

Town Clerk

WEYMOUTH CONSERVATION COMMISSION  
McCulloch School – Room 112  
September 8, 2010

**PRESENT:** George Loring/Chairman, Steven  
DeGabriele/Vice Chairman, Laura  
Harbottle/Clerk, Adrienne  
Gowen/Commissioner

**NOT PRESENT:** Scott Dowd/Commissioner

**ALSO PRESENT:** Mary Ellen Schloss, Conservation Administrator

**RECORDING SECRETARY:** Patricia Fitzgerald

Chairman Loring called the September 8, 2010 meeting to order at 7:02 PM in Room 112 at the McCulloch Building, 182 Green Street, Weymouth, MA.

Patricia Fitzgerald was introduced to Committee members as the new recording secretary.

**Minutes: June 23, 2010, July 21, 2010, August 18, 2010 for approval and signature**

Commissioner Harbottle moved that the minutes of 6/23/10 and 7/21/10 be accepted as written and amended.  
Commissioner DeGabriele seconded. UNANIMOUSLY VOTED

Commissioner Harbottle moved that the minutes of 8/18/10 be accepted as written and amended. Commissioner DeGabriele seconded. UNANIMOUSLY VOTED

**169 Randolph Street – Continued Violation Hearing**

Cmmr. DeGabriele moved to re-open the violation hearing.  
Cmmr. Harbottle seconded.

UNANIMOUSLY VOTED

Cmmr. Loring stated that more work has been done. Ms. Schloss added that Mr. Eliffe has paid the \$50.00 fine and has completed the erosion controls.

Ms. Schloss and Cmmr. Loring made a site visit on 8/26/2010. Plantings and construction were discussed and the addition (that was given permission in 2008) was looked at.

Ms. Schloss said Mr. Eliffe was asked to bring planting information to the 9/8/10 hearing.

Mr. Eliffe told the Commission he has talked to the man who would be doing the planting and he plans on planting (3) to (4) fruit trees in front of the evergreens in front of the river. Crabapple trees will be one choice.

Cmmr. Loring stated anything planted fruit-wise would be okay.

Cmmr. DeGabriele added that the Commission needed to know the number of trees that would be determined to be planted.

Mr. Eliffe explained 20 ft. are needed for each crabapple tree and there is 60 to 80 ft. of planting area so that he may be able to plant a fourth tree.

Cmmr. Loring asked when and where the trees would be planted.

Mr. Eliffe answered within the next few weeks as it is crucial to get the roots in before they go into hibernation. He then said they would have to be planted within (14) days and that the area and space available will have to be determined.

Ms. Schloss asked if the Commission wanted to give Mr. Eliffe a minimum number of trees.

Cmmr. Loring stated a minimum of (3) trees.

Cmmr. DeGabriele elaborated that the number of feet divided by 20 ft. would determine if it would be a 3 or 4 tree minimum.

Cmmr. DeGabriele asked if the Determination of Applicability gave the list of activities Mr. Eliffe would be doing and if he is limited to those things expressly listed and if other work, including planting, fencing and especially clearing is not on the DOA, that Mr. Eliffe is clear he would have to come back before the Commission again.

Ms. Schloss offered that the sketch provided at the last meeting showed that the driveway is changed but is now smaller.

Cmmr. DeGabriele remarked that if the changes are less intrusive that would be fine but he wants clarity as to what will happen because if additional work is done, that is not approved under that Determination, it would be another violation of the Wetlands Act and that it is very important that Mr. Eliffe know, and is clear, that he is limited to the DOA and anything else has to go before the Commission.

Ms. Schloss remarked that 'additional landscaping' was written as required and monitoring would be done on an Administrative level.

Cmmr. DeGabriele commented that was fine but radical changes need to be covered and approved, and wanted Mr. Eliffe to know.

Mr. Eliffe said everything stays by the old agreement. Trees that will be preserved have been marked. A digger has to be brought in to fix the drive.

He wants to get the planting out of the way and finish up everything.

Ms. Schloss explained Mr. Eliffe would get back to her and she would report to the Commission.

Cmmr. Harbottle moved to close the Violation Hearing for 169 Randolph St. Cmmr. Gowen seconded.

UNANIMOUSLY VOTED

**17 & 21 Woodbine Road – Notice of Intent – Hearing**  
**Map 30, Block 391, Lots 18 & 23**  
**Henry Williams**  
**DEP File # 81-1078**

Cmmr. Harbottle moved to open the hearing for a Notice of Intent for 17 & 21 Woodbine Road. Cmmr. DeGabriele seconded.

UNANIMOUSLY VOTED

Abutter's information, green cards and receipts were handed in to the Commission by George Collins, P.E.

Mr. Collins opened his remarks by stating that Henry (Lincoln) and Christine Williams are his friends and they asked Mr. Collins to facilitate the process.

Mr. and Mrs. Williams would like to remove a few trees in the buffer zone and fix the existing retaining wall located on the north side of Woodbine Road; Whitman's Pond is to the north. This affects 17 and 21 Woodbine Road. Pointing to the site plan, Mr. Collins explained the 25 ft. buffer is in purple, the 50 ft. buffer is in orange and the 100 ft. buffer is in pink. The (2) trees they would like to take down are highlighted in green.

Mr. Collins said it was a clerical error that the co-applicant at 17 Woodbine Rd. did not sign, but they had now signed and the original signature was submitted.

Ms. Schloss asked what name was signed; Christine Williams said the name is Carron Oliverio.

Mr. Collins said he received comments last week via e-mail and they were submitted with revised plans.

Ms. Schloss entered revised 9/8/10 plans as Exhibit 1, Proposed Wall Reconstruction and Tree Removal Plan.

Mr. Collins also submitted a request for a Waiver, explaining Mr. and Mrs. Williams' position on a few things regarding retaining wall and erosion, water in the home and the need for mitigation and a concern for safety.

Ms. Schloss entered the Waiver letter request as Exhibit 2 from Henry Williams, property owner, to the Commission dated 7/26/10.

In response to those issues that do not meet the performance standards of the State or local wetlands protection regulations as submitted in the proposal:

Mr. Collins explained:

- Plan does not have professional signature or stamp because the endorsement was kept off the plan to keep the cost down. Mr. Collins is a professional engineer and stated he would stamp and sign the plan if Commission would feel more comfortable.
- Plan used DPW sewer datum for elevations.
- Area to fill is above the 72.5 elevation so they are not filling a floodplain so compensatory storage would not apply.
- Mr. Collins and Mr. Williams met with the Conservation agent on May 27<sup>th</sup> and hung the wetland reference point flags after that but they can also bring in a botanist or Mr. Collins can explain what the wetland resource area is.
- Plan should show an inland bank as well as bordering vegetated wetland: Mr. Collins showed the closer resource.
- Fill is not allowed in a BVW: Mr. Collins read into the record his request for waivers from the 2:1 replication and 25 ft.

no disturb area requirements due to substantial erosion and wash out.

- Proposed erosion controls would not adequately protect resource areas: Mr. Collins stated wall work will be done when water is low.

Mr. Collins added it is relatively expensive to put up turbidity curtains for a few days and would like to pick an ideal time satisfactory to the agent to have small back hoe or Bobcat come in to pull out existing blocks and put down washed stone leveling the base. This would basically be a (3) or (4) day project.

Cmmr. Harbottle expressed her strong concern that it be clear what trees are being removed and what ones are staying. She would like to see trees ribboned off.

Mr. Williams explained it would be just (2) trees; the big tree with the split would be removed at the end of the project; (3) years. First he would like to remove the maple tree closest to the house.

Cmmr. Harbottle stated she wants a report by a wetland scientist as there is natural vegetation and she would like to see a scientific wetland report.

Cmmr. DeGabriele commented that a (4) day window for the wall work was concerning. There was discussion about the likelihood of a period of dryness.

Mr. Collins said a period of (1) week without rain would provide enough time for a (3) or (4) day project.

Cmmr. DeGabriele remarked that regarding construction, equipment to lift (2), (3) or (4) layers of block, it seems ambitious to do that amount of work in a short amount of time.

Mr. Williams stated it should not take more than (1) day and there will be a dumpster in the driveway.

Cmmr. DeGabriele asked for confirmation that Step (1): Remove wall with dry (weather) conditions and Step (2): replacement; base layer of crushed stone 6"- 18" deep.

Mr. Collins explained as blocks are taken out and crushed stone put in, depth will vary.

Cmmr. DeGabriele asked what the maximum height is.

Mr. Williams replied that (2) blocks high equal (4) ft. – a little higher than the current wall and, where roots are exposed, 3" or 4" of loam will be placed.

Cmmr. DeGabriele proposed that the construction is variable.

Mr. Collins replied he did not want to be held to exact elevation because he was unsure where ledge ends.

Cmmr. DeGabriele commented that the waiver request classifies the fill area as a low value wetland that "used to be upland", and he surmises it used to naturally slope towards the water but, now that the wall has eroded, it is now part of the water body. He will need to read the regulations because requirements say you can't fill a wetland area.

Mr. Collins said perhaps a botanist wetland report might be able to shed some light on this issue.

Cmmr. DeGabriele continued by saying he is a little worried about a wall that essentially extends the land into the water. Also, in terms of construction and someone being responsible, given the ledge and type of construction, he would feel better if a P.E. was responsible as it would give him a higher degree of assurance.

Ms. Schloss stated that a lot hinges on the impact on the wetland bank, what standards are and if a waiver can be allowed. She also questioned if erosion can be dealt with through better plantings and expressed concern due to the uncertainty of the wall elevation.

Cmmr. Loring said he would like to take the blocks out and let the pond be a pond. He then asked if the wall will be (4) ft plus 6"- 18" of stone? He sees (2) ft. now.

Mr. Collins answered it would be (2) ft. higher than it is now as he is restricted to the blocks Mr. Williams will be using to fit his budget.

Mr. Williams added that designer blocks would be \$35,000.00 to \$40,000.00 and the blocks he'll be using are big and won't move.

Cmmr. Loring mentioned that without mortar being used this will not take care of the water in the basement.

Cmmr. Harbottle asked if it is possible to get a grading plan to see how much fill and the height of wall. Also asked was whether the wall would need a building permit.

Ms. Schloss replied that would need to be checked with the building department.

Cmmr. Harbottle expressed the she was hoping a wetland report will include the impact on the pond, fish and plantings.

Cmmr. DeGabriele asked if they had considered no wall.

Mr. Williams said no, they had not. Mr. and Mrs. Williams discussed the impact high winds and boat wakes have on the shoreline.

Mr. Collins remarked he would like to establish a game plan and come back. He said he'll revisit the site and take a closer look to see what final grades will be, but he won't know exactly what they're getting into until they start work so he would like to be given some flexibility.

Mr. Collins also stated by the next meeting he will flag trees, discuss retaining a botanist, discuss planting (in place of retaining wall) closest to house, perhaps meet with contractor to get a better handle on construction sequence, he will sign



and stamp plan and perhaps change plan from 20 scale to 10 to provide elevation.

Cmmr. DeGabriele stated with fill, wall would be less natural than what is there now, but with strict replacement we would know height; this way we don't know height of wall.

Mr. Collins remarked that the blocks being used are what the budget will allow.

Mr. Williams stated that the blocks are (1) ton each.

Ms. Schloss asked if it was possible to construct a retaining wall within the 25 ft. upland buffer, rather than filling the wetlands.

Mr. Collins requested continuation to 10/27/2010.

Ms. Schloss informed Mr. Collins that she would need new information by 10/15 or 10/18/10.

Cmmr. Harbottle moved to continue public hearing for Notice of Intent for 17 & 21 Woodbine Road to 10/27/10. Cmmr. DeGabriele seconded. UNANIMOUSLY VOTED

**1340 Washington St.  
Ryder Development Corp.  
Map 35, Bl 408, Lot 3  
Amend Order of Conditions, DEP File #81-1068**

Cmmr. Harbottle moved to open the public hearing for 1340 Washington St. Cmmr. DeGabriele seconded.  
UNANIMOUSLY VOTED

Green cards were handed into the Commission.

Present: Al Trakimas of Sitec Environmental and owner Ken Ryder.

Mr. Trakimas stated Mr. Ryder had gone to the Zoning Board of Appeals. Multifamily footprint was previously approved for (2)

units and has now been approved for (3) units. It is the same building footprint; driveway and parking area are the same. Now will be smaller units of (2) one-bedrooms and a studio.

Weymouth Fire Dept. requested paved access rather than gravel for safety reasons so change in driveway is from gravel to paved surface. Gravel driveway used to extend through the property past the Eagles out to Queen Ann's Gate. Queen Ann's has now put up a gate. Gravel drive remains but the plan is to eliminate 106 ft. and instead of loam and seed to change to a wild flower mix in place of lawn area to assist in mitigation of paving work. This will grow naturally and reconnect the area to the back portion of the apartment units.

Everything will be built on existing grade and, all being the same elevation, will allow sheet flow off the pavement area and will maintain the 25 ft. buffer zone.

The site that the house used to be on is all being revegetated; failed cesspool removed.

Gravel driveway comes out and will be allowed to come back naturally.

Cmmr. Harbottle stated she liked the wildflower mix, but said during the site visit she noticed insulation in the wetlands near where the house was taken down.

Mr. Ryder said he would take care of it.

Cmmr. Harbottle also mentioned the silt fence is very shredded.

Mr. Ryder said he has had it reshored and stapled.

Cmmr. Harbottle commented as long as the footprint remained the same, she had no objections to the change.

Cmmr. DeGabriele said he had voted that he was not in favor of the previous proposal because the dwelling touches the 25 ft. 'no disturb zone'. Furthermore, he is concerned about children going in there.

Mr. Ryder explained originally it was to be (2) three-bedrooms; now it is to be (2) one-bedrooms and (1) studio, so there wouldn't be any children. The number of bedrooms has been reduced from (6) to (3).

Ms. Schloss asked about the width of the road stating the amended plan for the paved road is 16 ft. but the existing road seems more like 11 ft. or 14 ft. The guard rail behind the Eagles creates a 14 ft. constriction. Safety vehicles can't get through if vehicle is bigger than 14 ft. and she recommends plans reduce road width from 16 ft. to 14 ft. Ms. Schloss has left a message for the Fire Dept. but has not heard back.

Mr. Ryder agreed it would be fine to reduce width by (2) ft.

Ms. Schloss commented that:

- The Zoning Board decision was that pavement was required on the access road only, but not required on the parking area.
- No drainage shown on plan and asked if it could be directed towards the eastern end of the parking area and an infiltration/leaching pit in place of sheeting flow into 'no disturb area'.
- Culvert was replaced, but slope above culvert is unstable; stones have fallen into the stream, particularly on the north side.
- Would like clarity on the restoration area: will the existing gravel be removed? Loosened up? Scarified??

Mr. Ryder responded it would have to be scarified and probably remove a couple of inches of gravel then put down mix and loam.

Ms. Schloss asked about a time table.

Mr. Ryder answered that construction probably would not start until the end of the year and paving would be "down the

road". He then said that seed could be done now and there's a gate there so no cars go down that way.

Ms. Schloss asked for clarification of Mr. Trakimas' statement "instead of a lawn area, a restored area" but approved plan shows no lawn, just gravel driveway.

Mr. Trakimas remarked "in that case, even better".

Cmmr. Harbottle moved to close the public hearing for 1340 Washington St. DEP 81-1068 Amended Order of Conditions., Cmmr. DeGabriele seconded.

UNANIMOUSLY VOTED

Special Conditions for Amended Order of Conditions at 1340 Washington Street:

- Width of roadway changes to maximum of 14 ft.
- Silt fence needs to be repaired
- Sketch needed for parking lot drainage for infiltration
- Sketch of culvert stabilization
- Driveway gravel loosened and seeded

Cmmr. Harbottle moved to issue Special Conditions at 1340 Washington St., Cmmr. Gowen seconded.

MOTION CARRIED 3 TO 1 with Cmmr. DeGabriele opposed.

### **328 North Street – Violation Hearing**

Cmmr. DeGabriele moved to open the violation hearing. Cmmr. Harbottle seconded.

UNANIMOUSLY VOTED

Ms. Schloss had photos from 2007 and aerial photos from 1998 and 2008, showing the size of the logs and explaining the blue flags were placed by Steve Ivas, wetlands scientist. Pictures

were taken just north of the parking area, around the property boundary.

Ms. Schloss reported this as an enforcement order and violation dating back to 2006.

PRESENT: Owners Richard Freeman and Dawn Struzzieri.

Cmmr. Loring asked Mr. Freeman if he was willing to take on this problem and he responded that, yes, he was.

Mr. Freeman asked if there was a way for him to review the minutes from previous meetings during which Benson Tree & Landscape said they would take care of this issue.

Ms. Schloss responded that Town Counsel had informed her the Commission will only deal with the owner, and the owner can counter-sue if so chooses.

Cmmr. DeGabriele asked who the different players were that were involved.

Mr. Freeman answered saying he and his wife moved onto the property in 2009.

Cmmr. DeGabriele asked who the man was who had made statements when they were walking the site and Ms. Struzzieri said that was her father, Jeff Struzzieri.

Cmmr. DeGabriele stated the debris needs to be removed.

Ms. Struzzieri related that in 2006 Benson Tree Co. said it was their problem and they would take care of it but later they went out of business.

Cmmr. Loring stated the slope would have to be identified and the logs to be removed would have to be determined, but right now it is very hard to see anything because of the overgrowth.

Cmmr. Harbottle observed that it looked like some debris may be on another's property.

Ms. Schloss responded that, without a property survey, it is difficult to determine.

Ms. Struzzieri said that Benson had an agreement with the neighbor before asking her family if they could dump woodchips on the Struzzieri property.

Ms. Schloss suggested that (the Commission) may have an issue with the neighbors, as well.

Cmmr. DeGabriele stated that property lines, extent of fill, the wetland boundary and where it is need to be determined because then judgment can be made about material to be removed and prices for work can be sought.

Ms. Schloss said the original enforcement order required removing the fill back to within (40) feet of the wetland line that was flagged.

Ms. Struzzieri commented that the land drops off sharply.

Cmmr. Harbottle asked if any tree companies have come out.

Ms. Struzzieri replied she had one company come out but they said the woodchips couldn't be removed because they had become soil. She then had another company coming out for an estimate, but they said they'll have to come at another time because it is too overgrown.

Cmmr. DeGabriele asked how the debris would be removed if the land is unstable for trucks. He commented that some stumps are massive and a crane would be needed to clear that steep a slope.

Ms. Schloss stated that the wetlands have been flagged and a site inspection would probably be needed during the work when the machine is there.

A discussion was held regarding the need for a survey to determine the extent of the debris, where the property lines are and how close the debris is to the wetland boundary.

Ms. Schloss told the Commission the 2006 Ivas report says a survey plan should be done showing wetland delineation flags, the property lines, the toe and top of slope, the extent of landscape debris and show dead, standing trees to be removed. She also felt surveyors could only get in there in the winter.

Cmmr. DeGabriele surmised a company should be able to see things by November and the report should only take about (1) month.

Cmmr. Loring and Ms. Schloss will send the owners a letter confirming date and what is wanted by Commission.

Cmmr. Harbottle moved to continue the open violation hearing until December. Cmmr. DeGabriele seconded.

UNANIMOUSLY VOTED

### **COMMUNITY PRESERVATION COMMITTEE APPOINTMENT**

Cmmr. DeGabriele nominated Cmmr. Harbottle as the Conservation Commission's representative on The Community Preservation Committee. UNANIMOUSLY VOTED

### **OTHER BUSINESS/CONSERVATION REPORT**

Ms. Schloss stated a request had come from the Weymouth Club to discuss their request for a Certificate of Compliance for the club expansion. They want to continue the discussion regarding the detention basin design and Ms. Schloss recommended they be given 5-10 minutes on the next agenda.

Ms. Schloss commented that she would like to see that the function of the original design has been met.

Cmmr. DeGabriele added that Weymouth Club needs to come in to be asked about original purpose of detention basin and how it conforms to current system.

Cmmr. Harbottle asked about an operation and maintenance schedule.

Ms. Schloss suggested that requirements for maintenance of vegetation in the basin are vague and should be resolved.

## **OTHER BUSINESS/HERRING RUN**

### **Ms. Schloss reported:**

- There will be an opening ceremony on 9/16/10 at the new Middle Pool Park behind the Venetian.
- A Whitman's Pond Stakeholders meeting will take place Monday, 9/13/10. Cmmr. Dowd, Cmmr. Loring and Ms. Schloss to discuss the best approach to controlling invasive plants.

Cmmr. DeGabriele stated this should focus on developing a long term plan and deciding where we want to be. People need to agree on the big picture/vision.

Cmmr. Harbottle suggested a study could be funded through the CPC.

Cmmr. DeGabriele mentioned that since this was a major east coast herring area, Federal funds might be available.

Ideas were discussed to bring focus to the pond such as tours and pond history.

Cmmr. Harbottle asked about a professional evaluation of invasive plant/weed control treatment options.



## **OTHER BUSINESS/MISCELLANEOUS**

Ms. Schloss reported on:

- MACC conference 10/23/10 in Wellesley and 11/6/10 in Northampton.
- Full Day Conference Fundamental Units 1 and 3 and Soils Workshop 10/7 and 10/14.
- Ms. Schloss talked to Eric Carlson at Div. of Conservation and Recreation about training on flood protection issues, flood zone requirements and the Commission's role. Length of training would be 45-60 minutes and can be discussed further by the Commission.
- Site visit procedures: Cmmr. Harbottle stated the telephone numbers were a big help.

**The September 22, 2010 meeting will be held at Weymouth Town Hall/Town Council Chambers at 7:00 P.M.**

## **ADJOURNMENT**

Cmmr. DeGabriele moved to adjourn the meeting at 10 PM.  
Cmmr. Harbottle seconded.  
UNANIMOUSLY VOTED

APPROVED

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Laura Harbottle, Conservation Commission Clerk

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Date