

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

2015 MAR 12 AM 10:39 **COPY**

**Wednesday, January 14, 2015 - 7:00 p.m.
Council Chambers, Town Hall, 75 Middle Street, Weymouth, MA**

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

Absent: None

Also Present: Mary Ellen Schloss, Conservation Administrator
Abby McCabe, Recording Secretary

Chairman DeGabriele called the January 14, 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 Loring, seconded by Commissioner Tanner, the Commission voted 5-0 to approve the minutes from the December 17, 2014 meeting as written.

The minutes from November 19, 2014 were signed.

30 Sea Captain's Way – Request for Final Certificate of Compliance

Timothy Condon

Map 62, Block 642, Lot 11

DEP File # 81-1118

Garage and breezeway for single-family home

Ms. Schloss, Conservation Administrator, reported that she performed a recent site visit and everything looked okay and noted that there was an additional 50-75 sq. ft. of paving on the side of the garage that was not shown on the approved plan and this was also noted in the engineer's letter from Shawn Hardy.

The Chairman noted that the statement in Mr. Hardy's letter that the project "appears to be in substantial compliance" is not a sufficient certification from the professional engineer and asked staff to relay that message to the engineer. The letter from the professional engineer should clearly state and certify any modifications and / or deviations from the approved plan.

On a motion made by Commissioner Tanner, seconded by Commissioner Loring, the Commission voted 5-0 to issue the Final Certificate of Compliance for 30 Sea Captain's Way DEP File # 81-1118.

Longwood Road – Request for Extension of Local Order of Conditions
Sandy Gustafson
Map 21, Block 288, Lot 1
DEP File # 81-991
Single-Family House

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

Attorney David Kelly and the project engineer Scott Arnold were present for the extension request. Attorney Kelly submitted the certified abutters list to Ms. Schloss. Mr. Kelly explained that they are requesting a one year extension of the original Order of Conditions that was issued in 2007 because there has been no work done on the property yet. The Order for the construction of a single-family house has a long history that has slowed construction. The original Order was appealed and then there was a superseding Order by DEP and the owners are now looking to sell to a buyer that will build under the existing Order. Because of the state's Permit Extension Act the Order expires on February 21, 2015 and the foundation is not installed yet and since it is mid-January they are requesting a one year extension.

Ms. Schloss explained that this was a public hearing under the local Wetland's Protection Ordinance only and she distributed the section related to extensions of the local regulations and Ordinance to the Commissioner members. She summarized section 7-301 that states that any permit may be renewed for one or more periods of up to one year each provided that the request for extension is received in writing 30 days prior to the expiration date. She further added that the Order had an extensive list of conditions given the property's constraints.

The Chairman asked if the applicant could have started the foundation earlier and Mr. Kelly responded that yes they could have but given the appeals and the two permit extensions from the state they have not started yet.

Scott Arnold summarized the project. The original Order was for the construction of a single-family house on a one acre lot at the end of Longwood Road. The proposed house is setback 18 ft. from the road and a couple of retaining walls are proposed on the sides of the house because of the steep slope. Drainage improvements in Longwood Road were also included.

Chairman DeGabriele asked what the distance was from the corners of the foundation to the 25 ft. no-disturb buffer and the applicant responded that there was only 3 to 4 ft. between the foundation and the no-disturb buffer. The Chairman also asked if there were conditions related to work during construction.

Commissioner Tanner asked about drainage once the foundation is in. Mr. Arnold responded that the property drains down into the wetlands now and with this proposal drainage from the driveway will be pitched down into the proposed catch basin in the road. Commissioner Tanner

asked if this project would be completed in a year and Attorney Kelly replied that it was expected to be completed in one year.

In response to the Chairman's question regarding construction conditions, Ms. Schloss responded that there were a lot of conditions related to construction in the Order and many pre-construction requirements. She summarized the conditions as follows: requiring a revised detail of the drainage swale, dewatering controls, time-of-year restriction on construction foundation, Longwood Road drainage improvements, grant of a drainage easement to the Town, and installation of buffer zone plantings and conservation posts to prevent encroachment into the no-disturb area. She reviewed the email from the Town Engineer regarding the drainage improvements and drainage easement. She added that a geotechnical engineer was required as part of the original Order and those recommendations were included into the conditions of the Order.

Chairman DeGabriele opened the hearing up to public comment.

Public Comment:

Meesh McCarthy, 289 Essex Street, asked to clarify if the Commission was reviewing a modification or the extension. Chairman DeGabriele responded that the Commission is reviewing the applicant's request for the one year extension at this time.

Simon Allie, 80 Longwood Road, provided a summary of the property's history. He commented that he has lived here for many years and believed a previous proposal to develop the area was denied because of the significant slope and protected areas.

Meesh McCarthy, 289 Essex Street, stated that she had several concerns with this project. She is relatively new to Weymouth and was not present for the original application but reviewed the file after receiving the hearing notice. She did not see anything specific to the buffer zone in the conditions, she was concerned about the steep slope, management of invasive species, and impacts on wildlife from construction and site lighting. She said she was concerned that there was no outlet for abutters to voice any issues or concerns.

Chairman DeGabriele responded that all projects that have received an Orders of Conditions require a pre-construction meeting with the Conservation Administrator where the construction details are reviewed and the Administrator performs periodic site inspections and investigates any complaints. If there are any complaints or concerns on a project they should be directed to the Conservation office.

Bob Montgomery Thomas, 848 Washington Street, asked if the Commission can impose additional conditions at this time while they are reviewing the extension request.

Chairman DeGabriele responded that the ordinance clearly states that the Commission must approve or deny the extension request. There is no authorization to modify the already-issued Order of Conditions.

Ronald Driscoll, 4 Valley Road, stated that no one has visited the property lately and he was concerned about an encroachment that has taken place by someone else.

Ms. Schloss said that she will look into the possible encroachment.

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

Commission Discussion:

Chairman DeGabriele said that he was concerned about the foundation being so close to the no-disturb buffer and stressed the importance of very close supervision during construction.

Ms. Schloss stated that the applicant will have to stake the 25 ft. as shown on the surveyed plan as one of the preconstruction requirements. She also added that condition #33 outlined the dewatering to address the high water table and that she would want to see the dewatering set up prior to any discharges.

The Chairman said he would like to go on a site visit prior to voting on the extension request to check on the wetlands and investigate the encroachment. Commissioner Loring, Dowd, and Merlino agreed that they would like to visit the site prior to voting. Commissioner Tanner did not think a site visit prior to voting was necessary. Since the next meeting is not until February 18, the Commission discussed re-opening the public hearing to allow more time to issue a decision on the request for the extension.

On a motion made by Commissioner Loring, seconded by Commissioner Dowd, the Commission voted 4-1 (Tanner voted against) to re-open the public hearing to allow time for a site visit after the wetland flags are in place.

Attorney Kelly did not know when they could have the wetlands flagged but will coordinate the flagging and site visit with Ms. Schloss.

On a motion made by Commissioner Loring, seconded by Commissioner Dowd, the Commission voted 4-1 (Commissioner Tanner against) to continue the public hearing to the next meeting on February 18, 2015.

Sherrick's Farm Road Subdivision – Violation Hearing
Richard Burns
DEP File # 81-788

Ms. Schloss informed the Commission that she copied the Commission on the violation notice that was sent to Mr. Burns by certified mail. She visited the site today and the material was not removed and there has been no response to the violation notice or the Commission's request to remove the material. Mr. Burns was not present for this evening's violation hearing.

Chairman DeGabriele summarized the situation at Sherrick's Farm Road. The developer, Mr. Burns, was before the Commission in the summer and fall to request a final Certificate of Compliance to close out his subdivision's old Order of Conditions. During the review of the request for the Certificate of Compliance, the Commission became aware of a possible violation with regard to dumping of sediments on one of the properties in the subdivision. The Commission asked that the applicant remove the sediments. The Commission, the Conservation Administrator, and the Planning Director have reached out to Mr. Burns to remove the material and the applicant has been unresponsive.

Commissioner Tanner asked if the building department has been notified of the violation and Ms. Schloss responded that the Inspector of Buildings was copied on the violation notice.

The Commission discussed other options to get the developer's attention such as holding up building or public works permits because of this outstanding matter.

Chairman DeGabriele opened the hearing up to public comment.

Public Comment:

Bob Montgomery Thomas, 848 Washington Street, asked what the maximum fine was and suggested holding any of the applicant's applications that may be before the Board of Licensing Commissioners.

Chairman DeGabriele said that the Commission can issue up to a \$50.00 fine per day.

On a motion made by Commissioner Dowd, seconded by Commissioner Loring, the Commission voted 5-0 to close the public hearing on the Sherrick's Farm Road Subdivision violation hearing.

On a motion made by Commissioner Loring, seconded by Commissioner Dowd, the Commission voted 5-0 to issue fines to Mr. Burns per section 1-109.

Ms. Schloss said that she will also review the violation and situation with the Town Solicitor. She also distributed and reviewed the letter from James Donovan, Public Works Department Engineer, dated January 13, 2015 regarding the subdivision's detention basin. The letter states that the trash, debris and vegetation in the detention basin should be removed, the bottom of the basin should be regraded, and disturbed areas should be loamed and seeded to allow for effective stormwater management and flood control.

Compliance / Enforcement

MBTA East Weymouth Update – Ms. Schloss said that Holly Palmgren of the MBTA responded by email to the Commission's December 15 letter stating that the immediate measures requested (hay bale check dams and snow fence) would be installed and that the formal response to the Commission's letter would be forthcoming. The Commission asked Ms. Schloss to respond to Ms. Palmgren's email, emphasizing that deadlines have been missed and a formal

written response is expected right away or the Commission may have to issue another Enforcement Order.

Weymouth Salvage – Ms. Schloss issued the Enforcement Order and the letter to the EPA and asked for an update from the property owner by March 31, 2015. Chairman DeGabriele suggested checking in with the EPA as well.

94 Bridge Street – received copy of Notice of Violation issued by the US Army Corps of Engineers, regarding the unpermitted dock structure.

Essex Heights Subdivision – This is an old subdivision with an outstanding Order of Conditions that Ms. Schloss would like the Commission to address in 2015.

Other Business:

90 Libbey Parkway – Ms. Schloss reminded the Commission that the final Certificate of Compliance was denied but a Partial Certificate was approved for the wetlands replication area work. She distributed a letter from the Town Engineer regarding the drainage system, and will put the Final COC on the Commission’s March agenda.

The state’s ethics and conflict of interest material was distributed to the Commission members.

Lovell Field – The Town’s consultant contacted her recently about the initial mitigation work and they may come in for storm water management improvements. Commissioner Dowd and Commissioner Loring were supportive of storm water improvements.

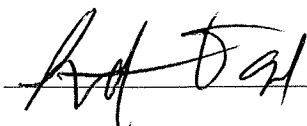
Community Preservation Committee Report – Commissioner Loring stated that there have been no meetings since the Commission’s last report.

On a motion made by Commissioner Loring, seconded by Commissioner Dowd, the Commission voted 5-0 to adjourn at 9:10 p.m.

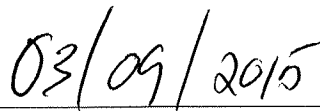
Respectfully submitted by,

Abby McCabe
Recording Secretary

Approved by:



Scott Dowd, Clerk



Date