

**WEYMOUTH CONSERVATION COMMISSION**

**Town Hall Chambers**

**February 11th, 2009 Meeting**

**PRESENT:** John Thompson/Chairman, Cmmr. Gerald Murphy/Vice Chairman, Cmmr. Scott Coven/Clerk and Cmmr. Adrienne Gowen

**ABSENT:** Cmmr. Jeff Kent

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

Chairman Thompson called the February 11th, 2009 meeting of the Conservation Commission to order at 7:35 PM.

**Minutes 11/12/2008, for signature; 12/10/2008; 1/14/2009 for review and approval**

Minutes were addressed at the close of the meeting.

**Alexan at Arbor Hill - Continued Hearing**

**DEP File #81-1046**

Cmmr. Murphy moved to open the continued public hearing for Alexan at Arbor Hill, DEP File 81-1046.

Cmmr. Coven seconded.

**UNANIMOUSLY VOTED**

Mr. Stuart Clark/Registered PE for Gale Associates as well as Project Manager, along with Donald Schall, Senior Biologist/ENSR were among those present representing the client Trammel Crow Residential.

Mr. Richard Sweeney, PE/Senior Engineer and Rich Albano, Senior Wetland Scientist from TetraTech Rizzo representing the Commission's peer review consultant/engineer were also present.

Mr. Clark began his presentation. He reminded those present that many changes/revisions have been made to their proposal beginning in August 2008, then again in December 2008, right up to tonight's meeting - and he briefly described those revisions. He noted that Alexan at Arbor Hill was a 30-acre site with a wetland resource area and that most of the proposed work would be taking place outside of the Buffer Zone. He noted that they brought their plan/Phase 2 before the Board in 2001, but this plan was never acted on and has since expired. Since then they have gone through the Planning Board/Zoning Board with a plan that included a reduced number of units with less impact. Based on voiced concerns, they have taken another look at the drainage issues and made changes. He then spoke about the pocket wetland, which provided wildlife habitat, etc. Next, he referred to the flow from Wisteria Point, which he said they would treat, and discharge to a 2-pond system. Another issue they addressed was infiltration - noting that in working with TetraTech Rizzo a different area was recommended and further, they found some small spots in the last two weeks.

Mr. Clark went on to say that from December right up to the present they have adjusted the hydraulic model so that they were comfortable with it. Additionally, he pointed out that during the hearings the Commission assumed jurisdiction of the wetland informing them that it came under the Local Ordinance. Wetland C was deemed to be a 'vernal pool'. Based on that ruling as well as Mr. Albano's comments, they have since made adjustments and submitted the new changes for review. In keeping with that thought, they had to increase the size of the pocket wetland, noting that one-side is not close to the Buffer Zone but they have offset the wetland/impacted area by increasing the pond size.

Further, Mr. Clark reported, the applicant has added a recharge system on the west side of Burkhall Street. He noted that it was rocky there, but went on to say that would infiltrate it into the system. They also looked at the LID (low impact development techniques) and identified a couple they could use; i.e., one by the cul-de-sac turnaround. They have also added a rain garden, which has been sent to Richard Sweeney for his review and approval. Another addition is a water quality swale and they have provided a level of treatment. He went on to address other additions/changes that were made including some that were of a technical nature, which were sent to the Board's consultant, as well as, infiltration areas/monitoring wells - which was a voiced concern of TetraTech Rizzo.

Mr. Clark then took a few minutes to explain the infiltration system, which he said would be introduced if viable. He wanted to note to the Board that they met all Storm Water Standards regarding discharge/infiltration, etc. In closing he stated that he believed the members/Administrator have a letter from TetraTech Rizzo agreeing with his current assessment of the project

Cmmr. Gowen had concerns about the blasting.

Mr. Clark explained to her that the blasting was regulated through the State Fire Marshall. Additionally, they have done a pre-blast survey, which will get on the record. Further, they have proposed use of accelerators to monitor any shaking - if there should be any.

Cmmr. Gowen asked if they advise the residents in advance about when the blasting will take place and Mr. Stuart responded that he was sure they do.

Ms. Schloss wanted to point out that blasting was not under the Conservation Commission's jurisdiction.

Chairman Thompson referred to the assessment and asked if the consultants were satisfied that the applicant met the requirements.

In responding, Mr. Sweeney began his presentation by stating that the Weymouth Conservation Commission had hired his firm (including Rich Albano), for this project - and on 1/27/09 they provided 'final' comments on the Alexan project.

Chairman Thompson asked if the applicant had responded to all of TetraTech Rizzo's initial 88 comments/questions on the project and Mr. Sweeney said 'they had and were now down to (3). He then took some time to review some of the questions/comments, which included addressing the applicant's response regarding the recharging of ground water, revised calculations, plans and documents.

Mr. Sweeney stated that they attended a meeting on 2/4/09 with Jim Clarke, the applicant and Ms. Schloss on the project and he felt the meeting proved to be very productive. After that meeting, additional information was provided by the applicant. He then referred to his 5-page letter to the Board dated 2/05/2009. He then took some time to highlight the points of interest in his memo, including the additional documentation received from the applicant dated Jan. 27, 2009 and included:

Notice of Intent revised on 2/4/09

Stormwater Policy Standard 3 (also revised on 2/4/09)

Additional Details/Sketches

Additional stormwater calculations/documentation

At this point Mr. Stuart discussed the other issues/points of concern highlighted in their letter to the Commission:

3) Reference to Water Quality -

He said that originally they did not meet the requirements - but since provided additional recharge areas on Burkhall Street.

Soils Information -

He referred to the recharge areas 1, 2 & 3, adding they provided additional areas, which should be able to provide the required separation to groundwater

8) Additional Comments re. Stormwater Management Standard,

He focused on DEP's requirement to direct stormwater runoff from 65% of a development's impervious surface to the proposed recharge facilities. He referred to the changes made on the west side of Burkhall Street.

Mr. Sweeney also noted that the applicant's proposal provided a water quality swale.

At this point, Chairman Thompson specifically asked Mr. Sweeney if "based on his review, he felt the applicant addressed all of his questions/concerns and if so did the applicant meet the requirements of the standards?"

Mr. Sweeney responded 'yes', the applicant met the standards under the law".

Cmmr. Coven then voiced his concerns regarding flooding, based on the applicant's most recent model.

Mr. Sweeney responded that he wasn't able to review the downstream areas.

Cmmr. Coven then asked Mr. Sweeney his opinion about the applicant meeting and possibly exceeding the Standards based on the complexity of the site.

Mr. Sweeney responded "overall yes", adding that the applicant actually went a little further regarding the ground water recharge, which he felt was a big help.

Chairman Thompson then explained to those in the audience that the Commission hired a professional engineer for their assessment (paid for by the applicant); because they felt they did not have the expertise to evaluate the project effectively.

Next Mr. Albano, Biologist/TetraTech Rizzo spoke stating that his previous report was submitted to the Board at the 10/10/2008 meeting. This report identified several wetland areas (D and E) - and at that time he didn't feel the applicant met the requirements re. the Variance request. He explained that he was referring to the local jurisdiction/local bylaws, which included the 15 interests. Now, in reviewing subsequent information submitted by the applicant in January, he now feels they now have addressed each of the 15 functions/values re. filling of a wetland area. They then spoke regarding Wetland D and the importance of the Town's public water supply - and the applicant agreed that Wetland D would be important to the public water supply/pocket wetland. At this point he was now satisfied regarding the Variance Request for D & E. They also spoke about Wetland C (Bordering vegetated wetland), noting that the Commission at the 12/10/08 meeting voted it to be a 'vernal pool' under the local bylaw. In addition they would regulate 100 ft. area around the vernal pool. It was agreed that the drainage system would be constructed in reference to the vernal pool. He said that in mid-January the applicant met the 15-value analysis in reference to the local bylaw.

Mr. Albano concurred with the comments regarding the habitat/the vernal pool. In addition the applicant has provided the hydraulic analysis. He also concurred the wetland would not become suitable for any fish habitat, adding that the area would be draining. So despite the additional runoff from the site, it would not be providing for adult fish/habitat. Further, he stated, the applicant provided mitigation re. "C". He noted that Ms. Schloss met with Don Schall and it was agreed that the invasive plant would be removed. He pointed out that (12) acres bordering the vernal pool, which he felt was a critical mitigation feature. He told members you get a lot of bang for the buck with mitigation. He saw the remaining wetland area as intermittent - and that based on the local bylaw it met the definition of a stream.

Mr. Albano went on to say that in January they provided analysis re. the loss of area - and met all of the 15 requirements. He confirmed that mitigation has been provided for by the applicant, as well as a planting program re. wetland shrubs and current habitat in the area. He noted that presently it is a ditch in the ground with upland vegetation along the bank, so he viewed new plantings as a plus. He added that they also provided attachments outlining other changes/mitigation work, subject to the Commission's approval. With regard to the pocket wetland, he explained that it might serve a double purpose. They will be providing a monitoring plan to insure the sediment pipe is functioning.

Further Mr. Albano stated that he and Ms. Schloss agreed with the specifications for a significant rainfall event - which could be further outlined in the Order of Conditions. Re. Attachment E - Ms. Schloss will be contacted regarding the protocol milestones, which will include the stilling pond, pocket wetland, installation of plant materials, etc. He also noted that the project engineer/environmental representative would be involved re. the critical value of the pocket wetland. General recommendations were also made that include 'prior to construction the applicant will assemble all monitoring protocol into one document - and this should include any data sheets, methodology, frequency of monitoring - all clearly spelled out (this will also be included in the Order of Conditions, and will note that this must be done prior to the onset of work).

Mr. Albano next referred to his two final recommendations - the Operation and Maintenance Plan regarding the Standards (9) regarding the growth of invasive plants - and at what point they would be removed; for example, 20%. He quickly noted that if they provide any danger to the wetland it would need to be addressed immediately. His last comment pertained to the landscaping plan. He referred to (2) tree species on the site: Norway Maple and Sycamore Maple - both would need to be replaced (they are included on the Massachusetts Invasive Plant List). He noted that as of 1/1/2009 these trees fall under the Propagation Ban and are no longer sold in Massachusetts. He added that although this might be outside of the Commission's jurisdiction it could affect the resource area, which IS under the Commission's jurisdiction.

Ms. Schloss told members that at their recent joint meeting the applicant agreed to this. Additionally, she recommended the replacement of the trees be included in the Order of Conditions.

Chairman Thompson asked Mr. Albano if he felt the applicant met the Standards.

Mr. Albano replied 'yes', both the Wetlands Protection Act and the Local Bylaw.

Cmmr. Murphy asked Mr. Sweeney about the downstream flooding; reminding him that when this issue was brought up he said he really couldn't answer that question.

Mr. Sweeney replied that the Storm Water Standards had two design points, adding that there should be no additional flooding based on the peak rate runoff in reference to Design Point #1. - re. Design Point #2, the East side of Burkhall Street - the peak rate of runoff is less than the existing conditions, but he had no calculations for further downstream. Further, he was informed that the area at the end of Burkhall Street was not under the Conservation Commission's jurisdiction.

Cmmr. Murphy said if he owned property there that would be a concern for him - and he would want to be sure this new proposal didn't add to the present flooding condition.

Ms. Schloss stated that the Commission needs to look at the Massachusetts Storm Water Standards; quickly acknowledging that some might feel that they are not as strong as they wished them to be. She wanted to point out that in speaking with DEP/Ma. Department of Environmental Protection, they told her they couldn't look at volume, only peak flow. She commented that she felt Richard Sweeney did a diligent job outlining that the Standards that were met, beyond that, she felt, more couldn't be required.

When the Standards were addressed, Cmmr. Murphy replied that he knew and understood the Standards - but he was now looking at a point of view beyond the Standards. He said he would like to have it affirmed to the highest degree possible that there would be no additional flooding. Reconfirming that at this point he was looking at some type of insurance for the Commission and the residents.

Mr. Clark explained that flooding is the function of peak rate runoff, emphasizing that the volume is irrelevant. They presented (2) design points, one at the vernal pool. He said what is going on there now would remain the same after development. He acknowledged that there was an existing flood area downstream and they have tried to mitigate it to the best of their ability. Additionally, they have reduced the peak flow rates for a 5-year storm. He explained that they made the reduction by capturing the water runoff from Wisteria Point and releasing it at a slower rate.

Cmmr. Murphy asked, "then the post development runoff should be significantly mitigated?" with Mr. Stuart replying "yes, noticeably".

Cmmr. Murphy thanked him for his efforts.

Ms. Schloss then gave her assessment of the hearing, pointing out for the record that although the Chairman missed the 12/10/2009 hearing, he viewed/listened to the video recording of that meeting (which was recorded by cable TV) and now would be permitted to vote on the project meeting the state requirements. She also wanted to point out that some of the information/data on this hearing could be found on the Town/Commission's website. Further she received today (2) two written Variance requests for waivers, for work within the local vernal pool resource area and the locally-regulated stream channel/intermittent flow line. Additionally she received four (4) comment letters. One letter was from a Town Councilor.

Ms. Schloss went on to say that she has been working with peer consultants Richard Sweeney and Rich Albano and she was comfortable with their comments this evening. Further she also agreed that all of the Standards have been met by the applicant; i. e., State and Local.

The hearing was then opened to the public.

Town Councilor Mathews was the first speaker. He said his primary concern was the downstream flooding. He then referred to Mr. Sweeney's comments, stating he realized that the Chairman asked Mr. Sweeney if the requirements were met and he responded 'yes', based on the state's regulations - but not in reference to the Local bylaws. He then read sections of those regulations into the record, which focused in part on flood control - and isolated land subject to flooding, which he cites as his primary concern.

Chairman Thompson told Town Councilor Mathews that the Commissioners were familiar with the local regulations, then asked the Administrator to respond to Town Councilor Mathew's comments.

Ms. Schloss pointed out that the section Town Councilor Mathews was referring to in the local regulations actually mimicked the state's regulation. She explained that 'land subject to flooding' refers to the 100-year flood plain, pointing out that there was no development proposed in that area.

At this point Town Councilor Mathews recommended that the matter be referred to the Town Engineer for his review and comments. He said he was disappointed on how the peer review evolved; adding that he felt the role of 'peer review' should be regulated by an Ordinance. He also felt the public should have been present at those meetings. Further he didn't see how the project could work with bedrock on this site.

Ms. Schloss referred to the peer view process and the meetings that were held. She explained that all correspondence that has come in was a matter of public record (and can be found on the Town's website), and that there have been no meetings between the peer review consultant and the applicant without her being present. She emphasized that she has been closely involved in the entire process and was aware of all that has taken place, acting in the role as the Weymouth Conservation Commission's representative.

The next speaker was Town Councilor Harrington. He stated that he has the 1/20/2009 Gale Associate's (applicant's representative) report. With regard to Storm Water Management - Standard #3, it says they cannot meet the Standard. With regard to the Peer Review Consultant/TetraTech Rizzo - he noted that they outline in a letter to the Commission their contractual obligation whereby they will supply a letter summarizing their findings and recommendations. Based on that he asked 'why is a peer review necessary?' He said the defects in the project should be noted, with the applicant making the recommended changes - but he felt the peer review serves the developer as it helps them to move the project along influencing changes. He then asked 'who does the 'reviewer' work for - he can't serve two masters'. He then referred to the words "to the maximum extent possible'. He said the developer requested to develop a plan to utilize the available technologies - then asked "what extent is there, how far off are they 5%, 10%, 50%?" Should the project be approved because the applicant tried hard. He felt they should not approve the proposal unless all Standards had been met.

Town Council Harrington then read the following from Page 3 of the 1/14/2009 letter from Gale Associates (applicant):

*"The only portion of Standard 3 that cannot be met is the 65% Capture Area Adjustment (CAA). The CAA calculation indicates that the recharge volume would have to be increased about 600% a factor of 3.5 in order to offset the fact that the proposed infiltration system does not collect water from 65% of the proposed sites impervious area. There simply are not enough potential groundwater receptor sites due to the near surface bedrock site conditions and the resultant limited recharge opportunities."*

In reference to that statement, Town Councilor Harrington commented that he didn't think they were even close to meeting Standard 3. He noted that Richard Sweeney used the words "as best they could" - and asked "how good is that?" Overall, he felt it was not a developable site as it had too much ledge/rock. He realized some things might have been fixed within the last week or so (since the last piece of correspondence). He then referred to the recharge basins 1, 2 & 3, commenting that at that time it was stated that the proposal was not technically feasible, adding I realize that was a week ago. He then asked 'who will pay if/when flooding takes place?'. He then commented, it's a shame it's zoned for this type of development. In closing, he believed they did not meet the requirements and asked members not to let the project go forward.

Harvey Welch, resident questioned the blasting and its possible effects.

Chairman Thompson wanted to clarify that 'blasting' did not fall under the Commission's jurisdiction.

Mr. Welch then asked, if there is blasting, what would happen to the water?

Ms. Schloss also reiterated that any impacts re. the blasting/groundwater are not covered or included in the Wetlands Protection Act or the Local Ordinance. She then commented 'can I say definitely that there would not be any change to the groundwater flow due to blasting? I can't'. She went on to say I don't have any information there will be any impacts or any requirements to look at that.

Chairman Thompson noted that the applicant said that in a 10-year storm event there would be 28% 'less' flow.

Mr. Clark concurred, and referred to the information supplied re. the east side of Burkhall St. after construction.

Mr. Welch felt they should have this expertise.

Mr. Sweeney said that there was the potential that it could be an issue. He said when the project gets to the designing/Planning Board stage - they will take a look at those issues.

Mr. Clark noted that a plan would be drawn up, pointing out that this is a requirement by the EPA/Environmental Protection Agency. He added that he didn't see any impact from the water, again pointing out they were at the top of the hill.

Mr. Welch commented that the Commission's peer consultants should not be engineering the applicant's plan and in closing he recommended to the Commission that they vote opposed to the project.

Joanne Marques of 60 Circuit Road was the next speaker. She stated she was present this evening representing her father. She then gave her brief history of the project, noting that it had been almost 10 years since this project began, with the Board/Town opposing the project over the years. Now at this point several legal actions are pending. In 2002 the applicant filed a lawsuit against my father for the purpose of using his property - and the applicant was not granted that right. At this point the plans have been reviewed (7) times. She then recapped the chronology of the project/events, commenting that private meetings were held with revision after revision taking place. She felt the process was wrong. She saw 'peer review' as collaboration with work in progress. On 10/28/2008 she raised issues that she felt have not been addressed. At this point she saw the plan as non-compliant. She then asked, who designed the plan? Where are the pre and post calculations? She said that the volume of water offsite has increased. She questioned the accuracy of the Storm Water calculations and then submitted a 2-page report with photos re. drainage calculations that were dated 10/16/2003 for the record. She also questioned the accuracy of Design Point #2.

Ms. Marques went on to question the water running over private property as well as the survival of the wildlife/habitat. In closing she felt the applicant failed to show a plan that would not harm the interests provided by law. She asked the members to vote opposed.

Mary McCauley was the next speaker. She began by telling the Commissioners that they represent the taxpayers of Weymouth. She noted that Pleasant Street used to flood, and then finally it was corrected, acknowledging that now there is less water flowing there. Additionally they have traffic issues there. She felt that the residents there have very valid concerns. She also wanted to point out all the Town's money that has been tied up for over 9 years due to this project.

Nicole Sault spoke next. She referred to the Local Ordinance re. flooding, then asked 'does the Ordinance get looked at or changed?'

Chairman Thompson replied that Town Councilor Mathews said he was going to look into the Town creating a new Ordinance.

Ms. Sault asked the time of year the delineation was done.

Ms. Schloss told her that the applicant was not required to do one at a certain time of year. She explained that when delineation is done other things are looked at to make a determination; such as, the soils and hydrology, vegetation - reiterating the time of year should not affect the delineation.

Chairman Thompson told Ms. Sault that the professional engineer follows the rules and regulations, pointing out that this land has been studied many times.

Ms. Schloss commented that she has walked the entire wetland line, with Ms. Sault responding that she still was not really satisfied.

Mr. Don Schall, the applicant's Senior Biologist for this project, stated he was on site this Winter when the area was reflagged. He also affirmed the Administrator's explanation re. the wetland delineation, stating that the delineation is based on the vegetation, soils and hydrology - not on water, elevation/levels. He noted that some changes had been made to the line. Additionally, the peer consultant also looked at the line and they all agree that the line on the plan accurately reflects the resource area.

The Chairman then called on Dominic Galuzzo (resident) who asked the members 'when something is not in your purview, does that absolve you?'

Chairman Thompson wanted to clarify that some of the issues that were being brought up belonged before the Planning, Zoning Boards and the DPW; explaining protocol does not allow the Commission to assume responsibility of areas not under our jurisdiction.

Mr. Galuzzo said he would still like the Board to look further into the affects of the blasting.

Chairman Thompson reiterated the applicant's comments on this issue, as well as those of the peer consultant. He wanted to point out that both consultants have assured the Board that the applicant has met the Standards under the Act.

Cmmr. Murphy then spoke - he said that his concern is not the blasting, but what might happen because of the blasting, adding the Commission might need to look into that further.

Mr. Galuzzo further commented if the applicant is so sure of himself; let him put it in writing; i. e., that he would be responsible for any affects re. blasting to the residents.

Ms. Schloss then referred back to Town Councilor Harrington's comments regarding the 65% capture volume, and what was happening re. Systems #1, #2 and #3. She wanted to point out that since their 1/23/09 letter to the Commission, they have reduced the volume - and, that the applicant was still monitoring the wells.

In reference to the Administrator's comments, Chairman Thompson noted that the applicant's replacement of the ground water infiltration system has been designed and agreed to by all parties, if feasible - and that this would meet the requirements. Further the applicant would be installing monitoring wells to see if it is feasible, which would again meet the requirements. Lastly, the applicant also committed to the first proposal, if feasible to do so.

Town Councilor Harrington asked how far off they were from meeting the required figure.

Mr. Stuart said they were required to infiltrate 1" water or 5,700 c.f.w. (cubic feet of water) - yet they are providing 5,800 c.f.w. (100 cfw more). He went on to explain that the issue was with the capture area adjustment.

Town Councilor Harrington replied 'well they are off by 50% now'.

Chairman Thompson responded that the law says it can be done in a difficult site to the maximum extent possible. He emphasized that the Commission did not make the law, but they are required to comply with it.

Town Councilor Harrington further stated that the applicant acknowledged they are not meeting a portion of Standard 3 - by 50%.

Chairman Thompson again stated, they have met the requirements of the law, with Town Councilor Harrington asking 'is that enough?'

Chairman Thompson told him that they have done the best they could - and in doing so has exceeded what is required.

Ms. Schloss wanted to point it that this is a fairly new regulation. Further, she spoke to the DEP asking for clarification, but didn't get much feedback - and now they are all doing the best we can.

Chairman Thompson stated that after this evening's presentation he was not comfortable with the decision. Blasting was a concern for him and at this point he could not make a decision. He noted that the peers have stated that the applicant has met the Standards, but he was not satisfied with the answer on the blasting.

Cmmr. Murphy agreed with the Chairman, noting that what will happen after the blasting takes place is unknown. He felt the Commission would need to hire someone qualified to answer that question.

Cmmr. Coven also agreed with the Chairman, but then asked 'is there an expert out there who could answer that question?'. He suggested the applicant might know of such a person. He said he also saw the location and high elevation as a factor.

Cmmr. Gowen said she also had some concerns regarding the wildlife and habitat, as well as, the time of year. She commented that it was an important watershed area. Blasting was also one of her big concerns. She stated she spoke from experience because she has been a recipient of blasting. When it was scheduled to take place, she said that the Firemen inspected her home pre and post blasting. Additionally, the size of this project was also a concern, although she felt the applicant had done their best.



Mr. Welch spoke again, commenting if the applicant has missed 65% water recapture, which they explained they did to what was most practicable, 'is that enough?' Will the Board be able to make a decision that's acceptable?

Cmmr. Murphy noted that Mr. Sweeney felt the Town/Conservation office had the expertise to look further into this.

Town Councilor Mathews suggested the office utilize the abilities of Chip Fontaine, DPW Engineer.

Ms. Schloss said they would need to figure the scope, pointing out that the Conservation Commission has limited jurisdiction in this area. She went on to comment/respond to issues that have been brought up:

property values - not under the Commission

wildlife habitat, groundwater recharge and flooding - yes, does fall under the Commission

She said she would be interested in hearing further from Mr. Albano.

There were no further comments.

Cmmr. Murphy moved to continue the hearing on Alexan at Arbor Hill to 3/11/09.

Cmmr. Gowen seconded.

UNANIMOUSLY VOTED

### **20 Lakeshore Drive - Public Hearing**

**Sheila Fraser**

**Map 26, Block 479, Lot 1**

**DEP File # 81-1052**

**Notice of Intent**

Cmmr. Murphy moved to open the public hearing on File 81-1052, 20 Lakeshore Drive.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Mr. Dana Nelson represented the applicant. He stated that the proposed project was located within the buffer zone bordering Whitman's Pond. The proposal called for replacing the single family home with a new single family home. The deck would encroach within the 25 ft. No Disturb Zone, cantilevering over it. Further they are looking to remove two (2) trees on the property. The project reduces the existing impervious surface by one-third. They will also be installing a subsurface drainage system to collect roof runoff from Whitman's Pond.

Ms. Schloss wanted to point out that the subsurface system was not on the plan.

Mr. Nelson stated that they located large corrugated concrete structures outside of the 25 ft. Zone.

Ms. Schloss asked if there was a drywell.

Mr. Nelson replied 'yes, kind of - describing it as a concrete structure filled with stone'.

Ms. Schloss asked about the outflow and the applicant replied that there would be no recharge into the ground - and agreed to locate it on the plan.

Ms. Schloss noted that a corner of the single-family house has been staked, so she was okay with that. Her other issue was the encroachment into the 25 ft. buffer. She said that the house has been moved closer to Whitman's Pond, which is the Town's secondary/backup water supply. She also said the 2-car garage has been reduced to one and so there is less impervious surface. Additionally, she noted that the applicant has told her they might need additional driveway area.

Mr. Nelson quickly responded 'I retract that'.

Ms. Schloss reiterated that her primary issue was the encroachment into the buffer. She spoke about modification; i. e., reducing the size of the house, or a shorter deck - or elimination of the deck. She wanted to stress that 25 ft. was the minimum setback.

At this point Ms. Schloss discussed the Order of Conditions, referring to no increase in the impervious surface. In regard to the trees to be removed, they included a 30" Pine, trees on the neighbor's property - also a 30" Oak and a 12" Maple. She suggested that the applicant might add some plantings.

Mr. Nelson noted that no additional driveway work would be requested. He said they would try to leave the Maple tree, but he said it might not survive. He stated that the house as it is located now meets the zoning requirements. He explained that the cantilevered deck is in keeping with the flavor of the neighborhood and the owner would not be setting a precedent.

Ms. Schloss disagreed; she said she would like to see the cantilever deck eliminated. She noted that the 25' buffer was vegetated and that the buffer was used as a lawn. She went on to say that the applicant would not qualify for a waiver, because there were other alternatives. Lastly she would like to see the house shifted forward.

Mr. Nelson stated keeping with the existing use it allows the owners to sit out there with chairs, with no disturbance to the area, adding others in the area are using their 25' buffer. He didn't feel the owner was asking for much, but acknowledged it was the Boards' decision.

Cmmr. Gowen said she supported the Administrator.

Cmmr. Coven stated that he realized the neighbors might be using their buffer, but wanted to point out that the regulations have changed in recent years. He thought if the applicant wanted to keep the same size house, she should widen the rear and that the Commission should protect the 25' buffer zone.

Cmmr. Murphy asked about the overall impact and Mr. Nelson replied that they were not impacting the wetland, emphasizing he was not building there. He also wanted to point out that there were other decks there on the water.

Cmmr. Murphy said he didn't see the impact, he saw a 2' window and he didn't see any harm or negative impact to the area if they just sat on the lawn and watched the water. He told members he believed there was a little bit of room there.

Chairman Thompson asked Ms. Schloss about past reuse of air space was dealt with - and she replied that she couldn't think of a case that requires that the area be kept grass. She commented that the other decks must have been built illegally.

Cmmr. Gowen said if they were just talking about air space, she didn't see a problem with it.

Chairman Thompson said he felt the 'grass area' was a 'no disturb' area, but also felt they should be reasonable.

The hearing was opened to the public.

Mary Tebaggi, 14 Lake Shore Drive spoke in support of the deck.

Next a letter from Jane Morgan, 15 Lake Shore Drive was read into the record. The letter questioned a termite problem. It was also noted that Ms. Morgan had spoken to Ms. Fraser/Applicant about it informing her she had a problem last summer with termites and felt problems could have been caused by the applicant - adding it cost her \$1000.00 to correct it.

Ms. Fraser, present, acknowledged that there was a problem and that she spoke with an exterminator. She agreed that her termite problem needed to be resolved and she planned to take care of it. She quickly added that she didn't see how she could have caused the abutter's problem because of the location of the two houses - the other house was on the opposite side of the street. She told members that the other party wanted her to sign a document saying she would be responsible for any further termite damage to her house but she didn't feel it was appropriate.

Cmmr. Murphy interjected that termites were not a legal issue, nor under the Commission's jurisdiction.

Cmmr. Murphy moved to close the hearing for 20 Lakeshore Drive, File 81-1052.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

#### **20 Lakeshore Drive - Public Hearing**

**Sheila Fraser**

**Map 26, Block 479, Lot 1**

**DEP File # 81-1052**

#### **Order of Conditions**

Cmmr. Murphy moved to issue a Standard Order of Conditions for File 81-1052, Sheila Fraser, 20 Lakeshore Drive.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

#### **Lot A West Street - Public Hearing**

**Stephen Gosselin**

**Map 40, Block 479, Lot 1**

**DEP File # not available**

#### **Notice of Intent**

Cmmr. Murphy moved to open the public hearing for Stephen Gosselin, Lot A, West Street.

Cmmr. Gowen seconded.

UNANIMOUSLY VOTED

Mr. David Mackwell/Kelly Engineering Group and Brandon Lee represented the applicant. Mr. Mackwell said he was before them this evening with (2) Notice of Intent's for construction of two single family homes - both on West Street, one on Lot A and the other on Lot B. He has been working with Ms. Schloss addressing any concerns she might have. At this point they are still two vacant lots.

Mr. Mackwell then referred to the first lot, Lot A. He explained that the proposal involves bringing utilities into the Lot. He felt the application was pretty straightforward with one exception; drywells will be provided on part of the hill. He also wanted to point out that single-family homes are exempt from the Stormwater Performance Standards. Additionally plans call for infiltrating .6" runoff over the impervious area. Further there are (2) 3-ft. tall drywells, with no overflows - and they will have a catch basin on top. He noted that the Town of Weymouth has a sewer easement that travels through the property and plans are to tie into the sewer line. Further they do not plan to encroach onto the 25' No Disturb Zone. He affirmed that their proposal meets all state requirements and local regulations - and include quantifying drywells. He noted that they have previously identified the trees to be cleared on the lot and they have answered the Administrator's questions regarding the trees. Further, the trees that are to be removed and those that will remain have been identified on the plan.

File note: At this point the certified mailing receipts/green cards were submitted for the files.

Chairman Thompson referred to the last hearing and noted that the applicant staked the house foundation as requested and identified the trees to be removed/kept.

Ms. Schloss requested they provide an alternative to connecting to the manhole at the rear of the property. She noted that the sewer line comes from West St. and connects to the manhole at the rear. She said if they did this the sewer connection could be done without removing any trees.

Mr. Mackwell replied, "that's fine, we won't even approach the 25 ft. No Disturb Zone".

Ms. Schloss next referred to erosion controls, asking if they could pull it up and the answer was 'yes'.

Mr. Gosselin told her that the abandoned cars would also be removed.

Mr. Mackwell informed members that tree #312 would not have to be removed.

The hearing was opened to the public.

Mr. Charles Paratore, 350 West Street said he was concerned about the wetland and possible flooding on his property. He asked why the wetland was not noted on the plan.

Chairman Thompson replied that it was an oversight and would be easily corrected.

Mr. Paratore was concerned there might be dumping there and the applicant confirmed that there wouldn't be.

Mr. Scott O'Hara, 325 West Street, who house abutted the property spoke next. He said he would like to see the addition of a fence, for the safety of his children.

Mr. Gosselin viewed it as a precaution fence, which would be installed during construction.

Mr. Gosselin was asked to add the new sewer connection to his plan - and he agreed to do so, adding he would also note the wetland as well as the erosion control line. Further he would update the exhibit re. trees too.

Cmmr. Murphy moved to continue the public hearing to 2/25/2009.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

#### **Lot B West Street - Public Hearing**

**Stephen Gosselin**

**Map 40, Block 479, Lot 1**

**DEP File # not available**

#### **Notice of Intent**

Cmmr. Murphy moved to open the public hearing for Lot B/West Street.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Mr. Daniel Mackwell/Kelly Engineering Group and Brandon Lee represented the applicant. Mr. Mackwell stated that the proposal for Lot B was similar to that of Lot A/West Street - with one exception, the sewer connection encroaches on the 25 ft. No Disturb Zone.

Chairman Thompson asked about an alternative and Mr. Mackwell replied there wasn't one that was practical or more beneficial. At this point he was requesting a Waiver. He said that he spoke about this with Ms. Schloss and she recommended that they discuss alternatives.

Mr. Mackwell said that the first alternative would be to pump the sewer up hill and then down to West Street. This would present an undue hardship taking into consideration there was already a sewer line on the property. He told members if they went with their original proposal, any temporary impacts would be mitigated; adding he felt it was the cleanest way to handle it - otherwise they would have to temporarily close the road.

The second alternative would have them bring the sewer line across Lot A. He emphasized that he wanted to treat Lot A and Lot B independently as they would have two different owners and combining them might inhibit the sale.

At this point Mr. Mackwell repeated that he was respectfully requesting a Waiver. He explained that their proposal would call for construction of a trench that would only take one days work. Once the work was completed, they land would be restored the same day. The proposed trench would be 10'-15' wide and 20-22' long in order to allow the machine access.

Chairman Thompson asked about ground cover and was told it consisted of trees and grass - tree #304 (marked on the plan) would have to be removed, but first they would try to save it. He told members that the applicant would plant a new tree wherever the Commission chooses - or any other reasonable form of mitigation.

Ms. Schloss stated that she spoke with the DPW/Sewer Supt. and he didn't think the West Street manhole was a good idea and suggested the Summer Street manhole because he felt the elevations might work. She said they possibly could have water in the basement.

Mr. Mackwell said that the house was designed to be a walkout at the lower level, adding that having water at the lower level is a benefit. Further in regard to the suggestion of the Summer Street manhole - it would be rather costly to the applicant - taking it all the way down Summer Street.

Mr. Gosselin commented that it didn't seem practical to go any other route when the sewer is already on the property.

Chairman Thompson reminded members that they were talking about the buffer zone not the wetland - and if the property could be restored so easily, he thought it would be okay.

Cmmr. Coven agreed with that, adding that hopefully some trees could also be saved and/or they could use the mitigation money for possibly the Herring Run or another tree.

Ms. Schloss referred to tree #333, a 24" Oak - asking why is it coming down.

Mr. Mackwell said they agreed today that it wouldn't have to.

Ms. Schloss asked if the proposed construction would damage the valuable trees; i. e., #305. She said they could put the info regarding the disposition of the trees in the Order of Conditions.

Mr. Mackwell said he could contact the landscape architect about the best time to do this work and they would make every effort to save the tree. He would try to get an answer in the next two weeks, prior to the next hearing. He said that if necessary they would increase their mitigation donation.

The hearing was opened to the public.

Town Councilor Harrington asked the size of Lot B and was told it was 3 acres.

Cmmr. Murphy moved to continue the hearing to 2/25/2009.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

**Other Business****Conservation Report**

Ms. Schloss reported that they are reviewing plans for the Middle Street Pool Park Improvement, adding this is a Community Preservation Act project.

**Route 18 Update**

The Environmental Assessment re. the widening of Rt. 18 is available for comments.

**Herring Run Cleanup**

The annual Herring Run Cleanup is scheduled for Saturday, April 4<sup>th</sup>.

**MACC Conference**

Ms. Schloss reported that the Massachusetts Association of Conservation Commissions is set to hold their annual conference Saturday, February 28<sup>th</sup> in Worcester and she would be attending.

**Minutes: 11/12/2008 for review and approval**

Cmmr. Coven moved to approve the minutes of the 12/10/2008 meeting as amended by the Administrator.

Cmmr. Murphy seconded

UNANIMOUSLY VOTED

Cmmr. Coven moved to approve the minutes of the 01/14/2009 meeting as amended by the Administrator.

Cmmr. Murphy seconded.

UNANIMOUSLY VOTED

**Next Meeting Date**

The next meeting is scheduled for Wednesday, February 25<sup>th</sup>, 2009 at Town Hall, Town Council Chambers.

**Adjournment**

Cmmr. Murphy moved to adjourn at 11:05 PM and to meet again on February 25<sup>th</sup>, 2009 at 7:30 P. M. at the Weymouth Town Hall/Town Council Chambers.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Respectfully submitted,

Susan DeChristoforo  
Recording Secretary

APPROVED: \_\_\_\_\_

Scott Coven, Clerk

DATE: \_\_\_\_\_