

TOWN CLERK

**Weymouth Conservation Commission  
Council Chambers, Town Hall  
75 Middle St., Weymouth  
February 13, 2013 Meeting**

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

**Not Present:** Steve DeGabriele, Vice-Chairperson

**Also Present:** Mary Ellen Schloss, Administrator

**Recording Secretary:** Patricia Fitzgerald

**Cmmr. Harbottle called the February 13, 2013 meeting to order at 7:00PM, in the Town Hall Council Chambers, Weymouth, MA.**

**Minutes**

Cmmr. Tanner moved to approve the minutes for Jan. 9, 2013 as amended, seconded by Cmmr. Dowd.  
**UNANIMOUSLY VOTED**

**50 Ocean Avenue – Notice of Intent – Continued Hearing**

**Map 4, Block 49, Lot 6**

**DEP File # 81-1113**

The applicants did not appear for the continuation of this discussion.

Ms. Schloss explained there were no changes made in the Zoning Board hearing and it was approved.

Ms. Schloss said that she sent out a draft Order of Conditions. She also stated that she has received signed Mullin Rule certifications from Cmmrs. Loring and Dowd for listening to the recording of the Jan. 23<sup>rd</sup> meeting, which allows them to participate in this hearing.

Ms. Schloss reported that she hasn't spoken to the applicants regarding the location of the erosion control line, but she feels it should be the limit of work line. Ms. Schloss also stated that, to eliminate confusion, she would like to delete condition #40, a condition regarding the coastal bank and the prohibition of hardened structures. She said she has confirmed with DEP that it is not relevant, as there is already a seawall and a structure in existence.

Cmmr. Tanner moved to close the public hearing, seconded by Cmmr. Loring. **UNANIMOUSLY APPROVED**

Cmmr. Tanner moved to approve the Order of Conditions without Item #40, seconded by Cmmr. Dowd.  
UNANIMOUSLY APPROVED

*At this time, Cmmr. Harbottle said that she would like to open up Public Hearings to the public, prior to asking the Commissioners for their questions or comments; there were no objections.*

**Lot 2, Autumn Lane – Notice of Intent – Continued Hearing  
DEP File # 81-1112**

Appearing before the Commission was Al Trakimas, SITEC Environmental Principal, representing Ryder Development Corporation.

Ms. Schloss stated that she has received a signed Mullin Rule certificate from Cmmr. Harbottle for listening to the recording of the Jan. 9<sup>th</sup> meeting, which allows her to participate in this hearing.

Mr. Trakimas presented a revised plan and explained that:

- There has been a change in the house from a (6) ft. jog in the front and a (2) ft. jog in the rear, to a (2) ft. jog in front and a (6) ft. jog in the rear, to enable the deck to move out of the 25-ft. no-disturb zone.
- Where they are asking for work within the 25-ft. no-disturb, they have had a wildlife evaluation and resource assessment done by Environmental Consultant, Dr. John Jahoda.
- An enhanced planting plan for the 25-ft. no-disturb, also prepared by Dr. Jahoda, has been submitted and has been incorporated onto the drawing.

Mr. Trakimas said that Dr. Jahoda summarized that the end result will be a diversified vegetated mix with high wildlife habitat value in a relatively small space along the edge of the existing wetland and will more than simply mitigate, it will result in an overall enhancement. They have provided a (4) page response to justify why work should be allowed in the 25-ft. no-disturb area.

Mr. Trakimas said he reviewed the regulations and the original proposal for the subdivision and found that wetlands were allowed to be filled in. He said Con Comm previously issued an Order of Conditions for the subdivision, and issued an Order for development of this lot in 2010, however the applicant felt that the plan wasn't feasible to be constructed and their letter addresses those reasons. He also stated that:

- In Con Comm regulations under the definition in Part 9, Section 9, 4-C-1, Size of Buffer Strip: "such a strip shall be a minimum of (25) ft. in width, running along a resource area boundary, unless such width is unreasonable in view of the lot size". He said, in their case, they have a very narrow width to construct a dwelling and it is one of those cases that Con Comm could grant the approval without a variance (to construct this house they need to encroach in the 25-ft. no-disturb).
- They further stated why the variance should be justified, including hardship, by the hardship definition.
- They want the 25-ft. no-disturb waived due to the narrowness of the site and size of the lot.

There were no public questions or comments.

Cmmr. Dowd asked when the applicant acquired this property; Mr. Trakimas replied it was within the last year.

Cmmr. Dowd surmised that Mr. Ryder must have known the challengers concerning the property; Mr. Trakimas responded that he knew the slope would be a major challenge.

Cmmr. Tanner stated that, with the deck encroachment eliminated, he had no problems with the new plan.

Cmmr. Harbottle asked how far into the 'buffer' the dwelling goes; Mr. Trakimas said, at its worst case, 2  $\frac{1}{2}$  feet.

Cmmr. Harbottle said she understands the (18) ft. front yard Zoning set-back, and asked if they had thought of applying for a Zoning Board variance.

Mr. Trakimas said they had thought of that, however an 18-ft. front yard set-back is really minimal.

Cmmr. Harbottle commented that the house would only have to be moved back 2.5 feet; Mr. Trakimas said it would be something he would have to discuss with his client.

Cmmr. Tanner remarked that every foot a house is closer to the roadway makes a difference in noise and vibration; Cmmr. Harbottle mentioned that there isn't much traffic on a cul-de-sac.

Cmmr. Tanner remarked that the drain that is seen from the other side (that is draining onto the subject property) is not receiving water now but could take water in a major flood event.

Mr. Trakimas said the drain is part of the original subdivision; Cmmr. Tanner said that it by-passes the roadway drainage system altogether.

Ms. Schloss mentioned that the DPW wants an easement.

Mr. Tanner said, regarding the (20) ft. easement, that, if granted, the DPW wants the (10) ft. on this lot deeded as an easement on the plans and they want it recorded.

Mr. Trakimas said 'That's fine'.

Ms. Schloss said in response to Mr. Trakimas' letter and the regulations he cites:

- The intention is to have an *average* of (25) feet.
- Regarding the no-disturb area, a variance is needed for the structure but the language isn't clear regarding the retaining wall, so the Commission has some flexibility.

Concerning Dr. Jahoda's letter, Ms. Schloss said she was out to the site Feb. 7<sup>th</sup> in regards to the mitigation plan. She showed the Commissioners some photos and said:

- The revised mitigation plan has a lot of plant diversity, but plant sizes need to be specified.

- The southern part of the site, towards wetland flag 15, looks like a moonscape; it is devoid of vegetation save for Japanese knotweed. There is no work proposed for this area and it would benefit from restoration.
- The area near the retaining wall is pretty well vegetated.
- Between flags 14 and 9 is well vegetated and planting isn't needed.

Cmmr. Harbottle asked if loam thickness is a standard condition; Ms. Schloss replied no, but it, along with the monitoring period, can be part of the mitigation.

Cmmr. Loring moved to close the public hearing, seconded by Cmmr. Tanner.  
APPROVED 3 to 1; Cmmr. Harbottle was opposed.

There was a discussion as to those Items to include in the Order of Conditions:

- Granting of (10) ft. drainage easement to DPW.
- Grant variance to allow encroachment.
- Resubmittal of mitigation plan.
- Focus on areas of disturbance.
- (2) year monitoring period.
- Remove invasives as part of restoration.
- Wall needs Professional Engineer's signature and stamp.
- Erosion controls will need silt sock or silt fence in addition to straw wattle.

Ms. Schloss suggested closing out former DEP File #81-1073, so that they don't have (2) files.

Ms. Schloss said she is comfortable with these conditions.

Cmmr. Tanner said he looked up this subdivision and found that Autumn Lane should have been shifted over 3-4 feet but, as it is, it really should have been seen as an unbuildable lot and planning should have been restricted.

Cmmr. Tanner then asked if there should be a vote on the variance; Ms. Schloss said it can be part of the OOC vote, and it may be better to have the language and then discuss it.

Cmmr. Tanner moved to approve the Order of Conditions with special conditions as discussed, seconded by Cmmr. Loring.

APPROVED 3 to 1; Cmmr. Dowd was opposed.

#### **26 Massasoit Road – Notice of Intent - Hearing**

**Derek Petrus**

**Map 4, Block 28, Lot 16**

**DEP File #81-1114**

Cmmr. Loring moved to open the public hearing, seconded by Cmmr. Tanner. UNANIMOUSLY  
APPROVED

Appearing before the Commission were Brad Holmes, Environmental Consultant and Restoration, and Derek Petrus; abutter cards have been submitted.

Mr. Holmes explained that the project is to remove an existing home and reconstruct a new home on property partially located within Land Subject to Coastal Storm Flowage (LSCSF), and the grading for the new house is also partially located within a flood plain. He said the Project Engineer has been working with Ms. Schloss regarding installation of erosion controls, protection of catch basins and plan details regarding datum and flood plain building codes, all of which have been included in the plan.

There were no public questions or comments.

Cmmr. Tanner asked if the footprint would be the same; Mr. Petrus said it would increase from 1,100 sq. feet to 1,900 sq. feet.

Cmmr. Tanner asked if the right side of the lot would be the governing factor for determining the height of the fill for the lot. Mr. Holmes said it would be graded at the rear of the lot which is somewhat of a problem in regards to ponding in rain events. They want to fix the back yard and create swales to direct rain water to existing catch basins at the rear of the lot.

Cmmr. Tanner asked if those catch basins connect to the out fall governed by the DPW; Mr. Holmes said yes, and they have agreed to keep the catch basins clear of debris and in working order, and to allow the Town access, for maintenance purposes.

Mr. Tanner asked if the drain would be small enough to prevent small animals from falling in; Mr. Petrus confirmed it would be too small for animals to enter.

Cmmr. Tanner asked if proposed parking is lateral with the front of the property; Mr. Holmes said it was under the structure.

Cmmr. Loring questioned what type of material would be used to access the driveway; Mr. Petrus said it would be gravel.

Cmmr. Loring asked about the drainage from the roof; Mr. Holmes said that, if required, they could construct a stone recharge system at the rear of the property.

Ms. Schloss asked if dewatering would be needed since the sewer connection will be going below the water main, which is about (5) ft. deep.

Mr. Holmes remarked that, if dewatering is needed, they will put a hay bale corral in the back yard area or they could locate the dewatering corral in the front area but he thinks it would be better served in the back.

Ms. Schloss said she can include this in the Order.

Mr. Holmes said that, in the past, they have typically used filter fabric and hay bales.

Ms. Schloss said she would also like included in the Conditions:

- Con Comm will need to be contacted if dewatering is needed.
- Engineering Dept. wants to be sure the catch basins are clear and property is protected.
- Engineering Dept. has requested that a stone construction mat be used.

Ms. Schloss asked if there is a lot of standing water.

Cmmr. Tanner said a lot of work has been done in the area to correct this problem.

Mr. Holmes said they are increasing the elevation more than (2) feet and the drywell will help.

Cmmr. Harbottle asked if any soil testing had been done; Mr. Holmes said no.

Ms. Schloss suggested that perhaps a shallow system would work, adding that the storm drains just go out to the ocean. She then asked if there was any info available on hydrostatic openings.

Mr. Petrus stated that the Ground Level Plan shows (3) wash out panels.

Ms. Schloss stated that there are no performance criteria in the Mass. Wetland Protection Act regulations in regards to LSCSF. She said, typically, they cite the Building Code (that the Building Inspector will be responsible for insuring compliance with the State Building Code) and will not sign off on the Certificate of Compliance until the Building Inspector has certified such compliance.

Ms. Schloss said they will want a copy of the Elevation Certificate that is provided to the Building Dept. along with language regarding erosion controls, catch basin maintenance, the construction entrance, access to catch basins, fence removal and drainage pipes, along with the standard conditions.

Cmmr. Loring moved to close the public hearing, seconded by Cmmr. Dowd. UNANIMOUSLY APPROVED

Cmmr. Tanner moved to issue an Order of Conditions with conditions mentioned, seconded by Cmmr. Loring. UNANIMOUSLY APPROVED

**77 Jaffrey Street – Notice of Intent - Hearing**

**Michael Scheffler**

**Map 17, Block 177, Lot 14**

**DEP File #81-1115**

Cmmr. Tanner moved to open the public hearing, seconded by Cmmr. Loring. UNANIMOUSLY APPROVED

Appearing before the Commission were Steve Ivas, Ivas Environmental, and applicant, Michael Scheffler. Abutter notifications were electronically submitted.

Mr. Ivas told the Commission that this project is to add a 16' x 12' sunroom to an existing dwelling on the west side of Jaffrey St. He said it is a long, narrow lot that has, almost, a (40) foot elevation drop from Jaffrey St. down to an unnamed perennial stream. He said that most of the work is inside the 100-200 ft. Riverfront area and will consist of:

- The sunroom, which will be on piers.

- A brick patio, with repair of an adjacent stone wall.
- A 6' x 12' expansion of a side entry, on (3) piers.
- A 10 x 18 course brick parking area.
- Repair of existing stairs that go to the lower lawn area.

Cmmr. Dowd asked how long the lower area has been a mowed lawn; Mr. Scheffler said about (30) years – when Con Comm was under Mr. Moore.

Mr. Ivas offered that it was well before the River Protection Act. He added that the tree line is at the 25-ft. buffer area and after the tree line it is mostly upland shrub land that works its way into a Bordering Vegetate Wetland shrub land.

Cmmr. Dowd asked if it was mostly natives or invasives; Mr. Ivas said it close to  $\frac{1}{2}$  native and  $\frac{1}{2}$  invasive, but perhaps a bit more native than invasive.

Cmmr. Loring asked about the stair repair; Mr. Scheffler said timber needed to be replaced after it had rotted, due to a wash out caused by sand left behind by a National Grid project.

Mr. Ivas explained that it will be railroad ties and a brick set of stairs.

Cmmr. Tanner asked if the stairs would be kept the same; Mr. Scheffler said yes.

Cmmr. Harbottle asked if the railroad ties would have creosote; Mr. Scheffler said they were pressure treated and were guaranteed for 25-30 years.

Ms. Schloss asked how close the red maple tree was to the brick parking area and asked how deep they will have to go.

Mr. Scheffler said he didn't think the tree was an issue and he had no interest in removing it.

Ms. Schloss asked if there would be any stockpiling, adding, if so, then erosion controls will be needed.

Mr. Ivas said erosion controls would be used as appropriate.

Mr. Scheffler said any sand to be used will be put adjacent to the driveway in the southeast corner, where it is flat and they don't usually get run-off.

Ms. Schloss talked about the Riverfront Protection Area regulations, saying that, basically, they were being asked to approve work within (200) ft. of a Riverfront area and 310 CMR 10.58 (4)(d) allows alterations up to 5,000 sq. ft., or 10% of Riverfront Area (whichever is greater) on a lot recorded before 10/6/97, provided that a minimum (100) ft. wide area of undisturbed vegetation is provided, or if not already there, the amount of vegetation adjacent to the perennial stream is extended.

Ms. Schloss asked if they would be willing to plant some shrubs to increase wildlife habitat and increase the buffer (later saying (6) shrubs would be a goodly amount).

Mr. Scheffler said he can plant a few trees and asked if Con Comm can provide recommendations.

Appropriate plantings were discussed - black birch, black cherry, sumac, maple leaf viburnum, pussy willow and alders (if it is wet enough).

Cmmr. Loring moved to close the public hearing, seconded by Cmmr. Dowd. UNANIMOUSLY APPROVED

Cmmr. Loring moved to approve the Order of Conditions with conditions discussed, seconded by Cmmr. Dowd. UNANIMOUSLY APPROVED

### **Appointment to Community Preservation Committee**

Ms. Schloss told the Commission that, following Cmmr. Tanner's suggestion to rotate Con Comm participation on the CPC, Planning Chair, Walter Flynn, does not think Commissioners will need to be sworn in every time they take a turn; he thinks their swearing in as a Conservation Commission member will suffice.

Cmmr. Tanner asked if a schedule of upcoming CPC meetings can be brought to the next meeting.

Cmmr. Harbottle suggested that CPC meeting information could be presented at the following Con Comm meeting; Ms. Schloss said it could be added to the agenda.

Cmmr. Dowd suggested that perhaps Commission members could attend those meetings that have the most interest for them.

Ms. Schloss said she would like to bring before the CPC the issue of the thousands of herring lost at the Jackson Sq. flood control tunnel. She said that if CPC can help fund a new design (stamped by a qualified Engineer) perhaps State or Federal money could be sought for construction of a new tunnel.

### **Other Business**

- a) Idlewell Sewer, DEP File #81-1093 - Minor Modification: The Order of Conditions for this project used the DPW's Notice of Intent which envisioned 24-hour manned pumping of the bypass system (to bypass the sewer) with someone to monitor. At present, the contractor is hooking it up in the morning and disconnecting it at night; now they want to install an auto dialer. DPW Engineering is reviewing it and if they say it is okay Ms. Schloss will agree to it. She suggested adding a condition to address procedures if there is a forecast for a major rain event.

Everyone was comfortable allowing DPW to make this change.

- b) 21 Weyfair Path, DEP File #81-1104 - Minor Modification: Ms. Schloss showed the Commissioners some pictures and reported that the walls have been constructed but the applicant is requesting a small extension of the wall at the top of the slope, outside the no-disturb buffer, so the privacy fence can be extended. Commissioners agreed to allow this change.
- c) Weathervane Development, DEP File #81-756, 81-963 - Certificate of Compliance Discussion: The applicant has requested that the discussion be moved to Feb. 27<sup>th</sup>. Ms. Schloss explained

that the discussion will focus on the peer review report prepared by Dr. Wang, who was hired to look at the golf course encroachments. (Ms. Schloss also mentioned that Com Comm may want to hire a different engineer for the stormwater in order to save money.) Ms. Schloss reported that she has not been getting Water Quality Reports. The Commission may need to talk about the need for an Enforcement Order to get all required work done.

- d) Essex Heights Subdivision, DEP File #81-308, 81-887 - Discussion of Certificate of Compliance closeout process: Ms. Schloss stated that the detention basin has not been properly maintained. The Developer is still around and is willing to make modifications, but the problem is there was never a Certificate of Compliance. Also, a house in the subdivision that had a separate OOC, and was originally considered unbuildable, was made buildable with an Order of Conditions that required substantial mitigation. The house has been built and is occupied but it appears that the mitigation work has not been done. During the week of Feb. 4<sup>th</sup>, Ms. Schloss met with the applicant and their wetland person to look at the site. It was decided that F.X. Messina Co. will be asked to come before the Commission.

### **Conservation Report**

*See Weymouth Conservation Administrator's Report for February 13, 2013.*

Additional Conservation Report information:

Weymouth Salvage: Ms. Schloss said she is expecting action from them in response to the December violation hearing. Fines to be levied after April 10<sup>th</sup> are being considered.

35 Royden Road: A garage was built, within 100-ft. of a wetland, without a permit; Ms. Schloss has sent him a letter.

Whitman's Pond Working Group: The Feb. 26<sup>th</sup> meeting has been changed to 5PM instead of 4PM.

Cmmr. Harbottle suggested that

- Weymouth needs guidance regarding Conservation land.
- It should be asked if Weymouth has a Conservation Fund.

MA Stormwater Technology Evaluation Project: Ms. Schloss will try to attend the March 22<sup>nd</sup> presentation in Barnstable.

### **Miscellaneous**

- Cmmr. Harbottle will not be in attendance for the Feb. 27<sup>th</sup> meeting.
- Ms. Schloss is on vacation the week of Feb. 18<sup>th</sup>.

### **Adjournment**

Cmmr. Loring moved to adjourn the meeting at 9:20PM and to meet again on Feb 27<sup>th</sup> in Town Hall Council Chambers, Weymouth, MA, seconded by Cmmr. Tanner. UNANIMOUSLY VOTED

Respectfully submitted,

Patricia Fitzgerald

Approved:

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Scott Dowd, Conservation Clerk

Date