

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

**Tuesday, January 22, 2019, 7:00 p.m.
McElroy Room, McCulloch Building
182 Green Street, Weymouth, MA**

Present: Tom Tanner, Chairman
George Loring, Commissioner (arrived at 7:11 p.m.)
John Reilly, Commissioner
Frank Singleton, Commissioner

Not Present: Scott Dowd, Commissioner and Clerk

Also Present: Mary Ellen Schloss, Conservation Administrator

Chairman Tanner called the January 22, 2019 Commission meeting to order at 7:00 p.m. in the McElroy Room, McCulloch Building, 182 Green Street, Weymouth MA.

Chairman Tanner welcomed everyone to the first meeting of the new year. He emphasized that the Commission is there to help the citizens of Weymouth. He stated their meetings will be televised as often as possible, depending on the availability of meeting rooms.

Approval of Minutes:

Ms. Schloss asked to table approval of the December 19, 2018 minutes as she has not had an opportunity to review them.

On a motion made by Commissioner Reilly, seconded by Commissioner Singleton, the Commission voted 3-0-0 to table discussion of the December 19, 2018 minutes.

**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 along shoreline

Ms. Schloss asked that this hearing be continued to February 19, 2019. She stated they are making progress. She met with the Architectural Access Board last month and met with the Army Corps of Engineers. She is hoping to have revised design plans at the next meeting.

Chair Tanner announced that Commissioner Singleton has volunteered to be the Commission's liaison for anything involving the North Weymouth area.

On a motion made by Commissioner Reilly, seconded by Commissioner Singleton, the Commission voted 3-0-0 to continue the public hearing until February 19, 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 asked that this hearing be continued to February 19, 2019. She stated the applicant is working on response to comments and asked for a continuance. Chair Tanner asked if the applicant has been in contact with the Department of Public Works on the removal of the infiltration systems from the roadway. Ms. Schloss stated this has been discussed but she has not seen revised designs.

On a motion made by Commissioner Reilly, seconded by Commissioner Singleton, the Commission voted 3-0-0 to continue the public hearing until February 19, 2019.

**123 Main Street, Certificate of Compliance Request
 R. Falcione
 Map 29, Block 372, Lot 45
 DEP File #81-1207**

Driveway parking alterations

Ms. Schloss stated she met with the applicant, who is not present this evening. This is a request for a final Certificate of Compliance. She provided photographs to the members. She conducted a site visit with the applicant. She stated everything looks in order, however, the berm is not fully stabilized and the grass has not come in yet. It is subject to erosion and may need reseeding in the spring. She stated the Commission can wait until the spring to approve this or could vote to issue the Certificate but not release it until the stabilization work is completed. Chair Tanner stated since the property is for sale he would recommend approving the Certificate with conditions.

On a motion made by Commissioner Reilly, seconded by Commissioner Singleton, the Commission voted 4-0-0 to issue a Final Certificate of Compliance.

**19 Perkins Road, Notice of Intent, Public Hearing
 Wayne Fitzgerald
 Map 34, Block 438, Lot 1
 DEP File #81-1236**

Garage, breezeway, grading, retaining wall

On a motion made by Commissioner Reilly, seconded by Commissioner Singleton, the Commission voted 4-0-0 to open the public hearing.

Al Trakimas, SITEC Environmental, was present before the Commission, along with Wayne and Linda Fitzgerald. He provided the appropriate abutter notification cards.

Mr. Trakimas stated they are proposing an addition to the home at 19 Perkins Road. Due to work being done on the abutting lot with regrading it afforded the applicant to put an addition with a garage on their home. This will provide vehicle parking, storage, and a breezeway to the dining area.

Utilities are already in place so there will be no additional utility work required. They have also added some infiltration in front of the garage and to the rear to help recharge the stormwater that will be coming off the roof. The lot is relatively flat, except for a hill area which is being removed near the proposed garage. Any difference in height at this area will have a retaining wall.

Mr. Trakimas stated that Ms. Schloss had two comments from her recent site walk. One is addressed on the plan relative to the work being done on the site next door. Also, along the wall area there are relatively young white pines that are coming down and Ms. Schloss had recommended mitigation. They had their wetlands consultant look at the south area along the pond and he has proposed some plantings along there as well.

Chair Tanner asked what material the wall will be made of and Mr. Fitzgerald stated solid concrete. Chair Tanner stated the biggest concern would be the plantings. Mr. Trakimas stated they have a planting schedule on the plan and they would work with Ms. Schloss if there were any modifications needed.

Chair Tanner opened the hearing for public comment. There was no one present wishing to speak.

Ms. Schloss asked if construction will be from the abutting property or the Fitzgerald's property. Mr. Trakimas stated it will be a little bit of both, as there will be excavation on the Fitzgerald property and tying back into the hill on the abutting property. Mr. Ryder, the abutter, has indicated he is willing to work with the Fitzgerald's on that. Ms. Schloss stated they may request a construction sequence. Ms. Schloss asked if they could include a tree with the proposed shrub planting since they are losing tree canopy. Mr. Fitzgerald stated they can work with Ms. Schloss, but they have already discussed planting a few trees in that area.

On a motion made by Commissioner Reilly, seconded by Commissioner Singleton, the Commission voted 4-0-0 to close the public hearing.

On a motion made by Commissioner Loring, seconded by Commissioner Singleton, the Commission voted 4-0-0 to issue a standard Order of Conditions, with all the conditions included in this hearing.

The Residences at 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 Reilly, seconded by Commissioner Singleton, the Commission voted 4-0-0 to open the public hearing.

Ms. Schloss provided the members with updated information relative to this project.

Kelly Killeen, CHA Engineering, Peter Mahoney and Mary Davis were present before the Commission. Mr. Killeen provided appropriate abutter notifications. He stated they have submitted a request for a variance for work within land subject to flooding. They have calculated the base flood elevation as 160.1. This has been discussed with Ms. Schloss, as well as Engineering and DPW. This reduces the area of impact to approximately 12,000 square feet. In addition, they have had several meetings with regard to changes to the site. They have removed 22 parking spaces behind building

C, but have retained the fire access behind this building. They have maintained the stormwater mitigation system previously proposed. They are picking up the offsite drainage and bringing it through their system so there is a single outlet through the 25-foot buffer. They are enhancing the area previously proposed as parking and the area will be planted. They will respect the 25-foot buffer throughout. They have agreed to install an 8-foot high chain link fence with slats as shown on the submitted plan. The fence will be installed 18 inches off the ground to allow wildlife passage. This was agreed upon with the abutters and Councilor Smart at a neighborhood meeting.

Mr. Killeen stated they are still proposing the dog area and the grilling area as previously presented. They feel these changes reduce the impact to the jurisdictional resources. Chair Tanner asked about signage. Mr. Killeen stated the fence will have signage indicating it is a resource area. He stated they submitted a wetland restoration mitigation plan. They would like to save some of the larger trees if possible. Chair Tanner asked about the proposed parking on Trotter Road. Mr. Killeen stated the parallel parking will remain and traffic improvements will include a crosswalk and additional striping to delineate the lanes all the way down to Main Street, two lanes on each side. Commissioner Reilly asked if there will be a pedestrian crossing signal and Mr. Killeen stated no.

Commissioner Loring expressed concern that they are taking all the drainage from the CVS parking lot, as well as this project, and putting it in one location. Mr. Killeen stated the drainage currently goes to that location and for all the impervious that is being added they have provided mitigation and infiltration within their parking areas. They have a series of four systems, each one overdesigned for infiltration.

Chair Tanner opened the hearing for public comment.

Tom Orłowski, 50 Plain Terrance, stated they are happy with the fence but there was some discrepancy about how high it should be off the ground. He asked if it could be 12 inches instead of 18 inches to prevent people from going underneath it. Ms. Schloss, as well as the applicant, indicated 12 inches would be fine. Mr. Orłowski asked if the fire department access would be gated. Chair Tanner stated that area would be wide open, as they very seldom have restricted access for the fire department.

Kathy Orłowski, 50 Plain Terrace, asked if the fence will still be 8 feet high if the bottom is lowered. Mr. Killeen stated yes.

Chairman Singleton asked if the applicant is concerned that people may use their site as overflow parking for the T station. The applicant indicated they feel they will be able to do a good job monitoring this and knowing who is supposed to be parking there. The residents will have parking stickers.

Chair Tanner stated the Commission is very pleased that the applicant has taken the input they have provided and incorporated it into the proposed changes.

Ms. Schloss reviewed the documents she had already provided to the members. She then passed out the draft Order of Conditions for discussion. She stated Engineering recommended adding a check valve to the drainage system in the case of a large flood. She discussed the buffer restoration plan which does not include any woody vegetation and she recommended some be added. Chair Tanner informed the applicant that if they are looking for a final Certificate of Compliance and the work has

not been completed, they may be required to put up a compliance bond. Mr. Mahoney stated he does not anticipate requesting a final until the monitoring period, at which time they would put up a compliance bond.

On a motion made by Commissioner Singleton, seconded by Commissioner Loring, the Commission voted 4-0-0 to close the public hearing.

On a motion made by Commissioner Reilly, seconded by Commissioner Singleton, the Commission voted 4-0-0 to issue a variance as discussed tonight.

On a motion made by Commissioner Singleton, seconded by Commissioner Loring, the Commission voted 4-0-0 to approve the project as discussed, with the conditions outlined.

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. Also present was Attorney Chip Nylén and Joseph Polsinello, Inland Professional Corporation. Mr. Nylén stated this could be handled with an enforcement order which includes a plan to restore the wetland which the Commission would have control over. He stated Mr. Campot is more than ready to address the issue of the more recent fill by removing and restoring. He would prefer not to get involved in any litigation involving past filling. He asked the Commission for direction as to how to settle this, with the ultimate goal of getting a Certificate of Compliance.

Chair Tanner stated the Commission, in conjunction with the DPW and Board of Health, would like to see five test pits and if this is agreeable they can move forward. Mr. Nylén stated that the proposed fifth pit is in a location which was filled almost 30 years ago. He stated the Commission may have issued an enforcement order against Mr. Carmichael but it was never pursued after and Mr. Campot should not be responsible for that old fill. He stated they would prefer to do the four test pits.

Chair Tanner stated the reason the Commission would want the fifth test pit is to determine if there is any contamination on the site. If there is contamination they would not want that contamination to go unaddressed. He stated the area may not be contaminated, but the Commission would be remiss if they did not take the extra step to ensure it is not. Mr. Nylén stated if the Commission is concerned about contamination a monitoring well should be installed. He thought they were concerned with the degree of fill. Chair Tanner stated a monitoring well is going to be more costly for Mr. Campot. Mr. Polsinello stated if they are concerned about contamination he would install monitoring probes in order to determine if there is a problem with 21E contamination. Ms. Schloss asked for clarification of the probes. Mr. Polsinello stated the probes are small monitoring wells which would determine the quality of water as well as soil borings. He stated he has been at the site many times and has done a lot of research and does not have a 21E concern, however, if someone were to purchase or finance this property they are going to want monitoring wells installed.

Mr. Campot stated that the original owner explained to him that the building in front of the property, 469 Columbian, was originally a gas station, and the road was Route 128 which went all the way to the Cape. He is assuming the pumps and tanks were removed when they worked on the highway. Behind this building, on Mr. Carmichael's property and with his permission a contractor came in and

removed a large amount of dirt and hauled it away. He stated this was done because the mechanics used to dump their oil in that location.

Mr. Campot stated 469 Columbian then became a used car dealership and Mr. Carmichael had a problem with cars being parked on his property. There was an ongoing dispute, which the town may have records on, and Mr. Carmichael's attorney told him he could remove any cars on his property, which he did.

Chair Tanner stated that the proposal to do four test pits came from Mr. Campot's team, not the town. Mr. Campot stated he thought the Commission was concerned with the back corner. Chair Tanner stated they are concerned with fill that was put into the wetland and need to know how much of the wetland was filled.

Ms. Schloss stated perhaps a combination of the five test pits and groundwater monitoring would be helpful, however, the town is not comfortable with just looking at the recent fill, they want to reserve their right to understand what is happening beyond that. Commissioner Singleton stated the Town Solicitor stated they may be satisfied with four pits, dealing only with the recent fill, while reserving the right to require more work depending on what was found. It has been determined that the town would like to see these properties cleaned up and developed and perhaps a more extensive study can be done with the future developer. He stated they are looking for visual observations such as oil drums and using excavated test pits. Ms. Schloss stated perhaps they could deal with the more recent fill. She would like to see that pulled back and perhaps a developer could handle a more in depth cleanup.

Mr. Nylen stated he does not want to put his client in a position where someone is looking over his shoulder for the next five or ten years. He stated he does not want to go down the path of determining the extent of the wetlands, which goes back twenty years. He stated there is a statute that says actions have to be taken on a timely basis, which the Commission did not do and Mr. Campot is not responsible for that. He stated doing four now and waiting to see what happens leaves Mr. Campot in limbo.

Mr. Polsinello stated when they first became involved there was an absolute defined area of what they believed was the latest three to five years of fill, which by his estimation was 70% vegetation and very little soils, 40 to 50 feet wide and 100 feet in circumference. The four test pits were going to be to define that fresh vegetation fill to the older established upland fill. He stated Ms. Schloss and the Board of Health came back with five pits in a more southerly area of 1980s fill. He recommended doing their proposed four pits to establish the break from upland to wetland so they can come up with a plan to remove all the three to five year material. In addition, they would do monitoring wells and borings in the older area to make sure they do not have a 21E issue. He stated these are two separate and distinct issues, and they are willing to do both. He stated excavation test pits are not what is called for in DEP standard and are not going to determine if there is a groundwater issue or not.

Chair Tanner recommended using Solicitor Callanan's language, doing the four test pits and reserving the right to do more depending on what is found. Mr. Polsinello stated if he does his four test pits and they excavate, they will keep excavating further until they reach the harder, established upland. Chair Tanner stated that would be reasonable, as they would be pulling back at the same time, not just doing individual test pits. Mr. Polsinello stated prior to doing this they would go out to the site and conduct some surveying to obtain precise measurements.

Mr. Nylen stated using the language “reserving your right” has implications and he requested to remove this language, reach an agreement that this is what they are going to do, go all the way back as Mr. Polsinello stated, provide a plan and clean it up, and that would be the end of it. Chair Tanner stated if they can get back to an area of reasonable agreement they would not need anything else. Ms. Schloss asked how that will be determined in the field. Mr. Polsinello stated he will work with her on a draft scope. Ms. Schloss asked if they are going to provide information on restoration work, as a slope would have to be established. Mr. Nylen stated they would have to have Brad Holmes develop a restoration plan.

Mr. Campot asked about the status of having the person responsible for doing the filling held liable for the cost of this work. Chair Tanner stated that is not under the Commission’s jurisdiction. Ms. Schloss stated they have reached out to the Town Solicitor about this, who requested a meeting with that person’s attorney and it is her understanding that they may be coming to the table with some funds. At some point the Commission can issue an enforcement order to the third party.

Ms. Schloss stated the Commission will have to issue an enforcement order to Mr. Campot for the proposed work discussed. It was agreed that this hearing be continued to next month to allow time for a plan and scope of work to be developed, and an enforcement order could be issued the following month.

On a motion made by Commissioner Reilly, seconded by Commissioner Singleton, the Commission voted 4-0-0 to continue the public hearing until February 19, 2019.

**MassDOT Drainage Project, Bridge and Neck Streets, Notice of Intent, Public Hearing
666 Bridge Street and 276 Neck Street
Map 5, Block 13, Lots 7,13,46
DEP File #81-1237**

Repair and replace portions of drainage system

Commissioner Singleton stated it is his understanding this item will be continued to the next meeting. Chair Tanner stated he feels MassDOT can connect into the Neck Street drainage system. MassDOT is concerned about the manhole deterioration and this probably should be addressed to alleviate the mosquito problem in that area. Ms. Schloss stated this is a new Notice of Intent and tonight would have been the first hearing. The previous Notice of Intent was withdrawn. Ms. Schloss stated she participated in a conference call about this project and it is going to require some state and federal review. MassDOT is compiling information and should have a proposal ready for the next meeting.

On a motion made by Commissioner Loring, seconded by Commissioner Singleton, the Commission voted 4-0-0 to open the public hearing.

On a motion made by Commissioner Loring, seconded by Commissioner Singleton, the Commission voted 4-0-0 to continue the public hearing until February 19, 2019.

Other Business:

Ms. Schloss stated the Order of Conditions for 136 Bridge Street required three years of monitoring for the coastal rock revetment. The monitoring has been conducted and the revetment looks sturdy, it has withstood several storms. She is concerned that there is now Japanese knotweed growing on that slope. The restoration plan for that slope was planting of a coastal tolerant seed mix. There was

knotweed on that slope prior to the work being done and she cannot see any knotweed coming from abutting properties. In the fall she requested that the slope be treated to eradicate the knotweed, as it will take over and since it does not hold soil very well will cause erosion problems. She stated she has had a lot of trouble getting in touch with the owner and they did not treat the slope last fall as requested.

Ms. Schloss stated she does not feel they need to continue monitoring of the revetment, but she would like to see them do one more treatment of the slope before they are given a final Certificate of Compliance. She would like to send a letter indicating the monitoring of the revetment has been completed, however, the Commission would like one additional treatment of the slope.

On a motion made by Commissioner Singleton, seconded by Commissioner Loring, the Commission voted 4-0-0 to end the monitoring of the revetment, with the condition that the knotweed be treated one more time.

CPC Update:

Commissioner Loring stated the CPC meeting did not address anything to do with Conservation.

Conservation Report:

Ms. Schloss stated the MACC annual conference is coming up. Commissioner Singleton is interested in going if they can get funding, and she may try to attend also.

Ms. Schloss stated there was a frac-out beneath the Plymouth River when utility work was done and some of the bentonite drilling mud came up into the river. The material was removed a couple of months ago and she did observe the work, which was dug out by hand.

Ms. Schloss announced that the installation of the Smelt Brook culvert in Weymouth Landing is going to begin tomorrow.

Adjournment:

On a motion made by Commissioner Loring, seconded by Commissioner Singleton, the Commission voted 4-0-0 to adjourn at 8:51 p.m.

Respectfully submitted by,

Patricia McDonnell
Recording Secretary

Approved by:

Scott Dowd, Clerk

Date