

WEYMOUTH CONSERVATION COMMISSION
Weymouth Town Hall - Francis Kelly Room
May 23rd, 2007 Meeting

PRESENT: John Thompson/Chairman, Gerald Murphy/Vice Chairman, Cmmr. Scott Coven/Clerk and Cmmr. Adrienne Gowen (arrived 7:45PM)

ALSO PRESENT: Conservation Administrator, Mary Ellen Schloss

Chairman Thompson called the May 23rd, 2007 meeting of the Conservation Commission to order at 7:31 PM.

Minutes: March 28, 2007, April 11, 2000 - For Review

Due to the busy agenda, the minutes were tabled until later in the meeting.

824 Washington Street

Request for Certificate of Compliance

F X Messina Enterprises

DEP File #81-395

Ms. Schloss informed members that 824 Washington Street was issued an Order of Conditions back in 1988, but it was never recorded. Tonight they were here to finalize the process. She went on to note that the applicant has submitted an 'as built' plan as required. She also met with Mr. Messina's attorney, Ron Marshall, who was also present this evening - at the site and found all was in compliance. She has asked the applicant to make sure that the Order of Conditions be recorded in Dedham Land Court, as some of the Conditions will survive past the expiration of the Order of Conditions.

Ms. Schloss further noted that during the site inspection she found a gap where the fence ends and the boulders begin and wanted this to be addressed.

Chairman Thompson asked the applicant to confirm that he would be filling in the gap as noted by the Administrator and this was confirmed.

In referring back to the Conditions, Ms. Schloss also wanted to make sure that the catchbasins were kept clean and that the property owner adhered to the requirements re. snow removal. Lastly, she recommended that the Certificate of Compliance not be issued until they receive proof of the recording of the Order of Conditions and members agreed.

Cmmr. Murphy moved to issue the Certificate of Compliance re. File 81-395 upon proof that the Order of Conditions has been recorded with the Norfolk Registry of Deeds.

UNANIMOUSLY VOTED

60 David's Island Road- Continued Hearing

Charles Joy, Applicant

DEP File #81-1014

Notice of Intent

Cmmr. Murphy moved to open the continued hearing for 60 David's Island Road, File #81-1014.

UNANIMOUSLY VOTED

Applicant Charles Joy came before the Board, along with his engineer Shawn Hardy.

Chairman Thompson updated those present, noting that there was only one issue that remained outstanding from their last hearing and this involved the suspension of floats off the mud flats.

Mr. Hardy informed members that he has been trying to contact the state, but has been having a difficult time. He noted that he submitted a detailed plan of the area on the marsh to the Commission that consisted, in part, of a 152 sq. ft. of shellfish area, adding that 64 sq. ft. of that amount is actually grounding. He also noted that the end of the pier is 10' x 12' in size. He further stated that the plans call for retrofitting it by one-half (about 6'). Additionally, they plan to put buckets under it and again emphasized that they will be reducing the size of the grounding from 124-sq. ft. to 62 sq. ft.

Chairman Thompson asked about the elevation of the floats.

Mr. Hardy told him that the bottom of the pier is 16" off the mud flats, adding that he has checked around and found that no other dock in the basin offers what they are proposing. He added that being a boater himself, he didn't feel this requirement made sense and the Chairman agreed with him.

Mr. Hardy went on to inform the Commission that he would prefer to go with what they have allowed in the past, but it was up to them. He further stated that if the members issue them an Order of Conditions it would be helpful because then they could move forward with the DMF/Mass. Division of Marine Fisheries.

Ms. Schloss stated that she was able to reach Tay Evans at the Div. of Marine Fisheries. In her conversation with her, they discussed the system with the drums. She was told that there are technologies out there that will reduce the size, but the DMF did not have any written information on it. She went on to say that the ACOE/Army Corps of Engineers permit system requires that the float be 2 ½' above the flats in order to avoid Corps review, although she commented they might allow what the applicant is proposing after review.

(Cmmr. Adrienne Gowen arrived)

Chairman Thompson asked Ms. Schloss if she was referring to 'pre-existing docks' or 'pre-existing conditions'. He then specifically asked if there were any rules out there referring to improving an 'existing situation' as opposed to those for a 'brand new' dock, adding he viewed this project as an improvement.

Mr. Hardy said it was his understanding that the ACOE meets with the DMF once a month to discuss these types of projects/proposals and when that happens he expects they will discuss this project and hopefully rule in their favor.

Ms. Schloss reported that the area they were speaking about encompassed three- (3) flats approximately 300-sq. ft. in size. She then asked the applicant if they could scale this one back.

Mr. Hardy replied that they have reduced it twice, fairly significantly.

Ms. Schloss wanted to point out that the Commission needs to think about setting precedents - and consider what they have required in other similar areas - referring to one on Neck Street. With regard to that project, she noted that the members required the applicant fund the cost of a specialized consultant for the Commission - which was done. She also wanted to acknowledge there were other piers in the area that were resting directly on the bottom.

Mr. Joy stated there were many docks out there where the property owners have not gone through this process as he is doing - and commented "I'm just trying to play by the rules".

Ms. Schloss again asked if they could reduce the size further.

Mr. Hardy explained to her that the smaller they are the weight becomes greater and therefore produces a greater impact on the flats, which he didn't think was what she or the Board wanted.

Chairman Thompson agreed with Mr. Hardy's comments; i. e., that the reduction in size could be more harmful. He went on to say that he grew up on the water and at this point has not seen any science documented that validates this is all necessary.

Cmmr. Coven said that he agreed with the Chairman, adding he wanted minimum impact. He then asked what it was made of.

Mr. Hardy told him it was 'plastic'.

Chairman Thompson wanted to point out that the Commission would not be the only ones ruling on this project, the Army Corps of Engineers and the Division of Marine Fisheries would be too.

Cmmr. Murphy stated that what he saw with this application was a property owner looking to better a situation, while providing minimum impact.

Chairman Thompson told members that he felt they should issue an Order of Conditions and let the ACOE do what they have to do. He added that he would like to see the DMF come before the Board and speak to this.

Ms. Schloss again pointed out that they don't really have anything documented as yet.

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

Cmmr. Murphy moved to close the public hearing for File 81-1014, 60 David's Island Road.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

60 David's Island Road

Charles Joy, Applicant

Order of Conditions

Cmmr. Murphy moved to issue an Order of Conditions File 81-1014, 60 David's Island Road.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Cmmr. Gowen tried to explain to the applicant that she has seen a lot of floats in the area and at this point the Commission is just trying to regulate them.

411 Neck Street - Hearing**Steven Parigian****Map 2, Block 3, Lot 31****Request for Determination**

Ms. Schloss told members that she has visited the site on the Back River located in the Riverfront Area, explaining that this application was for an addition. The proposed location is adjacent to the River Street boat ramp parking lot/town pumping station and has a salt marsh behind it.

Mr. Parigian told members the addition would be more than 100 ft. from the salt marsh. The size of the proposed addition is 14' x 31'. Currently there is impervious surface below it (deck with concrete pad) and minimal vegetation. He added that there were no trees or shrubs.

Ms. Schloss acknowledged that there would be no negative impact to the resource area.

Chairman Thompson said he didn't see any issues with the proposal.

Cmmr. Coven moved to issue a Negative 3 Determination re. 411 Neck Street as recommended by the Administrator.

UNANIMOUSLY VOTED

275 River Street - Hearing**Tern Harbor Marina - Joseph Sugar****Map 3, Block 1, Lot 9****DEP File # 81-1015****Notice of Intent**

Cmmr. Murphy moved to open the hearing for File 81-1015, Tern Harbor Marina.

UNANIMOUSLY VOTED

Mr. Joe Sugar, represented the Tern Harbor Marina was present along with Carlos Pena, PE.

Mr. Pena explained that their proposal called for replacing a failing/deteriorating wall/bulkhead with steel behind it at the marina and installing a boat wash recycling system.

Ms. Schloss stated that she saw the project as a good thing, but was concerned with regard to the containment of fill and she wanted to make sure it was handled properly.

Mr. Sugar said that basically any material found in the sediment or upland would be handled by an LSP/Licensed Site Professional in compliance with the Soils Management Plan, which will be developed for the site. He stated if they find any contaminated soil it would be trucked off site. After the work is complete they will implement AUL/Activity Use Limitation, which is controlled by MCP. He assured members that he has planned for any contingency and if anything is questioned they plan to go through the MCP process.

Ms. Schloss reported that Marilyn Wade (LSP from URS) told her that she expected this project to be closed out this Fall and that the site would be cleaned up in accordance with MCP standards. She reminded members that part of the conditions for this project is that an AUL would be in place before the work begins and the applicant would be in full compliance with MCP. At this point she noted that she was still waiting for comments from the Division of Marine Fisheries, so the hearing would need to be continued.

Ms. Schloss went on to say that she also wanted to address the removal of the riprap, which was leaning against the bulkhead area. She felt by leaving it as is it could provide habitat for small fish as well as a food source (algae) for marine life. Based on that she felt removing it would not be necessary or viewed as an improvement. She felt the DMF might also comment on this part of the project.

Mr. Pena told members that in 1969 they received the original permit for the site and over time the bulkhead began to move. Then again in 1995 more changes took place and they were trying to address these potential concerns.

Mr. Sugar interjected that their goal is to remove the debris; i. e., like chunks of riprap, as well as to replace what has been destroyed (and has proven useful in the past).

Mr. Pena wanted members to know that they felt removal of the riprap would improve the site not be a detriment, but if it is not acceptable to the Board they would proceed as recommended.

Ms. Schloss asked how they planned to protect what is there.

Mr. Pena responded that the sheeting would be left in place and they would excavate what is between the street from the land side with a backhoe. Further, he explained they would be working in pockets of 10 ft. to 30 ft.

Mr. Sugar went on to explain the different ways they might proceed with the seawall, noting that the gravel would be excavated and that plans call for the wooden wall to remain. At that point they could backfill with stone. He added that whatever they do with the riprap would be up to the Board, but again noted that he would like to see it removed.

Ms. Schloss asked if the riprap could be moved so that it would be flush against the wall and Mr. Sugar replied that it could

Mr. Sugar then submitted a diagram of the boat wash recycling system for the record, which was entitled "Considerations in the Selection and Operation of a Wash Water Recycle System".

Ms. Schloss asked if there was a drain for the concrete pad, adding that the Dept. of Health had asked about it.

Mr. Sugar proceeded to describe the operation re. the rainwater overflow; point source options.

Ms. Schloss informed members that she would have a draft Order of Conditions ready for their consideration at the next meeting, including the handling of soils and where soils could be stockpiled.

Commr. Gowen asked if there was anyone else who was using this system and Mr. Sugar told her that Hewitt's Cove had one, which was just completed last Fall - adding he oversaw the installation. He invited the members to come take a look at it, adding he found it to be a very nice and simple operation.

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

Commr. Coven moved to continue the hearing for File 81-1015, Tern Harbor Marina to June 13, 2007.

Commr. Murphy seconded.

UNANIMOUSLY VOTED

Mr. Sugar requested the Administrator give him a call regarding the manner in which they should handle the riprap and she agreed to do so.

Bridge Street - Public Hearing

Verizon New England, Inc.

DEP File # 81-1016

Notice of Intent

Cmmr. Murphy moved to open the hearing for Verizon New England, File 81-1016.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Ms. Heather Vaillant/BSC Group, Renny Chapman/PE and Ms. Penny Kane, representing Verizon New England came before the Board.

The Chairman summarized their project, which called for Verizon extending an optical cable under the Fore River/Route 3A Bridge crossing an embankment and then tying into a manhole located in the Riverfront area. He asked the applicant to address how they would handle erosion control.

Ms. Kane explained the proposal, noting that they wanted to create a fiber optic link between Weymouth and Hingham, noting that presently there is no cable connection there. She said the link would prove to be very helpful to those on the South Shore, office facilities - and referred to 911. She informed members that this new feature was just reviewed in PC Magazine and rated #4 out of the top 100 new products.

Chairman Thompson said he wanted to know how they proposed to do this work with minimal impact to the resources re. vegetation and erosion control.

Re. Erosion control, Ms. Vaillant said that they would be using hay bales and silt fence.

Chairman Thompson asked about the width and removal of the trench.

Ms. Vaillant said that the trench would be 1 ft. wide and would follow the existing path, which was vegetated with grass and sumac. Additional plans call for them to loam and seed the area after construction.

Mr. Chapman told members they would be installing two (2) 4" PVC pipes - and doing the work by hand for minimal impact, adding that their plans also call for hauling away any surplus material.

Commr. Gowen asked if they would be using heavy equipment and Mr. Chapman reconfirmed that the work would be done by hand on a 2:1 slope.

Mr. Chapman also noted that presently there is an existing manhole located on the flat portion at the end of the path, which is about 12 ft. wide. He reiterated that most of the vegetation in the area is 'sumac' and didn't see any trees that would be removed. He felt mulching the bank would be best.

Ms. Schloss emphasized that she wanted the erosion controls to stay in place until the grass is re-seeded.

Cmmr. Murphy moved to close the hearing for File 81-1016/Verizon New England.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Cmmr. Murphy moved to issue an Order of Conditions for File 81-1016/Verizon New England with Conditions as outlined by the Administrator.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

17 Beach Avenue

Request for an Extension to Orders of Conditions

John Barry

DEP File #81-981

Cmmr. Murphy moved to issue a one-year extension to the Order of Conditions for File 81-981 as recommended by the Administrator.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

328 North Street

Continued Violation Hearing

Charles and Dawn Struzzieri

Chairman Thompson noted that the Board had been waiting for the Mitigation Plan from the Struzzieri's, property owners (and Benson Landscaping) which was requested last Summer and had not been received by the date required. He then asked Ms. Schloss to summarize the status of the violation.

Ms. Schloss noted for the record the Mitigation Plan they required was in response to a July 2006 Enforcement Order issued to the Struzzieri's - and that the Mitigation Plan (by Steve Ivas) has now been received. She said the plan describes the site and includes the flagging, which is the best they could do because of the debris on the site. At this point the next step would require a 'definitive plan' and 'timeline'.

Chairman Thompson asked about the size of the subject area.

Ms. Schloss replied that the size of the area was about 5,000-sq. ft., including the buffer zone and the wetland - but quickly clarified it was hard to tell because of the wetland and the amount of debris.

Ms. Schloss went on to say that the first Enforcement Order required that the owners remove the debris located within 40 ft. of the wetland and to submit a restoration plan. The plan that was just received was drawn up by Steve Ivas, which she saw as more of an 'assessment' report, than a plan of action.

Chairman Thompson noted that they decided at the last meeting that the present property owners, the Struzzieri's, were responsible party for rectifying the violation and did not include Benson's Landscaping.

Ms. Schloss stated that she would like a site visit with the consultant to determine a time line for the restoration work.

The Chairman was in agreement with the Administrator.

Cmmr. Murphy moved to continue the hearing for the Struzzieri's, 328 North Street until June 13th, 2009.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Discussion: Ms. Schloss was asked if the Struzzieri's spoke with her about being at tonight's meeting and she replied that they did, explaining that they had planned to attend but couldn't get a babysitter.

Chairman Thompson stated for the record that at this point, fines would not be assessed.

100 St. Margaret Street

Violation Hearing

Richard Murray

Chairman Thompson summarized the present status of 100 St. Margaret Street, stating that an Enforcement Order was issued in 2005 for 'unauthorized fill of a bordering vegetated wetland'. Shortly thereafter Bill Woodward, working for Mr. Murray, drew up a mitigation plan and at that point the removal of fill was required by late 2006. This work has not been done.

Mr. Bill Woodward then came before the Commission. Mr. Woodward informed members that he has spoken with the property owner, Rick Murray. Mr. Murray told him that he had hired John Cook to remove the material - but this was not done; reason being, Mr. Murray has been out of work due to a back injury (he has a landscaping business) since June of 2006 and could not afford the service. He went on to say that he left word that he would be coming before the Commission tonight on his behalf, but never heard back from him. Further he made some calls to see if anyone wanted the material in his yard and found a couple who wanted it. He told the members that presently Mr. Murray is also experiencing some personal problems which have hindered his cooperation, but he felt the violation could be remedied by next month.

Chairman Thompson wanted to be assured that no further fill would be dumped on the site. He felt that some progress had been made and realized Mr. Murray was not doing well. He asked Mr. Woodward if he could get the fill out of there and update him again next month. He stated that he felt this was better way to proceed than to stay with the present inactivity - and Mr. Woodward agreed to do so.

Cmmr. Murphy asked how long it would take to get the material out.

Mr. Woodward replied it was about a couple 100 yards, so it might take a couple of months.

Ms. Schloss asked Mr. Woodward if he could get Mr. Murray to come to the 6/27/07 meeting. She also noted that if any work did start she would like to be advised.

Mr. Woodward agreed to do so.

In closing Chairman Thompson said he would like the violation taken care of by the Fall.

It was agreed that this matter would be on the 6/27/07 agenda and Mr. Woodward would be present for an update.

Other Business and Conservation Report**Duchaney Violation Update**

Bill Woodward, representing the Duchaney's, presented pictures to the members of the corrective work done at the site. He explained that they were creating a vernal pool as requested.

Ms. Schloss asked if there would be shrubs and Mr. Woodward said there would be shrubs as well as ferns.

Ms. Schloss referred to the pictures, commenting that she felt what was there before was much better.

Mr. Woodward acknowledged this, but felt the work done to date had come out very well and Ms. Schloss agreed.

Minutes: March 28, 2007, April 11, 2000 - For Review

Cmmr. Coven moved to approve the March 28, 2007 minutes as amended.

Cmmr. Murphy seconded.

UNANIMOUSLY VOTED

Cmmr. Coven moved to approve the April 11th, 2007 minutes as amended.

Cmmr. Murphy seconded.

UNANIMOUSLY VOTED

Longwood Road Update

Ms. Schloss reported that the DEP upheld the Commission's vote/Order of Conditions (local and state) for Longwood Road, although she added, Mr. Cullinane possibly might appeal it further to Superior Court.

35 & 39 Regatta Road Update

Ms. Schloss informed members that the property owners of 35 Regatta Road (Knight) and 39 Regatta Road (Currier) still need to adhere to their new Enforcement Order. She further reported that she understood Rand Currier would be removing the debris at 35 Regatta Road next week. She is presently looking for a consultant for the Commission and is seeking a recommendation from Rebecca/DEP.

Mosquito Spraying

Ms. Schloss told members that herbicide spraying along the utility Rights of Way would take place in Weymouth from June 30th to July 15th.

Bridge Street Dock

Ms. Schloss reported that she sent out an Enforcement Order re. the Bridge Street dock where the owner is putting in a dock without filing the proper paperwork. At this point the owner has been advised and he will be coming before the Commission at the next meeting after filing the appropriate forms. She told members that there was about 3 ft. of dry coke (coal) there. She planned on making a site inspection and speaking to Commr. Kent about it prior to the next meeting.

MWRA

Ms. Schloss told members that the MWRA will be coming before them to address alternative mitigation.

Staff Volunteer for Conservation Office

Ms. Schloss explained that the Town Planner from Scituate has volunteered to work in the office, adding she has just moved to Weymouth and wants to help out. She went on to say that Weymouth has a lot of conservation land and she thought it would be beneficial to obtain the history of the parcels re. location and size - possibly this is something she could do - and members agreed.

The next meeting will be held on June 13th, 2007 in Town Council Chambers at Weymouth Town Hall.

Adjournment

Cmmr. Murphy moved to adjourn at 9:34 PM.

UNANIMOUSLY VOTED

Respectfully submitted,

Susan DeChristoforo
Recording Secretary

APPROVED: _____
Scott Coven, Clerk

DATE: _____