

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

**Wednesday, February 18, 2015 - 7:00 p.m.
Council Chambers, Town Hall, 75 Middle Street, Weymouth, MA**

Present: Steve DeGabriele, Chairman
Scott Dowd, Commissioner and Clerk
Tom Tanner, Vice Chairman
George Loring, Commissioner

Absent: Anthony Merlino, Commissioner

Also Present: Mary Ellen Schloss, Conservation Administrator

Chairman DeGabriele called the February 18, 2015 Commission meeting to order at 7:00 p.m. in the Council Chambers, Town Hall, 75 Middle Street, Weymouth, MA.

Minutes:

On a motion made by Commissioner Tanner, seconded by Commissioner Dowd, the Commission voted 4-0 to approve the minutes from the January 14, 2015 meeting as written.

Longwood Road – Request for Extension of Local Order of Conditions – to be continued to 3/18/15

Map 21, Block 288, Lot 1

DEP File # 81-991 (*Single-family house*)

Ms. Schloss informed the Commission there was a request from the applicant to continue the hearing to the next meeting because the snow (after the last meeting) has delayed the Commission's site visit.

On a motion made by Commissioner Tanner, seconded by Commissioner Dowd, the Commission voted 4-0 to continue the public hearing until the next meeting on March 18, 2015.

20 Autumn Lane – Request for Partial Certificate of Compliance

Ryder Development Corp.

Map 32, Block 409, Lot 28

DEP File #81-1112 (*Single-family house*)

Jack O'Leary of SITEC Environmental was present to represent the applicant, Ryder Development. Mr. O'Leary explained that they were requesting a Partial Certificate of Compliance at this time.

Ms. Schloss explained that she provided an update to the Commission in their packets. This Partial Certificate of Compliance request is for the house, grading, and retaining wall because the

slope restoration has to be monitored for at least two years, per the Order of Conditions. Ms. Schloss added that she reviewed the as-built plan with the approved plans and noticed only a minor deviation with the rip-rap area. She recommended the Partial Certificate of Compliance be issued. The report from the slope restoration was also submitted with this request but will be monitored for at least two years from the time of their planting in November, 2014.

Commissioner Tanner asked who is responsible for the restoration and monitoring once the house is sold.

Ms. Schloss responded that when the lot is sold it becomes the responsibility of the new owner, but it is her understanding that Mr. Ryder would be taking responsibility to get the Final Certificate of Compliance.

Mr. O'Leary responded that the Order of Conditions is recorded at the Registry of Deeds and it is reviewed with the new buyers when a property is sold.

Commissioner Tanner suggested, and the Commission agreed, to have staff send a letter to Mr. Ryder, requesting that he notify the new owners of the Commission's vote on the Partial COC and inform them of the OOC with the requirements for slope restoration work and monitoring.

On a motion made by Commissioner Loring, seconded by Commissioner Tanner, the Commission voted 4-0 to issue the Partial Certificate of Compliance for 20 Autumn Lane (DEP #81-1112) for the building and structures and to send a letter to Mr. Ryder.

Dandelion Lane Subdivision – Request for Partial Certificate of Compliance

Mento Homes, Inc.

Map 48, Block 509, Lot 16

DEP File # 81-1145

Grading and utilities for subdivision roadway

Dan Mento from Mento Homes was present. Ms. Schloss explained this was a Request for a Partial Certificate of Compliance for the Order filed for the grading and utilities in the roadway. She commented that the Department of Public Works (DPW) has reviewed the request and was satisfied, and she was okay with the work completed to date as it matched the approved plans. She added that the drainage structures were outside of the Commission's jurisdiction and this was a Request for a Partial Certificate of Compliance because there is still some final paving and bounds to be completed. Mr. Mento added there is still some loaming needed as well.

On a motion made by Commissioner Tanner, seconded by Commission Loring, the Commission voted 4-0 to issue a Partial Certificate of Compliance for Dandelion Lane Subdivision roadway (DEP File 81-1145).

28 Dandelion Lane (Lot 2) – Request for Final Certificate of Compliance

Mento Homes, Inc.

Map 48, Block 509, Lot 16-2

DEP File #81-1144

Single-family home, grading, utilities

Ms. Schloss explained that there are three houses created with this subdivision and this request for a Certificate of Compliance is for the builder's lot 2 (only a portion of the lot is under the Commission's jurisdiction). She said that she has been out to the site and the only outstanding item is the required post-and-rail fence which has not been installed. Ms. Schloss explained that the fence is required for lots 2, 3, and 4 as part of the Order of Conditions and recommended an escrow fund be considered to verify that the fence is installed after the lot is sold and the Certificate of Compliance is issued.

Mr. Mento said that he received an estimate on the fence for all the lots to be \$2,500.

The Commission reviewed the length of the fence on lot 2 and found it to be approximately 65 feet and estimated \$600, based on \$5-\$9 per square foot; Mr. Mento was agreeable to posting a bond for \$600.

On a motion made by Commissioner Tanner, seconded by Commissioner Loring, the Commission voted 4-0 to issue a Final Certificate of Compliance for builder's lot 2 at 28 Dandelion Lane with a condition that a \$600 security bond be posted with the Town's Treasurer.

73 Davids Island Road – Request for Final Certificate of Compliance

Map 5, Block 13, Lot 32

DEP File # 81-834

Single-family home

Paula Asmus and Greg MacMorland were present for the application. Ms. Asmus explained that they are the third homeowners and they are now trying to sell the house when the open Order was discovered. The home was built in 2001/2002 and there was a Certificate of Occupancy issued from the Building Department but not the Certificate of Compliance from the Conservation Commission. They purchased the home in 2012 and are now trying to sell the home when a title search found that no Certificate of Compliance was ever issued.

Chairman DeGabriele explained that the role of the Commission is to protect the resource area and there are clear deviations from what was approved, ranging from minor to major. Although the statute of limitations has run out for the original violations, the Commission still needs to review and issue the Certificate of Compliance to close out the Order.

Ms. Schloss explained that she had recommended a surveyor be hired to conduct a current survey to prepare the as-built plan. A surveyor was hired by the owners but significant snow fell shortly after the surveyor was hired and a progress print was distributed to the Commission. Ms. Schloss explained that she has compared the current progress print with the approved plan and found that a rip-rap revetment was constructed along the shoreline to replace the old walls when

the approved plan did not show any work to the walls or the construction of a beach. The deviations from the approved plan are as follows:

- Approximately 200 sq. ft. of a bump out for the house foundation in the northwest corner was not on the original plans (considered minor);
- The deck is larger;
- The garage and pool was not constructed;
- The house is now in the flood zone (the flood zone has changed since the 2000 Order of Conditions);
- Grading on the east side of the house is different;
- The walls were rebuilt higher (on the east end and southeast corner near flag #11); and
- The easterly wall is larger and rip-rap revetment extends further east.

Chairman DeGabriele commented that the questions for the Commission are: do they need further information with a more complete survey plan after the snow has melted, and is any mitigation or restoration work required?

Commissioner Loring asked if the resource area was damaged (it was noted that the horseshoe crabs are mating there). He remarked that the beach was created after sand was dumped and was not part of the approved Order.

Commissioner Tanner said he was okay with issuing a Final Certificate of Compliance with the understanding that there be no more encroachment by the new owners, and the beach area cannot be enhanced (so it can restore naturally).

The prospective owner, Chet Clem, was present and added that he was doing his due diligence when investigating the property and checked in with the Conservation Office on this property and wants to be a steward of the environment.

Commissioner Dowd expressed his concern for the significant deviation and didn't want to set a precedent. He stated that the builder should have filed a Request for the Certificate of Compliance with the Commission in addition to filing with the Building Department when the work was completed.

Chairman DeGabriele noted that the Commission can legally order the owners to correct the violations but didn't see a significant environmental gain in moving the revetment. He noted that the new owner would have to return to the Commission for review of any future alterations.

Commissioner Tanner felt the record should be clear as to the deviations that were discovered either with a letter, in the minutes, or a note in the file.

On a motion made by Commissioner Tanner, seconded by Commissioner Loring, the Commission voted 3-0-1 (Commissioner Dowd abstained) to issue the Final Certificate of Compliance for 73 Davids Island Road with a condition that a letter be included noting the deviations from the original Order.

Other Business:

Meredith Way – Carl Erickson of Meredith Way, LLC was present. Mr. Erickson explained that they are completing the home on lot 18 and they are looking for an Occupancy Permit.

Mr. Erickson told the Commission that:

- Lot 18 has the living fence and buffer plantings
- Lots 17 and 18 were planted in October 2014.
- The infiltration trenches for Lot 18 are not installed yet.
- The as-built plan foundation will be submitted with the application.
- The driveway is crushed stone now and the binder will be completed in the spring.

Mr. Erickson said the builder also has a \$110,000 and a \$50,000 surety bond with the Planning Board.

The builder is looking for a sign off for a Certificate of Occupancy for Lot 18. The outstanding items (the driveway, the final landscaping, and the trenches) and the monitoring for the living fence could be covered with the \$1,700.00 bond they are proposing to the Commission this evening.

Ms. Schloss was comfortable with the bond amount and the occupancy for Lot 18, if the applicant provides a status report and outline of the remaining outstanding items and when they will be completed. She also asked for an update on the monitoring report and certification from the engineer on the entire drainage system (the forebay and drainage system, etc.). She added that an extension will be required because the order expires in May. The applicant must request an extension 30 days before the expiration date. She recommended the request be submitted for the April 8th meeting.

On a motion made by Commissioner Loring, seconded by Commissioner Tanner, the Commission voted 4-0 to allow the Conservation Administrator to sign off on the Occupancy Permit for Lot 18 with the condition that the \$1,700.00 bond be provided for the outstanding items (such as the infiltration trenches, continued work on the invasive species and the final landscaping) and that these be noted in the status report to be submitted to the Conservation Administrator.

Compliance / Enforcement

MBTA – Ms. Schloss reminded the Commission that this was the riverbank slope failure at the MBTA drainage outfall at the East Weymouth station. This repair work was supposed to be done last summer but was granted an extension to the fall. The Chairman thought the Commission should write another letter explaining the continued degradation of the slope, due to their failure to respond and to meet deadlines. The Commission discussed holding a violation hearing, or asking if the Mayor (or one of the Representatives or Senators) could take the matter and run with it.

The Commission asked that a Violation Hearing be scheduled for the next meeting on March 18th and asked that all the past violations be listed in the letter sent to the MBTA.

Weymouth Salvage – Ms. Schloss to check in with the EPA on this case.

Ethics Training - Ms. Schloss reminded the Commission members of the required ethics training due at the end of March.

Meeting Scheduled – The April, May and June meetings may be at Fogg or Tufts Library, since McCulloch is booked. The Commission was interested in meeting at Fogg Library, or in the Mayor's office if available; the Kelly Room may be an option as well.

Snow Dumping – Ms. Schloss informed the Commission that there have been some snow emergencies and snow in town has been taken down to Southfield and located on the old runways, and DEP has allowed some dumping into the Fore River if necessary. Commissioner Dowd added that some snow has been taken to Hollis Street as well. Ms. Schloss will send letters to property owners along the Herring Run to remind them that there should be no snow dumping into the Herring Run.

MACC Conference – Ms. Schloss and Steve DeGabriele to attend.

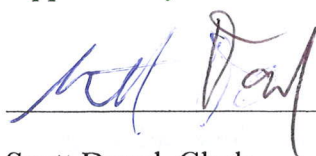
Community Preservation Committee Report – Commissioner Loring stated that there was a recent meeting with the annual update but he was unable to attend.

On a motion made by Commissioner Loring, seconded by Commissioner Dowd, the Commission voted 4-0 to adjourn at 8:50 PM.

Respectfully submitted by,

Abby McCabe
Recording Secretary

Approved by:



Scott Dowd, Clerk

03/18/15

Date