

Weymouth Conservation Commission

Council Chambers, Town Hall

July 20, 2011 Meeting

Present: George Loring, Chairman
Steve DeGabriele, Vice-Chairman
Scott Dowd, Commissioner

Not Present: Adrienne Gowen, Commissioner
Laura Harbottle, Commission Clerk

Also Present: Mary Ellen Schloss, Administrator

Recording Secretary: Patricia Fitzgerald

Cmmr. Loring called the July 20, 2011 meeting to order at 7:00 PM in the Council Chambers at Weymouth Town Hall, Weymouth, MA.

Minutes

Cmmr. DeGabriele moved to accept the minutes from June 8 and June 22, 2011 as written and amended, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

Certificate of Compliance

345 Neck St.

DEP File # 81-980

Ms. Schloss explained that this COC was for a pier and dock built on marsh/Riverfront adjacent to the Back River; a float stop to keep the float from grounding during low tide was required. When they were driving monopoles at the end of the saltmarsh they could not get the barge as close to the land as they wanted and so an additional set of piles had to be installed. Other than this, the project looks like what was approved and Ms. Schloss recommended approval of the COC.

Cmmr. Dowd moved to approve the Certificate of Compliance, seconded by Cmmr. DeGabriele.
UNANIMOUSLY VOTED

**Emergency Authorization Request
Fort Point Road Seawall Repair
Town of Weymouth, Engineering
Map 2, Block 10, 12**

Cmmr. DeGabriele moved to open the seawall discussion, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

Chip Fontaine, Town Engineer, appeared before the Commission. He provided a narrative titled "Description of Proposed DPW Emergency Seawall Repairs," dated 7/19/11. He explained that the repair work will be done in-house by John MacLeod and added that the northern section also needs repair. He said there has been erosion and the poured concrete has lost most of its strength and may not survive the winter. No equipment other than a concrete truck will be used.

Ms. Schloss recommended that no heavy equipment on the beach or foot traffic on the marsh be allowed and that she be notified when the work begins.

Mr. Fontaine said the work will begin around August 5th or 6th and, if funds and man power are available, will take a couple of weeks.

Cmmr. DeGabriele moved to approve the emergency seawall repair, seconded by Cmmr. Dowd.
UNANIMOUSLY VOTED

**Notice of Intent Hearing
Town of Weymouth, Engineering
Fort Point Seawall
Map 2, Block 10, 12
DEP File # 81-1088**

Cmmr. DeGabriele moved to open the public hearing, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

Chip Fontaine was joined by Ron Bourne, president of Bourne Consulting Engineering. He said Russell Titmuss, primary Project Engineer, recommended the concrete 'Band-aid' repair to stop sink holes and erosion and to stabilize the sea wall, temporarily. The project went well, but this repair can't be relied upon to last through next winter. He said that permanent repair is needed, once the funds are available, but not knowing where the money will come from (or when) the repair that is done now may need to last for several years. The DPW is therefore submitting the Notice of Intent (dated July 1, 2011) and plan

(Emergency Wall Repair, Weymouth Seawalls, Fort Point Road, prepared by Bourne Consulting Engineering, dated 6/17/11).

Mr. Fontaine told the Commission that a trench will need to be excavated around the back of the existing concrete wall to prevent erosion. He stated that this will require heavy equipment and agreed with Ms. Schloss to use a low-ground pressure tracked vehicle to place the stone. Excavation will be kept within (15) ft. of the existing toe of revetment. He spoke to Harbormaster Paul Milone (the town shellfish warden) who said he did not think shellfish will be affected in the (15) ft. area. However, the equipment will need to get further away from the wall when it drives around the drain outflow pipe.

Mr. Bourne said the work 'will start at one end (of the beach) and go to the other end'. The Commission received the comment letter from the Division of Marine Fisheries (from John Logan to Conservation Commission date 7/20/11).

Ms. Schloss said she spoke to John Logan of the Division of Marine Fisheries, who talked to Devon Winkler, and their concern is about encroachment of habitat.

Mr. Bourne suggested if there are shellfish issues, that the shellfish beds be dug out.

Ms. Schloss said she will redo the list of conditions.

Cmmr. Dowd moved to close the public hearing, seconded by Cmmr. DeGabriele. UNANIMOUSLY VOTED

Cmmr. DeGabriele moved to issue a standard Order of Conditions with conditions discussed for the seawall repair, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

Norma Ave. Lot 104, Notice of Intent - Hearing
Ryder Development Corp.
Map 24, Block 318, Lot 104
DEP File # 81-1084

Cmmr. DeGabriele moved to open the public hearing, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

Appearing before the Commission were Rod Gaskell, wetland scientist, and Al Trakimas, engineer and partner, of SITEC Environmental; abutter cards were given to Ms. Schloss.

Mr. Gaskell said that the NOI that was submitted in February 2011 did not have the required wetland documentation and report; those findings were submitted June 24th and are the topic for discussion.

Mr. Gaskell gave a history of the project and told the Commission that the fill was grandfathered under the Wetlands Protection Act because it dates back prior to December 1990.

Ms. Schloss stated because it is within (300) ft. of Braintree, Braintree Con Comm and Braintree abutters need to be notified.

The documents submitted to the Commission are: Notice of Intent prepared by SITEC Environmental (dated 2/8/11), Wetlands Field Report prepared by Rod Gaskell of SITEC Environmental (dated 6/24/11), Notice of Intent site plan dated 1/31/11 and revised plan dated 3/25/11.

Mr. Trakimas stated that he sent a Fed Ex to Kelly Phelan, Braintree Conservation Agent, "a new copy" a week ago, but hadn't heard anything yet, and said that the Braintree abutters have been notified.

Cmmr. DeGabriele asked if the fill on top is newer than 1990.

Mr. Gaskell stated the soil probes show that it is not recent and that the gravel dates back to the sewer lines. He said it is stable and has given rise to upland vegetation. He stated the leaf piles are new and probably dumped by landscape companies.

Cmmr. DeGabriele commented that the grandfathered fill is not a continuing violation but it did not allow it to be treated as upland area.

Cmmr. Loring asked Ms. Schloss if she thought the flags were true, to which she replied that 'hybric soil is under'.

Mr. Gaskell explained that the 1990 'grandfathered' date did not make any difference, if it is a functioning wetland.

Ms. Schloss said that she did not see the trees to be removed. She added that if the debris on Lots 2 and 4 could be cleaned up "that would be great" and then asked if all the trees had to be removed in the vicinity of the driveway.

Mr. Gaskell said (after some discussion) that all the trees did not have to come down.

Mr. Ryder suggested a site visit to see if the access could be moved in order to save some trees.

Ms. Schloss said she would like to see what could be done to stop the dumping that is done there.

Mr. Ryder suggested that a house with a private drive should stop it.

Cmmr. Dowd asked how much of the historic upland area will be left outside of the lawn area; Mr. Trakimas said it would be (25) ft. back from the historic fill line.

Cmmr. Dowd asked if the buffer zone is now upland (it had been wetland).

Mr. Gaskell said he is not exactly sure where the historic wetland is but it is now upland, including the buffer zone.

Cmmr. DeGabriele moved to continue the public hearing to Aug. 17th, seconded by Cmmr. Dowd.
UNANIMOUSLY VOTED

Notice of Intent – Hearing
21 Woodbine Road
Henry L. Williams, Jr.
Map 30, Block 391, Lot 18
DEP File # 81-1084

Cmmr. DeGabriele moved to open public hearing, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

The applicant has requested a continuance to Aug. 17th.

Cmmr. DeGabriele moved to continue the public hearing until August 17, 2011, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

Notice of Intent – Hearing
50 Duncan Circle
Vesa Nevalainen
Map 31, Block 351, Lot 24
DEP File #81-1089

Cmmr. DeGabriele moved to open the public hearing, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

Appearing before the Commission were Scott Arnold, Neil Murphy Associates, representing owner Vesa Nevalainen. Mr. Arnold submitted abutter notification cards to Ms. Schloss.

This is a Notice of Intent for an addition to a single-family home. Documents submitted to the Commission are: Notice of Intent forms, Environmental letter report from Ivas Environmental (dated 6/16/11))(Neil J. Murphy Assoc. dated 6/30/11).

Steve Ivas, wetland scientist, examined the site and identified and delineated the wetlands. There was found to be a Bordering Vegetated Wetland at the southwest corner as well as a potential vernal pool. The property was recently made into sub-divisions, Duncan and Cardinal Circles.

Mr. Nevalainen's property is at the end of Duncan Circle. Mr. Arnold told the Commission that he wants to add a 14' X 27' 2-story addition. He talked about the vernal pool, but Ms. Schloss clarified it as a (100) ft. resource area and a (100) ft. buffer zone to the resource area. To the east is a (100) ft. buffer zone to the BVW. The addition is outside of the (100) ft. vernal pool resource area and just inside the buffer zone to the BVW.

Mr. Arnold described the lawn/yard area as uneven and a mix of lawn and ledge. He explained that behind the house there is only a ledge outcrop and a wooded area, so the ledge is the only thing that can be made into a level yard. He added that the ledge gets up to an elevation of (120) ft. and they want to cut it down by (6) ft. to an elevation (114) ft.; they will also have to take down a few trees along the southern line.

Cmmr. Dowd asked how the ledge will be removed.

Mr. Arnold said it will be blasted out.

Cmmr. Dowd if this slopes away from the vernal pool; Mr. Arnold replied 'yes'.

Cmmr. DeGabriele asked how water coming off the rock face will be dealt with.

Mr. Arnold said that it's a short distance and there isn't a lot of run-off.

Ms. Schloss asked how any impact to town land will be prevented.

Mr. Arnold said it is a 2:1 slope and offered that it could be made steeper so as not to be so close to the boundary.

Ms. Schloss requested that no blasting be done during the breeding season and also asked that the town boundary be staked out, so a construction fence could be erected to prevent encroachment.

Ed and Patricia Crosby of 42 Duncan Circle expressed concern that blasting would impact the wall behind their house.

Ms. Schloss told them that the Conservation Commission could talk about impact to the resource area only. She referred the Crosby's to the Building Dept. to see the plans, and to the Fire Dept. for any blasting concerns.

Cmmr. DeGabriele moved to close the public hearing, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

A discussion followed to determine the special conditions:

- Prevent encroachment onto town land and neighbor's land by erecting a construction fence.
- Stake property boundaries in the vicinity of blasting.
- Pumps are to be relocated outside of resource area when work is completed.
- Grading should be towards lawn, not towards resource area.
- Time of year for blasting is restricted to between March 15 and May 15 (when vernal pool is active).

Cmmr. DeGabriele moved to issue a Standard Order of Conditions with special conditions as mentioned, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

Certificate of Compliance
Harvest Ministries
270 Libbey Parkway
DEP File # 81-791

Scott Arnold of Neil Murphy Associates appeared before the Commission along with Hayden "Joshua" Salazar of Harvest Ministries and Jorge Ramirez, Construction Project Manager.

Ms. Schloss explained that the Order of Conditions for this project was issued in Dec. 1999 and expired in Dec. 2007, so they were asked to come in for their Certificate of Compliance. She said that all drainage is complete, catch basins are in, piping is in and the blasting is done; the parking lots on the north and east side of the building have not been completed, nor the grading or paving done for these parking lots.

Mr. Arnold expressed that the applicant wants to finish the parking lot as soon as possible (under the existing order) and he wants to complete it within one year.

Ms. Schloss said that a partial COC could be issued along with a letter stating when the work is expected to be finished.

Mr. Ramirez suggested that July 20, 2012 would be an estimated date of completion.

Cmmr. Dowd moved to issue a partial Certificate of Compliance for the work already done with the remaining work done by July 20, 2012 under the existing Order of Conditions, seconded by Cmmr. DeGabriele. UNANIMOUSLY VOTED

Arelo, Inc.
Violation Hearing

Cmmr. DeGabriele moved to open the violation hearing, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

Robert Arelo of Arelo Landscape appeared before the Commission. He explained that they are doing the landscaping for the new veterinary clinic and the water was taken to do hydro seeding.

Ms. Schloss and the Commission suggested they would like a couple of trees planted, as a form of mitigation.

Cmmr. Loring told Mr. Arello that the Wetlands Protection Act prohibits unauthorized water withdrawal from lakes and ponds anywhere in Massachusetts.

Mr. Arello stated he would call Ms. Schloss when he returns to Weymouth (in 3-4 weeks) and he will plant (2) 2" caliper trees.

The Commission considers this matter closed.

**Wampum Street
Violation Hearing**

Cmmr. Dowd moved to open the violation hearing, seconded by Cmmr. DeGabriele. UNANIMOUSLY VOTED

Ken Chase of New Wampum Realty, LLC (formerly Atlas Companies), developer, and Karen Sebastian, landscape architect, appeared before the Commission. Seventeen (17) trees were taken down on town-owned conservation land by a landscaping company hired by the developer.

Karen Sebastian has been hired by the developer and has prepared a restoration plan, (Proposed Landscape Restoration Plan, dated 7/6/11, accompanied by a letter to the Commission dated 7/11/11). (17) red and white oak trees will be planted along with some witch hazel and blueberry shrubs. These will be kept watered with an irrigation system or a water truck will be brought in.

Mr. Chase told the Commission the property corners will be staked for the new owners.

Cmmr. DeGabriele moved to issue an enforcement letter with the restoration plan discussed, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

It was determined that this work will be done by September 1st and Ms. Schloss will be notified when works begins and ends.

Ms. Schloss asked Ms. Sebastian how she will ensure that watering is done next year; Ms. Sebastian explained that the plantings will have bags left in place over the winter.

**209 Belmont Street
Violation Hearing**

Cmmr. DeGabriele moved to open the violation hearing, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

Appearing before the Commission were Paul Campbell, owner, Mr. Farrell, owner of Farrell Excavating Company and James Grant, landscape company laborer.

Mr. Grant told the Commission that he brought in fill, dumped it in the back yard and leveled it off. He stated that he was unaware it was a wetland area and the fill 'went too far' and went onto an easement.

Ms. Schloss said N Star will need to approve this restoration and the plan will need to show proposed contours and planting plan. She added there is a potential vernal pool that is a habitat for some amphibians and explained that the Commission has jurisdiction within (100) ft. of a vernal pool and the town will want the area naturalized.

Ms. Schloss said it will need to be determined what is happening with drainage and is not sure what should be done about the drainage pipe.

Mr. Grant said that the pipe goes out to the highway and is an outlet.

Mr. Campbell stated that water is diverted from the property via a (2) ft. pipe under Route 3.

Cmmr. DeGabriele recommended a survey be done to know where the property line is located.

Mr. Campbell concluded by stating that the pipe will be removed and he will hire a landscaper to determine the plant list.

Cmmr. Dowd moved to continue the violation hearing to Aug. 17th, seconded by Cmmr. DeGabriele.
UNANIMOUSLY VOTED

Conservation Report

Ms. Schloss updated the Commissioners on construction, permitting, compliance and enforcement matters.

Adjournment

Cmmr. Dowd moved to adjourn the meeting at 10:10 PM and to meet again at 7 PM on Aug. 17, 2011 at Town Hall Council Chambers, seconded by Cmmr. DeGabriele. UNANIMOUSLY VOTED

Respectfully submitted,

Patricia Fitzgerald

Approved:

Laura Harbottle, Conservation Clerk

Date