

WEYMOUTH CONSERVATION COMMISSION

Town Hall Chambers

August 15th, 2007 Meeting

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

ALSO PRESENT: Conservation Administrator, Mary Ellen Schloss

Chairman Thompson called the August 15th, 2007 meeting of the Conservation Commission to order at 7:40 PM.

Minutes: June 13 for signature, June 27 for review

Members agreed to table the minutes until later in the meeting.

Lovell's Grove and King's Cove Conservation Restriction

Discussion and Signature

Douglas Henry/Sherin & Lodgen and Ted Millette/Fore River Development came before the Board. Mr. Henry explained that they were before the Board to discuss the Conservation Restriction for Lovell's Grove and King Cove Parkland.

It was noted that the State law requires that the Conservation Commission be the signatory for any conservation easements. Additionally, previously the Commission reviewed the park plans and issued an Order of Conditions - and Town Solicitor George Lane and Jim Clarke, Director of Planning and Community Development have approved the conservation restriction document.

Mr. Henry explained that this land must be retained for passive recreation; i. e., bicycling, picnics, etc. He noted that their agreement with the Town contained language that states "the town has the right to modify it".

Cmmr. Kent asked about the maintenance schedule and Mr. Henry explained that there were two components; i. e., Lovell's Grove and the King's Cove Walkway to the Point - which is the Town's responsibility. Also, there are the two (2) parking lots/road.

Mr. Henry went on to tell members that they were granted public access to use the road and parking lots, which they have agreed to maintain, reiterating that the Town will be the responsible for the maintenance of Lovell's Grove and King's Cove Walkway.

Ms. Schloss had some questions regarding the maintenance obligations re. the roadway - including the storm water system. She noted that Page 5 of their submittal didn't specifically talk about the roadway. She wanted to confirm with Mr. Henry that if the work was outside of the parkway, it would automatically be his responsibility.

Mr. Henry told her that they could include the area outside the parkway in their revised plan.

Cmmr. Kent asked if the park lands were viewed as seasonal and Mr. Henry replied 'no', it would be year round, adding they could make Lovell's Grove and King's Cove seasonal.

Chairman Thompson wanted to confirm that all items addressed this evening would be included in the final document that would be signed and Mr. Henry confirmed that it would.

Cmmr. Kent moved to sign the amended documents as agreed to by all parties this evening.

Cmmr. Murphy seconded.

UNANIMOUSLY VOTED

Ms. Schloss wanted to make sure the finalized/signed documents could be taken back this evening.

Mr. Henry responded that he had five (5) copies with him, and once the changes were made - and Ms. Schloss, Jim Clarke and Town Solicitor George Lane were okay with them - they would be submitted to the state.

Members signed the document and the meeting concluded.

Woodbine Road - Continued Hearing

Notice of Intent

Ryder Development

DEP File #81-1013

Cmmr. Murphy moved to open the hearing for Woodbine Road, File 81-1013.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Cmmr. Murphy moved to continue the hearing to the September meeting, until a quorum of members who have the authority to vote on the project were present.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

50 Hobson Street

Request for a Certificate of Compliance, Continued

DEP File #81-938

Cmmr. Murphy moved to open discussion regarding the request for a Certificate of Compliance re. File 81-938.

Commr. Kent seconded.

UNANIMOUSLY VOTED

Chairman Thompson explained that the reason for the delay was because the drywalls had not been installed; now they have and a Certificate of Compliance was in order.

Cmmr. Murphy moved to approve a Certificate of Compliance, with the Administrator's approval re. File 81-938, 50 Hobson Street.

Cmmr. Coven seconded

UNANIMOUSLY VOTED

1546 Commercial Street, Dunkin Donuts

Notice of Intent - Continued Hearing

Jackson Square Donuts

Map 19, Bl 253, Lot 23

DEP File #81-1018

Cmmr. Murphy moved to open the hearing for 1546 Commercial Street, Applicant - Dunkin Donuts.

Cmmr. Coven seconded

UNANIMOUSLY VOTED

Chairman Thompson noted that the hearing was continued in part for receipt of the file number, which has since come in from DEP. Additionally, he said they were waiting for comments on the project from Chip Fontaine, the Town's Engineer - which has also come in.

At this point Gary James, representing the applicant Dunkin Donuts, distributed a handout to the Board.

Chairman Thompson acknowledged that the planting plan by the Ma. Division of Marine Fisheries (DMF) had been submitted.

Ms. Schloss interjected that the plan called for additional work along the Herring Run.

Chairman Thompson reminded those present that at the last hearing it was agreed by the applicant that he would make a donation for mitigation work in lieu of submitting/administering a mitigation-planting plan.

Ms. Schloss told members that the applicant emailed her a plan along with a cost estimate, which Mr. James distributed. It was stated that the applicant feels comfortable with the donation estimated to be \$32,348. She then distributed the proposed special conditions for their Order of Conditions for the Board's consideration.

Cmmr. Coven asked when DMF would be doing the actual planting and Ms. Schloss replied that she hoped it would be done this Fall, although at this point the timing was not definite. She quickly added that if it wasn't this season, it most likely would be next Summer - but not during the migration season. She said she would feel better if they could leave the date flexible.

Cmmr. Coven commented that possibly the DMF could select another area where the timing/migration of the fish would not be a factor.

Ms. Schloss said they wanted to do work 'in' the Run and stone weir - which would include removing the sediment.

Cmmr. Coven agreed with their wishes.

Chairman Thompson appreciated the clarification, commenting that the reasoning made perfect sense. He felt totally confident re. the planting mitigation work proposed re. the Run based, in part, on the total amount of money that has been set aside.

Ms. Schloss informed members that they have proposed a landscaping plan and a meeting has been set for September 6th with the DMF, Riverways, Weymouth DPW and the applicant's landscaping architect. At that time they planned to make any final adjustments to the plan. She noted that the Back River Trail goes right by this area, adding that eventually there will be a 10 ft. wide pathway. In her comments, Ms. Schloss included details on the project - which included:

- the catchbasins should be protected from siltation (at the edge of the driveway)
- there should be a daily inspection of the premises re. trash

Chairman Thompson asked if she was okay with approving their Order of Conditions and she replied 'yes'.

Cmmr. Murphy moved to close the public hearing for Dunkin Donuts, File 81-1018.

Cmmr. Coven seconded

UNANIMOUSLY VOTED

1546 Commercial Street, Dunkin Donuts

Order of Conditions

Jackson Square Donuts

Map 19, Bl 253, Lot 23

DEP File #81-1018

Members discussed the special conditions proposed by the Administrator.

Cmmr. Murphy asked if the Town of Weymouth would put up some type of sign. In reviewing the draft special conditions Commissioners Murphy and Thompson questioned if a sign crediting Dunkin Donuts for their contribution was really needed and asked that the condition be removed.

Ms. Schloss and Cmmr. Murphy felt that the Town of Weymouth could create the sign.

Cmmr. Murphy commented on the proposed sign - stating that in the past these types of signs were used primarily to acknowledge the party who 'maintained' the landscaped area.

Chairman Thompson thought they might strike out part of Condition 5, asking the applicant if Dunkin Donuts felt strongly about having a sign of this nature and he replied 'no'.

It was agreed that they would strike out Special Condition #5.

Cmmr. Murphy moved to approve a Standard Order of Conditions for Dunkin Donuts, File 81-1018, plus the special conditions (with the exception of #5) as proposed by the Administrator and agreed upon by the members.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

File Note: Members discussed the following (2) related Violation Hearings together.

104-114 Bridge Street

Violation Hearing

Anthony Vo

100 Bridge Street

Continued Violation Hearing

Tony Turecki

Mr. Tony Turecki spoke for Mr. Anthony Vo at Mr. Vo's request re. 104-114 Bridge Street - as Mr. Vo could not be present.

Chairman Thompson reminded Mr. Turecki that he had agreed at a previous hearing to hire a wetlands consultant and Mr. Turecki replied that since that hearing they have come up with an agreement and he and Mr. Vo will be hiring a consultant.

Chairman Thompson explained that the Commission will be issuing an Enforcement Order for 114-114 Bridge St. He requested Mr. Turecki comply with within the time frame. He then asked Mr. Turecki if they had hired a consultant.

Mr. Turecki replied 'not at this time'.

Chairman Thompson urged him to hire a consultant right away and to return before the Board with a specific mitigation plan for the Commission's consideration. He then asked the Administrator for a timetable.

Ms. Schloss said that a deadline of 30-45 days from the date they issued the Enforcement Order was appropriate and members agreed.

Cmmr. Murphy moved to issue an Enforcement Order to Anthony Vo/Owner, 104-114 Bridge Street and Tony Turecki/Owner, 100 Bridge Street and that both parties be required to hire a consultant to come up with a plan for the mitigation work that needs to be done re. violations that have taken place at their waterfront homes - and that the plan be submitted to the Commission/Administrator thirty (30) days from issuance of the Enforcement Order.

Cmmr. Coven seconded.

Discussion: Mr. Turecki confirmed that he planned to come back before the Board at their next meeting in September.

Ms. Schloss noted that the next meeting would take place on Wednesday, September 12th, 2007.

Mr. Turecki felt it would be better for all parties/Commission if they all worked together.

Ms. Schloss requested he file a Notice of Intent OR that he return the land to its original condition within 30 days of the Enforcement Order.

Chairman was in agreement.

Ms. Schloss wanted to note for the record that they were speaking about two separate properties; i. e., 100 Bridge Street and 104-114 Bridge Street.

Chairman Thompson noted that the Enforcement Order issued to Mr. Vo would note that although both properties are separate, both owners would be working together to rectify their violations.

Lot 2 Tanner Terrace

ANRAD - Abbreviated Notice of Resource Area Delineation - Hearing

Mark McSharry
Map 64, Bl 636, Lot 55
DEP File # 1019

Cmmr. Kent moved to open the hearing for File 81-1019, an ANRAD for Mark McSharry, Lot 2/Tanner Terrace.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

(It was noted that this is the first filing under the revised DEP regulations which allows for a 'simplified review' using the ANDRAD process.)

Mr. Scott Arnold, Engineer/Arnold Associates, representing the applicant, came before the Board. He noted that they were proposing to construct a single family dwelling on Lot 2 of Tanner Terrace. He explained that it was a recently approved subdivision. He stated that they had filed an ANRAD and a plan for the proposed house to be located near the street, but not closer than 50 ft. from the wetland boundary.

Chairman Thompson asked about the impact to the resource area.

Mr. Arnold told members that John Richardson/Wetlands Biologist re-examined the wetland line to confirm that the location of the house was greater than 50 ft. from the wetland - and this was done.

Ms. Schloss agreed on the delineation.

Mr. Arnold stated that the plan shows where the house would be constructed, adding that haybales would be placed 47 ft. behind the house and would also serve as the 'limit of work' line.

Chairman Thompson felt the plan was pretty straight forward. He asked the Administrator if she was okay with accepting and approving the ANRAD as submitted and she replied 'yes', commenting that an ANRAD has standard DEP conditions.

Ms. Schloss noted that the ANRAD would need to be recorded and would also require a Certificate of Compliance. Additionally, she stated the applicant would be required to notify the Commission before work begins so she can confirm that erosion controls are in place.

Chairman Thompson opened the hearing to the public.

No one spoke.

Cmmr. Kent moved to close the public hearing for Lot 2/Tanner Terrace, DEP File # 1019.

Cmmr. Murphy seconded.

UNANIMOUSLY VOTED

Cmmr. Murphy moved to approve the ANRAD for File 1019.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

#81-996 Meredith Way - Vernal Pool Discussion (Informal Discussion)

Mr. Carl Erickson and John Zimmer, representing the applicant Bristol Bros., came before the Board. David Bristol represented the applicant.

Additionally Dr. Desheng Wang, the Board's consultant, was also present.

Mr. Erickson told members that the question re. the disposition of (2) vernal pools needed to be resolved, adding that Dr. Wang would also be addressing this issue. He noted that John Zimmer recently inspected the site and has provided information on his findings to the Administrator.

Mr. Erickson went on to say that a report dated 8/3/07 from Dr. Wang identified a potential vernal pool in Area "C". With regard to the 'front' vernal pool, John Richardson/Wetlands Biologist (employed by the applicant), found one identifying specie.

Chairman Thompson asked, if in accordance with the local regulations, they are viewed as a vernal pool.

Mr. Zimmer replied that he addressed this in his report, which stated he viewed it as an outlet, but in further discussion with Dr. Wang, it was viewed as an overflow outlet and is to be treated as a vernal pool under the local regs.

Chairman Thompson commented based on that finding, the Commission would treat the area as a resource and all agreed.

Mr. Erickson referred to the future use of the site, that access to the site would have to be between the (2) vernal pools. Based on that they would treat it as a 'limited project'.

Ms. Schloss said she would like to hear about a Habitat Study from Dr. Wang.

Dr. Wang came before the Board. He told members that all involved parties settled the main issue - which was 'yes' it is a vernal pool. He continued to describe the site/plan to the members. He said that with regard to the wildlife habitat, he would like to see a more detailed analysis with regard to the wildlife habitat and the potential use of the buffer zone re. analysis and mitigation.

Ms. Schloss asked Dr. Wang if he felt it would be useful for the Commission to make a site inspection in the Spring.

Dr. Wang didn't feel it would be necessary for the purpose of defining the vernal pool, noting that the Town Ordinance is much stricter than the state. He said he had a stronger concern re. the future impact, which he would like to minimize.

Mr. Zimmer stated that he didn't find any amphibians this year, but he commented they could look further at the area as if there were.

Weathervane Project Update

Next Chairman Thompson then asked for a Weathervane Project update.

Mr. Erickson referred to their mathematical model completed by Gale Engineering. He noted that Ms. Schloss and Dr. Wang have not had an opportunity to review it as yet. It was agreed that the applicant would return once this was done. He told members that he would like to test the model where they have been collecting data.

Mr. Erickson next addressed the status of the Bonding. He told members that they were unable to secure a single \$100,000 Bond, but have since secured a \$30,000 Bond for wetland replication, plus an additional \$40,000 for stormwater management through a Letter of Credit.

Chairman Thompson asked about the balance; i.e., \$30,000 due (re. the \$100,000 Bond Requirement) noting it was for 10 years and it would have to be Cash Security.

Ms. Schloss asked about the status of the pump test of the irrigation well.

Mr. Erickson responded that August/September was their time frame.

Ms. Schloss asked if they were using the well and Mr. Erickson told her it was on-line. He explained the deep bedrock well is transferred and the pumping system has been installed, etc. Based on that they can provide the Commission with an 'as-built' plan, adding that they are looking at starting the seeding over the next few weeks.

Ms. Schloss asked about the irrigation re. the deep bedrock well and Mr. Erickson told her it was being captured and they are still fine-tuning it.

Ms. Schloss asked about the pump test and Mr. Erickson replied that they still need to run the pump test.

Ms. Schloss referred to the pump test requirements in their Order of Conditions, with Mr. Erickson interjecting that there was one pump test done in April/May - and it was noted that Dr. Wang wanted the testing done in August/September.

Mr. Erickson identified one baseline well on Shea and one at the Air Base, adding that he planned to continue speaking further with Ms. Schloss about this.

Mr. Erickson told members that they continue to read groundwater elevations on a weekly basis.

Ms. Schloss said she would like to continue discussing these matters with Dr. Wang, the applicant and Mr. Erickson - and have them come back before the Board to address any outstanding issues at their September 12, 2007 meeting.

The Chairman and all parties were in agreement with this.

200 River Street

Request for Determination - Hearing

Joseph Ciarlone

Map 3, Bl 4, Lot 88

(File Note: This was an after-the-fact filing for an addition and retaining wall for a single-family house in the Riverfront area).

Mr. Shawn Hardy/Engineer representing the applicant Mr. Ciarlone came before the Board. He told members that a Building Permit was pulled, adding the work site is 135 ft. from mean high water/Back River.

Chairman Thompson asked if it was misunderstood that the 200 buffer applied and Mr. Hardy replied 'yes', explaining that they covered the foundation hole to keep it dry. He noted that they have erosion controls in place.

Chairman Thompson commented that he didn't see any harm done to the resources.

Ms. Schloss presented pictures of the site to the Board.

Mr. Hardy pointed out that lots 80 and 81 were higher in elevation by 8'-10'.

Chairman Thompson asked Mr. Hardy 'what is the point of the walls'.

Cmmr. Kent said he saw no impact on the waterfront, adding that he realized the applicant was trying to create a backyard and he saw no problem with it.

Chairman Thompson said that since they have determined there would be no negative impact, they now needed to issue a Determination.

Ms. Schloss recommended a Negative Determination.

Cmmr. Kent asked about their plan.

Mr. Hardy said that Mr. Ciarlone is proposing an addition and upon completion of the work plans are to re-landscaping the site.

Cmmr. Kent said he would like to have this plan on file and would like to officially inform the applicant that certain steps must be taken when working in that area.

Cmmr. Coven pointed out that the area was defined as the Riverfront Area and asked about the requirements for working there; i. e., the applicant must show a significant improvement to the area with his proposed plan.

Mr. Hardy wanted to note that the Commission has the authority to say that there would be no impact to the Riverfront Area.

Ms. Schloss commented that she saw this as a 'hazy' area, adding that some DEP analysis state that they can use an RDA in the Riverfront Area.

Mr. Hardy noted that it was up to the state.

It was also noted that the house at 278 River Street has been picked up and moved.

Cmmr. Kent moved to issue a Negative 3 Determination.

Cmmr. Murphy seconded.

UNANIMOUSLY VOTED

Ms. Schloss wanted to include additional conditions with the Negative 3 vote; i. e., area behind the house should be grassed and landscaped.

Chairman Thompson commented that he didn't see that special condition as being necessary.

FILE #81-820

MWRA - Fore River Siphon Project

Request for a Certificate of Compliance

Chairman Thompson noted that this project entails the construction of two sewer pipes under the Fore River between the Idlewell neighborhood and the Monatiquot Street - near the power plant. He told members that he visited the site which they previously discussed and saw some of the Betonite slurry release (where 4500 cubic yards had been release), adding he didn't see any benefit to moving it.

Ms. Schloss informed the Board that she met with the MWRA, their consultant Metcalf & Eddy, DMF and Cashman - and all parties agreed to return to the area one more time to estimate the size/damage of the area that has been impacted. She said that perhaps they can estimate the cost to seed the shellfish bed in another area.

Members agreed.

Ms. Schloss told members that she will return with a report on their findings at the next meeting.

Cmmr. Murphy moved to continue this request for a Certificate of Compliance to 9/12/07.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

#81-915 - Tanner Terrace - Extension to Order of Conditions

Chairman Thompson saw the request for an extension to be in order, as long as the applicant removes the silt fence and refreshes the filter fabric in the storm drain.

Ms. Schloss said she would like to send a letter to the applicant listing the items she would like to see addressed and once they are completed an extension would be in order.

Cmmr. Kent moved to have the Administrator send a letter to the applicant outlining her concerns and once addressed the Board would extend the Order of Conditions.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

#81-1011 85 Queen Anne Drive -

Request for a Certificate of Compliance

Chairman Thompson noted that some of the work still remained outstanding at 85 Queen Anne's Drive and requested the Administrator send a letter outlining each item, noting that once these items are in compliance with their Order of Conditions the Commission would approve their Certificate of Compliance, with Ms. Schloss in agreement.

Commr. Kent moved to continue this discussion of this request to the 9/12/07 meeting.

Commr. Murphy seconded.

UNANIMOUSLY VOTED

Request for Certificate of Compliance for #81-923 1 Sherricks Farm Road and #81-821 Sherricks Farm Road Lot 6

Ms. Schloss informed members that there were two (2) Orders of Conditions for this property and that the applicant had received a partial Certificate of Compliance for the house. At this point the property is scheduled to change hands but the grading still needs to be addressed. Additionally an Enforcement Order was issued for this site due to the unauthorized removal of trees. Once she came on staff, she told the property owner that they must file an Notice of Intent for any work they want done. At this point she said a Certificate of Compliance was in order.

Commr. Kent moved to issue a Certificate of Compliance for File 81-821/Sherrick's Farm Road and File 81-923/1 Sherricks Farm Road.

Commr. Coven seconded.

UNANIMOUSLY VOTED

Ms. Schloss referred to the retaining wall constructed under DEP File 81-923. The work is done but the erosion controls had not been removed.

Commr. Kent accepted Commr. Murphy's amendment to his motion that would have the Administrator hold the Certificate of Compliance for DEPT 81-923 once the erosion controls are removed.

UNANIMOUSLY VOTED

File #81-914

479 (483) Middle Street

Request for a Certificate of Compliance

Commr. Murphy moved to issue a Certificate of Compliance for 479 Middle Street, File 81-914 with the recommendation of the Administrator.

Commr. Kent seconded.

UNANIMOUSLY VOTED

File 81-927

West Lake Drive

Request for Certificate of Compliance

Commr. Kent moved to approve a Certificate of Compliance for File 81-927, West Lake Drive, based on the recommendation of the Administrator.

Commr. Coven seconded.

UNANIMOUSLY VOTED

Approval of 6/27/07 Minutes - and 6/13/07 for Signature

Commr. Kent moved to approve the minutes of the 6/27/07 meeting as amended.

Commr. Coven seconded

UNANIMOUSLY VOTED

Other Business and Conservation Report.

39 Regatta Road Update

Ms. Schloss reported that she met with Mr. Boutiette of the Natural Resource Conservation Service in regard the Regatta Road coastal bank. They discussed 39 Regatta Road/Jack Knight owner - and the status of the hefty fine voted by the Board. When making her site inspection she found the work done by Mr. Knight looked quite good.

Commr. Kent agreed.

Ms. Schloss then distributed pictures of the area. She told members that Larry Boutiette planned on returning with a report of his observations/recommendations. During their meeting, they walked the parking lot at George Lane Beach and Wessagusset Beach. She told members that they might possibly want to hire a consultant for his/her recommendation for the entire bank.

39 Regatta Road - Ms. Schloss told members that she never issued an Enforcement Order re. 39 Regatta Road due to unresolved issues. At this point it was felt that Jack Knight should be called back before the Board before there is any further cutting. She commented that it has become one of the better-looking areas on the bank.

Ms. Schloss further reported that the mitigation work performed by Mr. Currier does not look as good, commenting that it appears there may have been additional removal there. She told members that she felt it would be appropriate for her to contact Rand Currier to inform him, by letter, that additional restoration work is needed there.

Members agreed.

In reference to Regatta Road - Cmmr. Coven told members that he thought it would be a good idea to seek matching funds for the restoration work, possibly through the Community Preservation Act. He said he would like to work with Ms. Schloss on this.

Members were in support of Cmmr. Coven's idea.

The September 12th, 2007 meeting will be held at Weymouth Town Hall/Town Council Chambers at 7:30 PM.

Adjournment

Commr. Kent moved to adjourn at 9:06 PM.

UNANIMOUSLY VOTED

Respectfully submitted,

Susan DeChristoforo
Recording Secretary

APPROVED: _____
Scott Coven, Clerk

DATE: _____