

**WEYMOUTH CONSERVATION COMMISSION**  
**April 25th, 2007 Meeting**

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

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

Chairman Thompson called the April 25th, 2007 meeting of the Conservation Commission to order at 7:35 PM.

**47 Martin Street**  
**File #81-1007 (Lots 4 & 16)**  
**Cont'd Hearing**  
**Stephen Zeboski**

Chairman Thompson stated that they would continue with this hearing when Cmmr. Kent arrived.

**129 Fort Point Road**  
**Notice of Intent, File 81-1010**  
**Natesa Pandian**  
**Map 2, Bl 6, Lot 13**

Cmmr. Coven moved to open the hearing for 129 Fort Point Road, File 81-1010.

UNANIMOUSLY VOTED

Mr. Shawn Hardy, PE came before the Board representing the applicant, Natesa Pandian. He described the project as a second story addition and a reconstructed (concrete block) foundation - with a proposed deck and covered awning built on pilings. This project would take place within 100 ft. of the coastal beach/seawall, which would also serve as a buffer.

Ms. Schloss said she saw no impact to the resource area.

File Note: At this point she noted she was missing a number re. the square footage at Land Subject to Coastal Zone Flowage and Mr. Hardy said he would supply it to her tomorrow.  
(Commr. Kent arrived)

Ms. Schloss noted that the applicant has been through the Special Permit Process and received the Planning Board's approval.

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

Commr. Gowen moved to close the public hearing for File 81-1010, 129 Fort Point Road.

UNANIMOUSLY VOTED

**129 Fort Point Road - File 81-1010**  
**Order of Conditions**  
**Natesa Pandian**  
**Map 2, Bl 6, Lot 13**

Ms. Schloss recommended a Standard Order of Conditions, adding that the applicant must also comply with all local and state regulations regarding construction in the floodplain.

Cmmr. Coven moved to issue a Standard Order of Conditions for File 81-1010, 129 Fort Point Road.

UNANIMOUSLY VOTED

**47 Martin Street****File #81-1007 (Lots 4 & 16)****Cont'd Hearing****Stephen Zeboski**

Commr. Kent moved to open the continued public hearing for File 81, 1007, 47 Martin Street.

UNANIMOUSLY VOTED

Mr. Scott Arnold, PE/Arnold Engineering and the applicant, Stephen Zeboski came before the Board. Mr. Arnold reminded members at the last hearing the applicant received a report from the Commission's consultant, Richard Sweeney of Daylor Engineering, outlined issues and recommendations re. the project. One issue concerned the rip rap/swale, noting that he wanted to see wetland area protected with the proposed outlet. Mr. Arnold said that after reviewing Mr. Sweeney's comments and noting the concerns of the Administrator/Commission he felt they were now all on the same page. Their plans have now been revised to reflect Mr. Sweeney's recommendations, which are shown on the new plan. He pointed out that the riprap at the bottom of the slope now shows the width of the easement which has been increased to 5 ft., narrowing down in size to the drainage channel. He said the revised plans call for protecting the bottom of the slope and channel flow into the wetland.

Chairman Thompson asked Mr. Arnold how much into the buffer zone the work would take place and he responded it would be 15 ft. away.

Chairman Thompson then asked if he was going in 15 ft. to protect the area from erosion and Mr. Arnold replied 'yes'.

Chairman Thompson next asked how much vegetation would be removed and Mr. Arnold responded (1) six-inch tree or larger would be removed and some saplings.

Chairman Thompson asked if he would be adding some plantings; i. e., bushes, etc. to mitigate the loss of the tree(s).

Mr. Arnold said that he would work with Ms. Schloss suggesting 'high bush blueberry' or 'tupelo sapling' in the 25 ft. No Disturb area.

Chairman Thompson asked if he would be doing them at rate of 1:1.

Ms. Schloss asked if the applicant would stake out the area for her to view before any work took place, adding that it appeared there were about (15) saplings coming down - although probably not all within the 25-ft. zone. She asked if they could add around ten (10) shrubs and Mr. Zeboski said that he would.

Commr. Gowen asked about a maintenance program and Ms. Schloss told her that they had submitted one with their N O I, which now included some recommended changes.

Commr. Gowen then asked about maintenance of the outfall and Mr. Arnold said it was scheduled to be done twice a year, including the stilling basin and the drainage channel.

Commr. Kent asked if they would be bringing machinery onto the lot and Mr. Arnold responded that it would be a small machine.

Commr. Kent asked how it would get onto the work area and Ms. Schloss explained that there was a small area 'upland' where it could enter, by the Sportsmen's Club.

Mr. Arnold added or they might bring a small bobcat in by the less steep slope on the cemetery side.

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

Commr. Coven moved to close the public hearing for File 81-1007, 47 Martin Street.

UNANIMOUSLY VOTED

**Order of Conditions - 47 Martin Street  
File #81-1007 (Lots 4 & 16)  
Stephen Zeboski, Applicant**

Commr. Coven moved to issue a Standard Order of Conditions for File 81-1007, plus the special conditions as proposed by the Administrator re. plantings, staking the rip rap area.

UNANIMOUSLY VOTED

Ms. Schloss requested the applicant send her a revised set of plans and Mr. Arnold agreed to do so.

**22 Brewster Road  
Request for Determination  
Angel Montanez  
Map 10, Bl 81, Lot 18  
Mr. Montanez came before the Board.**

Chairman Thompson noted that he was before them this evening regarding his proposal for construction of an aboveground swimming pool (within 100 ft. of a coastal bank/Mill Cove). He commented that he saw the boatyard was located between his property and the pool and didn't have any concerns.

Mr. Montanez told members that he had spoken with the Administrator and felt all was in order.

Chairman Thompson asked if it was 21 ft. in diameter and Mr. Montanez replied 'yes'.

When asked about the pool filter, Mr. Montanez said it was a sand filter and required no maintenance, just backwash - adding he would have a 4' x 3' gravel pit for the back wash. He informed members that it met all the setbacks in accordance with the Building Department's requirements.

The hearing was opened to the public.

Mr. Scalisi, abutter and owner of Scalisi Marine spoke. He said he did not object to the pool, adding that he lived in his boatyard and has had a pool for his children. He told members that his concern was if the pool ruptured he would have 4,000-5,000 gallons of water from the 5-ft. pool in his boatyard, which would cause serious damage to his business and could even, wash out the seawall. He said he would like to see a deflection device; i. e., wall or fence to slow down or direct the flow in case of any emergency. Re. other concerns - Mr. Montanez used to have a 14-ft. stockade fence/trellis and greenery, which he liked because it served as a site and sound barrier but added, this is no longer, the case. He said he saw safety problems with little kids in the pool adjacent to his property because all that is there now is a 4 ft. chain link fence. He was not sure who owned the fence.

Chairman Thompson explained to Mr. Scalisi that those were not 'conservation' issues, as those matters did not fall under the jurisdiction of the Conservation Commission. He told him that he has had a pool for 23 years and never had a problem. With regard to the fence, he suggested Mr. Scalisi look into getting a land surveyor to see who owned the fence. Next, with regard to the possibility of the pool rupturing and damaging his property, Chairman Thompson told him that insurance should take care of those types of problems.

Mr. Montanez told the members that he planned on having arborvitae along the property line and removing the chain link fence.

At this point, Chairman Thompson confirmed to Mr. Scalisi that the proposed pool met all of the Commission's rules and regulations.

Mr. Scalisi replied if he knew about the proposed planting of the arborvitae he wouldn't have come this evening as that took care of his concern - adding he didn't see them on the plan.

Commr. Kent moved to issue a Negative 3 Determination, with standard 'pool' conditions.

UNANIMOUSLY VOTED

**275 River Street/Tern Harbor Marina**

**Notice of Intent - File 81-1012**

**URS Corporation**

**Map 3, Bl 1, Lot 1**

Commr. Kent moved to open the hearing for 175 River Street/Tern Harbor Marina.

UNANIMOUSLY VOTED

Mr. Sam Moffet/URS Corporation came before the Board. He noted that he was representing Conoco Phillips/Weymouth Neck project. He explained he was before them this evening because they found several additional areas that exceeded background or UCL's, (upper concentration limit) at the Tern Harbor marina (within the Riverfront Area for the Back River and Land Subject to Coastal Storm Flowage), which they were now addressing with plans for further remediation. The concern was the level of arsenic that was found. He said he was before them this evening because the project was within the Conservation Commission's geographic jurisdiction. He further explained that URS performed additional soil investigation under the pavement at 275 River Street as well as in the landscaping area where they found higher counts of lead and arsenic, some just barely above back ground. He was suggesting they stabilize in place - and depending on the concentration of lead, they would mix with an 'enviroblend' to mitigate. He explained that the blend is an inorganic material and when mixed with the soil, it blends and eliminates the problem. Once this process is completed the material would be removed or buried (referring to the landscaping area). The contaminated fill under the pavement would also be removed or buried, then it would be re-covered with the pavement repaved.

Mr. Moffet went on to say that tonight he was seeking the authority to mitigate and then repave the entire parking lot. He noted that there was also an existing retaining wall that needs to be disturbed and replaced. Erosion controls would be used - haybales would be secured with masonry screws into the pavement. When repaving they would outline the site with a silt fence area. They are proposing to do this work in July and expect it would take about 4-week days.

Ms. Schloss asked for additional clarification at which time Mr. Moffet distributed a handout on the new form.

Mr. Moffet further explained that the impacted area was 65,000-sq. ft. and would be downgradient of the riverfront area. He told members that the work would involve a temporary alteration - adding that the 'land subject to flooding' that was affected was 28,000-sq. ft. in size.

Ms. Schloss stated that she spoke with Marilyn Wade this date in regard to erosion controls and based on that conversation wanted Mr. Moffet to clarify further the affected area on River Street.

Commr. Kent told members that the bulkhead was put in during the 60's/70's. He then asked Mr. Moffet if there were any other contaminated areas on the property.

Mr. Moffet told members that they did extensive soil borings and at this point they have addressed 'all' areas.

Commr. Kent asked if it appeared that the contaminated fill might have been brought in from other lots and Mr. Moffet replied 'yes'.

The contaminated areas were described as purplish/reddish in color.

Ms. Schloss asked if there was a 'use restriction'.

Mr. Moffet informed members that the Deed Restriction has not been finalized, but he expected there would be restricted use. He felt it would most likely remain a parking lot for the foreseeable future. He further explained that the landowner had the option of paying additional money to bring the count down to nothing if he wanted to request a 'change in use'.

Commr. Kent moved to close the hearing for 275 River Street, File 81-1012.

UNANIMOUSLY VOTED

**275 River Street/Tern Harbor Marina****Order of Conditions - File 81-1012****URS Corporation****Map 3, Bl 1, Lot 1**

Members then discussed the conditions for the site.

Ms. Schloss said that the tide was about 10 ft. or more and that they might want to prevent work adjacent to the river during the highest high tides. Furthermore, Marilyn thought a condition stating 'no stockpiling within the Flood Plain area' would be reasonable.

Commr. Kent moved to issue a Standard Order of Conditions for File 81-1012 with special condition(s) as proposed by the Administrator.

**Discussion:**

Chairman Thompson asked if there would be a site visit at the completion of the project, with Ms. Schloss adding 'possibly when lots 24 & 25 are done.

UNANIMOUSLY VOTED

Mr. Moffet was asked about a completion date and he replied that the dredging of Tern Harbor would be completed soon, with the completion date for Lot 1 and Webb State Park being farther out.

**85 Queen Anne's Drive/Queen Anne's Gate Apartments****Notice of Intent, File 81-1011****Map 31, Bl 408, Lot 6**

Commr. Kent moved to open the hearing for 85 Queen Anne's Drive/Apartments, File 81-1011.

UNANIMOUSLY VOTED

Mr. Paul Martin, representing CMJ Management/applicant and Brian Beecher of Pool Designs and Renovations came before the Board.

Chairman Thompson summarized that Mr. Martin was before them in regard to a swimming pool at Queen Anne's Gate Apartments where reconstruction of the existing pool failed and the broken pool is now filled with groundwater.

Mr. Martin confirmed this was correct, adding that the valve popped and now needs to be repaired. He noted that it was located near a wetland.

Chairman Thompson asked how he planned to do the work in this wet season and Mr. Martin replied that they have dealt with worse conditions, although these conditions were unusual - as he needs to take the ground water and return it to the wetland. Their plans call for using erosion controls; i. e., haybales, etc. to protect the resource area.

Chairman Thompson asked about the pump/hose and Mr. Martin said it was 2" depending on the soil conditions. He said if they can't control the water, they would have to wait until August.

Ms. Schloss stated her concern is there are two separate wetlands, with the pool being adjacent to one of them; i. e., ILSF (isolated land subject to flooding) and the applicant wanted to pump water into the second wetland.

Chairman Thompson asked if they were hydraulically connected and Ms. Schloss responded that she didn't know that.

Chairman Thompson commented, if the water is to be pumped from one isolated wetland to the pool it sounded like quite a feat.

Mr. Beecher told the Chairman that he is experienced in doing this, adding he is presently doing one in Tewksbury. He then explained the process of creating holes in the pool that would eliminate the problem and equalize the pressure from the groundwater. He told members that the body of water behind the pool dries up in Summer. He continued - further, I can pump water away, it gives me the opportunity to de-water what's there. He said it is a big apartment complex and they need two pools.

Ms. Schloss referred to the lake situation, asking 'how do you de-water a lake?'

Mr. Martin took a moment to explain the process.

Ms. Schloss then asked about the soils.

Mr. Martin explained that most pools that pop out of the ground contain clay, with the Chairman and Ms. Schloss agreeing if this is the case, it sounded like it would be okay.

Mr. Martin further explained that the pools are located at the bottom of the property. He said that back in 1972, if Conservation Commission's existed they probably wouldn't have approved this. He told members that the pool is cracked now, but there have been no chemicals used for the past two years, adding this happened at the beginning of last year.

Chairman Thompson stated that pumping water to the other wetland area sounded okay and asked for Ms. Schloss's comments.

Ms. Schloss told members that she would prefer to have the applicant pump the water into the adjacent wetland. For now we could see if the plan works - if not they would need to go to Plan B, which might be to discharge to the second wetland farther away.

Mr. Martin replied that he had no problem with that.

Ms. Schloss asked about the time it took to dewater and Mr. Martin replied that it could range from about 6 hours to a couple of days, depending on the soil conditions. Most likely, once approved it would take about one day.

Chairman Thompson felt that would be viewed as the conservative approach.

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

Cmmr. Coven moved to close the public hearing for File 81-1011, 85 Queen Anne's Drive/Queen Ann Apts.  
UNANIMOUSLY VOTED

**85 Queen Anne's Drive/Queen Anne's Gate Apartments**

**File 81-1011**

**Map 31, Bl 408, Lot 6**

**Order of Conditions**

Cmmr. Coven moved to approve a standard Order of Conditions for File 81-1011, plus the special conditions as discussed by the Administrator which included:

- proper dewatering setup
- have erosion controls in place (haybales, filter fabric, crushed stone)
- the customary pool conditions re. backwash, etc.

UNANIMOUSLY VOTED

It was agreed by the Commission that if Plan A, as proposed, does not work, Plan B would be handled by the Administrator.

**Other Business**

**Regatta Road Update**

Ms. Schloss informed members that she attended a meeting on the Regatta Road situation with Mayor Madden, Town Solicitor George Lane and Jane Hackett.

Ms. Schloss then referred to the 2002 historical background regarding past violations against by Jack Knight and the prior owner of 35 Regatta Road. She noted that Mr. Knight had been required to pay Steve Ivas/Wetlands Consultant \$800 for preparation of the Mitigation Plan he did for him in the past. She said although the invoice had been paid, but she didn't think the work was ever done. Based on the that violation, it has been documented that Mr. Knight was well aware that he was in violation a second time (referring to his March meeting with the Commission when he stated he denied any knowledge of being responsible for a wetland/coastal violation).

Ms. Schloss went on to say that Mayor Madden was in support of the Commission's administrative enforcement and mitigation, fines - and that the Commission was permitted to use the money generated from the fine(s) to provide access to the water on the coastal bank. She told members she would follow up with Atty. Lane on the fine procedure. She noted that they might need court action to implement the fine, but possibly not if they use the local ordinance which allows for a fine of up to \$300 per day.

Chairman Thompson asked how much the work on the coastal bank would cost and Ms. Schloss estimated around \$5,000.

Chairman Thompson felt that a fine of \$5,000 assessed to each of the offenders was appropriate.

Commr. Kent spoke next. He said he viewed the situation as having two separate issues; i. e., the first was the destruction of town property and the second was the Commission's responsibility to have the violation mitigated by the violators.

Ms. Schloss told members that Atty. Lane might be able to draw up an Indemnity Agreement with regard to the stairs.

Chairman Thompson felt if one was allowed to add stairs, then they would need to be consistent and let others do the same.

Ms. Schloss agreed, adding as long as there were specific guidelines, adding that Atty. Lane was supportive of the Commission issuing a fine to those in violation.

Chairman Thompson felt that the fine should be based on what corrective work needs to be done and to have it serve as a detriment to other residents who may be thinking of doing something similar in the future. He felt that they could stabilize the banks with some low-lying plants.

Commr. Coven commented that the work proposed could be more harmful in some areas then leaving it as is, adding the people need to understand this. He then noted that he was in agreement with assigning the maximum fine.

Ms. Schloss told members that she took pictures of the site on 3/14/07.

Chairman Thompson cited a formula for assessing the fine which was:  $\$300 \times 30 \text{ days} = \$9,000 \text{ month}$ .

Ms. Schloss suggested they go with the local ordinance and she would discuss the fine further with Atty. Lane. She said if the court becomes involved, the matter would then involve attorney's fees.

Members discussed the reasoning for the fine, noting that they had the ability to assess a fine of up to \$10,000, but being reasonable they might assess a lesser amount which would be the cost to remediate the land.

Ms. Schloss commented that the Town's use of the property was not actually violated, but there was a definite violation of the wetland regulations. She noted that Mayor Madden had offered to meet with the Commission.

It was agreed that Commr. Kent would represent the Commission with the Mayor and both would do a site visit.

Ms. Schloss reminded members that Jack Knight and Mr. Currier are scheduled to be at the next meeting (5/9/07).

Members agreed that Ms. Schloss would speak with Atty. Lane on the propriety of the action taken in the past and to be taken in the future with Rand Currier.

Ms. Schloss told members that she personally spoke with Mr. Currier and he wanted to know about access to the beach for equipment to conduct the restoration work. She also spoke with Stan Humphries, Consultant. She was in favor of issuing an Enforcement Order for 39 Regatta Road as well (a repeat offense).

The Commission was okay with public access to the beach and agreed to discuss it further at the next meeting, at which time Commr. Kent would recuse himself on the matter with Mr. Knight, due to a past working relationship.

#### **Update on Longwood Road**

Ms. Schloss distributed a court document from Atty. Jim Lampke (Special legal counsel representing the Commission in this matter). She said in speaking with Atty. Lampke, he indicated to her that the resident's appeal does not seem to have much merit. To date she has not heard back from DEP, but their engineer felt that some minor changes could be made to the rip rap and at that time all should be in order.

#### **Weatherwane Update**

Ms. Schloss reported that she received an email from Bristol Bros./Carl Erickson with regard to submission of their Bond. He states that the underwriter could provide the bond and possibly have it in place by next week. She planned to reply and ask that the bond be in place by the Commission's next meeting.

#### **Update on Enforcement Orders**

**Duchaney** - work has begun.

**Struzzieri/North Street** - There is a lot of landscaping debris dumped on the property. The Commission issued an Enforcement Order and asked to pull it back. She noted that the Restoration Plan was to be in place by August 17, 2006 with the work completed by October 1, 2007. Steve Ivas/Wetlands Consultant informed her that he drew up the plan. She said she would like it in hand by the next meeting, May 9<sup>th</sup>.

Members strongly agreed with the request and deadline.

**Update on Richard Murray, 100 St. Margaret St.** - Ms. Schloss reminded members that Mr. Murray was summoned before the Board and at that time Bill Woodward was with him and was going to work with him on correcting the violation. She has not heard anything since that time.

Chairman Thompson asked about issuing a fine and Ms. Schloss replied 'yes', adding we could issue a fine and do the work ourselves. She has asked both to be present at the next meeting.

#### **Conservation Report**

Ms. Schloss reported that **Algonquin Gas** is coming to Town with a very large, complex project; i. e., an under water and overland gas line.

**MWRA Update** - Ms. Schloss then spoke about the 'intermediate pumping station' at Kings Cove. The MWRA constructed a wetland replication (a glorified detention basin), and it now turns out that the property does not belong to the MWRA. At this point MWRA is looking at it internally, and if there are any changes they will be back before the Commission.

Chairman Thompson said he wanted to see the most beneficial plan proposed, even if it is off site.

Next, Ms. Schloss reported that the MWRA will be going back to the Idlewell section to do more seeding (this will be the 3<sup>rd</sup> time). She said she will be meeting tomorrow with Metcalf & Eddy (to discuss the plantings).

**DPW/Sewer Overflows** - Ms. Schloss told members that she received notification regarding serious sewer overflows at 570 Commercial St., with the Chairman commenting 'there is nothing we can do about it'.



**The Herring Are Running** - Mr. George Loring/Herring Run Warden has voiced his concerns about the inadequate height of the planned fencing (4' high) behind the East Weymouth 'T' station. Because of its inadequate height he is concerned that the trash will end up in the Herring Run/river - and also that there are no plans for a wildlife crossing. She said that Holly Palmgren of the "T" is willing to meet and discuss the problem, although Jim Clarke has told her this issue has risen way too late in the Greenbush process to request them to come up with the additional funds to correct it, as they have spent so much money already.

Chairman Thompson asked if they had the information on a more appropriate fence and Ms. Schloss replied 'no, but they could probably purchase one'.

Chairman Thompson commented that the "T" has excess stockpiles of materials, including fences - so he didn't see replacing the 4' fence with a higher one as a problem.

#### **Summer Meeting Schedule**

Members agreed on the following tentative meeting schedule for the summer:

June 13<sup>th</sup>, June 27<sup>th</sup>, July 18<sup>th</sup>, August 8<sup>th</sup> and August 29<sup>th</sup>.

Chairman Thompson said if for some reason an additional meeting is required, it could be scheduled.

**The next meeting will be held on May 9, 2007 at Weymouth Town Hall/Town Council Chambers.**

#### **Adjournment**

Cmmr. Murphy moved to adjourn at 9:37 PM.

UNANIMOUSLY VOTED

Respectfully submitted,

Susan DeChristoforo  
Recording Secretary

APPROVED: \_\_\_\_\_  
Scott Coven, Clerk

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