

TOWN CLERK

Weymouth Conservation Commission

Council Chambers, Town Hall

February 8, 2012 Meeting

Present: George Loring, Chairman
Scott Dowd, Commissioner
Laura Harbottle, Commission Clerk

Not Present: Steve DeGabriele, Vice-Chairman

Also Present: Mary Ellen Schloss, Administrator

Recording Secretary: Patricia Fitzgerald

Cmmr. Loring called the February 8, 2012 meeting to order at 7:00 PM in the Council Chambers at Weymouth Town Hall.

Minutes

Cmmr. Harbottle moved to approve the minutes from Dec. 14th, seconded by Cmmr. Dowd.
UNANIMOUSLY VOTED

**21 Woodbine Road – Local Notice of Intent
Continued Hearing**

Cmmr. Harbottle moved to re-open the public hearing, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

Appearing before the Commission were Registered Professional Engineer, George Collins, Collins Civil Engineering, and owner Henry Williams.

The following documents were provided at, or prior to, the hearing:

- Narrative from Walter Hewitson, Ph.D., titled “17 & 21 Woodbine Road Wall Reconstruction Plan with Vegetative Enhancement”, dated February 6, 2012.

- Revised site plan “Proposed Wall Reconstruction and Tree Removal Plan, 17 & 21 Woodbine Road”, prepared by Collins Civil Engineering, revision date February 7, 2012.

Mr. Collins began by stating this NOI is for wall replacement in water and explained the modifications made since the last time he spoke to the Commission:

- Block size changing from 2'x 2' x 6' blocks to an 8" high x 18" wide x 21" deep keystone block wall system.
- Significant cast-in-place pour is not needed; hand-filled grout can be used instead.
- Proposing a 7' radius or rounding at the corners.
- The new wall will be pulled in slightly from the pond to provide more pond bottom.
- Artificial shoreline has been proposed; concrete sandbag footings will be at 6" above mean high water mark, instead of at the mean high water mark.
- Placing 50% loam, 50% sand between wall and first row of blocks (to provide planting area), instead of using all sand.
- Will plant (6) buttonbush plants.

Cmmr. Dowd asked about the wetland and erosion control note #12: applicant can't guarantee successful plantings along the shoreline. He told Mr. Collins that the Certificate of Compliance is normally considered after an observation period of successful plant establishment; he asked him about that.

Mr. Collins stated that every effort is being made to make this work but he can't make any guarantees because of water elevation fluctuations; he believes it will work and will follow the Commission's Conditions.

Cmmr. Dowd questioned what the total linear feet on the waterfront is; Mr. Collins replied “about (85) feet”.

Cmmr. Dowd asked how (20) feet for plantings was determined.

Mr. Collins responded that it wasn't determined; they were “just throwing it out there for mitigation”. He stated that Dr. Hewitson said the plants will not grow if the water is too deep and they're trying to keep it close to the shoreline (and at the (20) ft. mark; elevation has dropped significantly).

Mr. Collins confirmed for Cmmr. Dowd that the *Rosa rugosa* is gone from the plans.

Cmmr. Harbottle expressed thanks for the huge improvement and then asked how the loam/sand mixture would be kept in place.

Mr. Collins explained that until plants take root they will need to be monitored as they may need to be replenished and it's possible that hand-placed stones may be used to hold everything together.

Ms. Schloss interjected that erosion control blanket and jute netting could be staked and Cmmr. Dowd offered coir fiber as an option.

Cmmr. Harbottle asked about the new block system.

Mr. Collins responded that they will backfill with ¾" crushed wash stone or pea stone along the back, behind the wall, to promote drainage.

Cmmr. Harbottle inquired if this was made to use in water.

Mr. Collins explained that it is 5000 psi block that will tolerate freeze/thaw cycles and that it is being made to order with higher strength concrete; he likes to think that this is a '100-year wall'.

Ms. Schloss asked if there would be filter fabric between the soil and the stone; Mr. Collins answered 'no' but offered to put it down before the pea stone, adding that 2 ½ ft. tall is considered 'non-structural'. Ms. Schloss countered that it will be left to professional discretion.

Ms. Schloss questioned if the existing sandbags will have to be moved; Mr. Collins said yes. She then said that if the sandbags will be re-used then a turbidity curtain will not be needed - they could use staked straw wattle instead.

Ms. Schloss asked if plastic sheeting would be used for cover, should there be a significant rain event; Mr. Collins confirmed it would.

Ms. Schloss recommended that Dr. Hewitson come out for half a day to make sure height is okay and Cmmr. Dowd asked about buttonbush root ball size.

Mr. Collins said 1-2 ft. high and Cmmr. Dowd let him know they are available in a (4) ft. height, which might be more viable.

Public comments were solicited; Artie Mathews, District 4 Councilor, said the project has come a long way and he found the work done since the last meeting very encouraging.

Cmmr. Harbottle moved to close the public hearing, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

What followed was a discussion on the monitoring report:

Cmmr. Dowd said they will be able to see if it survives through the first drought and first freeze.

Cmmr. Loring recommended monitoring until fall 2013.

Ms. Schloss suggested that Dr. Hewitson look at the project this fall to see if a Final Certificate of Compliance would be ready to be issued.

Ms. Schloss also stated:

- A monitoring report will be asked for Oct. 1st, the year following wall installation.
- Filter fabric may be added at the discretion of the engineer.

Cmmr. Harbottle moved to issue a Standard Order of Conditions with conditions mentioned, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

**44 Davids Island Road – Notice of Intent, Continued Hearing
DEP File #81-1096**

**52 Davids Island Road – Notice of Intent, Continued Hearing
DEP File #81-1095**

These hearings were continued from the January 11th meeting.

The Engineer for both applicants, Sean Hardy, of Hardy Engineering, and Michael Mulvaney of 44 Davids Island Road appeared before the Commission.

Mr. Hardy said a sequence of work narrative (of daily events) was prepared and given to the Commission. He included that the need for erosion controls was discussed and it was decided it would be left to the discretion of the agent.

Mr. Hardy reiterated the other alternatives and reasons they were not an option:

- Elevated structure/not feasible.
- Alternative vegetation/nothing else will grow successfully.
- Vertical wall/would not get approved.

Mr. Hardy also confirmed that both properties were built prior to 1978.

Ms. Schloss said that she sent pictures to Greg DeCesare of DEP, who concurred that immediate attention to the matter of bank stabilization was needed.

Ms. Schloss stated, for the record, that the Town did a study on mean high water and concluded that it might be slightly higher at 11.01, with a high tide line of 14.88, per Town of Weymouth datum. She suggested that Mr. Hardy check into whether he had to go through Army Corps of Engineers, telling him that a typical condition in Con Comm orders is that all relevant permits must be obtained.

Ms. Schloss told the Commission that they need to determine if the coastal bank is significant to storm damage prevention or flood control because it supplies sediment adding that, with the guard rail and timber, it probably doesn't provide much sediment for the beach.

Cmmr. Harbottle confirmed that, as it looked more loamy than sandy, it probably wouldn't contribute to sediment.

Ms. Schloss asked about the discussion of erosion controls and wanted to know if it is possible to leave the guard rail and outermost timbers to serve as toe of slope.

Mr. Hardy replied that it might be a problem as he is not sure how far the piles go down.

Ms. Schloss commented that Oct. 26, 2011 was one of the highest tides and the water was up to the toe of the slope and suggested that they might want something that could sustain water; Mr. Hardy stated that, if they used hay bales, they could be picked up at the end of the day.

Mr. Hardy told the Commission that each project shouldn't take more than 1 or 2 weeks and confirmed that work would be scheduled during a low tide period.

When asked by Cmmr. Harbottle if it would be a problem if the wall at # 44 were finished prior to #52 being ready to do their work; Mr. Hardy said it should not be a problem.

Mr. Schloss asked if machines would be on the beach, Ms. Hardy said 'no'.

Ms. Schloss asked if, in the event of an unforeseen event, the bank would be covered; Mr. Hardy replied "certainly, it would be a good idea".

Ms. Schloss stated that when work was completed, guard rails, timber, erosion controls (etc.) must be moved off-sight.

No public comments were made.

Cmmr. Dowd moved to close the public hearing on both #42 and #55 Davids Island Road, seconded by Cmmr. Harbottle. UNANIMOUSLY VOTED

Ms. Schloss recommended the following special conditions:

- Area will not be inundated during active construction.
- Tree protection will be provided.
- Machines will work on the top of the slope.
- Toe should not extend onto the beach.
- Driveway drain at #44 will be directed into the stone behind the wall.

Cmmr. Harbottle moved to issue a standard Order of Conditions with special conditions mentioned for #44 and #52 Davids Island Road, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

15 Regatta Road – Notice of Intent, Hearing
Map 2, Block 12, Lot 24
Applicant James Murphy
DEP File # not available

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

Appearing before the Commission were Bob Crowell, Crowell Engineering, and owner James Murphy.

Mr. Crowell passed in abutter cards and Mr. Murphy read a prepared statement.

Mr. Murphy told the Commission that he wants to make back yard improvements to his property as well as to provide handicapped accessibility for his wife, Maureen, who is blind. Mr. Murphy stated that his yard will not be extended and there will be no encroachment upon neighboring property. He explained that the plans show a retaining wall that protects the integrity of the coastal bank, his and his neighbor's yards, and provides safe, back yard accessibility to his wife.

Mr. Crowell explained that:

- The property is on Fore River with beach front (75) ft. across, along the coastal bank.
- They want to replace the 'dangerous' retaining wall between #15 and #9 Regatta Road.
- They also want to re-grade the lot, raising the grade, and slope it back to the wall.
- The cross section near the stairway shows that the proposed face of the wall, where it meets the existing grade, will reveal (3) ft. of wall and on top of the wall will be a (4) ft. fence that will continue along the property line between #15 and #9.
- Most of the face of the wall will be (1 ½) to (4) ft. from the coastal bank.
- The project will result in less usable yard space by (3) or (4) feet, but it will protect the coastal bank and make it a lot safer for Mrs. Murphy.
- The elevation of the wall will start at 89 and step up to 93 at Regatta Road.

Cmmr. Harbottle asked about the bank between #15 and #23; she also asked about the drop to #9 Regatta Rd.

Mr. Crowell said that nothing was being done at #15 and #23, "just turning the corner".

Mr. Crowell replied that the wall will be completely rebuilt and machinery will be perpendicular to bank. Contractor, Ray Bean, will work on a section, make it level and set stone: they will only expose a little bit at a time. He explained there will be (9) ft. of wall, with (5 ½) to (6) ft. wall showing.

Cmmr. Harbottle asked if a building permit is needed; Mr. Crowell said "absolutely".

Cmmr. Harbottle asked Ms. Schloss if there was anything in the Wetlands Act regarding handicapped access.

Ms. Schloss said there is nothing in the WPA or Weymouth Ordinance addressing it.

Cmmr. Loring asked if the wall they are replacing will go past the retention wall and will be removed completely; Mr. Crowell said "yes-the hay bales or straw wattle will be just on this side of coastal bank".

Cmmr. Loring asked if new wall will extend above the driveway; Mr. Crowell said by (6)" and will act as a concrete curb.

Mr. Crowell brought up the vista pruning of invasives and planting native species – Ms. Schloss said that more specific information needs to be provided and a discussion about the vegetation followed.

Ms. Schloss wanted to state the any area disturbed between the outer face of the wall and erosion controls would have to be stabilized.

Cmmr. Loring opened it up for public comments or questions:

Bob Conlon, Councilor at Large and also a member of the Commission on Disabilities concurred that the area is dangerous and there is no accessibility to the back yard.

Cmmr. Harbottle moved to continue hearing to Feb. 22nd, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

186 Main St. – Discussion of Proposed Development

Appearing before the Commission were David Kelly, Kelly Engineering Group, Bob Gray Sabatia, Inc. and Mike Gardner, owner.

Documents provided by Kelly Engineering prior to the meeting were:

1. Letter to Commission from Kelly Engineering, dated January 20, 2012.
2. Plan prepared by Kelly Engineering, titled “Plan for Discussion with Conservation Commission”, dated January 20, 2012.
3. Copy of previously submitted document prepared by Kelly Engineering titled, “Isolated Land Subject to Flooding Calculation”, dated February 5, 2010.
4. Geotechnical Review Memorandum prepared by UTS of Massachusetts, dated November 14, 2011.

Mr. Kelly said he filed a Request for Determination in 2010 regarding resource areas, in particular the pool area depression, adjacent to the existing building. There was much discussion as to what type of resource it was.

In 2010, the Commission made a Determination that this was a vernal pool and an Isolated Land Subject to Flooding, under local jurisdiction only. It was determined that this was a resource area by definition, and agreed that it did not exhibit some of the biology naturally inherent in a vernal pool. Since then Mr. Gardner has been marketing the property, particularly the area along Rte. 18 which is the most valuable.

Mr. Kelly presented a schematic showing the Mass. Electric building and car wash. He explained that he tried to come up with a balanced proposal that would offset impacts to the pool area while maintaining a reasonable area of development.

He met with Ms. Schloss late in 2011 and (2) items needed to be addressed:

1. The limits of the resource area had not been identified.
2. The value of the area needs to be determined.

Subsequent to the initial meeting, borings were done and it was determined that it is important to ground water recharge and there isn't the biology they were looking for.

Mr. Kelly said they're hoping to get Commission guidance to proceed with the marketing of the property while protecting the resource area and benefitting the community. A limit of work needs to be established along with real development scenarios.

This development will be approximately (200) ft. back from Rte. 18 and they will limit pool interference beyond that point by building a retaining wall. They are proposing to offset the impact to the shallow area by putting in subsurface recharge chambers that would restore the volume of lost water and enhance the recharging to the ground.

They hope to restore the area and are offering to fully commit to DEP standards for storm water management on the site and would be willing to offer conservation easement or restriction of the pool area (around (1) acre).

Mr. Kelly said they are also willing to remediate the resource area, clean the pond, revegetate, pull back the pavement and provide a low, chain linked fence.

Mr. Kelly concluded by saying that this is not a formal request, but a request for guidance.

Cmmr. Harbottle asked who first determined it was a vernal pool.

Ms. Schloss explained that the Commission looked at the ordinance which is based on hydrology, not biology.

Mr. Gray said that he and Ms. Schloss investigated the pool and the biology was just not there, adding that the reason it is still considered a vernal pool is based on ordinance language.

Cmmr. Harbottle asked if there would be storm water treatment so as not to affect water quality.

Mr. Kelly promised that they will make a commitment throughout the site.

Cmmr. Harbottle stated that she would still like to see a Town-selected consultant to confirm that everything is fine, suggesting that this should not take a great deal of time or money.

Mr. Kelly expressed that he would like to file a Notice of Intent.

The issue of the vernal pool was discussed.

Ms. Schloss stated that in the May 2010 vote, she envisioned that a waiver of the (100) ft. 'no disturb from the vernal pool' area would probably be needed. She said that resource area and storm water improvements are critical and she would like to see fill in the pool avoided.

She conveyed that Cmmr. DeGabriele said he would like to see the wall pulled back and the fill out of the vernal pool. She then suggested that if the Commission is going to allow fill, perhaps the pool could be increased.

Mr. Kelly said he knows they can rework that portion of the site, but they won't be able to maintain (50) ft. on that side but will be able to pull the parking back somewhat.

Cmmr. Dowd asked about the slope behind the car wash; Mr. Kelly replied that the guard rail was replaced and they have worked with a stabilization manufacturing company and he is delighted with the combination of natural and woven material that was stapled into the slope and allowed to grow.

Ms. Schloss said the fertilizer was removed from the plan, adding that grass is better than woody vegetation to hold a 1:1 slope.

Weymouthport – Discussion
Modification Request to Order of Conditions
Seawall Repairs
DEP File #81-1085

Appearing before the Commission were Carter Fahy, Environmental Partners, Sean Coakley, North Creek Construction and Dan Kenneally, Geotechnical Consultants.

The Commission had for review a document prepared by Carter Fahy of Environmental Partners Group, titled "Weymouthport Southern Seawall, Minor Modifications to the Notice of Intent, DEP file #81-1085", dated January 30, 2012.

Mr. Fahy recapped for the Commission that, almost one year ago, a request was made to the Commission to rebuild the Weymouthport seawall. The Notice of Intent was to remove (105) ft. by (12) ft. length of granite seawall, peel back the soil, stockpile the material on the upland side, rebuild (from the rebuilt base) and put back the soil.

There is a time of year restriction from April 1st to mid-June (or so) due to the herring run. During the interim, they talked to the owner about an approach that would be less invasive to contaminants behind the seawall.

Mr. Fahy presented pictures, taken within the last month or two, to show blocks tilting toward the water; the top 3-5 ft. is where the lack of integrity is occurring.

The new approach is to remove the top 3-5 ft., restack it and put it back where it was – this will be done in 10-15 ft. sections. Concrete will be put in the cracks, H pile sheeting will be driven down approximately (26) ft. and timber blocks will be used to maintain integrity. This will be done with a spud barge from the riverside for fear the seawall will collapse.

The spud barge, (40) ft. long, 2.5 ft. in diameter, will be pushed into place by a tug – this will be done in 10-15 ft. sections and will take (1) day to complete, before moving onto the next section. There are about 22-23 H piles so that this will take about (2) weeks.

Mr. Coakley said that he used to be able to walk on top of the wall but now it is getting worse *per tide*, in his opinion. He explained that the 2012 engineering plan, as compared to 70-80 years ago, is a more controlled rebuild and the vegetation at the top will stay. He stated that the filter fabric is still in place but they are one storm (from the wrong direction) away from seeing the wall fall into the water.

Mr. Fahy expressed that they want to get the work done before the April 1st restriction and he doesn't think this plan is too far from the footprint in original OOC.

Mr. Kenneally told the Commission that they didn't hit clay until they were down (12) ft.; at 15-16 ft. the original silt layer did not offer any support.

Ms. Schloss said that she talked with Marine Fisheries, the Weymouth Harbormaster and Weymouth Board of Health and all are good with this approach.

Mr. Coakley suggested that if a nasty storm came up they would dock across the way, adding that they might pull and replace the curtain.

Ms. Schloss commented that:

- The spud barge will be pushed into place by a tug.
- Turbidity curtain will be installed.
- Vibratory hammer will be used.
- Time of year restriction is April 1st to June 15th.

Cmmr. Dowd moved to authorize the request for modification, seconded by Cmmr. Harbottle.
UNANIMOUSLY VOTED

93 Grant St. – Violation

Cmmr. Dowd moved to open the violation hearing, seconded by Cmmr. Harbottle. UNANIMOUSLY VOTED

Appearing before the Commission were owners Tim and Jean McLeod.

Mrs. McLeod explained that they missed the first meeting because the violation notice was signed for by a child and they "just missed it".

Ms. Schloss corrected her by saying that the letter received was actually an Enforcement Order.

Mr. McLeod asked 'Am I guilty already?'

Ms. Schloss said this is a follow-up to a 2001 Enforcement Order.

Mr. McLeod stated that he walked the land a few times with Bill Woodward, former Administrator, who said not to do anything else and he has done nothing else since then.

Ms. Schloss reminded Mr. McLeod that she met with him in 2005 or 2006.

Mr. McLeod said that at that time he was told move a pile and that the vernal pool was a problem. This visit he was told that 'maybe' it was a vernal pool but now the concern is the water.

Ms. Schloss corrected him saying she is concerned about the whole thing; there appears to be fill and it is apparent, from photographs from 2008...Mr. McLeod interrupted saying the pictures show a tree line had been removed; he said the tree canopy has been removed, which would expose more land, and the line of trees have died. Bill walked around and took several pictures.

Mrs. McLeod: "There are several large trees down, that were not cut, and they're still there."

Mr. McLeod to Ms. Schloss: "The letter mentioned digging out (50) ft. from the line."

Ms. Schloss explained that it was people that the McLeod's would hire that will determine the wetland line and asked him to explain how it was graded.

Mr. McLeod said they moved in in 1996 and, at that time, it was thick woods and never wet. He cut some scrub maple trees and graded the land, flat, for parking. He then asked if he should hire a professional and come back.

Ms. Schloss answered yes, and told him a plan should be back to Con Comm by March 2nd. She then reminded him that any changes within (100) ft. of wetland area need Conservation approval.

Mrs. McLeod told the Commission that there is a broken storm drain on Hill St. and people on Hill St. are blocking the drain with leaves which is creating a larger wet area and depreciating their property value.

Ms. Schloss said she has been out there and Mosquito Control has been out there to clear the drain.

Mr. McLeod said "they never showed up".

Ms. Schloss said it is a different, albeit related, issue.

Mr. McLeod said a Curtis Circle developer blocked the brook that used to go down from the other side of his property line all the way to Commercial St; the brook was cut off when the homes were built.

Ms. Schloss commented that there was encroachment from Curtis Circle as well.

Mrs. McLeod expressed that she thought this issue was resolved – that they have done nothing since the cease and desist order was received.

Mr. McLeod told the Commission that the Engineering Dept. said that the brook could be cleaned out, and then Ms. Schloss explained to him that the Engineering Dept. did not have that right. She instructed the home owners to have a wetland person come out and assist them with the restoration plan, adding that someone from Conservation can come out as well. Mr. McLeod said he would do this.

Cmmr. Harbottle moved to continue this violation hearing to March 14th, seconded by Cmmr. Dowd.
UNANIMOUSLY VOTED

Other Business/Conservation Report

- Whitman's Pond RFP has gone out; Feb. 9th is the deadline for questions and proposals aren't due until Feb. 22nd.
- New Committee appointee: Ms. Schloss hasn't heard anything.
- Essex Heights sub-division never got a Certificate of Compliance. The developer has been contacted and will go out with the Administrator within the next couple of weeks; DPW will then consider taking over the streets.

Adjournment:

Cmmr. Harbottle moved to adjourn the meeting at 10:00 PM and to meet again on Feb. 22, 2011 at Town Hall in Council Chambers, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

Respectfully submitted,

Patricia Fitzgerald

Approved:

Laura Harbottle, Conservation Clerk

Date