

WEYMOUTH CONSERVATION COMMISSION
Town Hall Chambers
September 12th, 2007 Meeting

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

ALSO PRESENT: Conservation Administrator, Mary Ellen Schloss

Chairman Thompson called the September 12th, 2007 meeting of the Conservation Commission to order at 7:38 PM.

Minutes: June 27 for Signature, July 18, August 15 for review

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

Woodbine Road - Continued Hearing

Ryder Development

DEP File #81-1013

Notice of Intent

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

Cmmr. Coven seconded

UNANIMOUSLY VOTED

Mr. Al Trakimas/PE from SITEC, representing the client, Ryder Development, came before the Board to address the filing for Mr. Ken Ryder's 3-lot subdivision/roadway. He told members that all the previously requested information by the Administrator had been submitted to the Board and asked if there were any further questions.

Cmmr. Coven asked if their Notice of Intent was for the roadway construction/utilities and grading 'only' and Mr. Trakimas replied 'yes', adding the house lots would be submitted at a later date.

Ms. Schloss confirmed that the applicant addressed all her comments and that nothing new had come up since the July meeting. At this point she was proposing some special conditions in addition to a Standard Order of Conditions and then distributed a copy of the draft conditions to the members. She wanted to point out that Cmmr. Murphy and Cmmr. Kent would not be permitted to vote on this proposal, as they were not present for the required number of public hearings.

Chairman Thompson stated that they were satisfied with the work that has been done and commented that the special conditions proposed by the Administrator covered any other concerns they may have.

The hearing was opened to the public.

Tricia Pries, 55 Woodbine Road spoke first informing the members that she was representing the residents of Woodbine Road. She then took a moment to read a statement regarding her concerns about the project. She wanted to note that she and her fellow residents have attended all meetings offered on the project by a variety of Town Boards and in summary have felt that they have not taken their concerns into consideration when evaluating the project. She commented that she appreciated the Wildlife Assessment report submitted by the applicant at the request of the Commission. She wanted to discuss other issues she was concerned about, but realized she

could only discuss the specific items pertaining to the roadway work only. She stressed that she had strong concerns regarding the protection of the Town's resources.

Chairman Thompson explained that the Commissioners, in many instances, rely on experts in the field to apprise them of their findings and of any concerns they might have. He told Ms. Pries that he appreciated the time and effort put into her research.

Ms. Schloss stated that she and the Commissioners were aware that this site included one of the last remaining pieces of undeveloped land on the Pond, which involved wildlife habitat and assured those present, that she/Commission would be looking at larger buffer zone areas when the houses that fall under the Commission's jurisdiction come before the Commission.

Ms. Pries asked if the trees on the site were marked and identified.

Ms. Schloss told her that the applicant's most recent plan shows all the trees (6"+) within the 100 ft. buffer zone, and noted that only a few were targeted for removal. She went on to note that in her draft conditions she has requested inspection by the Conservation Commission before any trees are removed. She has also requested fencing be installed to make sure specific ones aren't cut down. At this point she gave Ms. Pries a copy of the draft conditions that she had given to the Commissioners.

The next speaker was Maryann Lindsay of 45 Woodbine Road. She stated that she recently had work done and was told that any work was a minimum of 50 ft. from the water - and based on that questioned the lesser distance allowed the applicant.

Chairman Thompson stated that residential development must be a minimum of 25 ft. from the resource area and commercial development is a minimum of 50 ft.

Ms. Schloss stated that her particular project was addressed via a Request for Determination, adding that each case is viewed individually and in some instances there are minor projects and exemptions, which allow projects to go forward without filing if located greater than 50 ft. from the resource.

Chairman Thompson explained the procedure to Ms. Lindsay re. a Request for Determination verses a Notice of Intent.

Mr. Trakimas referred back to the flagging of trees and questioned if what they were referring to was within the buffer zone and Ms. Schloss replied that it was.

Commr. Gowen moved to close the public hearing for Woodbine Road.

Commr. Coven seconded

UNANIMOUSLY VOTED

Woodbine Road

Ryder Development

DEP File #81-1013

Order of Conditions

Commr. Coven moved to issue a Standard Order of Conditions for File 81-1013 for the Woodbine Road sub-division application re. a Commercial project, plus the Special Conditions proposed by the Administrator.

Commr. Gowen seconded

UNANIMOUSLY VOTED (Commr. Murphy and Commr. Kent abstained)

File #81-820 - MWRA

Request for a Certificate of Compliance - Continued

Cmmr. Murphy moved to open discussion re. a Certificate of Compliance for File 81-820.

Cmmr. Coven seconded

UNANIMOUSLY VOTED

Chairman Thompson noted that they had requested the applicant supply the following info: the density of the clams and the cost. Since this information has not been received, he recommended the request for a Certificate of Compliance be continued.

Commr. Kent moved to continue the request for a Certificate of Compliance re. File 81-820 to Sept. 26, 2007.

Cmmr. Murphy seconded.

UNANIMOUSLY VOTED

File #81-1011 - 85 Queen Anne's Drive

Request for a Certificate of Compliance - Continued

Commr. Kent moved to continue the request for a Certificate of Compliance re. File 81-1011.

Cmmr. Murphy seconded.

UNANIMOUSLY VOTED

Rockway Ave/Donald Street

Extension Request (Local Order of Conditions)

File Note: It was noted that this project did not have a file number as it was submitted under the Local Ordinance.

Chairman Thompson stated that they have been paid re. the second half of the required mitigation fee and at this time he was in support of the extension.

Cmmr. Murphy moved to approve an extension of the Order of Conditions for the Rockway/Donald Street project.

Cmmr. Coven seconded

UNANIMOUSLY VOTED

North Street (adjacent to Wessagusset School) Hearing

Town of Weymouth DPW

Map 20, Bl 24, Lot 20

Request for Determination of Applicability

Chairman Thompson noted that this area involved wetlands that were filled back in the 1970's, which are now part of the Wessagusset School fields/playground.

Ms. Schloss said that the area they were addressing amounted to 1,160 sq. ft.

Mr. Jeff Bina, Asst. Town Engineer came before the Board. He explained that the goal is to raise the field and add drains/catchbasins. He explained that one of the catchbasins leads to a stream and the other into the drainage system that leads to the beach. He said that the plan is to mitigate the impact with haybales and silt fence if necessary - then add loam, hydro-seed.

The hearing was opened to the public.

Ms. Anne Maher/resident in the area questioned the closeness of the work to the perennial stream, which she said was within 15' - 20'. She said that there were small depressions of water there, usually 10 months of the year. She asked that they look at the size of the water depressions, which she felt might fall under the Commission's area of protection. She went on to inform the members that there has been flooding of resident's basements in this area and wanted them to consider that potential impact. She went on to inform the Board that she is a member of the Wessagusset Parents Council, adding that surrounding towns are looking at wetland restoration projects. They at Wessagusset were looking at utilizing this particular area for many reasons - including using it as a tool/resource for the children's education.

Ms. Schloss referred to Ms. Maher's comments re. the 'perennial' stream - stating that they still have to determine if the stream is 'intermittent' vs. 'perennial'. She then read the state's definition of an ILSF/Isolated Land Subject to Flooding - where the criteria requires an ILSF encompass a minimum of a $\frac{1}{4}$ acre foot, emphasizing that this particular area does not meet that definition.

Ms. Schloss went on to address the definition of a 'wet meadow'. She explained that the local regs do not include reference to soils/vegetation/hydrology - emphasizing this soil didn't include hydric soils. She explained they were talking about fill material, which was very dense, and not wetland soil. She further explained that she didn't have the information regarding the groundwater, but noted it certainly was not a vernal pool. Also it was isolated and not receiving any runoff from North Street, it was not serving an important pollution prevention function. With regard to the flooding Ms. Maher spoke about, she acknowledged that some of the water was not captured.

Chairman Thompson also explained to Ms. Maher that the stream she referred to does not meet the definition of a 'perennial' stream, but was actually considered to be an 'intermittent' stream. He went on to point out that he and his fellow Commissioners wanted to make sure that the proper protection was in place for this project. He pointed out that the applicant has done its homework and the work proposed meets the guidelines of the law.

Commr. Kent addressed Ms. Maher's comment that some of the area is under water 10 months of the year and commented that he, as a resident in this area, did not find this to be the case.

Mr. Vino assured the members and Ms. Maher that there would not be any adverse impacts by the proposed work to the abutting properties.

Ms. Schloss asked about hydro seeding and the timing of this work.

Mr. Vino said late September/October would do this work - and if they didn't make it this year, it would be done next Spring.

Commr. Kent moved to issue a Negative 3 Determination and to include the Special Conditions as outlined by the Administrator.

Commr. Coven seconded

UNANIMOUSLY VOTED

22 Aspinwall Ave - Hearing

James Locke, Applicant

Map 6, Bl 77, Lot 19

Request for Determination of Applicability

Ms. Schloss pointed out to the members that Applicants Suzanne/James Locke were proposing to install a 12' x 16' in the ground pool.

Chairman Thompson asked the applicant if it was located between the yard and the Fore River and Ms. Locke replied that it was.

Ms. Schloss stated that the owners proposed to remove the deck on their property and replace it with the swimming pool - then rebuild the timber wall, adding she would be proposing to include the standard conditions for a project of this nature.

Commr. Gowen moved to issue a Negative 3 Determination with the associated conditions for the pool.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

File #81-297 545 Pleasant Street

Request for a Certificate of Compliance

Chairman Thompson explained that it was an old Order of Conditions and a Certificate of Compliance was in order.

Cmmr. Coven moved to issue a Certificate of Compliance for 545 Pleasant Street, File 81-297.

Cmmr. Murphy seconded.

UNANIMOUSLY VOTED

File #81-982 82 Prospect Hill Drive

Request for Minor Modification re. Existing Order of Conditions

Chairman Thompson noted that the work involved in the request for a minor modification involved cutting down trees on riprap land (it was noted that the applicant was not present to address the request).

Ms. Schloss took a moment to distribute pictures of the site. She said the project was a 'tear-down/rebuild' on privately owned property. She told members that she did a walk-through with Mr. Mr. Boutiette of the National Conservation Service who told her the trees weren't doing anything to hold the bank. With regard to Wildlife Habitat, she suggested they ask for plantings of seed mix and that they leave the Mulberry tree. She said during her visit she counted 35 trees on site. She told members that trees in this area have been repeatedly cut down over the years.

Chairman Thompson commented that based on the previous cuttings he didn't see any detriment to the area, commenting that the trees are the property of the owner and he has the right to do with them as he wishes. He then stated that he was also in favor of the plant seed mix.

Cmmr. Coven said that he was in agreement with the Chairman and the Administrator's recommendation.

Ms. Schloss said that she saw 'Rosa Rugosa' there and would like to request that it be left as is.

Cmmr. Murphy moved to approve the "Minor Modification" as requested along with the recommendations of the Administrator.

Commr. Gowen seconded.

UNANIMOUSLY VOTED

File #81-928 - 1440 Commercial Street

Request for a Certificate of Compliance

Applicant: Town of Weymouth

Ms. Schloss explained that in the past Ken Ryder (developer) was requested to remove the Town of Weymouth's Youth Center Building as part of the Back River Trail, explaining that the Town was the applicant and Ken Ryder did

the work. At this point she would like to see the Certificate of Compliance approved before the Order of Conditions expires. She noted that Cmmr. Scott Coven helped remove the silt fence in April and the site is now in good shape.

Cmmr. Murphy moved to approve a Certificate of Compliance for File 81-928/1440 Commercial Street.

Cmmr. Coven seconded

UNANIMOUSLY VOTED

File 81-1008 - 11 Arlington Street

Request for a Certificate of Compliance

Ms. Schloss explained that this proposal was for the construction of a house, a 'tear-down' and rebuild within the Flood Plain and Riverfront Area. She told members that she has been to the site and all looked fine. She was recommending a Partial Certificate of Compliance as the landscaping is still to be done.

Commr. Kent moved to issue a Partial Certificate of Compliance for File 81-1008/11 Arlington Street.

Cmmr. Murphy seconded.

UNANIMOUSLY VOTED

Other Business and Conservation Report

55 Pine Street

Mr. and Mrs. Mills, owners of 55 Pine Street, came before the Board.

Ms. Schloss said in checking the file she saw there was a sketch of the work to be done submitted on August 10, 1998.

Mr. Pine confirmed this was correct.

In reviewing the file, Chairman Thompson said he saw that a stone wall was proposed, but that the finished project was much larger than what was proposed.

Mr. Mills explained he had medical issues with his mother back at that time and the project was put aside and not completed in the time allowed. He then told members he had pictures that he took this past Spring. He then referred to the work regarding the stone wall, telling members he spoke in the past with the last Administrator Bill Woodward and at that time told him he needed to add stones to the wall because plantings were insufficient and Mr. Woodward said it would be OK.

Chairman Thompson asked when this conversation took place and Mr. Mills replied '5 years ago', but clarified that the latter work on the wall took place within the past two years, adding that he just finished wrapping the wall around a few weeks ago. He said his property has become a 'catch-all' by others for the work done at the Fair Grounds (driveway and roadway).

Mr. Mills continued to explain that all the catchbasins dump into the stream and the stream just can't handle it all - from Pleasant Street up, which involves about 8 houses, explaining that the stream runs all the way up to the Naval Air Station - and by the time the runoff gets to him, he has to deal with it. Right now he's trying to maintain what he's got. He told the members he is trying to protect his trees, clarifying he was not opposed to plantings and if requested, he would put them back. He felt when the work was done it would be a betterment for all.

Chairman Thompson pointed out that they have time limits and this proposal originated 10 years ago. He asked if he had any comment in regard to his submitting a new filing.

Mr. Mills said he did not have a problem with a new filing, but quickly added with his first filing he had to go through so many hurdles.

Chairman Thompson emphasized to Mr. Mills that he and the Commission need to deal with the here and now.

Mr. Mills replied it took him 9 months last time and he didn't know if he could deal with it again.

Chairman Thompson told him he would need a new filing, new plantings, and an engineer's perspective and lastly they would need to address the impact of the stones. He asked Mr. Mills if he had done any research in regard to the flow of the drainage and Mr. Mills replied 'no'.

Mr. Mills said, "I will do the site work". He further stated that they would need to take the road drainage, noting that all the runoff has been dumped into Old Swamp River. He told members that he has lived in Weymouth 59 years and commented that the Town Plot Plan was done in 1926. He said that plantings alone would not work, but believed that stones and plantings would. He stated that the stones add quite a bit to the wildlife, adding that he has found trout, water rats, duck and egrets there.

Commr. Kent told Mr. Mills that he was familiar with the property as he rides by his house everyday. He explained that the Commission is trying to make some order to what he has done and right now it was important they clean up the paperwork for the Town and the state, adding that this would probably take some costs on his part.

Chairman Thompson reiterated they need to have the proper paperwork in order to keep them all compliant and to accomplish this they would need a new set of plans. He suggested that possibly the Town Engineer could help with the slowing down/velocity of the force of the water and reduce the scouring. He felt it has affected the neighbors. He emphasized that all work of this nature must be regulated for Mr. Mills and any others in the area interested in doing what he did. He commented he could see the flow/stream gurgling through the stones.

Mr. Mills referred to the wall behind his property - stating "take 80 ft. and cut it in half", adding you only need to taper it a little over an inch. He said that the vegetation on the other side of the wall is still there - and comes back every year. He told members that he was not trying to alter the river, just protecting his property in certain areas.

Commr. Coven said he was there yesterday and could see what Mr. Mills was talking about - commenting it was an "S" curve. He said they just need to decide how to approach it properly. He commented that the flow was much more intense than what he expected.

Commr. Murphy spoke next, stating that he visited the site too and actually saw white caps in the waters. He agreed that plantings wouldn't help, but he was in agreement with the Chairman - that the proper paperwork needs to be filed. He said they need to look at the realities here and was glad Mr. Mills was here to address it with the Commission.

Ms. Schloss told members that they need to agree on the direction to take and addressed the options. The first would be for Mr. Mills to apply for a Certificate of Compliance for the original project, but quickly asked if the Commission would feel comfortable with a Certificate of Compliance as the project has now become so different from what was originally proposed. She acknowledged that Mr. Woodward may have approved the modification, but

Mr. Mills can't come in for an extension on an expired Order of Conditions. At this point she didn't see the project meeting Performance Standards; i. e., modifying more than 50 ft. of bank.

Chairman Thompson said "what's done is done", commenting it is probably more practical. He noted that if the work is less than 50 ft. it wouldn't require a Wildlife Assessment. He stated that if Mr. Mills provides the plantings; the Commission could deal with the continued work.

Ms. Schloss said she saw the issue resolved via an Approval of a Certificate of Compliance, then at that point the applicant could refile -but she didn't see the Commission having the ability to approve the Certificate of Compliance until the Fall.

With regard to the plantings, Mr. Mills told members that very few nurseries have wetland plants this time of year - as they are only available in the Spring. He said that there are some plantings going in, adding he put some Winter Rye in there for the Winter months to help with the erosion problem.

Chairman Thompson asked when he could get the new plans to them and Mr. Mills replied 'next week'.

Ms. Schloss said she will schedule the hearing for the 9/26/07 agenda.

Mr. Mills told members that it is difficult to do the work now, because in the Fall it becomes the rainy season. He added he couldn't set the stones securely now either - stressing it all depends on the weather.

Chairman Thompson again emphasized to Mr. Mills that first they need the paperwork, adding they just can't give carte blanche for the work.

Mr. Mills said he could put the plan together,

- highlight the area he wants to fill in
- repair of the first wall
- between the two walls add plantings and trees in the back

He said he planned on putting the leave trees by the bank and wants to add blueberry plants in the rear. He told members that he took the stones down to the natural dirt, commenting that it was a lot of work.

Ms. Schloss referred to the additional fill in the Flood Plain, also emphasizing he needs to file a Notice of Intent for this work and that the rules apply; i. e., compensatory storage.

Chairman Thompson felt it important that he hire a consultant and told him Ms. Schloss would give him some names.

The meeting concluded.

DeLuca Update

Chairman Thompson told Mr. DeLuca who was present, that the Commission previously approved the trimming of the trees and that he was all set to go.

Minutes: June 27 for Signature, July 18, August 15 for review

Cmmr. Coven moved to approve the Minutes of the July 18, 2007 as amended.

Cmmr. Murphy seconded.

UNANIMOUSLY VOTED

Cmmr. Coven moved to approve the minutes of the August 15, 2007 as amended.

Cmmr. Murphy seconded.

UNANIMOUSLY VOTED (Commr. Gowen abstained)

End of Bridge Street Update

Commr. Kent told members that there was a house on beach that was being torn down (Mr. Vo), and Ms. Schloss replied that the owner is in the process of filing a Notice of Intent.

The September 26th, 2007 meeting will be held at Weymouth Town Hall/Town Council Chambers at 7:30 PM.

Adjournment

Cmmr. Murphy moved to adjourn at 9:15 PM.

UNANIMOUSLY VOTED

Respectfully submitted,

Susan DeChristoforo
Recording Secretary

APPROVED: _____
Scott Coven, Clerk

DATE: _____