

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

**Wednesday, June 3, 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
Anthony Merlino, Commissioner

Also Present: Mary Ellen Schloss, Conservation Administrator

Chairman DeGabriele called the June 3, 2015 Commission meeting to order at 7:00 p.m. in the Council Chambers, Town Hall, 75 Middle Street, Weymouth, MA.

Approval of Minutes:

Review of the minutes from May 13, 2015 were tabled until the June 24th meeting.

34 Dandelion Lane (Lot 3) – Request for Final Certificate of Compliance

Map 48, Block 509, Lot 21

DEP File #81-1146

Single family home

Dan Mento appeared before the Commission. Ms. Schloss said she did a site visit on June 2nd and found that the Conservation signs were not up and the grading is a little different than on the plan. She added that she had also gone out in April and found that the junipers planted were not native. The Mentos have since inter-planted native junipers on the steeper slope amongst the 50 plants that were already there (photos were distributed). Ms. Schloss also told the Commission that hydro seeding had been done, but no grass has come up yet and the area is not stable at this point.

Ms. Schloss stated that she was told the signs are up as of today (June 3rd). She gave the Commissioners copies of the as-built plan, saying she felt it looked good but the patio is a little closer to the fence than on the plan but did not think the deviations were a big deal. She said it would be okay to vote on, and sign, the Certificate of Occupancy, but felt the COC should not be delivered to the applicant until the grass was up and she sees the Conservation signs (per the builder, 10 signs have been installed).

Cmmr. DeGabriele expressed concern that there has been deviation from the approved plans and explained to Mr. Mento that the Commission expects things to be built as shown on the plans and cautioned him to follow the plans, or notify the Administrator (Ms. Schloss) before making any changes.

On a motion made by Commissioner Tanner, seconded by Commissioner Merlino, the Commission voted 5-0-0 to issue a Final Certificate of Compliance, but to hold it until the grass comes in, and to sign the Certificate of Occupancy.

Ms. Schloss then asked Mr. Mento about the neighboring lot area that was cleared on the wetland side of the fence. She stated that the owner said that he was not aware of any restrictions on the property but seemed willing to cooperate with the Conservation Commission. The owner said he bought the property from a realtor (Steve Zeboski) and that when he purchased it the fence was not up so he thought he had a lot of property, but now he finds he has almost no yard. Ms. Schloss said that some shrubs have been cleared but the owner said he did not remove them.

Mr. Mento stated that attached to the listing is the plot plan it says "Conservation Area".

Cmmr. DeGabriele said that the seller needs to notify the buyer about the Order of Conditions. He told Mr. Menlo that the Commission took a Performance Bond because there was no fence on which to place Conservation signs for new home owners to see. He then asked how many trees had been cut.

Ms. Schloss replied that 2 trees, 3 or 4 clusters of shrubs, and a lot of ground cover and briars had been removed.

Cmmr. DeGabriele stated that restoration was in order and that ignorance is no excuse, adding that 50 trees had already been lost when the property was developed and now more trees have been cut. He advised that the Commission needs to follow up with the new owner about the restoration.

Ms. Schloss said she will follow up on it and report back to the Commission.

22 Mill Street – Request for Determination of Applicability, Public Hearing

Robert Sanderson

Map 36, Block 453, Lot 26

Addition to single family home

Owner Robert Sanderson appeared before the Commission, explaining that he would like to add to the back of his property. He said that now there is a 14'x14' screened porch and he would like to add an addition in its place along with a screened porch and add a small deck. He said the project will not be any closer to the river.

Mr. Sanderson confirmed for Cmmr. DeGabriele that he currently has Sonatubes and will be putting in a foundation.

Cmmr. DeGabriele asked if erosion controls will be required; Ms. Schloss said erosion controls will not be needed because the fence goes down to the ground. She then advised the applicant that any excavated material will need to be taken from the site.

No public comments were made.

Ms. Schloss recommended a Negative 2 Determination as there would be no impact on the Riverfront Area.

On a motion made by Commissioner DeGabriele, seconded by Commissioner Dowd, the Commission voted 5-0-0 to issue a Negative 2 Determination of Applicability.

Lovell Playground Renovation, Notice of Intent, Continued Public Hearing

Town of Weymouth

1250 Commercial Street

Map 23, Block 253, Lot 26

DEP File # 81-1141

On a motion made by Commissioner Loring, seconded by Commissioner Tanner, the Commission voted 5-0-0 to re-open the public hearing.

Cmmr. DeGabriele stated that he had listened to the audio recording of the May 13th meeting and signed the Mullin Rule Certificate.

Appearing before the Commission were Meg Buczynski and Ben Gleason of Activitas.

Ms. Schloss said that, at the last hearing, Cmmr. Loring had some water quality concerns regarding runoff from turf fields. Ms. Schloss said she focused on the Connecticut DEP report that Cmmr. Loring had sent to her as they also had concerns about zinc being above the aquatic toxicity level. She then asked Activitas to look at, and respond to that report.

Ms. Schloss confirmed for Cmmr. DeGabriele that the ‘stump dump’, and method for dealing with the stumps, was also going to be looked into.

Ms. Buczynski said she would address the stump dump issue later (a final decision has not been made). Regarding an additional pathway from the residential neighborhood to the basketball court, Activitas looked at this and found that the pathway was too long (270 feet) and there was a 10’ to 12’ drop; a lot of slope required extensive grading. It was recommended that they not construct the additional pathway and she would submit a drawing.

Ms. Buczynski prefaced her remarks by saying that she will be submitting copies of the reports she will be referencing to the Conservation office. She began by saying the report from the Connecticut Dept. of Environmental Protection notes that zinc is the heavy metal of concern. She said, regarding crumb rubber, passenger tires are okay but not truck tires, as the truck tires have considerably more zinc. She said this project will require the use of passenger tires only. She said she was not sure of the source of tires for the fields in the CT study but, given the study date, the crumb rubber likely included truck tires.

Ms. Buczynski also stated that other reports that can be looked at are:

- The Milone/Macbroom study, also done in Connecticut, looked at one field over a little longer period of time and showed lower levels of zinc toxicity, but doesn’t specify tire type.

- The Netherlands study didn't see a change between collected rain water and water going through the system, but she did confirm that the drain water had zinc in it.
- N.Y. State Dept. of Health laboratory results determined that crumb rubber from truck tires may have an impact on aquatic life, due to the release of zinc, but other tire types were not deemed to have likely impacts.
- The Fenn School Study in Concord, MA, looked at a synthetic field in a Riverfront Area which required a Notice of Intent, an Order of Conditions which was appealed and resulted in a Superseding Order from the DEP and an Adjudicatory Hearing. The synthetic field was reviewed by Mass DEP 'very deeply'. With information obtained from professionals and a toxicologist, it was their opinion that passenger tires are acceptable but truck tires are not. The Mass DEP determined that passenger tires have no adverse effect on ground water leaching.

Ms. Buczynski said the water at Lovell Field will tie back into the existing drainage system and then discharge through two points along the river (by the covered bridge and one further down) and right into the river. She suggested the Commission may want to talk to Phil DiPietro, the Mass DEP Case Manager.

Cmmr. DeGabriele asked if there is an ability to attenuate the zinc levels through treatment (can the field runoff be put through a wetland or treatment system, as opposed to being directly piped into a river); he asked what would be the best way to do this. Ms. Buczynski said that filters can be added, but they would need to be cleaned, but she doesn't think they'll be needed.

Cmmr. Loring asked if the whole field drains into the river; Ms. Buczynski responded 'yes'.

Cmmr. Merlino asked if there is a way to monitor the types of tires that are being used and if they can be tested before they are brought to the site; Ms. Buczynski said she would check, but offered that if high levels of zinc are found they can be retrofitted later.

Cmmr. Tanner asked if the water at Weymouth High School has been tested; Ms. Buczynski said no, but that it can be.

Cmmr. Dowd suggested there be a baseline test done at Lovell Field.

Cmmr. Tanner also suggested that no studded tires be allowed; Ms. Buczynski said Liberty Tire will be told passenger tires only in the specifications.

Cmmr. Tanner then asked how large the stump dump is; Ms. Buczynski said she would send out information electronically this week.

Cmmr. Tanner said he wanted the Fenn Study in a hard copy.

The hearing was opened to the public.

Bob Montgomery Thomas asked if any of the Legion Field work would affect the Endangered Species Act and asked if the pdf file would be made available; Ms. Buczynski said there were no endangered species affected by this project but she will send the pdf file to the Planning Dept.

On a motion made by Commissioner Tanner, seconded by Commissioner Loring, the Commission voted 5-0-0 to continue the public hearing to July 22nd.

1255 Main Street - Notice of Intent, Continued Public Hearing

Bike Realty, LLC

Map 53, Block 593, Lot 7

DEP File #81-1158

(Construction of drive-through lane for Dunkin' Donuts)

On a motion made by Commissioner Loring, seconded by Commissioner Dowd, the Commission voted 5-0-0 to re-open the public hearing.

Cmmr. DeGabriele stated that he had listened to the audio recording of the May 13th meeting and signed the Mullin Rule Certificate.

Present before the Commission were Brian Donahoe, the applicant's representative, and applicant Joe Murray, Bike Realty, LLC. Mr. Donahoe told the Commission that they met with the Zoning Board of Appeals and that meeting has closed and it is under advisement; he said the ZBA was mostly concerned with traffic issues and seemed satisfied up to that point. He passed out site plans and provided a summary for the Commission:

- The 4 ft. sump, with a hooded inlet, will permanently capture debris.
- The corner pavement will be raised so instead of sheet runoff from the roof, it will be captured in the sump and catch basin.
- The drive-through window area will be treated through infiltration.
- The new catch basin will be in the same spot as the old and will be inspected after each ¼" of rain and will be maintained twice yearly (spring and fall).
- For areas not discharging to the catch basin, any oil from cars will go to the detention area and be treated with soil infiltration.
- They will be using salt on the property.
- The erosion control mix they are using is a wetland mix and will fill in within one year.

The hearing was opened to the public.

Bob Montgomery Thomas asked what type of erosion control would be used; Mr. Donahoe said jute with seed and straw.

Mr. Thomas then asked where the additional run off would go; Cmmr. Tanner said there would not be any additional runoff.

Mr. Donahoe asked Ms. Schloss if the sewer work may begin; she replied yes.

Mr. Thomas asked about petrochemicals; Cmmr. DeGabriele stated that the new plan will provide a catch basin to capture oil and will be an improvement over current conditions.

On a motion made by Commissioner Tanner, seconded by Commissioner Loring, the Commission voted 5-0-0 to close the public hearing.

The applicant agreed to allow Ms. Schloss until July 1st for the Order of Conditions.

944 Middle Street – Request for Final Certificate of Compliance

Planet Fitness

Map 36, Block 453, Lot 26

DEP File#81-1062

(Proposed parking lot improvements; work never started, close out order)

Ms. Schloss told the Commission that the work was never done on this project and the owner is selling and would like to close out the order. She added that the site looks better than it had before (catch basins have been cleaned and fence installed).

On a motion made by Commissioner Tanner, seconded by Commissioner Dowd, the Commission voted 5-0-0 to issue a Final Certificate of Compliance, indicating work was never done.

35 Rockway Avenue (formerly 25 Rockway Ave.) – Request for Minor Modification, local-only Order of Conditions

Rockway Associates, LLC

Map 37, Block 465, Lot 24; Local-only Order of Conditions, 2013

(Add 38'x14' patio area behind building)

Property owner William Lane appeared before the Commission. He explained that he would like to build a stone patio with a gas grill and seating area at the back of the property, as this is the only location that is handicapped accessible. The stone wall will be 30" high with pavers and will be approximately 60 ft. from the beginning of the wetland area.

Cmmr. DeGabriele said the only issue he has is regarding the resource area and the slope and the impact that people may have on slope erosion and debris.

Mr. Lane said it's a pretty steep slope and doesn't think it will be attractive to children. He said the area will be maintained by the property's regular maintenance people, who are on site 32 hours per week, but he thinks there isn't much there to attract people.

Ms. Schloss said erosion controls will be put out before work begins and confirmed that the wetlands are about 60 ft. away.

Mr. Lane confirmed there will be no fill brought in (just the gravel on site); stone will be used for walk and pavers.

On a motion made by Commissioner Tanner, seconded by Commissioner Loring, the Commission voted 5-0-0 to issue a Minor Modification for 35 Rockway Avenue.

Tirrell Street/Sportsmen's Way Utility extension – Request for Final Certificate of Compliance
Ryder Development Corp.
Maps 32 & 33, Blocks 423 & 425
DEP File #81-934
(Water and sewer extension to Sportsmen's Club)

Ms. Schloss explained that the work was done in 2006 but there was encroachment, asphalt needed to be moved, and Conservation asked for some planting. After seeing the as-built plan, the Commission issued a Partial COC, which was recorded, but the restoration was not done so a Final COC was not issued. She told the Commission that now, with stricter title searches, units are being held up until the file is closed. She said the restoration has now been done (and hopes the shrubs will be watered) and would like to see the file closed out.

On a motion made by Commissioner Tanner, seconded by Commissioner Loring, the Commission voted 5-0-0 to issue a Final Certificate of Compliance.

Autumn Lane – Request for Final Certificate of Compliance
Ryder Development Corp.
Map 32, Block 409, Lot 28
DEP File #81-1112
(Single family house and slope restoration)

Ms. Schloss stated that Mr. Ryder was before the Commission a few months ago to request a Partial COC for this single family house which has a very large wall, and large slope that required some restoration adding that there is prolific knotweed on the site. She explained that the Order of Conditions has a provision that after the restoration is done (we are in the 2-year monitoring period), if the future home owner can't obtain a mortgage without a Final Certificate of Compliance, the Commission may issue a Final COC with a \$10,000.00 Performance Bond. The funds have been received from Mr. Ryder and will go into an escrow account.

Ms. Schloss reported that, regarding the condition of the slope, Ryder Development consultant, and wildlife biologist, Dr. John Jahoda, went out in January 2015 (during dormancy) and was only called out again last week (week of 5/25/15). Ms. Schloss went out to the site and found that the bottom of the slope is quite overtaken with knotweed and there is not enough growth density to shade it out. Ms. Schloss told the Commission that, of the plants installed, a good number are not healthy and a lot of plants could not be counted because of all the knotweed. She added that Dr. Jahoda's report is still needed on the restoration and knotweed.

Cmmr. DeGabriele stated that Mr. Ryder has quite a few Orders of Condition that are not closed out and these need to be addressed. He said the reason the vegetation isn't doing well is due to lack of diligence in monitoring the situation, adding that \$10,000.00 might not be enough to compel him to do the work. He said the Commission needs to hold people responsible for what was approved and he finds it frustrating to see this keep happening and feels that Mr. Ryder needs to be informed that the Commission members are pretty upset about the sequence of events that have led to this.

On a motion made by Commissioner Tanner, seconded by Commissioner Dowd, the Commission voted 4-1-0 (Cmmrs. DeGabriele, Tanner, Dowd and Tanner voting for, Cmmr. Loring voting against) to issue a Final Certificate of Compliance, but the \$10,000.00 Performance Bond will be held until the 2-year monitoring period is concluded.

Conservation Report (reports given by Ms. Schloss unless otherwise noted)

Other Business

National Grid: Cmmr. Dowd asked about the vernal pool; Ms. Schloss said it hasn't been checked this year yet, but she will get out there.

136–138 Bridge Street coastal bank: All the trees have been stripped and they are starting the revetment and coastal bank; pictures were shown.

Compliance/Enforcement

Sherrick's Farm: Sediments on the adjacent property were removed 4/17/15 and basin work will begin in a couple of weeks. Ms. Schloss met with DPW's Jay Donovan and Mr. Burns on-site on June 3rd to discuss the basin restoration work; copy of letter to Mr. Burns was distributed.

37 Todd Lane: Met with Mr. & Mrs. Julian – footbridge has been removed; plants were on site and ready to be installed; planting and sign locations were reviewed.

Other Business

Algonquin Gas Bridge Project: Mayor Kay and other department heads are putting together comment letters.

Review of FEMA flood maps: To be looked at with consultant (mapping may be inaccurate); there is a meeting scheduled for the Idlewell neighborhood on June 16th.

Cmmr. Tanner said the issues regarding the FEMA flood maps affect more than just the Idlewell area; Ms. Schloss asked him to provide information.

Whitman's Pond Working Group: Cmmrs. Loring and Dowd plan to attend the 6-17-15 meeting. The Order of Conditions will need to be extended and will be on the 6-24-15 Conservation agenda; a public hearing is required.

Herring Run meeting: Scheduled for 6/18 or 6/25 regarding water supply and herring run management. Cmmr. DeGabriele asked if comments on the Washington St. pump station protocol have been received from Brad Chase – Ms. Schloss stated they had not.

Kibby Property: NOI expected for the 6/24 or 7/22 meeting. Shore cleanup of debris will be attempted.

Alexan: The Performance Bond has been received. Ms. Schloss has met with the legal department regarding conservation restriction language. She also stated that she has visited the vernal pools in 2013 and 2015 and on both occasions found evidence of breeding wood frogs and spotted salamanders. These pools are proposed to be filled. During the NOI process, the consultants concluded that these

were low-value pools that wouldn't sustain a breeding population. Cmmr. DeGabriele requested that Ms. Schloss write a letter to the developer informing them that the new information is available. Memorial Benches: at 1st Beach on Whitman's Pond will be installed in July.

CPC Update

Nothing to report as there was no CPC meeting held.

Adjournment:

On a motion made by Commissioner Loring, seconded by Commissioner Dowd, the Commission voted 5-0-0 to adjourn at 9:30 p.m.

Respectfully submitted by,

Patricia Fitzgerald
Recording Secretary

Approved by:



Scott Dowd, Clerk

July 22 2015

Date