

WEYMOUTH CONSERVATION COMMISSION

Town Hall Chambers

October 8th, 2008 Meeting

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

ALSO PRESENT: Conservation Administrator, Mary Ellen Schloss

Chairman Thompson called the October 8th, 2008 meeting of the Conservation Commission to order at 7:38 PM.

Approval of Minutes

The minutes were tabled until later in the evening.

31 Union Street

Mr. John Clancy

Continued Violation Hearing

Chairman Thompson recused himself from this hearing as the property owner was an abutter to his property.

Cmmr. Murphy assumed Chairmanship. He then referred to a memo dated 10/7/08 from Mayor Kay, where she suggested the Board give Mr. Clancy a 60-day continuance so that he would have sufficient time to evaluate how he would like to address the concerns of the Commission re. the apparent problem of excessive water on his property. Cmmr. Murphy reaffirmed that at the last meeting it was agreed that Mr. Clancy was to seek professional advice on how to resolve the problem.

Ms. Schloss stated that Mr. Clancy had two routes he could take; i. e., stabilize the bank or take out the work he had done without permission. She said if he could remove the materials safely, the Commission could take a look at that, adding she could go back out and make another site inspection if it would help.

Cmmr. Murphy reminded the Administrator and Board members that after their last meeting it was agreed that Mr. Clancy was going to hire someone, but now he says he is considering if he should seek professional advice.

Ms. Schloss responded that she preferred it be done in December.

Cmmr. Coven suggested they could possibly hold off for now and let Mr. Clancy seek someone who qualifies to recommend to him what he needs to do.

Ms. Schloss offered to send him a letter and include the December date.

Cmmr. Murphy said he was clear that at the last meeting the Board recommended that Mr. Clancy hire a professional to address the problem, now it appears he is being given a 60 day continuance and asked members 'why wait?'

Ms. Schloss told Mr. Murphy that she agreed with him, commenting that the issue at this point was essentially going into a 'hold' pattern for 60 days. She added that Mr. Clancy also has an issue with the abutter. Summarily she didn't have a problem with waiting 60 days - or leaving the stones where they are.

Cmmr. Murphy felt that 60 days could run into 4 months and he didn't see the need to hold off on making a decision tonight.

Commr. Gowen said she agreed with the 60 days.

Commr. Kent acknowledged that Mr. Clancy was supposed to appear before the Commission this evening with a plan.

Ms. Schloss noted that the last meeting with Mr. Clancy was on September 10th and at that time the Commission directed her to look at his property to see if he should remove the stones. In reevaluating the situation she felt if the stones were removed there could be an erosion problem.

Commr. Kent said if they allow the 60 days, then at that point the Commission will expect Mr. Clancy to appear before the Board with a remedy/plan - then at that point they could make a decision on how to proceed.

Ms. Schloss agreed with Mr. Kent, that Mr. Clancy should come back in with an engineering plan in 60 days.

Cmmr. Murphy commented he viewed it as 60 days lost, adding they could consider cutting the 60 days to 30 days, because he felt they just were not making any progress.

Commr. Kent reaffirmed that Mr. Clancy should return in 60 days with a plan of action - including leaving the stones where they are or removing them - either way he would need the services of a professional.

Cmmr. Murphy pointed out that this was an expense Mr. Clancy incurred and he should be responsible for the remedy/consultant.

Cmmr. Coven was in favor of giving Mr. Clancy 60 days and suggested he have an engineer perform a survey outlining what should be done, because essentially he felt the Commission was just agreeing to a continuance. He went on to say that he didn't think the present situation is harming the resource area. He didn't feel further discussion would be beneficial, because they could not review the present situation without Mr. Clancy being present for the discussion.

Before closing discussion on the matter, Cmmr. Murphy wanted to reconfirm all members were in favor of Mr. Clancy returning before the Commission with an engineer and a plan.

Commr. Kent referred to the memo from the Mayor that suggested they wait 60 days. He felt they should notify Mr. Clancy and tell him very clearly he will be in a major violation if he touches anything in the meantime.

Cmmr. Murphy said that he felt if they allow him more time, 60 days, then they are making no progress.

Ms. Schloss noted that Mayor Kay said he should figure out what he wants to do in 60 days, adding maybe he will speak with someone and come in with something. She viewed the 60 days as a cool off period.

Cmmr. Murphy wanted the members to give him clarification - asking 'what do we expect in 60 days?'

Ms. Schloss responded that in 60 days Mr. Clancy should appear before the Board with a plan of action demonstrating how he will come into compliance - or he could say I want to do more, possibly raise the level of my yard. She didn't think he would need an engineer just to remove the stones. Further, she stated, she felt the stones were put there to stabilize. Additionally, members would need to look at Performance Standards when they are apprised of what he plans to do. She told members that she could draft a letter to him outlining the Commission's recommendations, which would include his hiring a professional.

Cmmr. Coven moved to have Ms. Schloss draft a letter to Mr. Clancy requesting he return before the Board at the December 10TH meeting and hire an engineer based on his plan.

Discussion:

Ms. Schloss wanted the plan to also include a narrative.

Commr. Kent wanted to clarify that they were referring to the stream, rock wall and stones.

Cmmr. Coven moved Mr. Clancy be asked to attend the December 10th, 2008 meeting with a plan and that the Board strongly suggested he also have an engineer with him to address the plan and that the plan be to the Board/Administrator by 12/1/08 - and that it be emphasized that Mr. Clancy not touch the stream in the interim. Seconded.

Discussion:

Ms. Schloss offered to go out to the site and discuss the matter with Mr. Clancy or his engineer.

Members agreed.

The Chairman took Mr. Coven's amended motion.

Commr. Kent seconded.

UNANIMOUSLY VOTED

Member John Thompson returned to Chair the meeting.

60 Patterson Street

Continued Violation Hearing

Mr. Sterling Wall of TetraTech Rizzo, representing Mr. and Mrs. Silvestro, came before the Board. Mr. Dominic Silvestro was also present. Mr. Wall began his presentation by informing members he planned to address the violation in a timely fashion. He then said he was before them this evening to discuss the Enforcement Order issued to Cheryl Silvestri and to offer suggestions on the remedy. First of all he wanted to acknowledge that work was done in the wetland/buffer zone. He further stated that he has informed Domenic Silvestro that they would need to remove the sand/wall. At this point he was proposing to install a well-placed silt fence to initiate mitigation. He wanted the Board to know that he has 30-years experience in this area, noting that he was employed in the past by the DEQE (Ma. Dept. of Quality Engineering). He explained they could put in two lines, one at the waterline and another on the line that was delineated in February. He further explained that after they remove the sand, he would like to look at the materials, then the wall. After that he would temporarily stabilize the slope, then replant next Spring. He planned to submit a plan within two weeks, if okay with the Commission, that will describe what the plantings will be.

Mr. Wall went on to say that he would be removing the sand, wood and wall. He asked if the Board would grant an extension from 30 days to 60 days to accomplish this. He noted that presently there is construction taking place there by the DPW and he was concerned with a possible work conflict

Chairman Thompson said he preferred to allow 30 days at this point, and if more time is needed Mr. Wall could have it.

Ms. Schloss wanted more detail in regard to his stabilizing the slope.

Mr. Wall told members that he would like to work with the Administrator on that, adding he would also like to see what the bank will look like after everything is removed.

In referring to the procedure, Ms. Schloss stated that she would like the plan submitted to her by a specific date - noting that the date it was originally requested has already gone past. Now she would like a definitive time sequence submitted re. the removal of the sand, wall, etc. She reminded Mr. Silvestro that they still hadn't received the plan that was requested weeks ago.

It was noted that the Enforcement Order/Wetlands Protection Act Form #9 that was forwarded to C. Silvestro Family Trust some weeks ago states that the property owner must remove the wall, sand and stabilize the bank within 30-60 days.

Mr. Wall asked Ms. Schloss to send him a copy of the Enforcement Order and he would respond accordingly.

Ms. Schloss noted that the E.O. should have all dates spelled out including information on the planting plan.

The meeting was opened to the public.

Ms. Susan Dickerman, 7 Lake Crest Path asked if any damage had been done. She was concerned with what would happen to her property if there was more rain.

Mr. Wall explained that the sand is a sediment without any contaminants. He said it is the same element used when a road is sanded. He pointed out that there was no sign of erosion into the Pond. With regard to the timber bulkhead, he said it has been set back. Additionally, he reported, there are no visible signs of leaching and there is nothing coming out of the timbers. Summarily there is no adverse impact on the quality of the water.

Another abutter asked if there was any way to contact the DPW to find out when they plan on paving and Chairman Thompson stated that this was not a conservation matter, but suggested the person call them directly.

Ms. Schloss stated that she would check with the DPW and let him know what is happening and their time schedule. She wanted to point out that some sand has gone into the Pond.

Mr. Wall said he did not find that to be the case. He said he planned on moving it back to 15 and 16, then add another line.

Ms. Schloss asked if he would be removing the sand and Mr. Wall replied that what she was speaking about was minimal and didn't see removing that minimal amount of sand as improving the situation - adding he even felt it could make it worse.

Cmmr. Murphy moved to issue an Enforcement Order to Mr. and Mrs. Silvestro re. violations to the Wetland Protection Act at 60 Patterson Street.

Cmmr. Kent seconded.

UNANIMOUSLY VOTED

169 Randolph Street - Public Hearing

John Eliffe

Map 48, BI 547, Lot 18

Request for Determination of Applicability

Mr. John Eliffe came before the Board re. his R F D for 169 Randolph Street.

Ms. Schloss distributed a handout that was Mr. Eliffe's plan that included flags outlining the wetland delineation.

Mr. Eliffe explained to the Commission that his proposal called for increasing the size of the driveway, repairing the existing shed, adding an extension to the back of the house and a farmer's porch - summarily fixing up the house and property.

Ms. Schloss confirmed that the new porch on the front of the house facing Randolph Street was on four (4) footings - and the new deck included a few footings plus a staircase.

With regard to the extension to the back of the house, it was noted that they are presently digging the foundation.

Ms. Schloss told Mr. Eliffe that she would like more detail on that - re. the existing barn, between that and the river, she didn't see it as a concern. She then referred to the foundation in the rear and asked about the size.

Mr. Eliffe said it would be 22' x 30'.

Ms. Schloss asked if the size included the foundation and the footings. She said her main concern would be the expansion of the driveway. It is noted that what is presently existing is an asphalt driveway and that it is in poor condition. She wanted to note that it is located in the 'riverfront' area. In referring to the plan, she said the size shows 10' wide x 64' long, but when she was there yesterday she noted it was 17'. She wanted to be clear on the size and how much room would be needed to do the work.

In reviewing the information that was submitted Ms. Schloss emphasized that there were some inconsistencies. She said Mr. Eliffe wants the new shed on the footings and to remove some trees. She explained to the members that the project became necessary due to a family tragedy.

Mr. Eliffe said he needed a large driveway for his son, adding they are parking on the street now. He explained that the larger driveway was needed so they would have room to drop him off and allow for better visibility for safety purposes. He said that eventually they would like to get his son into the first level of their house. In referring to the size, he further explained that he left room to allow for the planting of evergreens.

Ms. Schloss explained the Riverfront Regs to Mr. Eliffe, noting that he would need to provide some type of mitigation - suggesting possibly a stone trench for infiltration and treatment. With regard to erosion controls - she noted that there were some old haybales there. She told Mr. Eliffe that she would like to see them replaced with an entrenched silt fence or new haybales. She told members that she and Mr. Eliffe also discussed vegetation removal and that in the rear Mr. Eliffe wanted to plant a garden and remove some trees. Presently there is some Japanese Knotweed growing there. She suggested Mr. Eliffe remove the Knotweed and add native plantings. She stated there was an Enforcement Order issued for the area one year ago and it was never resolved. She felt the proposed work could help; i. e., the removal of the knotweed, etc.

Ms. Schloss suggested that they could write into the Order of Conditions that Mr. Eliffe work closely with the Administrator and she would oversee the renovations over the next three years.

Cmmr. Kent referred to Lot 18 - asking, "where is the asphalt and what's there?"

Next Ms. Schloss presented photographs of the site for the Board, pointing out that the setback in the Riverfront Area is 200 ft. and would require a Notice of Intent. She added that Riverfront Regs look for a 100 ft. No Disturb Zone. She explained to the members that the problem is the existing lot has been lived on - and it is roughly 50'-60' from the river's edge to the edge of the driveway. She was recommending a trench to disburse the runoff. She also wanted to point out that she was doing her best to work with the existing situation due to the unforeseen family tragedy.

Ms. Schloss then asked Mr. Eliffe if there would be a 1 ft. drop between the yard and the edge of the property and he replied 'yes'.

Ms. Schloss next asked if it was stone or grass and Mr. Eliffe explained that the trench would go in the back with 3/4 stone.

Ms. Schloss wanted to emphasize that 25 ft. from the river's edge should be left alone. Technically, she said, a Notice of Intent should be required, but if the Commission wants to allow it with 'conditions' she would be okay with that.

Cmmr. Kent said he would like more detail.

Chairman Thompson wanted to point out that Mr. Eliffe has been working to bring it into compliance, and although it is not perfect at this time, it is compliant and workable.

Ms. Schloss reminded members that a single family home is exempt from the Storm Water Standards, but the regs look for an offset and mitigation and that is why she made the suggestion about removing the Knotweed. She felt it important to note that they are all going out of their way to be humane and reasonable, as they understand that they are dealing with an unforeseen tragic situation.

Mr. Eliffe asked if he brought in evidence that the area has all overgrown over the past 20 years could he go back to the original footprint. He said he would be happy to clear it out once he has the time and can get some more money.

Cmmr. Coven stated that he was comfortable with the Administrator and Mr. Eliffe working together to make it all work.

Members were also in agreement with that premise.

At this point Ms. Schloss wanted to get a firm timetable as well as a plan for the record.

Cmmr. Murphy noted that Mr. Eliffe's son was due home the end of the month.

Ms. Schloss said they could let him do the driveway for now and then he could return for the balance of the work.

Cmmr. Murphy moved to issue a Negative 3 Determination for John Eliffe, 169 Randolph Street,

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Discussion: Cmmr. Kent wanted it noted for the record that based on Mr. Eliffe's unforeseen hardship the Conservation Commission has taken these steps.

West Street - Public Hearing

Stephen Gosselin

Map 40, BI 479, Lot 1

DEP File #81-1048

Abbreviated Notice of Resource Delineation

Mr. Steve Gosselin and his representative Steve Horsfall, Registered Land Surveyor/Kelly Engineering came before the Board.

Mr. Horsfall told members that they were there before them for an ANRAD. They have flagged the wetland line, which includes West Street to just over the Braintree line. He described the site as a 4-acre parcel, with 3 acres of wetland. He explained that they were before the Board this evening to have the wetland line modified and approved.

Ms. Schloss told members that she made a site inspection and found no changes were required in the wetland line, adding that the wetland scientist did a good job with the flagging and the narrative. They also discussed the intermittent stream/Bordering Vegetated Wetland - which she noted is not on the plan.

Mr. Horsfall wanted to note that they have taken into consideration the new rules and regulations.

Cmmr. Murphy moved to approve the ANRAD.

Cmmr. Coven seconded.

UNANIMOUSLY VOTED

Discussion: Mr. Paratore, abutter on West Street asked if they would be building in the wetland. He noted that there was a 3' storm drain that runs behind his property line. He said that once there was a little stream there, but now sand collects there and it backs up. He was concerned that if any work took place in the wetland, his property would be flooded.

Chairman Thompson assured Mr. Salvatori that there would be no filling of the wetland.

Mr. Salvatori asked what was going to be built there and Chairman Thompson explained that was not part of tonight's hearing.

Mr. Gosselin also assured him that he had no plans to fill the wetland.

Ms. Schloss wanted to point out that a 25 ft. minimum setback is also required. She noted that the end of Venus Street was a mess. She then took a comment letter from Mr. Salvatori to be entered into the record.

Cmmr. Gowen moved to close the hearing for File 81-1048, West Street - S. Gosselin, Applicant.

Cmmr. Murphy seconded.

UNANIMOUSLY VOTED

West Street - ANRAD

Stephen Gosselin

Map 40, Bl 479, Lot 1

DEP File #81-1048

A motion was made to approve the ANRAD re. West Street, Steve Gosselin, Applicant.

Seconded.

UNANIMOUSLY VOTED

Approval of Minutes

Cmmr. Coven moved to approve the minutes of the 9/10/08 meeting as amended.

Cmmr. Kent seconded.

UNANIMOUSLY VOTED

Other Business

1. DEP File 81-973, Lot 3A Martin Street - Discussion

Mr. Gabriel came before the Board.

Ms. Schloss told members that the Order of Conditions for this project expired in January of this year, which she commented was an oversight.

Chairman Thompson noted he was requesting to repair the wall on his property.

Mr. Gabriel told the members that he planned to build a new wall, but he didn't have the electrical power at the time - now the electricity finally has been hooked up (got it 2 wks. ago). He told members that due to the heavy rains the wall had fallen. He wanted to point out that he has maintained the silt barrier, which kept the area protected. Now he would like to replace the defective wall. At this point he was just about done removing the old wall. He plans on constructing the new wall by hand on Monday if it is okay with the Board. He has spoken with Tom at the Building Dept. and he said it was all right with him. He will give him a plan for the files. He informed members that the first wall/materials were defective.

Ms. Schloss explained that he built a house under the Order of Conditions and as part of that Order was required to unblock a culvert across from Sportsman's Way. She said the pipe was supposed to be cleaned out, but it's presently blocked - adding Mr. Gabriel thinks he can clean it out. She went on to say that the Commission allowed a second wall to be built as a 'minor modification' along with (7) trees to be planted - but neither has been done. Now members need to decide how to allow the extension of the present expired Order of Conditions. She said if the work he is proposing can be completed in the next few months - then possibly this would be acceptable.

Chairman Thompson asked Mr. Gabriel if the trees would be planted once the wall is done and he replied 'yes'.

Mr. Gabriel told members that the work has been very costly, noting that if the wall didn't fall down the project would have been completed by now. He further explained to the members that the house sold on Friday and the wall fell down on Saturday. He explained that the big part of his problem was the delay in getting electricity.

Chairman Thompson wanted to know if Mr. Gabriel could offer assurances that the work would be done by the Fall and Mr. Gabriel replied that he would give the Commission whatever type of assurance they needed.

Chairman Thompson asked Ms. Schloss to draft a letter outlining the sequence of events that need to take place, including time limits.

Ms. Schloss agreed to do so, noting this information would be on file when he returned for his Certificate of Compliance.

Ms. Schloss said she would address the wall, the culvert, etc. She also told Mr. Gabriel she would like some new information/details on the new wall and he agreed to provide it.

Mr. Gabriel told members that at this point he has a lawsuit against the company re. the defective wall.

Commr. Murphy moved that the Commission settle the expired Order of Conditions with a letter by the Administrator outlining what needs to be done including the time limits.

Commr. Kent seconded.

UNANIMOUSLY VOTED

Ms. Schloss told Mr. Gabriel that she would also like some plantings done by 11/1/08 - and he agreed.

Lastly Ms. Schloss noted that the silt fence was not properly trenched and Mr. Gabriel said he would stabilize it.

2. Fore River Conservation Restriction - Municipal Certification

Ms. Schloss reminded members that they have a conservation restriction - referring to Lovell's Grove and King Cove - that is being handled by Planning. At this point it needs to be signed-off by the Executive Office of Environmental Affairs as well as the Commission. It is entitled "Municipal Certification" - and states the Conservation Restriction will have municipal benefits - and includes 3.9 acres.

Conservation Report

Alexan/Arbor Hill - Ms. Schloss asked the members whether they wanted to schedule a site visit prior to the hearing on October 22nd, 2008.

45 Colonial Road - This property owner has an Order of Conditions to build a detached garage next to a salt marsh. It requires plantings. The question for the Board at this point is 'do you prefer it be done in the Spring'. Additionally the owner is questioning the need for 15 shrubs. She asked members if they would be okay with waiting until the Spring for the plantings, with a Partial Certificate of Compliance and an 'as built'.

Chairman Thompson said it was okay with him, but suggested the Administrator speak with the Building Department about giving him a temporary Certificate of Occupancy.

Adjournment

Commr. Murphy moved to adjourn at 9:33 PM and to meet again on October 24th, 2008 at 7:30 P. M. at the Weymouth Town Hall/Town Council Chambers.

Commr. Kent seconded.

UNANIMOUSLY VOTED

Respectfully submitted,

Susan DeChristoforo
Recording Secretary

APPROVED: _____
Scott Coven, Clerk

DATE: _____