

WEYMOUTH CONSERVATION COMMISSION
April 11th, 2007 Meeting

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

ALSO PRESENT: Conservation Administrator, Mary Ellen Schloss

Chairman Thompson called the April 11th, 2007 meeting of the Conservation Commission to order at 7:40 PM.

Call/Seabury Street - Cont'd Hearing

Notice of Intent

Town of Weymouth DPW

DEP File 81-1009

Cmmr. Kent moved to open the continued hearing for Seabury Street, File 81-1009 - applicant DPW.

UNANIMOUSLY VOTED

Chairman Thompson explained that the reason the hearing was continued was to allow for receipt of the DEP file number, which has come in. He then asked the Administrator if she had any comments.

Ms. Schloss reminded members that she had provided them with recommended conditions, which she prepared along with the DPW's input. She informed members that she received the revised plan as requested at the last meeting. She then referred to the proposed Conditions, one of which calls for the water line be moved to preserve the two trees. She also noted that the area to be filled is within 25' of the No Disturb Zone, due to the location of the pipe. In closing, she said she may require additional erosion controls where the pipe comes down.

The hearing was opened to the public. No one spoke.

Cmmr. Murphy moved to close the public hearing for File 81-1009.

UNANIMOUSLY VOTED

Call/Seabury Street

Town of Weymouth DPW

Order of Conditions #81-1009

Cmmr. Gowen moved to issue a Standard Order of Conditions plus special conditions as proposed by the Administrator.

UNANIMOUSLY VOTED

Lot 5 Duncan Circle - Continued Hearing

AJD Realty Trust

Map 27, BI 351, Lot 25

DEP File #81-1004

Notice of Intent

Cmmr. Coven moved to open the hearing for File 81-1004/Lot 5, Duncan Circle.

UNANIMOUSLY VOTED

Scott Arnold, PE/Arnold Associates and John Richardson/Wetlands Biologist, both representing the applicant, came before the Board.

Mr. Arnold reminded members that the proposal was for a single-family residence and that at their previous hearing, additional information was requested which included a new on-site delineation of the wetland boundary. He noted that although the original line had been accepted in 2001 Ms. Schloss visited the site and saw additional wetland plants, which appeared to be in a new area. Mr. Arnold has submitted a revised plan with a new wetland delineation, acknowledging that the wetland had expanded.

Mr. Arnold further stated that John Richardson felt the change in the wetland line came about because of the recent work that had been done in the area; i. e., clearing the roadway - this work allowed more sun to shine on the land, changing the weight of the soil, which precipitated the formation of a new stream. He said he has witnessed similar situations in the past, when the topography has been cleared for a new road - adding, this type of change was considered unusual.

Mr. Arnold went on to say that they waited for the weather to warm up, then performed a soil test to confirm the new boundary. Further, due to the discovery of the intermittent stream, Mr. Richardson felt the new line was appropriate. He noted that they have modified the plan to maintain the 25-ft. buffer. They also have modified the footprint and have proposed a new block wall to be located at the 25' line (also noted on the plan).

Chairman Thompson asked about the slope and Mr. Arnold replied that the proposed wall would be constructed of precast concrete blocks, ranging from 5' to 6' high down to "0" ft. high in front - tying into the ledge outcropping in the rear (the elevation is 104').

Next Ms. Schloss addressed her recommended Conditions, which included the applicant providing access to the DPW drainage easement for maintenance of the detention basin. She then asked Mr. Arnold if the area (the earthen slope within the 25-ft./No Disturb Zone) could be restored, loomed and seeded - and he replied that they could stabilize the exposed slopes.

Ms. Schloss said the special conditions may also include placement of conservation posts.

The hearing was opened to the public. No one spoke.

Cmmr. Murphy moved to close the public hearing for Lot 5/Duncan Circle, File 81-1004.
UNANIMOUSLY VOTED

Lot 5 Duncan Circle - Continued Hearing

AJD Realty Trust

Map 27, Bl 351, Lot 25

DEP File #81-1004

Order of Conditions

Cmmr. Coven moved to issue a Standard Order of Conditions for File 81-1004, plus the special conditions as discussed/proposed by the Administrator.

UNANIMOUSLY VOTED

Lots 4, 16, 47 - Martin Street - Continued Hearing

Stephen Zeboski

Map 33, Bl 425, Lot 4, 16, and 47

File #81-1004

Notice of Intent

Cmmr. Murphy moved to open the continued public hearing for Applicant Stephen Zeboski, Lots 4, 16 located at 47 Martin Street, File 81-1004.

UNANIMOUSLY VOTED

Mr. Scott Arnold/Engineer, Arnold Associates and Mr. Stephen Zeboski/Applicant came before the Board. Mr. Arnold noted that there were several issues of concern at their last hearing, which included the accuracy of the wetland boundary. Due to that concern, Ms. Schloss and John Richardson met at the site and some revisions were made to the wetland boundary, but in he didn't feel that they significantly changed the buffer zone boundary. He said that their project calls for a short road way and drainage system within the buffer zone, and an outlet that would discharge into the wetland.

Ms. Schloss acknowledged that the changes were only at the end and didn't really affect the applicant's proposal. She then spoke about the pipe and culvert, which blocked the adjacent property. Next she referred to the issue regarding the wetland line; i. e., the flags/stakes had been taken down and/or moved by the kids. This has been rectified.

Mr. Arnold next noted that the plan now showed the trees scheduled to be removed in order to allow them to install the drainage system (nine (9) within the easement. Lastly, there was concern regarding the outlet for the detention basin whereby the applicant proposed that the outlet would have a flared-end pipe and that the drainage channel would be at the bottom of the slope taking the discharge and directing it into the wetland.

At this point Ms. Schloss distributed a report from the Commission's consultant Richard Sweeney, Engineer/Daylor Engineering, which noted his recommendations which included:

- the use a geo-textile filtering fabric before the stilling basin
- increasing the depth of rip rap from 8" to 18"
- increase the amount of rip rap at the bottom of the drainage channel
- the addition of some fresh stone
- extend the channel at the base with a 5 ft. apron

Chairman Thompson summarized by stating the engineer basically said the applicant's innovative plan would work with the understanding they just enlarge it a little. He felt if they 'condition' it contingent on the changes shown on the plan, it should be fine and Mr. Arnold agreed to this.

Commr. Kent asked if they were creating more of a disturbance in the No Disturb Zone with this plan as opposed to not doing anything at all.

Chairman Thompson replied that it appeared that their Engineer was in support of Mr. Arnold's plan.

Ms. Schloss agreed adding Mr. Sweeney felt the proposed system was needed with the understanding it should be widened.

The Chairman asked Mr. Arnold his perspective of Mr. Sweeney's comments.

Mr. Arnold said his interpretation of Mr. Sweeney's letter was that they go with the applicant's plan as proposed as long as they go with the width of the easement (30 ft. @ the base of the ledge) and extend it out 5 ft. from the base of the slope toward the resource area, then taper it down into channel.

Chairman Thompson commented that the applicant's plan was intended to minimize the force of the water, commenting it might be making an incursion of the No Disturb Zone.

Ms. Schloss told members she was kind of unclear about the consultant's comments and would like further clarification from Mr. Sweeney.

Based on Ms. Schloss' comments, the Chairman felt that continuing the hearing was in order.

The applicant agreed to the continuance.

The hearing was opened to the public. No one spoke.

Commr. Murphy moved to continue the hearing to April 25, 2007, File 81-1004.
UNANIMOUSLY VOTED

Rockway Avenue - Rockway Associates

Request for an Extension to Local Orders of Conditions

Mr. Ed Kubrith, Partner with Rockway Associates came before the Board to address his request for an extension to their Order of Conditions (it was noted that their Order of Conditions was issued for a period of one-year based on the local ordinance).

Chairman Thompson noted that he had requested an extension pending the sale of the property and Mr. Kubrith acknowledged that this was correct.

Chairman Thompson asked Mr. Kubrith for an update with regard to their offer of a monetary donation previously presented as part of their mitigation plan. He explained that the Commission wanted to know the timetable for this donation.

Mr. Kubrith told members he was not clear on when the donation needed to be made; adding whenever the Commission wanted it would be fine with him.

Chairman Thompson asked about the date of the anticipated sale and Mr. Kubrith said it was supposed to be finalized on Friday, but the deal has just been canceled - adding "but that does not affect the time/date they could make the payment/donation. He said he could give \$10,000 to the Town/Commission now and the \$10,000 balance whenever the Board would like it.

Chairman Thompson agreed with a \$10,000 payment within the next 7 days and the balance by August (2007).

This was fine with all parties.

Cmmr. Murphy moved to issue a one year extension, to take affect August 18, 2006 (when the Order of Conditions expired) with the new extension expiring on August 18th, 2007 when the applicant would make his final mitigation payment (and if possibly return for a second extension).

UNANIMOUSLY VOTED

Webb Park Remediation Project
Request for an Extension to Orders of Conditions
DEP File #81-933

Ms. Schloss told members that the present Order of Conditions expired December 2006 and she supported the extension.

Cmmr. Murphy moved to approve a one-year extension, which would terminate in December of 2007.

UNANIMOUSLY VOTED

Weymouth Neck Lot 1
Request for an Extension to Orders of Conditions
DEP File #81-957

Ms. Schloss told members that this Order of Conditions was issued in August of 2005 for a period of one year based on the local ordinance - which meant it expired in August of 2006.

Ms. Schloss further informed members that in May of 2006 the applicant sought an amended Order of Conditions, which was approved by the Board. Due to a misunderstanding Ms. Schloss clarified that the applicant thought that meant their Order of Conditions would not expire until May 2007, but this assumption was incorrect - it still expired in August of 2006. Based on this misunderstanding, the applicant was requesting an extension.

Cmmr. Murphy moved to approve a one-year extension on File 81-957 with a new expiration date of August 2007.

UNANIMOUSLY VOTED

300 River Street and Lot 24, 25
Request for an Extension to Orders of Conditions
DEP file #81-958

Ms. Schloss explained that this request for an extension was similar situation to the previous one for File 81-957, which expired in August of 2006.

Cmmr. Murphy moved to issue a one-year extension for File 81-958, with a new expiration date of August 2007.

UNANIMOUSLY VOTED

875-903 Pleasant Street
Request for an Extension to ORAD
DEP File #81-854

Mr. Jim Bristol/Applicant and Mr. Carl Erickson, representing Bristol Bros. came before the Board. Mr. Erickson told members that Ms. Schloss had asked the applicant to rehang the flags on Pleasant Street. He further told the members that he met with John Richardson and Ms. Schloss and they confirmed the change in the wetland line and that the new flags reflected this change. They are now replotting the plan taking into consideration the minor changes.

Ms. Schloss recommended members approve the revised BVW line as newly flagged. She told members that she felt they could go ahead with the planting, as long as it is understood it would not affect the Riverfront boundary.

Mr. Bristol said they could have John Richardson do that.

Ms. Schloss agreed, reconfirming that the first 100-ft. of 'riverfront' area is a "No Touch" area. She said it would be up to them on how they would want to handle that.

Mr. Bristol pointed out that the brook pretty well defined the line, adding he was very familiar with the area because that was where his home was located.

Ms. Schloss wanted to make sure the revised line is noted on the plan.

Cmmr. Murphy moved to close the hearing for 875-903 Pleasant Street.
UNANIMOUSLY VOTED

Cmmr. Murphy moved to approve the one-year extension to the ORAD for File 81-854, based on receipt of the revised plan.
UNANIMOUSLY VOTED

Weathervane Development - DEP File #81-756, DEP File #81-963 - UPDATE

Chairman Thompson noted that a one-year extension had been granted at the March 14th, 2007 meeting - and at that time members/Administrator requested an update of the project and that was why Mr. Bristol and Mr. Erickson were present.

The following update was noted for the record:

- A Performance Bond of \$100,000 is expected by the end of the week (was required to be in place prior to construction)
- Re. water quality samples - this testing has taken place
- Re. replication area - it is doing well, pictures were presented to the Board demonstrating this - it was expected they might soon be in line for a 'partial Certificate of Compliance' (at the end of the second growing season)
- Construction update - the lined irrigation pond and the pump has been manufactured, but not on site yet
- Over the last year (May - October), they have taken weekly readings of the wells
- They are working with Gale Engineering on future readings and would like to continue the weekly readings of the wells
- In the coming months the area will be loomed and seeded
- Plans are to explore other USGS sites and they would like to narrow the USGS reference data for accuracy
- They soon will be installing the stilling well (presently being fabricated), which will add to their readings - commenting, the more information the better
- John McGrath is pleased with how the vegetation has taken off

Ms. Schloss referred to the irrigation well (#95), noting the applicant was supposed to have a mathematical model for comparison purposes. She also noted that it was supposed to be installed by February of this year. Once that was done, the Commission would hire a consultant to evaluate it.

Chairman Thompson emphasized that all of the 'conditions' were required to be met in a 'timely' fashion as noted in their Order of Conditions - but this does not seem to be the case.

Ms. Schloss also wanted to point out that they could not hire a consultant until the information had been submitted to the Commission.

Mr. Erickson said he expected to get this information to the Board in the next 3-6 months.

Ms. Schloss referred to Conditions #95 and #96 - which required that the well be monitored once a month.

Mr. Erickson acknowledged this, assuring her that once it is installed it would be done monthly.

Chairman Thompson pointed out the project was very complex and that the Commission would need their own consultant to interpret and confirm the propriety of the work that has been done.

Again Mr. Erickson said they wouldn't have a date for another 3 to 6 months. He told members that they had done the sampling and testing of water and that he would like to speak with the Engineer to see if they had done enough testing.

Mr. Bristol told members that Carl Erickson has been taking the data for a full year's time, as they could see. He said he just wanted the members to know that they have been working on it and were trying to adhere to their requests. He noted that what the Commission was looking for was 'off-site' data. He went on to say that they have submitted the 'before' data and were and it was their hope to use the ponds and not the wells if possible.

Ms. Schloss stated for the record that in the future she would like to have regular updates from the applicant. With regard to the Performance Bond, she felt the Commission may want to request the information be in to the Conservation office by a specific date.

Chairman Thompson asked if Mr. Bristol/Mr. Erickson could send the Commission a letter with specifics about a commitment for the Performance Bond by the next week. They wanted to have this information by that deadline so that they would it in tome to schedule it for their next meeting agenda and Mr. Erickson replied that he could do this.

Ms. Schloss next referred to the Water Quality Monitoring Report- acknowledging that two (2) had been requested and were received - now she would like a second round of sampling and would like to know exactly when the next monitoring would take place. She felt that they may be set for now, except for that one location.

Members thanked Mr. Bristol and Mr. Erickson for the Weathervane update.

39 Patterson Street

Request for an Extension to Order of Conditions

Request to approve Minor Modification

DEP File #81-921

Cmmr. Murphy moved to open the hearing for File 81-921.

UNANIMOUSLY VOTED

Mr. Thomas O'Brien came before the Board. He told members that he previously submitted a plan that included his driveway, which was part of his proposed addition. He noted that the original Order of Conditions was approved in 2004 and although he showed a driveway and retaining wall on the plan at that time, he was told by Ms. Schloss that the status of the driveway was not clear. He said he now would like to remove the retaining wall for two reasons - first for access and secondly because of a problem with his neighbor (abutter).

Chairman Thompson told him that he needed to submit a land survey.

Mr. O'Brien confirmed that he did do so last week.

Ms. Schloss wanted to clarify that Mr. O'Brien was asking for two things - first he was requesting an extension to his Order of Conditions and secondly he wanted the Board's approval for a minor modification to his original plan. The proposed change was to modify the retaining wall on his property. She told members that the Town Solicitor and the Building Department were recommending that the applicant notify the abutters regarding this hearing.

Chairman Thompson addressed the request with Mr. O'Brien, commenting that he appeared to be within his rights as a property owner to do this work, as the property in question is part of his land.

Mr. O'Brien informed members that he began work on his property in July of 2004 and is now 80% complete. What he is presently working on is the last phase of the project. He wanted to clarify that it was always his intent to have a driveway and retaining wall. He said that he notified the abutters as part of the N O I process and also spoke with them. At that time he showed his next door neighbor, who is now opposed to the project, the 1992 survey where the property line was delineated. He also showed her the retaining wall, explaining that he needed drainage behind it, which would be on her property. He reported that at that time she was fine with it. Then last summer, he informed her that he would be starting construction of the wall and she told him that he would first need a land survey done. At that time he also discovered that she had complained to the Building Department about him. During her visit to the Building Dept. clarified to her that the work was taking place on 'his' property. In any event, he had the survey done, with the property line staked and bean poled. Recently they added twine for clarification purposes. His plans now call for adding trees along the line on his side of the property.

Mr. O'Brien went on to say that he has also hired an attorney and he has tried to speak with the abutter but she has refused to speak with him/them. At this point he has decided to have a paved driveway put in, adding that the width of the driveway will be reduced to 14 ft. wide. Additionally, he has spoken with his landscaper in hopes of resolving the problem with his abutter, and he showed him how he can make the changes he is seeking without going outside his property line. He told members that his investment so far in this project is \$60,000 and he is very frustrated because at this point he can't use it. He felt he has gone out of his way to communicate with his neighbor, but to no avail. He is now looking into installing a 'delta lock system', which he was sure would work. Plans are to remove the present wall, and substitute it with a Delta Lock System, which will have no impact on the abutter's property.

Chairman Thompson and the members felt that the applicant was well within his property rights to move ahead with his plan and saw no infringement on the abutter.

Commr. Kent noted that he was changing the type and location of the wall and Mr. O'Brien acknowledged this, adding the new system would be installed 6" back on his property.

Commr. Kent said his question was 'does this change meet the definition of a minor modification?' He also wanted to make sure the slope was directed toward his house.

Commr. Murphy felt the proposed work was more aesthetic.

Ms. Schloss assured members that the new wall would not have an affect on the resource area, but quickly added that the paved driveway was not on the original plan although Mr. O'Brien told her they did speak about it at his past hearing, adding that she did also see it was on the Building Permit plan.

Chairman Thompson said he was in favor of treating the proposed change as a 'minor modification' and the Board members agreed.

Ms. Schloss questioned the slope on the 'green slope' system and Mr. O'Brien said the slant of the slope is allowed to be as much as 90° but his is only 69°. He said that he spoke with the manufacturer and they reconfirmed that the plan as proposed is 'do-able'.

Ms. Schloss requested a copy of the product specifications for the record and Mr. O'Brien gave a copy to her.

Members agreed that if the new system didn't work he would have the option of putting up a retaining wall, because the work would take place only on his property.

Commr. Murphy moved to approve the minor modification as presented by Mr. O'Brien, File 81-921.

UNANIMOUSLY VOTED

Commr. Murphy moved to approve a one-year extension to File 81-921, effective through July 2, 2008.

UNANIMOUSLY VOTED

Other Business and Conservation Report

Chairman Thompson spoke about their past meeting Mr. Jack Knight re. his chopping down/clearing vegetation on the town-owned coastal bank on Regatta Road. He wanted to point out that this violation took place in two separate instances. He asked if Mr. Knight had been fined \$5,000 for this offense, with Ms. Schloss responding that she wasn't aware of this.

Commr. Kent said he spoke to someone who told him this was the case.

Chairman Thompson said he would like to find out if that fine was levied. Additionally he wanted to meet with Mayor Madden and Mr. Clarke prior to the next meeting to get this issue and the action to be taken clarified and formalized. He went on to say that it was his understanding that since the last violation meeting with Mr. Currier of 35 Regatta Road, it has come to light that stairs were installed on the bank after he was told he could not do this - and based on that he felt the members need to re-address this.

It was also noted that Mr. Knight, who is scheduled to be at the next meeting, is also in violation of a similar offense/same location.

Commr. Kent told members that he visited the site and found the entire area (Regatta Road to the waterfront) entirely defoliated, adding it looks like some type of chemicals were used.

Chairman Thompson suggested a letter be sent to the Mayor from the Commission outlining the offenses that have taken place on Regatta Road and the need to take a strong stand.

Ms. Schloss wanted to emphasize that the Conservation Commission has the responsibility to protect the resource area.

Commr. Kent believed fines should be levied on the violators, as the offenses have taken place on Town land.

Ms. Schloss recommended they sit down with Mayor Madden and Jim Clarke first. It was agreed that she will seek a meeting for the Commissioners, the Mayor and Mr. Clarke for Thursday April 19th.

It was agreed that Commr. Kent and the Chairman would represent the Commission.

Ms. Schloss informed members that Mr. Currier had hired LEC Environmental to come up with a landscaping plan.

Commr. Kent and Commr. Murphy agreed that the Town Solicitor should be representing the Town in this situation.

Commr. Coven commented that the Commission took a practical approach with Mr. Currier in re. his first violation, now with the second offense he felt they should be much more hard line and require plantings/levying fines.

Chairman Thompson felt they might need to hire an engineer as a consultant.

Ms. Schloss stated that she spoke with Town Solicitor Lane about the situation and he, in turn, asked that she speak with the Commission about their past history with these types of offenses.

It was agreed that the members and the Administrator will discuss what action to take with regard to these violations prior to the 4/25/07 meeting.

Ms. Schloss suggested they hire a 'coastal bank specialist'.

Commr. Murphy recommended the defoliated area be replanted with wild native growth and it was agreed that Ms. Schloss would provide information with regard to wildlife habitat.

Vote of Reconsideration re. Mr. Currier - Regatta Road Violation

Commr. Kent moved to reconsider the vote taken at the 3/28/07 meeting in regard to the violation on Regatta Road by Mr. Currier.

UNANIMOUSLY VOTED

Cmmr. Murphy moved to reconsider the action take by the Commission with regard to Mr. R. Currier of 35 Regatta Road, as their vote at that time was insufficient to protect the interests of the Conservation Commission and the Town - and they did not have all of the facts before them at that time.

UNANIMOUSLY VOTED**Signature of Minutes - 2/28/07 and 3/14/07**

Minutes were submitted for signature.

Stokes Update

Ms. Schloss explained that replication is a two-year process and at this point the Commission should have received an update after the first season (last year) and this has not been the case. She also wanted to point out that another update is due in May/June and one in the Fall.

Chairman Thompson requested Ms. Schloss to have a report/update by Mrs. Stokes for the May meeting.

Tern Harbor Update

Ms. Schloss told members that she thought Tern Harbor had finished dredging, but they found an emergency situation has taken place re. uneven sediment by the dock which was buckling. She said in order to correct this, Tern Harbor needed approval of a 'time of year waiver'. At this point she, DEP, ACE, Director of Marine Fisheries are all OK with it. Tern Harbor has now put the silt turbidity curtain/monitoring back up and did the hourly monitoring as required. It is expected the work will be completed by next week.

Longwood Road - Site Inspection

Ms. Schloss reported that the DEP site inspection took place re. the abutter's Appeal and she believed that DEP will uphold the Commission's decision.

Next Meeting

The April 25, 2007 meeting will take place at 7:30 P. M. at the Weymouth Town Hall

Adjournment

Cmmr. Murphy moved to adjourn at 10:04 PM.

UNANIMOUSLY VOTED

Respectfully submitted,

Susan DeChristoforo
Recording Secretary

APPROVED: _____
Scott Coven, Clerk

DATE: _____