss to confirm that we have done that before in the past on occasion without paperwork from the ZBA.*

*Ms. Schloss states it is two different issues. We have continued an RDA hearing even though DEP regulations don't provide a mechanism for that. That is separate from the variance and it is separate from the Riverfront standards.*

*Chair Reilly confirmed that a local allows us to continue an RDA.*

*Ms. Schloss confirmed with a yes it does. She was asked if this was a local-only resource area. She responded, no it is the Back River; it is as perennial as you get..*

*Cmmr./Vice-Clerk Singleton again questioned, can we continue it or not?*

*Chair Reilly believes we can.*

*Cmmr./Vice-Clerk Singleton believes we can too. This is not a major project here, we are not building some monstrosity. Why should we hold these people up where in the past we have allowed others to proceed.*

*Chair Reilly asked Mr. Hannon if he was ok with a continuance.*

*Mr. Hannon responded absolutely.*

*Cmmr./Clerk Dowd wants to return to Mr. Molisse's pictures. It looked like they were taken on a few different occasions and each time there was an assortment of Commercial Construction Equipment there, but you say there has been no commercial equipment at the property?*

*Ms. Calabro responded that those pieces of equipment are not stored here. It was during snow where her husband would not be able to get to his commercial equipment on the other side of Abington, so he would keep it at the house overnight to be able to get to his job the next day. He is a union bricklayer, so sometimes it is needed to have it there on occasion. She has a car, he has a car and there would be no room to store that equipment in the proposed garage. It has been parked here before though, yes.*

*Cmmr./Clerk Dowd asked about the other construction equipment.*

*Ms. Calabro said it is just a flatbed with a little TRex which is his and the other machine which is a scooper he was just holding for his employer for a day.*

*Cmmr./Vice-Clerk Dowd asked her what the purpose of the garage is.*

*Ms. Calabro responded for personal use. The house is really old and they don't have anywhere to put a lawnmower, bicycles or patio furniture. They have a basement but you have to pull everything out of the bulkhead. Her husband does have an antique car that they pay for storage off-site currently.*

*Motion was made by Cmmr./Vice-Clerk Singleton, seconded by Cmmr. Loring continued the hearing to May 25<sup>th</sup>.*

*5-0-0 unanimous rollcall vote*

**9. 6 Hanifan Lane - Request for Determination, Public Hearing**  
**Jeff Imbruno**  
**Map 31, Block 406, Lot 26**  
**Above-ground swimming pool**

*Motion was made by Cmmr. Loring, seconded by Cmmr. Singleton to open the public hearing.*

*Unanimously voted 5-0*

*Chair Reilly states this is a request for determination for a swimming pool in the backyard.*

*Mr. Imbruno, the applicant, was online to present. He is proposing to install a 15 ft round above ground pool in his backyard within the wetland buffer. The pool is proposed to be placed where the patio is currently. Patio would be removed, is about 16 ft square and would fit the 15ft pool. This would reduce the amount of earth work. Behind the swingset is where the wetlands reside and it is about 18 ft from that fence to where the pool is being installed. On the back side of the yard it is five feet from the fence with no wetlands on that side.*

*Ms. Schloss explained that it is an isolated wetland system. The pool is closer than 50 ft from the wetland and that is why it has to come in. We can do some administrative approval for pools that are farther than 50 ft from the wetlands. She recommends using the Commission's*

*Standard Pool Conditions. No drawdown water is to be discharged into wetland areas, only to an upland area where water can be discharged slowly and absorbed into the ground. Water will be discharged only after the pool has been exposed to the air for one week without additional chlorine. Typically they recommend a cartridge system which doesn't require extensive backwash like diatomaceous earth (DE) would. If they cannot go with a cartridge filter they must coordinate with the Commission where they would be doing their backwash. The applicant stated he thought it was a cartridge filter but was not positive about that.*

*Mr. Imbruno spoke with the pool company about the filter options. He is staying away from the DE filter, but not sure between cartridge or sand at this time.*

*Ms. Schloss is not familiar with the sand. We did not include the requirement for the erosion controls, given the fence goes all the way to the ground and the existing site is on a patio. She is comfortable with the project.*

*We have received the abutter notifications and legal notices have been published.*

*Motion was made by Cmmr. Loring and seconded by Cmmr./Vice-Clerk Singleton to close the public hearing.*

*5-0-0 unanimous rollcall vote*

*Ms. Schloss recommends a Negative 3 Determination that this project is in the buffer zone and include the conditions discussed.*

*Motion was made by Cmmr. Loring and seconded by Cmmr./Vice-Clerk Singleton to issue a Negative 3 Determination with all the special conditions mentioned tonight.*

*5-0-0 unanimous rollcall vote*

**10. 15 Judson Road - Request for Determination, Public Hearing**  
**Michael Bonilla**  
**Map 24, Block 318, Lot 17**  
**Above-ground swimming pool**

*Motion was made by Cmmr. Loring and by Cmmr./Vice-Clerk Singleton to open the public hearing.*

*5-0-0 unanimous rollcall vote*

*Mr. Bonilla was on the call to present*

*He states it is the same as the previous Request on the Agenda. He is looking to install a 15 x 15 ft above ground pool about 18 ft from the fence and another 5 ft to the brook behind the fence.*

*Ms. Schloss states she is comfortable with a Negative 3 Determination. The fence, on the other side of it is a stream that runs only when there is precipitation. It is quite isolated and she is comfortable with doing what we just did with the other applicant -- a Negative 3 Determination*



*with the same conditions. Again with that fence we do not have issues getting any material into the resource area. She appreciated the applicant's patience for sitting in on the meeting all night.*

*Motion was made by Cmmr. Loring and seconded by Cmmr./Vice-Clerk Singleton to close the public hearing to issue the Negative 3 Determination as outlined by Ms. Schloss.*

*5-0-0 unanimous rollcall vote*

*Motion was made by Cmmr. Loring and seconded by Cmmr. Donovan to issue the Negative 3 Determination as outlined by Ms. Schloss.*

*5-0-0 unanimous rollcall vote*

**11. 67 Heather Lane - Notice of Intent, Public Hearing**  
**Joseph & Linda Nagle**  
**DEP File #81-1270**  
**Map 48, Block 508, Lot 88**

*Motion was made by Cmmr. Loring and seconded by Cmmr./Vice-Clerk Singleton to open the public hearing.*

*5-0-0 unanimous rollcall vote*

*Cameron Larson with Environmental Consulting and Restoration, representing the applicant for the Notice of Intent (NOI) for 67 Heather Lane .*

*It is a single-family home with an existing paved driveway with a concrete patio to the rear and the home surrounded by landscaped beds and maintained lawn. ECR completed a wetland delineation of this site and located an inland bank to a perennial stream along the south side of the home to the rear. There is also a small older and vegetated wetland associated with that stream. We have a 100 ft buffer zone and riverfront area that extend through portions of this property. What we are proposing with this project is the construction of an 18 x 18 ft. addition to the rear of the home. That addition will be located entirely within the existing concrete patio. There will be no additional disturbance to the riverfront area. We are also proposing to utilize erosion controls installed prior to any site work and of course any disturbed areas associated with the project will be restored to their pre-existing conditions. It is just lawn and landscaped areas surrounding the vicinity of the proposed addition. He opened it up to any questions from the Commission.*

*Ms. Schloss stated she and Mr. Hultin were out there the other day. The only thing that was identified and would like to address there appears to be a berm between the lawn and the river. There were a lot of wood chips on the berm, with very little growth and the appearance of leaves that had been dumped over the edge of the berm on the river bank as well. It looks as though yard waste has been disposed on the other side of the bank. We encourage nothing to be*

*thrown over the bank and not to dispose of wood chips on that berm and let it revegetate to allow it to create a vegetative buffer.*

*Motion was made by Cmmr. Loring and seconded by Cmmr./Vice-Clerk Singleton to close the public hearing*

*5-0-0 unanimous rollcall vote*

*Ms. Schloss' recommendation is to issue an Order of Conditions (OOC) as discussed tonight, Standard Conditions for residential projects, to approve the addition, have the erosion controls and then comment about the wood chips and the yard waste.*

*Motion was made by Cmmr. Loring and seconded by Cmmr./Vice-Chair Singleton to issue the Order of Conditions (OOC), Standard Conditions with the recommendations of additional language as stated here tonight.*

*5-0-0 unanimous rollcall vote*

**12. Arbor Hill Conservation Restriction - A Vote to accept  
DEP File #81-1046**

***Conservation Restriction placing permanent protection on approximately 18.7 acres of land associated with development of Gradient Apartments complex at Arbor Hill***

*Ms. Schloss states that the Commission actually voted on this back in the fall of 2019. We jumped the gun. We did not have The Division of Conservation Services' final approval and there were very minor comments they made for form, nothing with regards to substance. I sent a copy of their red lined version to everyone to review the changes that had been made since the last version had been signed. We did have it signed by the Owner yesterday and The Commission will vote tonight. You will each need to come in and sign that. You will have to come to Town Hall and get that signed in front of Marsha Conley who is the Paralegal for the Town. I will provide the dates she is available via email.*

*A Motion was made by Cmmr./Vice-Clerk Singleton and seconded by Cmmr. Loring to approve the changes.*

*5-0-0 unanimous rollcall vote*

**13. Other Business**

*Ms. Schloss started with a request that was received from 67 Regatta Road, who has done a lot of work on the coastal bank there. They have restored their coastal bank and removed the invasive species. They did have a request to remove an additional Norway Maple Tree. Mr. Hultin and Ms. Schloss went out there and looked at it yesterday and they would propose to*

*remove it at their own cost. Equipment would be on the Beach, not over any beach grass, just on the beach area. The tree would be cut by hand with no stumping or removal of roots. If anything were to be disturbed they would have to replant it. This can be done under the existing ecological restoration Order of Conditions which does include removal of anything invasive. We will send them an email saying they can do this work under the existing Order of Conditions (OOC) and here are the conditions. Just wanted the Commission to be aware that this was happening and allowing this to happen.*

*Chair Reilly asked the Commission if anyone had a problem with this. None do, Chair Reilly gave approval.*

***Vote of Support for Two Grant Projects to be submitted:***

*One is relative to the Coastal Bank. Today there was a discussion with the Planning Dept. and our Consultant, Coastal Engineering Co., that we would be applying for a Coastal Resiliency grant to restore the Western portion of the Regatta Road Coastal Bank, above the proposed walkway for the Wessagussett Walk project., This project has been fully permitted by Conservation and we are looking for a vote of support. There is going to be a Grant application to the Seaport Economic Council for the walkway but there may not be time to get a letter out before that. We are looking for a vote of support for the Coastal Resiliency Grant Application for Coastal Bank Restoration.*

*Motion was made by Cmmr. Donovan, seconded by Cmmr./Vice-Clerk Singleton to approve the letter of support.*

*5-0-0 unanimous rollcall vote*

*Ms. Schloss states the other vote is regarding a grant application to the Division of Ecological Restoration (DER) and she turned it over to Mr. Hultin. This project is to seek priority project funding and technical assistance from the DER for removal of the dam on the Old Swamp River that is part of the Sediment Nutrient Uptake Pond (SNUP). This grant does not require any matching funds, they may provide some funding but it is just to start the process of looking to remove and restore that area.*

*Motion was made by Cmmr./Vice-Clerk Singleton and seconded by Cmmr. Donovan to write the letter of support.*

*5-0-0 unanimous rollcall vote*

*Cmmr./Vice-Clerk Singleton asked if Ms. Schloss would like to see the letter of support for the Seaport Economic Council.*

*Ms. Schloss responded that that Grant is due May 1, but if Bob Luongo decides he wants that from Conservation, it would be helpful. Conservation did issue an order of Conditions for the project. We are asking for \$1,000,000 from the Seaport Economic Council to construct that project.*

*Ms. Schloss responded that that Grant is due May 1, but if Bob Luongo decides he wants that from Conservation, it would be helpful. Conservation did issue an order of Conditions for the project. We are asking for \$1,000,000 from the Seaport Economic Council to construct that project.*

*Motion was made by Cmmr./Vice-Clerk Singleton and seconded by Cmmr. Donovan to provide the letter of support for the Grant.*

*5-0-0 unanimous rollcall vote*

*Chair Reilly stated that the CPC and Herring Run Update will continue until next Tuesday.*

*Ms. Schloss reminded the Committee that they have two site visits on Monday, one for Washington Street and the other for 1183 Main Street. She will be sending an email with directions to those sites.*

**14. Adjournment**

*On a motion that was made to adjourn by Cmmr. Loring, seconded by Cmmr./Vice-Clerk Singleton the Commission to continue the meeting to Tuesday, May 4, at 7:00 p.m.*

*Motion was made by Cmmr. Loring, seconded by Cmmr./Vice-Clerk Singleton to adjourn at 10:00 pm.*

*Unanimously voted 5-0*

  
\_\_\_\_\_  
Scott Dowd, Clerk

07/27/21  
\_\_\_\_\_  
Date

*Respectfully submitted by,*

*Ann Flynn Dickinson*  
*Recording Secretary*