

Town Clerk

Weymouth Conservation Commission

Council Chambers, Town Hall

March 14, 2012 Meeting

Present: George Loring, Chairman
Steve DeGabriele, Vice-Chairman
Scott Dowd, Commissioner
Laura Harbottle, Commission Clerk

Also Present: Mary Ellen Schloss, Administrator

Recording Secretary: Patricia Fitzgerald

Cmmr. Loring called the March 14, 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 Jan. 11th and Feb. 8th, seconded by Cmmr. DeGabriele. UNANIMOUSLY VOTED

**15 Regatta Road - Notice of Intent – Continued Hearing
DEP File #81-1098**

Mr. Murphy had not yet arrived so this hearing was moved to later in the meeting.

**2 Perkins Road - Notice of Intent – Continued Hearing
DEP File #81-1097**

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

Engineer Shawn Hardy appeared before the Commission to provide details of the Landscape Plan that the applicant recently submitted, and to provide a clarified version of the Site Plan. The revised site plan, dated 3/3/2012, was distributed to Commissioners.

Site Plan

- Proposing to demolish existing residence and construct a new single-family residence with a 41 sq. ft. increase in the impervious area.

To do that they are offering as mitigation:

- 4x4x4 leaching galleys (to drain the roof run-off) will be put closer to the road to stay out of ground water.
- Plan shows where the 25' local by-law line is in relation to the existing house and the proposed house; there is 160 sq. ft. in the existing 25 ft. buffer; they are proposing (0).
- Increase in deck size will be elevated and supported by (3) sonatubes.

Landscape Plan

Mr. Hardy said that the owner, Wayne Fitzgerald, met with Ms. Schloss to discuss types of plantings.

Cmmr. DeGabriele stated that even though the plantings are substantial, he would still like the deck to be made smaller and not to be in the (25) ft. No Disturb Zone, adding that he does not want to set a precedent.

Mr. Hardy said they are getting further away and they are offering mitigation and trying to make the property a better situation.

Cmmr. Dowd said that even though he usually doesn't tolerate No Disturb Zone encroachments, he feels that Mr. Fitzgerald appreciates the environment and he thinks the project will be an enhancement, adding that he thinks the deck will foster Mr. Fitzgerald's stewardship of the area.

Cmmr. Harbottle mentioned that at the previous meeting there was a discussion as to how the edge of the resource would be determined and later asked about parking and plant maintenance and what Town departments would oversee those things.

Ms. Schloss replied that the resource is the bank, which is the mean annual flood level or the first observable break in slope. She said DPW Engineering said the elevation that can be used is 72.49 and this project uses 73. Ms. Schloss stated that she thought the DPW will need to approve parking and planting and the Building Dept. is okay with the parking. She suggested that language could be added that Department approval may be required.

Cmmr. Harbottle also stated she would like to see the deck come back and said she was under the impression that it had been agreed that the deck would be brought back (4) ft. She said she is also concerned about setting a precedent.

Cmmr. Loring asked Mr. Bina, DPW Director, about Mr. Fitzgerald's driveway, which is partly on Town property. Mr. Bina responded by saying that it is okay for public or private parking on streets. When asked about replanting the eroded grass, Mr. Bina said it was okay as long as the outlet and riprap was accessible for DPW maintenance.

Cmmr. Loring also expressed he would like the deck back to (10) ft.; Mr. Fitzgerald agreed to move the deck back to (10) ft.

There were no comments from the public

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

The special conditions for this project were discussed:

Plantings:

- Red Osier Dogwood on bank rather than up slope.
- Swamp Aster could be replaced with Duck Potato/Arrowhead.
- Might need to lower herbaceous water plants so leaves are not submerged.
- Plantings need to be in for Partial Occupancy Permit.
- (2) Year monitoring period before Final Certificate of Compliance will be issued.

Other:

- Shed needs to be removed.
- Removal of debris along the shoreline.
- Erosion control: straw wattle or hay bales; need to be removed if not reusing.

Continuing condition:

- As this is a permanent site restoration, if any plantings are to be removed the applicant must contact Con Comm.

Mr. Fitzgerald stated that planting will be done in the spring before the majority of the house is completed; he will do outside work in the summer and inside work in the winter.

Cmmr. DeGabriele moved to issue an Order of Conditions with conditions as mentioned and the deck reduced to (10) ft., instead of (12) ft., and moving the deck (6) ft. further toward the south, seconded by Cmmr. Harbottle. UNANIMOUSLY VOTED

15 Regatta Road - Notice of Intent – Continued Hearing DEP File #81-1098

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

Cmmr. DeGabriele said that, as he was not present at the Feb. 22nd hearing, he will be abstaining.

Appearing before the Commission was owner/applicant Mr. Murphy who asked Ms. Schloss to update the Commission:

Ms. Schloss reported that she met with Brooke Munroe at the site and then with the Town Arborist and as a result a revised plan has been developed.

She said that she and Brooke agreed to the following:

- Shrubs and junipers, east of the stairs, need to be switched around.
- (6) more junipers will be added to the slope to hold the bank.
- Phragmites will be hand-cut, bagged and removed off-site. Shrubs growing amidst the phragmites are not to be cut.
- A site visit is required after phragmites are cut.
- Determine density of plants once what is there has been determined.
- Machinery will not be allowed on the beach.
- Hand-work on bank.
- On western side, soil needs to be added.
- Erosion control blanket where needed.
- Ivy to be left on slope with planting in between.
- Grasses to be planted needs to be discussed.

Ms. Schloss asked if the property line will be staked on the western side.

Mr. Murphy said he will stake it again.

Ms. Schloss stated that there will be continuing maintenance of the area and the Commission has to approve bank maintenance and planting changes. It was determined that (2) years of monitoring will be required with Ms. Schloss going to the site before the Final OOC is issued.

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

Cmmr. Harbottle moved to issue an Order of Conditions with special conditions as discussed, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

**Iron Hill Dam Repairs – Notice of Intent
Town of Weymouth DPW
Map 23, Block 302, Lot 19
DEP File # not available**

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

Appearing before the Commission were Allen Orsi and Lauren Hastings of Pare Corp.; abutter notification cards were submitted.

Mr. Orsi described the dam:

- 190 ft. long, from the right abutment to the left abutment.
- 'High Hazard', meaning that a flood could result in loss of life.
- Town of Weymouth owned and operated.
- Constructed to support herring migration.

- Provides flood protection to downtown Weymouth.

In 2009, a regular inspection tour found the dam to be in poor condition with the potential for movement of the concrete wall and the trees and vegetation growing in the dam could be destructive. The Mass. Dept. of Conservation and Recreation issued a Non-Compliance of Dam Safety Order in which the Town was required to evaluate and develop a safety plan; the Town went directly to addressing dam deficiencies.

Mr. Orsi stated that the Dam Safety Order has a deadline for repairs of Dec. 16, 2012; he then explained the proposed work:

- Pulled joints and joint repair: joint sealant has dried and fallen out.
- Trees and vegetation will be removed and cracks will be resealed.
- Water is flowing through fish ladder walls; the joints will be injected with crack sealant.
- Existing sluiceway walls are too unstable and are showing displacement.

A portion of the dam will be demolished and a new sluiceway and spillway will be constructed. The 1975 work designed the dam to protect against a 100 yr. storm event. Regulations require the dam to sustain half the 'probable maximum flood' event.

The new design will provide the same amount of flow as it has at present (into the culvert into Herring Brook) up to the 100 yr. event.

The sluiceway will have (2) different gate systems (a Lift Gate and a Flood Gate) and the final spillway section is for overflow.

There are concerns that the wall is marginally unstable but nothing inherently so; it will be determined if the wall is moving.

Measures to improve access and security include:

- Crushed stone sediment trap for construction vehicles will be left for access into site.
- Bar gate to prevent unauthorized vehicles.
- Fencing will be replaced to keep the public off the dam.
- Some additional grating will be put back over the fish ladder.

Staging of the project in regards to herring migration:

- Construction will begin around Aug. 1st and will take 2-3 months.
- NOI submitted has (2) phases: 1) cofferdam area, dewatering, and sluiceway and spillway replacement and 2) when done the fish ladder will be blocked off for repairs.
- Fish ladder work will be done first (in early August) and ladder will stay open during out-migration.

Ms. Hastings spoke on the wetland impacts:

- Almost the entire site is located within Riverfront area.
- The entire site is located in Bordering Land Subject to Flooding
- Bank and land underwater associated with Herring Brook and Iron Hill Reservoir.

- Section of natural bank upstream of the dam, on the west.
- Some of the area within the cofferdam will be temporarily impacted by dewatering.
- No Bordering Vegetated Wetlands on the site.

Mr. Orsi said an ENF has been filed concurrently with the NOI, a Water Quality Certificate will be filed once they have an Order of Conditions and they have to file a Chapter 253 Permit with the Office of Dam Safety.

Cmmr. Dowd asked if anyone has done an inspection to the interior of the siphons; Mr. Orsi said they had not. Cmmr. Dowd told him (as an F.Y.I.) about a design feature to absorb the energy of cascading water; good sized granite blocks look like they were, at one point, fixed but a number of them have come out and have washed downstream. He then expressed appreciation of the plan (for greater capacity to control flow) but also concern for potential vandalism of an accessible wheel.

Mr. Orsi replied that the wheels on the gate are removable and the axels have security boxes; to prevent entry the wheel with a key on it is needed.

Cmmr. DeGabriele asked for a review for the physical disturbances.

Mr. Orsi responded:

- (2) trees at top of wall will be removed.
- Small trees to be removed for demolish of old, and construction of new, spillway.
- Some dredging of land under water to create new channel; coffer dam will be put up.
- Considering dropping 'Super Sacks' onto pond bottom, as water is relatively shallow.
- Looking at steel plate at front side of fish ladder as does not need to be water tight.

Cmmr. Loring asked if repairs to fish ladder would be done before anything else.

Mr. Orsi said "Right" explaining it is the most realistic approach to work outside of the out-migration period.

Cmmr. Loring asked how long for the fish ladder repair; Mr. Orsi said "One day."

Cmmr. Loring asked if curing was necessary; Mr. Orsi said they are designed for underwater application.

Cmmr. Loring asked if there would be any bottom disturbance; Mr. Orsi said "Not much."

Cmmr. Loring asked where the de-watering would go; Mr. Orsi said downstream when working inside the coffer dam and will be pumped out when working inside the coffer dam. <<???

Ms. Schloss reported that:

- She has spoken with the Div. of Marine Fisheries and Mr. Orsi about the time-of-year restriction; that is why Phase 1 and Phase 2 work is being switched around. The out-migration time-of-year restriction is between Sept. 1st and Nov. 15th and because that is not enough time for work to be completed, it is being allowed between the spring and the fall out-migration period, but behind the coffer dams.

- No DEP file number yet; DEP said they are leaving this open until the MEPA meeting Mar. 21st.
- Nothing in writing from Div. of Marine Fisheries yet, but their concerns have been discussed.
- Con Comm needs to review the coffer dam and de-watering plans.
- The NOI needs an Emergency Flood By-pass Plan.
- Slope stabilization is needed for the 2.1:1 slope; needs erosion control line at the top of slope.
- Agrees that a wildlife habitat analysis is not needed.
- Some shoreline vegetation needs to be removed-can shoreline planting be considered?
- There has been some neighbor encroachment; no hillside run-off can be allowed onto project.
- Debris needs to be removed; if using sandbags make sure all are removed at project's end; Con Comm will request to review the dewatering plan before the project starts.

Cmmr. Loring asked for comments from the public.

Mr. Lofgren, Assistant Herring Warden, asked how they will handle the water seepage behind the coffer dams so sediment doesn't get into Herring Brook. He also asked if the filtered water can be discharged into the flood control system to eliminate any extreme sedimentation.

Mr. Lofgren commented that outgoing fry start around June 15th – 20th and asked what protection they will be given. He then stated that over the last (3) years there was no late fall migration (it was done by Sept. 1st) and asked if the ladder work could be held off until late fall.

Mr. Lofgren offered to work with the Herring Warden to make determinations, day-to-day, about the work in conjunction with the fish.

Mrs. Teri Evans asked if the chain link fence would be only by the fish ladder or would it be over by the culvert; Mr. Orsi said the alignment of the fences would be as there now.

Mr. John Hiredale, owner of the Carson Co., asked about the security of the area and what will be planted.

Mr. Orsi replied that it will be grass and large brush, not trees, will be planted. He added they want to keep 10-20 ft. of the upland side of the spillway clear.

Artie Mathews, District 4 Councilor, said he is in support of the project and hopes the Commission is in favor of it. He commented that the fish fry are an important issue and is glad to hear they will be consulting with Cmmr. Loring so they can plan accordingly.

Cmmr. Dowd commented that it would be good if the Herring Warden is given instructions on the operation and control of water rate, adding that it needs to be tamper-proof but easily accessible by the Warden to make adjustments.

Cmmr. Harbottle asked if loam and seed are used because roots aren't wanted; Mr. Orsi said seed is preferable because it is easily maintained and prevents animals from digging into the embankment. He said it can be cut and maintained 1-2 times per year.

Cmmr. DeGabriele moved to continue the public hearing to March 28th, seconded by Cmmr. Harbottle.
UNANIMOUSLY VOTED

**Lower Central Interceptor – Notice of Intent – Continued Hearing
DEP File #81-1093**

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

Appearing before the Commission were Steve Olson of Environmental Partners and Jeff Bina, DPW Director.

Mr. Olson asked if there were any questions about the draft restoration plan or draft conditions.

Cmmr. DeGabriele asked about #29, 'the name and telephone number of the person responsible for on-site compliance'; he said he thought the information was going to be made available to the area residents.

Mr. Bina said that information can be provided to residents via e-mails and fliers and through the site engineers.

The discussion that followed was regarding the turbidity curtain required by the Army Corps of Engineers.

Ms. Schloss said it will be worded 'Turbidity curtain shall be installed as shown on plan'.

Ms. Schloss then asked if the erosion controls will stay until the end of the project.

Mr. Olson said they normally stay until the restoration work is done.

Mr. Olson asked if contractor submittals need to be submitted to Con Comm; Ms. Schloss said "yes".

Ms. Schloss asked if (regarding #42) weekly progress reports would be too burdensome.

Mr. Bina offered to forward the resident engineer's e-mails to Con Comm.

Cmmr. DeGabriele stated that the Commission wants to receive something from the wetland specialist.

Mr. Christopher Tier, 196 Idlewell Blvd., asked how strict the 20 ft. limit of construction will be.

Mr. Olson responded that they will be setting right up on top of the pipe and 10 ft. on each side will be staked and strictly adhered to.

Mr. Olson asked how the end of site monitoring is defined.

Cmmr. DeGabriele responded, saying if nothing grows it's not acceptable. An Environmental Scientist has to certify that restoration has been achieved and Con Comm has to concur or rule if that has not been achieved.

Mr. Tier commented that he wants to make sure what get put back is similar to what he has now.

Mr. Olson said it has to be restored to what is there now and recommended that the residents speak to the contractor at the end of the day if work is not approved.

Mr. Bina stated that when the final design is available, they can meet with the residents.

Cmmr. DeGabriele suggested photos be taken to ensure everything is restored properly.

Cmmr. Harbottle said that a meeting to let everyone know what to expect and what their responsibilities are would be a good idea.

Ms. Schloss then spoke on permitted structures, saying that unpermitted structures may not be rebuilt, adding that docks built pre-WPA are grandfathered.

Mr. Olson said that the Town sent out letters explaining the permit process and that unpermitted docks, if damaged, will not be fixed. He said this was also brought up at a neighborhood meeting.

Ms. Schloss asked if the man holes below the High Tide Line will be fiberglass; Mr. Olson said that they would.

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

93 Grant Street – Continued Violation Hearing

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

The MacLeods did not appear for this hearing; Cmmr. Loring reported that the original wetland scientist said he could not do the job so it is hoped this hearing can resume on March 28.

Ms. Schloss said she talked to the wetland scientist who said he was never shown the enforcement order.

Ms. Schloss said Mr. MacLeod is working with a wetland person and a surveyor. She will go out to the site but it seems the MacLeods just don't seem to understand the process. She sent them a copy of the order but not sure if they can be ready by March 28th.

Cmmr. DeGabriele asked what if the violators don't show up at the next meeting; Ms. Schloss said it may be time to think about fines.

Cmmr. DeGabriele moved to reschedule the violation hearing to March 28th, seconded by Cmmr. Dowd.
UNANIMOUSLY VOTED

Other Business/Conservation Report

- Mayor is about to appoint a Greg Shanahan new member, Town Council needs to approve.
- Land sales are coming up for auction, all but one are small adjoining parcels, the exception is on Western Ave and that is a buildable lot.
- Whitman Pond Vegetation Management Plan: Working Group has chosen a consultant, ESS Group.
- Weymouth Landing – work is being done over Smelt Brook Culvert and without having to demolish the slab over the culvert.
- Canoe Launch by Weymouth Landing ‘T’ should be starting soon.
- Weymouthport seawall is ongoing.
- Davids Island seawall is ongoing.
- National Grid is doing a lot of pole replacement work in wetlands.
- Regatta Road – at site of former violation, vegetation on the bank has been cut and owner needs to come back in.
- Essex Heights, Concannon Circle – no maintenance of the detention basin for (16) years.
- Cmmr. Dowd reported that the last house on the left on Dorothea Dr. has cleared an area for parking; Ms. Schloss thinks there was an RFD.

Adjournment:

Cmmr. DeGabriele moved to adjourn the meeting at 9:45 PM and to meet again on March 28, 2012 at the McCulloch Building, seconded by Cmmr. Harbottle. UNANIMOUSLY VOTED

Respectfully submitted,

Patricia Fitzgerald

Approved:

Laura Harbottle, Conservation Clerk

Date