

**WEYMOUTH CONSERVATION COMMISSION
RECORD OF MINUTES AND PROCEEDINGS**

**Wednesday, December 19, 2018, 7:00 p.m.
McElroy Room, McCulloch Building
182 Green Street, Weymouth, MA**

Present: Tom Tanner, Chairman
Scott Dowd, Commissioner and Clerk
George Loring, Commissioner
John Reilly, Commissioner
Frank Singleton, Commissioner

Also Present: Mary Ellen Schloss, Conservation Administrator

Chairman Tanner called the December 19, 2018 Commission meeting to order at 7:00 p.m. in the McElroy Room, McCulloch Building, 182 Green Street, Weymouth MA.

Approval of Minutes:

The minutes of November 14, 2018 were reviewed.

On a motion made by Commissioner Reilly, seconded by Commissioner Singleton, the Commission voted 5-0-0 to approve the minutes from the November 14, 2018 meeting as written.

North Weymouth Beach Connection Project – Notice of Intent, Public Hearing, Continued

Town of Weymouth

Map 2, Block 12, Lot 10

Map 4, Block 21, Lot 3

DEP File #81-1213

Rock revetment and pedestrian walkway to connect Wessagussett and Lane beaches

Ms. Schloss stated they are working on permitting. A meeting was held Monday, December 17 and they are requesting a continuance to January 22, 2019.

On a motion made by Commissioner Loring, seconded by Commissioner Dowd, the Commission voted 5-0-0 to continue the public hearing until January 22, 2019.

60 Brewster Road, Request for Certificate of Compliance

Angel Montanez, Jr.

Map 10, Block 82, Lot 12

DEP File #81-1177

Demolish and rebuild single-family house

Angel Montanez, Jr. was present. Ms. Schloss stated this is a request for a Certificate of Compliance. This was the teardown and reconstruction of a single-family home. There is required tree planting and landscaping to be done and the land is not stabilized, so this is not ready for a final Certificate of

Compliance. She recommended the Commission issue a partial Certificate of Compliance and Mr. Montanez can come back in the spring or summer when the remaining work is done. Mr. Montanez stated he is in agreement with this plan. He stated the footprint of the home is smaller and moved further away from the water. Chair Tanner asked if they had tried planting already. Mr. Montanez stated it was an oversight on his part and he offered to do it but Ms. Schloss recommended waiting until the spring.

On a motion made by Commissioner Reilly, seconded by Commissioner Singleton, the Commission voted 5-0-0 to issue a partial Certificate of Compliance.

**Discussion of lease agreement, Brewster Road Conservation Land
Map 10, Block 82, Lot 13**

Ms. Schloss stated this was an agreement between the Town of Weymouth and Angel Montanez regarding use of conservation land. There was a dock and pier on the property. An agreement was signed in 2000 and 1996 by the Chair of the Conservation Commission. Since the property is being sold Ms. Schloss wanted to discuss this with the legal department to understand if this is an agreement that would remain in effect once the property is transferred. She met with Joe Callanan, Town Solicitor, and he said this would not be in effect on transfer of the property and he had doubts about the legality of the agreement.

Mr. Montanez provided background information on the property. He stated back in the 1960s the parcel of land belonged to his father. A small portion of the land has water. They wanted to put a dock in and the town asked them to put it in the current location. They maintained it and talked to the Conservation Commission, Selectmen, the Mayor, and the Army Corp of Engineers. Anyone who had a say looked at it and had no problem. They signed a release and indemnity agreement to release the town from it. The land eroded and the catwalk could no longer be maintained. They cut the fence and put a walkway in, per town instruction. His parents were going to sell the house and the buyer asked if the dock was transferrable. They had entered into an agreement with the town stating this was transferrable. He is selling the house now and Ms. Schloss asked about the dock.

Chair Tanner stated the question is whether this is transferrable to the perspective buyer. He asked if there is language that stated this was transferrable. Ms. Schloss stated Mr. Callanan indicated it is not transferrable. Chair Tanner confirmed they are not contesting that the use by him is legal, just whether it is transferrable. Ms. Schloss stated a meeting has been set up to discuss this with Mr. Callanan and Mr. Montanez later this week.

Mr. Montanez stated he will attend the meeting and will show the documents indicating it is transferrable. Ms. Schloss stated this is conservation land and would be available for anyone to use. Mr. Montanez stated when the land was owned by the town he was the one who asked for it to be zoned conservation.

**7 Woodside Path, Request for Certificate of Compliance
Shelley Newman
Map 34, Block 434, Lot 26
DEP File #81-1197
*Addition to Single Family House***

Ms. Schloss stated this is a partial Certificate of Compliance. She stated they have spread soil around and it is more disturbed than before so she could not do a final. She met with them today and is comfortable with issuing a partial Certificate of Compliance.

On a motion made by Commissioner Reilly, seconded by Commissioner Loring, the Commission voted 5-0-0 to issue a partial Certificate of Compliance.

Arbor Hill Residential Dev., Request for (2) Partial Certificates of Compliance

Arbor Weymouth Residential Holdings, LLC

Map 42, Block 467, Lots 2 & 3; Map 38, Block 469, Lots 2, 21, 22 & 23

DEP File #81-1046

242 residential units & clubhouse, associated fill, grading, utilities, and wetland mitigation

Gale Engineering provided plans for the Commission to review. Jay Upton, Principle and John Perry with Gale Engineering addressed the Commission.

Mr. Perry stated they submitted two documents on October 26, a Partial Certificate of Compliance for the emergency access road and a Partial Certificate of Compliance for the east basin (area 2). He stated the only difference is that the site contractor raised the bottom of the basin up to final grade. Mr. Upton stated there are minor grade changes which are captured in the as built plans submitted.

Ms. Schloss stated she received this today and she has been out there a number of times in the last month or so. She stated there is some final stabilization to be done. She asked for clarification regarding the changes. Mr. Upton stated there was some material stockpiled that has been moved. The plantings are in place. They have done what they can to stabilize given the rains this fall and they may have to make repairs in the spring. They feel it is appropriate for a Partial Certificate of Compliance and to do repairs in the spring.

Chair Tanner confirmed these changes are in the plans given to the Commission. He asked Ms. Schloss how much of the non-stabilized area is going to be attributed only to the portion that has been constructed already. Mr. Upton stated this has nothing to do with the two buildings, the buildings are stabilized and drainage is fully operational and working well.

Commissioner Singleton expressed concern about DEPs changes and whether they will affect this project. Ms. Schloss stated the reason they wanted to hold off last month was the east basin has been raised and is in its post construction phase and she wanted to ensure this was all set. She stated it is holding a lot less water than it would have if it were solid fill. Mr. Perry stated they filled it with more permeable soils and it is infiltrating more than the original design had intended, it is functioning as designed or better.

On a motion made by Commissioner Singleton, seconded by Commissioner Loring, the Commission voted 5-0-0 to issue a partial Certificate of Compliance for the eastern drainage area 2.

On a motion made by Commissioner Singleton, seconded by Commissioner Loring, the Commission voted 5-0-0 to issue a partial Certificate of Compliance for the emergency access road area 1.

475 Columbian Street, Violation Hearing, Continued
Richard Campot (Executor of Estate)
Map 40, Block 482, Lot 16
Unauthorized fill in wetlands

Richard Campot was present before the Commission.

Ms. Schloss stated she went to the site yesterday. She had not been there since erosion controls were installed and she was quite pleased. Everything looks in good shape. The water has come up higher than it was and everything looks stable. Erosion controls are not floating onto the land and there is no evidence of dumping. There is evidence of use of the site in the upland, but no additional activity near the wetlands. She stated when this was before the Commission last month Mr. Campot stated he was going to do his best to get investigative test pits installed before this meeting. This has not happened so they are asking to get an update.

Chair Tanner stated Mr. Campot was going to attempt to contact the person who was dumping and get assistance to do test pits. Mr. Campot stated what he understands is that this person is completely denying any dumping at all. He stated he could approach this person but he has a pension that is on the line and he told his boss he did not do the dumping. Mr. Campot stated it was his intention to get the pits done and he talked to the people with the equipment and he had to talk to Ms. Schloss. He had to wait for a good window of weather. He was told by the people he hired to put this on hold. Chair Tanner asked what right they had to tell him what not to do. Mr. Campot stated he does not know what their strategy is.

Chair Tanner stated the Commission has been holding off giving Mr. Campot a legal mandate with a violation hearing, hoping that working with him would enable accomplishing what needs to get done, number one being the pits. Mr. Campot stated at the last meeting it was thrust upon him that a half-acre had to come out and this was the first he had heard of a half-acre. Ms. Schloss stated this was a rough approximation looking at Google Earth photos and GIS wetland maps. She stated this is not in any way a firm number. Chair Tanner stated they would not know how deep the wetlands were before it started to be filled and if they take a test pit they will know how much has been filled. Mr. Campot stated originally he thought the work would be erosion control and pulling some back. Commissioner Singleton stated they also need to know what material was used.

Joseph Polsinello, Inland Professional Corporation, addressed the Commission. He stated this is an unusual circumstance. He has worked with Ms. Schloss before and he completely agrees with her concerns. He has looked at the property and there are areas of 30 plus years of historic activity. He asked how they can come up with a solution, what he can do with the property, and how to get bank financing. He stated in his experience he thinks it would be reasonable to go in and remove the recent fill from the last 3-5 years, any obvious wetland filling. He stated he should be able to attract people who would be interested in buying the property and developing it. He recommended they come in with a Notice of Intent and remove the area that is obviously settled.

Chair Tanner stated they need a couple of test pits to see what is underneath. He stated they may find it is 50 feet filled but 30 feet is solid and 20 feet needs to be removed, but the only way they will know is with test pits. He asked why that would not be done right away. Mr. Polsinello stated they looked at where they would do that and it is obvious where there is new fill. Chair Tanner recommended doing a test pit in that location. Mr. Polsinello and Mr. Campot were in agreement.

Chair Tanner recommended they put several test pits out there, then they can come back next month and have a discussion. Mr. Polsinello stated he will watch the weather and contact Ms. Schloss and put some stakes in the areas where test pits should be located.

Commissioner Dowd asked if there are standard guidelines describing how sites should be chosen to get the information. Ms. Schloss stated decisions may have to be made on site because you might not know what you will find. Commissioner Dowd asked who will make those decisions. Ms. Schloss stated the Town of Weymouth will decide. Chair Tanner stated Ms. Schloss, the Commission, the Building Department and the Board of Health will make the final decisions. Mr. Polsinello stated different agencies will be interested in different purposes. Commissioner Dowd stated he does not feel they can sit here and decide where the test pits be located. He recommended someone who is certified in this should make this determination. Ms. Schloss stated Brad Holmes, wetland scientist, could possibly come on board. Commissioner Singleton expressed concern that they could find oil drums, etc. and he is nervous about what they might find, given the reluctance of the person who did the dumping. He stated with Google Earth they are finding more and more encroachments throughout the town and this will need to be reviewed.

Mr. Campot stated at the last meeting they determined it would be two pits for financial reasons. If there are more he will not be able to afford it. Chair Tanner stated he sees no reason why this will take more than one day. Mr. Polsinello stated he will provide enough resources.

Commissioner Reilly stated he would like to see something in place and for several months nothing has happened. Ms. Schloss stated she has discussed this with the Town Solicitor and the person in question could be brought in to provide resources so Mr. Campot does not have to bear all the financial burden. Chair Tanner asked if Mr. Campot would want a letter generated by the Town Solicitor to the party who filled the land asking for justification of their hands off status. Mr. Campot was in agreement.

On a motion made by Commissioner Loring, seconded by Commissioner Dowd, the Commission voted 5-0-0 to continue the public hearing until January 22, 2019.

Roadway Project: Pleasant Street/Libbey Parkway/Quarry Road

Notice of Intent, Public Hearing, Continued

Roadway Right-of-Way and 605, 621 & 627 Pleasant Street

J.F. Price, c/o Heather Quintal

Map 39, Block 475, Lots 10,19,4

DEP File #81-1231

Improve intersection; construct new roadway at Libbey/Pleasant to connect to realigned quarry road

Ms. Schloss stated they have a request from the applicant to continue to January 22, 2019. She has a handout she will provide to the Commission at the end of the meeting. She announced the recent submittal for this project is available on the Conservation Commission webpage for anyone who is interested in reviewing this information.

On a motion made by Commissioner Loring, seconded by Commissioner Reilly, the Commission voted 5-0-0 to continue the public hearing until January 22, 2019.

1500 Main Street, Notice of Intent, Public Hearing
John M. Corcoran & Co., LLC
Map 61, Block 627, Lot 25
DEP File #81-1235

2 mixed-use buildings and one residential building, parking, drainage and utility improvements

On a motion made by Commissioner Loring, seconded by Commissioner Reilly, the Commission voted 5-0-0 to open the public hearing.

Kelly Killeen, CHA Engineering, Peter Mahoney and Mary Davis were present before the Commission. Mr. Killeen provided abutter notifications, as well as a letter from Jay Hall, wetland scientist.

Mr. Killeen provided an overview of the site. He stated they are before the Commission for work within jurisdictional isolated vegetated wetland (IVW) for the southern area of the site, and for bordering land subject to flooding (BLSF). He stated the site is mapped as FEMA floodplain A, however, there is no elevation associated with it. They are currently doing calculations to determine the elevation. They were originally conservative, using topography of 165 elevation, but they may be down around 160. The project consists of 237 apartment units and interior parking, with 289 spaces to serve the project. There is an extensive drainage infrastructure. They are reducing runoff by 14 percent volume and 3-4 percent in higher volume storms. There are 5 underground systems involved.

Mr. Killeen reviewed the way FEMA maps the wetland as well as what they believe it should be. The CVS store runoff sheet flows onto the property. Along the boundary with CVS and Papa Gino's they are going to pick up that runoff and put it back into the ground as much as they can. When they have further flood plain information they will know what variances are needed and how this is going to be impacted. They conducted a site walk on 12/11/2018. Jay Hall, wetland scientist, and Ms. Schloss reviewed the wetland line and locations of the flagging. They relocated some of the flags which will be reflected on new drawings. This gives an additional 350 square feet of wetland. There is some question of impact for parking and patio area. There is discussion on the configuration of this rear area.

Chair Tanner stated this is putting a very large project in a very condensed area. He would much rather see the buildings outside of the 100 foot mark, even though this is not mandatory. He stated some of the parking in the rear is up against the wetlands and the ZBA may have some concerns about this parking. He stated this is probably a great use but he feels this could stay out of the 100 foot mark.

Commissioner Singleton asked for clarification of Ms. Schloss' report. Ms. Schloss stated they received comments from the engineering division. She stated there is quite a bit of fill out there and this has to be removed from below the proposed infiltration areas and this should be included in the plans. They need to determine flood plain on the plan, which is being addressed. She stated there are significant flood concerns further south and the water has to move south under the railroad tracks near the Abington town line.

Ms. Schloss stated state regulations require engineering analysis be done. Local regulations require a variance for work that is within land subject to flooding and they will be applying for a variance.

She reviewed what is required for this variance. She reviewed the flood plain map and indicated the triangle near storm drain outfall and asked if this is ledge or fill. She stated it is difficult to get to that storm drain outfall due to debris. She is trying to get a context for their strategy so they do not further impact flooding in this area. She is not sure they are seeing flooding where they are proposing flood plain compensation. Mr. Killeen reviewed the plan and indicated areas of known flooding. The majority of the flooding is south of the site. The area Ms. Schloss referenced drains Plain Terrace, but is not an outlet for their site. He stated they searched records for the tracks and there are no culverts between this location and the airbase side. The area does flood and they are now determining where it floods to. He stated they will include all this information in their flood study. Ms. Schloss stated she would like to know if something can be done to alleviate downstream flooding.

Ms. Schloss stated they have to evaluate the buffer to isolated wetland and determine if this is a vernal pool. The wetland ordinance is very stringent with regard to vernal pools and the Commission wants to look at that carefully. Mr. Hall provided a memo and photographs and he stated in July this was dry. He does not feel it is a vernal pool. She talked to the neighbors who indicated this does hold water for at least two months during the breeding season. She is quite concerned about the proximity of the development right up to the slope of this wetland. She would like to see a larger buffer than 25 feet, but this does not appear to be a vernal pool. She stated if this was determined to be a vernal pool there would be a 200 foot jurisdictional area. She feels they have an ability to negotiate the buffer.

Commissioner Dowd stated he does not feel there is enough information to make the hydrological determination as to whether this is a vernal pool. Ms. Schloss stated the outfall is in bad shape with massive debris in the area. She stated there has been some dumping on the site. Stormwater design was reviewed by Engineering and they feel it meets or exceeds the stormwater standard. She asked if tree planting or preservation of trees can be considered. She stated the applicant has filed with MEPA because the project exceeds traffic, nor for environmental. Chair Tanner asked if there is a 21E on this project. The applicant indicated there was a prior 21E on the site which has been closed out. They will provide documentation on this to the Commission.

Bob Luongo, Planning Director, addressed the Commission. He stated clearly this project fits in and is one of the key sites they looked at when they did the overlay zone. The other main site is north of this site on the other side of the MBTA parking lot. He stated they are probably 10 years too late on the zoning because the CVS and Papa Gino's strip mall does present problems from a planning/land use point of view. He stated the site does replace an undesirable use. Prior to zoning being changed they had discussions with the building supply company and they were going to do an expansion. Fortunately they decided to relocate and the parcel came up for sale and zoning was put into place.

Mr. Luongo stated he disagrees with the Chairman's feeling. This is five acres with 237 units and they are well within the requirements of the zoning. It is an entrance way into Union Point and there are challenges with the site. They are asking the developer to ensure Trotter Road is four lanes to the railroad parking lot. LSTAR owns this road, however, and it is difficult to deal with them due to their problems. A sidewalk will be continued from Uncle Charlies to the railroad track. He stated they have had discussions with residents and it is a challenge from the wetlands point of view and it is a FEMA flood area. Mr. Killeen stated they are analyzing the floodplain and if it requires a map revision they will pursue this. Mr. Luongo stated they are concerned about the Plain Terrace neighborhood. Some of these issues are isolated from this development. He encouraged the developer that if they can help solve a problem that would be great.

Mr. Luongo stated Counselor Smart would like to see parking behind building C eliminated. There would have to be fire access back there and they encourage them to keep the patio on building B because they feel in order for this to be high quality today's market requires high end amenities. He stated they talked about pulling the building further north. Counselor Smart and the Mayor would like the commercial aspect increased. He stated if the numbers do not work by decreasing the size of the building this will impact the pro forma of the project for the developer. They will be back before the Board of Appeals in January. They need a special permit to build within the flood plain in addition to the variance from this Commission. He stated they will meet the parking requirements even if they reduce those parking spaces in the back, however, the applicant feels they need more parking than the zoning requires to make the buildings desirable.

Commissioner Singleton asked if the expansion of Trotter Road will impact anything, such as the buoy operation. Mr. Luongo stated the Coast Guard has the buoy operation and there is no impact. Commissioner Loring stated he agrees with the Chairman to keep as much wildlife area as possible. He questions whether or not the pool is a vernal pool according to Weymouth regulations. Commissioner Dowd stated he agreed with both these points.

Chair Tanner opened the meeting to public comment.

Don Esdale, 57 Plain Terrace, addressed the Commission. He provided photographs showing where the water goes. He stated it does not come from the storm drain, it seems to be coming down from Route 58. He stated he has a building that would be under water if it was not up on blocks. The water comes and goes depending on the amount of rain. He stated he thought the storm drains drained out to that area, but they do not. Ms. Schloss asked if this is backing up from the larger flood plain, Sea Captains Way. Mr. Esdale stated he does not know. Ms. Schloss stated there are now detention areas to hold the water to reduce the peak flow. Chair Tanner stated water used to come down Route 18 and go down Route 58, but now it is supposed to go into the rain garden on the South Shore Bank property when the Route 18 project is completed. He stated with the work on Route 58 there is an influx of water in the last year. Commissioner Singleton stated rain amounts are changing and the data they are using is outdated.

Carl Orlowski, 50 Plain Terrace, addressed the Commission. He stated they are not opposed to the project, but do not want to see the problem get worse. He stated the water has gotten quite high and seeing the close proximity to the curb cut is concerning. Chair Tanner asked if they are seeing more water with the Route 18 construction. Mr. Orlowski stated not behind his house, but definitely behind Mr. Esdale's house. Chair Tanner asked how much dry land they have before they hit the wet area. Mr. Orlowski stated about 50 feet. Commissioner Loring asked what they hear at night. Mr. Orlowski stated the hear peepers all the time.

Mr. Luongo stated he would encourage the Commission to look at what they are proposing for mitigation, especially for water runoff for CVS and Papa Gino's. He stated the Commission has to make a decision whether this is a local vernal pool or not. This is a big issue that needs to be resolved as soon as possible. Mr. Killeen stated they are aware of this and they are putting as much water as they can into the ground. They are confident with their numbers and design and will work with the town to provide the greatest extent of mitigation that they can.

Ms. Schloss stated she would like to discuss the vernal pool situation. She asked what further information they would like. Chair Tanner stated he is comfortable with the report that this is not a vernal pool as it does not have what is necessary to sustain life in the middle of April, May and June. It has too much growth, very little very open water space, and is a good breeding ground for mosquitos. Commissioner Reilly stated he is in agreement. Commissioner Singleton recommended having a presentation by the wetland scientist. Commissioner Loring stated vernal pool obligate species could breed in this location. They cannot determine hydrological criteria and in order to make a decision they would have to observe it during a dry period. He stated if they are hearing peepers that means there are amphibians there and they are obligated to preserve life.

Ms. Schloss stated perhaps the applicant can provide further information. She stated if this does not appear to be a prime resource they have some flexibility. She feels there is too much clearing adjacent to this pool. She asked if it would be helpful for Commissioner Dowd to visit the site. Commissioner Dowd stated he feels it meets the hydrological criteria for a vernal pool. Mr. Killeen stated it does not make sense to discuss potential mitigation. He stated it is an IVW and asked if there is any other way to enhance the buffer.

Chair Tanner asked what they can do to enhance the project in that area. Ms. Schloss stated having a vegetative buffer of 100 feet. Chair Tanner stated he does not want to kill this project because of a couple of creatures. Commissioner Dowd stated the ordinance is clear.

Mr. Luongo suggested having a follow-up meeting with Ms. Schloss, the wetland scientist, the applicant, and any Commission members who would like to be present.

On a motion made by Commissioner Reilly, seconded by Commissioner Singleton, the Commission voted 5-0-0 to continue the public hearing until January 22, 2019.

Other Business:

Ms. Schloss provided meeting dates for next year. The Commission is going to be meeting on Tuesdays beginning in January. If the McElroy room is not available they may use council chambers.

CPC Update:

Commissioner Loring stated there was no quorum so the meeting was not held.

Conservation Report:

Ms. Schloss stated the Smelt Brook daylighting has begun. There is a problem with the electrical conduit and they are losing 10 feet of substrate improvement underneath. The town is taking extra measures to get the 150 feet as permitted. They have had conference calls with DEP and are working with the Division of Marine Fisheries to discuss a mitigation plan such as a tree canopy or substrate improvements upstream. Because of the imperative that this be done by March 1 the contractor is already on the ground and the work cannot be stopped to resolve this. The project is ongoing but this will be back before the Commission for a modification.

Ms. Schloss stated the Mutton Lane subdivision has started. There is significant fill at a property at the end of Tamburlane Ridge that came to her attention and she is dealing with the owner.

Ms. Schloss stated the Mutton Lane subdivision has started. There is significant fill at a property at the end of Tamburlane Ridge that came to her attention and she is dealing with the owner.

Ms. Schloss provided information about a chronic sewer overflow at Meetinghouse Lane and stated the sewer division is working on this. Regarding the Arbor Hill conservation restriction, Jay Gupton, the owner, has hired a good firm to do their baseline documentation report and that will be part of the conservation restriction photo documentation. The open space and recreation plan is going forward. The town has a consultant they will be meeting with.

Ms. Schloss stated Solitude Lake Management has sent a report on their findings which she will send to the Commissioner members for their input.

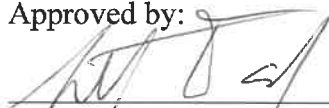
Adjournment:

On a motion made by Commissioner Loring, seconded by Commissioner S, the Commission voted 5-0-0 to adjourn at 9:30 p.m.

Respectfully submitted by,

Patricia McDonnell
Recording Secretary

Approved by:



Scott Dowd, Clerk



Date