

WEYMOUTH CONSERVATION COMMISSION

**Town Hall Chambers
July 18th, 2007 Meeting**

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

ALSO PRESENT: Conservation Administrator, Mary Ellen Schloss

Chairman Thompson called the July 18th, 2007 meeting of the Conservation Commission to order at 7:40 PM.

Chairman Thompson announced that since the Board was waiting for one member to arrive to constitute a quorum needed for the Woodbine Hearing, the present members would be addressing non-voting agenda items.

Minutes: May 9, May 23, for Signature, June 13th for review

Tabled until later in the evening.

Other Business and Conservation Report

Weathervane:

Ms. Schloss reported that she had met with the representatives from Weathervane last week and at that time they conducted a site visit, which included a review of the replication area. They also discussed outstanding issues/items; such as, the status of their Performance Bond. At that time she was informed that the applicant has been experiencing problems with the requirement re. the '10 year compliance period'. Ms. Schloss was told that they could possibly split the construction bond by first dealing with a \$70,000 Performance Bond - then dealing with the balance via a 'Letter of Credit' if that was acceptable to the Board (re. second year post compliance). Ms. Schloss informed members that the Planning Board does something similar. Before she went along with this suggested arrangement, she first wanted the Board's approval. She said the bond would be tied to the success of the wetland replication. At this point after reviewing the site, she told members that it looked great. She was expecting the applicant, Bristol Bros, to be coming back before the Board for a Partial Certificate of Compliance. During their meeting she also spoke with them about the status of the continuity of the monthly reports and their methodology for estimating groundwater impacts from pumping of the irrigation well. She felt that the ongoing monitoring was important due to the complexity of this project - and members agreed.

Merideth Way Vernal Pool:

Next Ms. Schloss reminded members that she sent them a report regarding the Vernal Pools on Merideth Way, noting it was an ANRAD (Resource Area Delineation) which called for the setting of the BVW line. She said that the consultant for the applicant, John Zimmer, has confirmed a second vernal pool. With regard to the 3rd vernal pool, she said that it couldn't be certified under the state at this time, but she felt it possibly might be done under the local regs. She went on to note that she also spoke with Dr. Wang about it and he felt there were more species in area "A" than area "C". He thought it would be considered a vernal pool under the local bylaw, adding they would be coming in under the limited project provision for the roadway. She went on to say that Dr. Wang planned on speaking with Wetlands Biologist/Mr. Zimmer about this. She wanted to point out to the members that she received the report on June 29th and at that time the vernal pool was dry.

Ms. Schloss further reported that Bristol Bros. were anxious to find out how the Commission will define/handle the pools. At this point she wanted to wait for Dr. Wang's written recommendations which she expected would be received prior to their next meeting.

Cmmr. Coven wanted to know if Dr. Wang would make another site visit to certify the vernal pools.

Ms. Schloss told him that there was not enough evidence this Winter to validate two of the three pools, although Mr. Zimmer has gone out to the site and confirmed two out of the three. At this point they are waiting on the potential 3rd vernal pool to verify if it meets the local definition - because it has an outlet, but she quickly added she didn't think that meant it could never have an outlet and meet the local definition. She explained that the applicant needs to go back before the Planning Board with regard to the vernal pools and the setbacks before they can make the can finalize the definitive line re. the 100 ft. setback.

Ms. Schloss next asked members if they would like Mr. Zimmer and Dr. Wang to attend the next meeting re. their findings and Chairman Thompson replied 'yes', adding it would help the members decide how they would proceed.

Ms. Schloss agreed to arrange to schedule the meeting, adding that she expected Dr. Wang would go out once more and take a new look at it.

VERNAL POOLS

Ms. Schloss told members that Andy Dignan approached her on the lot at Duncan Circle. She said he wanted to discuss if the lot contained a vernal pool, adding this was not caught on the prior development. Since that time the wetland scientist has looked at it and now this will be a new topic of discussion. She told the Board that she saw it as a 'certifiable vernal pool'. In closing she noted that John Richardson would be looking at it.

MWRA

Ms. Schloss informed members that the MWRA was seeking an alternative project re. providing mitigation. In regard to that she received an email from parents of the Wessagusset School who informed her about wetlands behind the school (between the school and Fore River) stating that they would like to see them restored. She suggested members might want to make site visit to see if they felt this would be a good project for the MWRA.

OTHER BUSINESS

Ms. Schloss explained to members that she just learned that when the Board members are needed to sign a formal document; i. e., Order of Conditions - all members are 'not' required to have been present for all the hearings to do so.

328 North Street - Cont'd Violation Hearing

Charles and Dawn Struzzieri

Ms. Schloss took a moment to distribute pictures of the property located at 328 North Street. She then reminded members of the Enforcement Order that was issued for this site on 07/14/2006. At that time the Board required the property owners, Dawn/Charles Struzzieri, to present a restoration plan to them last Fall (2006). Since this has not been done, she sent a letter to them requesting their appearance at tonight's meeting, and she received a letter from their attorney informing her that they would be out of town this evening and would not be able to attend. She since has called and spoken with Dawn who told her she was having financial difficulties and is trying to get the landscaping company to pay for the plan/work. At that point she suggested a meeting with the Struzzieri's as well as with Steve Ivas, their Wetlands Biologist, in an effort to find out if the work can be done in a less expensive way. She thought they could stake the area where the material must come out, but quickly added they would need to find a place to take it. She noted that Bill Woodward had found a place for Richard Murray and thought that the Struzzieri's might be able to use the same dumpsite. Dawn Struzzieri also informed her that she and her husband have hired Atty. Patrick Sullivan and she told the Administrator that she could call him if she needed.

Chairman Thompson commented that the wood was dry enough for firewood.

Ms. Schloss noted that the pieces of wood were very large, the size of logs and it was thought that they could be used for firewood, adding there was a lot of wood there.

Chairman Thompson asked if it was good for mulch and Ms. Schloss replied that it could be, commenting that a landscaping company might even be interested in it. She noted that the Struzzieri's attorney is supposed to call her.

Cmmr. Coven suggested to Ms. Schloss that she might want to give the Struzzieri's some landscaper's numbers.

Ms. Schloss thought that Bill Woodward might also be able to help.

(Cmmr. Kent arrived.)

Woodbine Road - Cont'd Hearing

Ryder Development

DEP File #81-1013

Notice of Intent

Cmmr. Kent moved to open the hearing for File 81-1013/Ryder Development.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Cmmr. Kent moved to continue the hearing for File 81-1013 until a majority of this was continued to August 15, 2007 those Commissioners who were able to vote on this project were present (Cmmr. Murphy and Cmmr. Gowen).

UNANIMOUSLY VOTED

18 Whipple Street - Continued Hearing

Mark Thoms - Applicant

Map 40, Bl 489, Lot 76

DEP File #81-1017

Notice of Intent

Cmmr. Kent moved to open the continued hearing for File 81-1017/Mark Thoms, Applicant.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Ms. Schloss reminded members that the hearing was continued to allow for receipt of the DEP File number, which has since come in. She then summarized the project, which called for work that would take place in the Riverfront area. Additionally they spoke about removal of the landscaping debris from the site.

Cmmr. Kent moved to close the public hearing for File 81-1017/Mark Thomas, Applicant.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

18 Whipple Street - Continued Hearing

Mark Thomas - Applicant

Map 40, Bl 489, Lot 76

DEP File #81-1017

Order of Conditions

Cmmr. Kent moved to issue a Standard Order of Conditions for File 81-1017/18 Whipple Street with Special Conditions as discussed by the Board and recommended by the Administrator.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

50 Hobson Street - Brian Shea/Applicant

Request for Certificate of Compliance (Cont'd)

DEP File #81-938

Ms. Schloss reminded members that Mr. Brian Shea/owner was supposed to be installing drywells, but he reported to her on Monday that to date this has not happened. He was then granted a 30-day Temporary Certificate of Occupancy. She said she wasn't sure if the installation of the drywells would be done before the 30 day Occupancy Permit expires.

Chairman Thompson suggested they request a second 30-day extension to insure there would be adequate time to perform the work outlined in the Conditions and the Administrator agreed.

Cmmr. Coven moved to request the Building Dept. approve a second 30-day Temporary Certificate of Occupancy for 50 Hobson Street, so that Brian Shea would have any additional time needed to satisfy the requirement re. the installation of drywells.

Cmmr. Kent seconded.

UNANIMOUSLY VOTED

1546 Commercial St. - Applicant: Jackson Square Dunkin Donuts

Map 19, BI 253, Lot 23

DEP File # to be assigned

Notice of Intent

Cmmr. Kent moved to open the hearing for Jackson Square Dunkin Donuts - File number still to be assigned by DEP.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Mr. Gary James/Engineer, representing the applicant, came before the Board. He explained to the members that he spoke with the applicant and that originally MBTA/Greenbush proposed to take a portion of the lot, but now has told them that they no longer need it. Based on that news, the applicant would like to extend the drive-thru, which is adjacent to the Herring Run. At this point they have a gravel parking lot and the area under discussion is 9,000 sq. ft. He noted that a 100 ft. buffer to the coastal land is noted on the plan. Additionally, they propose to make some improvements to the pavement and some minor changes re. the 100' buffer. They are also proposing to make some changes to the front island and will remove some landscaping in one area, while increasing the landscaping in another area.

Chairman Thompson asked if the proposed paved area would be further away from the Riverfront Area and Mr. James replied 'yes'.

At this point Mr. James distributed a new plan to the members, which proposed to provide some mitigation within the Riverfront Area - approximately 10,000 sq. ft., which he noted was a little different from their original proposal. He also noted that they would be introducing new landscaping along Skate Park.

Chairman Thompson asked if the site encompassed 31 trees and Mr. James acknowledged that it did, adding that the landscaper/architect is proposing to remove the diseased Austrian Pines, but would leave the Dogwoods.

Chairman Thompson asked him their anticipated cost to mitigate.

Mr. James estimated that the cost per tree would be about \$400-\$500 - plus \$3,000-\$5,000 for the shrubbery - with an estimated total cost of between \$18,000-\$25,000.

Chairman Thompson commented that he saw that as a pretty sizable amount of mitigation for the area.

Ms. Schloss was recommending shrubs and low-growth plants to fill the area with a natural setting (no grass).

Chairman Thompson asked Ms. Schloss if a larger scale mitigation project was being proposed for that area and Ms. Schloss replied 'yes', adding that the Division of Marine Fisheries is proposing work along the Riverfront Area, which includes an improved stone weir to help with the smelt. She said the DMF would also like to provide shade for the Herring Run. She has spoken with Brad Chase at the Division of Marine Fisheries and has asked him to look at this proposal.

Mr. James stated that their landscaper was looking at issues associated with walls/soil re. their mitigation efforts - with the goal of providing moisture to help the trees survive. He said he would also like to speak with the DPW about this work.

Ms. Schloss went on to say that she spoke with Bob O'Connor/DPW Director who committed to the watering of the new trees after they are planted. Additionally, she reported that the DMF (Div. of Marine Fisheries) offered to look at the planting plan and have their specialist look at it. She suggested that possibly the applicant might want to offer cash to the Commission/Town in lieu of performing the mitigation work themselves and have the DMF do it - or Riverways who have this type of expertise.

Mr. James said he would have no problem with that.

Ms. Schloss told members that the DMF would like to do the mitigation work/planting this Fall - using Algonquin Gas money. She added that she wasn't sure if the funds DMF has allotted them would be adequate, so when she told them about this project/mitigation funds they were very enthusiastic and receptive.

Chairman Thompson stated that by working together it is better for all.

Ms. Schloss agreed, adding that she would provide the DMF with Mr. James/Dunkin Donut's mitigation plan.

Chairman Thompson asked if any vegetation would be impacted with this proposal.

Ms. Schloss referred to Chip Fontaine's comments that included a request for a perc test, infiltration data and grading.

Ms. Schloss then noted her comments on the project:

- The request for detailed mitigation info
- erosion controls to be taken (move closer to the limit of work line)

Mr. James noted that they would be re-landscaping the on-site area, adding that the plan shows additional plantings (1,500-1,600 sq. ft.)

Ms. Schloss referred to the south end of the site re. the pavement modification, stating she would like to see erosion controls there.

Mr. James agreed to this request, adding it was a small area.

Lastly, Ms. Schloss noted that some information was missing from the filing, telling Mr. James they could speak later for clarification. At this point she distributed pictures of the site to the Board, commenting that she felt after tonight's discussion they were way ahead of the game.

The hearing was opened to the public.

Mr. Dominic Galluzzo/resident spoke, asking why 'shade' was being requested for the Herring Run and Chairman Thompson replied because it is conducive to the site. He explained that according to Science, the shade allows for more migration of the herring up the ladder.

Mr. Galluzzo said he would like to hear more about this - including the Clean-Up, etc. to the entrance of the Herring Run.

Chairman Thompson replied that if he wanted to make a presentation to the Board that could be arranged.

Mr. Galluzzo was concerned that the dumpster at the state park was located close to the fence (8'-10'), adding there is an apartment house there.

Chairman Thompson responded that they could look into having the dumpster moved.

Vicki Cronen was the next speaker. She asked if the DPW would be watering the 31 trees.

Ms. Schloss told her that the DPW Director has volunteered to maintain them. She felt the arrangement would work out fine, especially taking into consideration they would be working with the Mass. Division of Marine Fisheries.

Mr. James commented that he would love to work with the DMF, adding that he felt they have covered all the 'blank' spots.

Ms. Schloss reported that she would be speaking further with the DMF on this, commenting that she would like to settle on a dollar figure as soon as possible.

Chairman Thompson reiterated that the applicant gave a figure of between \$18,000-\$25,000.

Mr. James said he would get this information from Lindsay.

Cmmr. Coven felt it was a great mitigation plan, but he said if the plan between the applicant and DMF doesn't work out, he would like to have something in writing for the files.

Ms. Schloss said that she could include this in their Conditions. She wanted them to know that DMF has stated that mitigation is at the top of their priority list (actually #2).

(At this point the applicant submitted the certified abutter's cards.)

Cmmr. Kent moved to continue the hearing to August 15th, 2007.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

100 Bridge Street

Violation Hearing

Tony Turecki

Mr. Tony Turecki came before the Board. He told members that he was unaware he was in violation of the Wetlands Act.

Chairman Thompson explained to Mr. Turecki that it is not permissible to fill in the beach and that he needed to submit a survey and plan on how to correct this then return before the Board.

Mr. Turecki explained to the members that he was just trying to protect his property from the ocean and in response to his comments, he would be working on getting the information to the Board.

Ms. Schloss reiterated that he could remove the fill, but he must hire a surveyor to determine the mean high water level, etc.

Chairman Thompson felt a consultant would be needed.

Ms. Schloss further explained that the surveyor needs to define where the coastal beach is.

Mr. Turecki described that what was existing was a riprap wall and he would like to continue that wall along, but he didn't have the money to hire a professional. He told members that so far he has spent \$5,000 just cleaning up the debris. He wanted the members to know that he was very concerned with the environment and he wanted to work with Ms. Schloss on what he needed to do, adding he wanted to abide by the rules and regulations and once again stated that he has already spent thousands of dollars.

Chairman Thompson suggested he might want to call an Environmental Engineer to see about the costs involved. He said by moving the debris away he didn't see it doing any real damage, adding that Ms. Schloss could give him the names of someone that might be able to help him.

Chairman Thompson emphasized that the Rules and Regulations govern what you do and emphasized to Mr. Turecki that he needed to follow them.

Cmmr. Kent explained to Mr. Turecki that he was once in a similar situation, commenting that he understood it was not easy or fun. He wanted him to know that the Board was being very lenient with him under the circumstances.

Chairman Thompson told him that the next meeting would be in a month so he wanted him to get the information into the Board in a timely manner and be prepared to address the situation again at their August meeting.

Mr. Turecki stated that if he is to be limited in the work he needs to do and that he must build a distance back from the water his efforts would be counter productive and costly - because he needed to go straight across his property line in order to protect his house. He asked if the work he wanted to do might be 'grandfathered' in - or if not, could he apply for a Variance.

Chairman Thompson again urged Mr. Turecki to contact a wetlands consultant, noting that the Rules and Regulations are there to protect the environment for all of us. He also noted that many years ago you were allowed to do those types of things, but this is not the case any longer.

Ms. Schloss went on to inform the members that she saw similar activity two houses down and she planned on speaking with those property owners also.

Mr. Turecki told her he thought that work was a 're-build'.

At this point Ms. Schloss distributed photographs of the area to the members.

Mr. Turecki suggested all of those neighbors be brought in together and spoken to at the same time.

Ms. Schloss and the Chairman agreed.

Ms. Schloss commented that the wall being constructed looks like it is affecting two separate properties.

Cmmr. Kent moved to continue the Violation Hearing for Mr. Turecki to August 15, 2007.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

NEW BUSINESS:

411 Neck Street/Steve Parigian

Request for Determination

Steve Parigian came before the Board.

Chairman Thompson noted that Mr. Parigian wanted to extend the pavers around his home with planters.

Ms. Schloss told members that she met with Mr. Parigian's contractor today and referred to Mr. Parigian's plan, which noted 105 ft. to the edge of the proposed driveway to mean high water - a distance of 200 ft. She explained that the owner was not in a 'no disturb' area. She described the area as being 22 ft. wide between the addition and the pavers. She said she preferred that this work be handled via an N O I, but at this point she was okay with a Request for Determination. She told members she had been looking at redevelopment regulations under the Riverfront Act and it showed with an expansion, the definition says that the work must provide an improvement over the existing condition. She also noted that if the work took place closer to the river, they must provide mitigation. She said it could possibly be viewed as a 'minor modification' with plantings near the river. She was suggesting such plantings as Bayberry, Rosa Regosa.

Chairman Thompson asked Mr. Parigian if he planned on adding plantings and he replied 'yes'. He told Mr. Parigian he was supportive of the plantings and asked the Administrator how many she felt would be needed.

Ms. Schloss recommended 15 low ground shrubs/plants or bushes.

Mr. Parigian agreed with this, adding he was not interested in using the area that he was more interested in the view. He told members there was a pumping station at the corner with a fence and he could put plantings there.

Ms. Schloss said that plants were not primarily meant to beautify the area - but more for stabilization. She commented that he could also add shrubs.

Mr. Parigian said he could place them along side the seagrass too.

It was agreed that Ms. Schloss and Mr. Parigian would meet at the site to further discuss the details.

Cmmr. Kent moved to approve the 'minor modification' and that the work includes plantings as outlined by the Administrator.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

(Mr. Shawn Hardy came before the Board and Ms. Schloss took a moment to explain the Board's vote on a prior matter.)

Request for an Extension to Order of Conditions

Chairman Thompson recapped that all of the following (4) requests for extensions were essentially 'housekeeping' matters - that all projects were in order with the exception of the need to formally approve a delayed extension to their Orders of Conditions. Based on the Administrator's recommendation, the members approved the following extensions.

151 Wessagusset Road

Request for an Extension to Order of Conditions

DEP File #81-974

Ms. Schloss reported that this project has not yet started and the applicant didn't realize that his Order of Conditions was for 1 year only - thought it was 3 yr., the same as the state. She noted that with the recent changes the Order of Conditions would now be in effect for 3 years.

Cmmr. Kent moved to approve an extension to the Order of Conditions for 151 Wessagusset Road, File 81-974, to take effect one year from the date of expiration.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

36 King Cove Way

Request for an Extension to Order of Conditions

DEP File #81-902

Cmmr. Kent moved to approve an extension to the Order of Conditions for 36 King Cove Way. File 81-974, to take effect one year from the date of expiration.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Weymouth Neck Lot 1

Request for an Extension to Order of Conditions

DEP File #81-957

Cmmr. Kent moved to approve an extension to the Order of Conditions Weymouth Neck Lot 1, File 81-957, to take effect one year from the date of expiration.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

300 River Street - Lots 24 and 25/East Bay

Request for an Extension to Order of Conditions

DEP File #81-958

Cmmr. Kent moved to approve an extension to the Order of Conditions for 300 River Street/Lots 25 and 25/East Bay, File 81-958 to take effect one year from the date of expiration.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Weymouth Woods Medical Center

Request for an Extension to Order of Conditions

DEP File #81-977

Ms. Schloss reported that Weymouth Woods had two requests before the Board for two different extensions; i.e., one for a 1-yr. extension and the other for a 2-yr. extension to allow for time to ensure the replication area is taking. She further explained that the applicant was presently using part of the Medical Center without a Certificate of Compliance.

Ms. Schloss explained that they needed a valid permit so that they could occupy the building, but first they needed to have their extension in place. At this point she was recommending a 1-year extension, then a partial Certificate of Compliance for the building and drainage, but in order to approve this they would need to submit an 'as-built' plan.

Cmmr. Kent moved to approve a 1-year extension to the Order of Conditions for File 81-977/Weymouth Woods Medical Center.
Cmmr. Coven seconded.
UNANIMOUSLY VOTED

47 Village Road

Request for Certificate of Compliance

DEP File #81-967

Cmmr. Coven move to issue a Certificate of Compliance re. 47 Village Road, File 81-967 based on the Administrator's recommendation.

Cmmr. Kent seconded.

UNANIMOUSLY VOTED

59 Pheasant Hill Road

Request for Certificate of Compliance

DEP File #81-965

Cmmr. Coven move to issue a Certificate of Compliance re. 59 Pleasant Hill Road, File 81-965 based on the Administrator's recommendation.

Cmmr. Kent seconded.

UNANIMOUSLY VOTED

OTHER BUSINESS (Cont'd) - 22 Greenvale Avenue

Ms. Schloss informed members that the owner of 22 Greenvale Avenue would like to build a shed (Has no Building Permit) within the 25 ft. No Disturb Zone/Whitman's Pond. She stated that the area is currently disturbed. Further that the owner had a recent Order of Conditions for his house and when the owner spoke with Ms. Schloss, he told her that it was his understanding he had permission to build the shed when the house was built and it was covered under the previous Order of Conditions.

Cmmr. Kent commented that irregardless, the shed can't be built without a plan.

Chairman Thompson asked when the area was filled with gravel and Ms. Schloss responded that she didn't know, adding that in the late 90's the area was all wooded/treed. He told her that he did not clear the land, that possibly the past builder did. She noted that the house there was the original, but then it was torn down and a modular was constructed in its place.

Cmmr. Kent wanted to reaffirm that no matter, the person still cannot build anything within 25 ' of the No Disturb Zone.

The Board supported Ms. Schloss on her findings.

Lot 2/Tanner Terrace

Cmmr. Coven asked about implementing a simplified review procedure under the new 2005 Wetlands Protection Act - Come in with ANRAD, define the wetland line (extend the No Disturb to 50 ft.) He felt that the members could give these new recommendations a shot.

Minutes: May 9, May 23, for Signature, June 13th for review

Cmmr. Kent moved to approve the minutes of the June 13, 2007 meeting as amended.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Regatta Road Update

Ms. Schloss told members that she spoke with DEP's Section Chief to confirm the Enforcement Order for Regatta Road under the Wetlands Protection Act - which required the party in violation pay money to the Conservation Commission so that they could hire a consultant. She noted that the Enforcement Order was under discussion. She was told that they could possibly require this under the local regulations (re. Order of Conditions and Notice of Intent), but not under the state regulations. She said she would like to get the state's consultants service out there with her. At this point she reminded members that they have Steve Ivas' planting plan and she thought they might be able to use that - but again she reiterated, she would like to take advantage of free technical assistance from the state.

The Board agreed with her.

The August 15th, 2007 meeting will be held at Weymouth Town Hall/Town Council Chambers at 7:30 PM.

Adjournment

Cmmr. Coven moved to adjourn at 9:26 PM.

UNANIMOUSLY VOTED

Respectfully submitted,

Susan DeChristoforo
Recording Secretary

APPROVED: _____
Scott Coven, Clerk

DATE: _____