

Weymouth Conservation Commission

Council Chambers, Town Hall

October 12, 2011 Meeting

Present: Steve DeGabriele, Vice-Chairman
Scott Dowd, Commissioner
Laura Harbottle, Commission Clerk

Not Present: George Loring, Chairman

Also Present: Mary Ellen Schloss, Administrator

Recording Secretary: Patricia Fitzgerald

Cmmr. DeGabriele called the October 12, 2011 meeting to order at 7:00 PM in the Council Chambers at Weymouth Town Hall.

Minutes

Cmmr. Harbottle made a motion to approve minutes from September 14th, as written and amended, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

**804 Middle Street – Request for Determination of Applicability – Hearing
Applicant Jan Hanzl
Map 33, Block 430, Lot 10**

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

Appearing before the Commission was owner Jan Hanzl, who passed in abutter cards and explained that what he wanted was to install a single car garage.

Ms. Schloss informed Con Comm that this RDA is for a one-car garage that is situated on the street side of the house and is within the 100 ft. area and, therefore, an RDA needs to be filed. The Commission issued a Negative Determination of Applicability for construction in 2008; there was no post-construction inspection for compliance. Ms. Schloss went out to the property Oct. 11th and looked at

the conditions, the wetland line and the flags that were in the 2008 RDA. She observed that the lawn has been expanded significantly since 2008 (pictures were provided to show this expansion) and she added that there was a shed that was partly in the wetland, but measurements now show that 10 to 17 feet (that was wetland in 2008) is now lawn and also needs to be addressed, along with the RDA.

Cmmr. DeGabriele asked Mr. Hanzl what was done to the property.

Mr. Hanzl explained that there were old car parts, tires, glasses “and stuff” behind the house and in the wetland which he cleaned up and seeded, extending it “a few feet”.

Cmmr. Dowd asked him if he filled or loamed, raising the grade; Mr. Hanzl replied ‘No’.

Cmmr. Harbottle asked him if he wasn’t clear that he wasn’t supposed to fill; he replied “I know that”.

Ms. Schloss said Mr. Hanzl would need to:

- Apply a suitable restoration, wildlife mix.
- Remove existing grass.
- Demarcate the wetlands.
- Have the wetland line staked by a surveyor.
- Install a fence to prevent encroachment.
- Provide notification before starting, and after completion, of work.
- Remove material behind the shed.

Ms. Schloss asked Mr. Hanzl what the black corrugated pipe was and if it was used for any discharge; Mr. Hanzl stated it was approved by the Building Dept. Ms. Schloss asked him to remove it and said she would speak to the Building Dept.

Ms. Schloss concluded by saying erosion controls were not needed for the garage, and the restoration (the grass) needs to be done by Oct. 31st.

Cmmr. Harbottle moved to issue a Negative 3 Determination for the garage, seconded by Cmmr. Dowd.
UNANIMOUSLY VOTED

Cmmr. DeGabriele explained to Mr. Hanzl that the garage was approved, but a Notice of Violation was also being issued in order to deal with the conditions on the property.

**21 Woodbine Road – Notice of Intent
Continued Hearing**

George Collins, of Collins Engineering, came before the Commission; he passed in abutter cards.

Mr. Collins stated he did not have additional information to provide. He said the plan shows the wall lowered (1) ft. to bring it to the height of the existing wall and, as mitigation, they will plant Rosa rugosa bushes, but they are open to suggestions. He explained that they filed an appeal with the DEP and were waiting for a response. He requested a continuation until Nov. 9th, stating that by then they should have a DEP response and Mr. Williams should have time to review it.

Cmmr. Harbottle informed him that Massachusetts DEP is independent of Weymouth.

Mr. Collins remarked that he hoped that professional (DEP) input could “bring us closer together and give the Commission something else to consider”.

Cmmr. Dowd told him that issues raised by Con Comm have not been addressed; Cmmr. DeGabriele asked how their plan addresses those issues, adding if it does not address them the Commission’s decision will be the same.

Mr. Collins remarked that if the DEP decision is not favorable then there is no sense going forward (with the project). He said they did not want to go to court over denial under the local ordinance.

Cmmr. DeGabriele told Mr. Collins that if they come back, he would like to see Commission issues addressed.

Ms. Schloss told the applicant she appreciated them coming in, but wants to know how the plantings and changing the wall height help to stabilize bank.

Cmmr. DeGabriele commented that the burden is on the applicant to convince Con Comm that the plan is adequate.

Cmmr. Harbottle moved to continue the hearing to Nov. 9th, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

**Weymouth Club, 75 Finnell Dr. – Certificate of Compliance
Finnell Drive Realty, LLC
DEP File #81-770**

Appearing before the Commission were owner Steve Goldman and Michael Joyce, Green Environmental.

Mr. Joyce stated there has been a lot of progress: the detention basin has been regraded, the sediment forebay has been constructed and the total volume has been increased to approximately 4,000 sq. ft.

over the original approved volume. After construction in early July, the slope has re-vegetated on its own.

Cmmr. DeGabriele asked them to comment on the maintenance issue.

Mr. Joyce replied that they have an Operation and Maintenance Plan and they have created a check list. Mr. Goldman has a signed contract to have catch basins and sediment forebay checked once a year and to have the company be on call.

Cmmr. Harbottle asked if the Operation and Maintenance Plan will be recorded at the Registry of Deeds.

Ms. Schloss replied that maintenance would be a continuing condition.

Mr. Joyce said the other issue was the wetland restoration and they have had Paragon Landscape install (3) different hydraulic connections to the existing wetlands. He said a wetland scientist and Ms. Schloss have visited the site, pre- and post-construction, to verify that they are on the right track.

Ms. Schloss said that she did a walk through over a month ago and she has received the detention basin as-built. On Oct. 11th, she noticed some side slope erosion in the detention basin. She said she received some needed documents and hoped the maintenance staff would use the stormwater check list; the map shows all that needs to be maintained. She has received the contract from the maintenance company and the as-built for the restoration area. In the Enforcement Order there is a requirement for monitoring as well and a separate NOI for the restoration area that calls for monitoring for (2) years, even if a COC is issued. She told Mr. Goldman that the replication area (original 81-770) is being mowed more than it should be (and should be allowed to grow) and that the detention basin erosion controls can be removed.

Cmmr. Harbottle asked if the restoration area was seeded. Mr. Joyce said yes, it just hadn't sprouted yet, but there is a (1) year warranty. Ms. Schloss said she would check to see if it needed straw for the winter.

Ms. Schloss said that if the Certificate of Compliance is issued, a letter can be sent (along with the document) listing the conditions.

Cmmr. Dowd moved to issue a Certificate of Compliance for DEP File #81-770, seconded by Cmmr. Harbottle. UNANIMOUSLY VOTED

**Tirrell Woods, 100, 200, 300 Justin Way – Partial Certificate of Compliance
Ryder Development Corporation
DEP File #81-1033**

Appearing before the Commission were Owner Ken Ryder, Atty. Greg Galvin and Al Trakimas, SITEC Engineer.

Atty. Galvin began by saying that this started, initially, by requesting a Partial Certificate of Compliance. He said he met with Ms. Schloss, George Lane and Jim Clarke regarding several issues involving deeding of the land. A deed will be prepared within (1) week or so, but it will not encompass the Graziano piece. Mr. Ryder has a lease on this portion of land, with an option to purchase in 2013 (the lease and the option have been recorded at Norfolk County Registry of Deeds). The deed is signed, but there is an issue involving the estate and their tax liability and the deed won't go on record until 2013.

Mr. Trakimas spoke on the Order of Conditions, #73. He began by saying that, right now, this is a Partial Certificate of Compliance for (16) units in Buildings 1, 2 and 3 (now known as Buildings #100, #200 and #300 Justin Drive).

- Utilities and driveway have been constructed.
- Buildings are nearly complete.
- Pavement and utilities are down.
- Drainage has been installed.
- Drainage basin #1 has been completed and is operational.
- Wetland replication areas have been completed.
- Ongoing monitoring reports have been submitted.
- Invasive species have been removed by hand.
- Crossing has been completed.
- There is a question regarding the basin at the end of Justin Way; rip-rap on the inlet has been set for the finished pavement grade so there is a lip there. Rip-rap can be modified (lowered by a couple of inches) so it is even with the binder course. With the stone lip, the water is not easily getting in.
- Sportsman's Way: they do not anticipate any improvements on Tirrell St. until summer 2012.

Ms. Schloss stated that the Commission would want the deed copy before issuing the COC, but if they could provide a copy of the proof of recording for the Graziano piece (the lease and copy of offer to buy) she could be assured that the Commission understood what is going on with that parcel.

Mr. Ryder explained that the leased area has already been paid for; Atty. Galvin added that if the deed is recorded prior to 2013, it would significantly affect the children's estate tax obligation.

Mr. Ryder stated the Town will get (46) acres now and the (5) remaining acres in 2013.

What followed was a discussion on the necessity of an as-built plan.

Cmmr. Harbottle said she would like to see an as-built; Cmmr. DeGabriele offered that it would be just for the portion that was completed.

Ms. Schloss stated that the other issue was the Performance Bond for the replication area; she said there is a thriving wetland there already. It was agreed the Bond was not necessary.

Ms. Schloss told the Commission that, for the next meeting, they should get copies of the recorded lease, the option to purchase and the deed, followed by an explanation of the project which could be discussed so they could vote on it Oct. 26th.

Mr. Ryder said he would provide a deed, the other copy of the lease for the Graziano parcel and an as-built.

Mr. Trakimas confirmed the area for the as-built.

190 Idlewell Boulevard – Certificate of Compliance
Applicant Lawrence Agnitti
DEP File #81-892

Ms. Schloss explained that this was an Order of Conditions for construction of a new house that was never built; this COC is to confirm that.

Cmmr. Dowd moved to issue a Certificate of Compliance on DEP File #81-892, seconded by Cmmr. Harbottle. UNANIMOUSLY VOTED

Other Business/Conservation Report

- 1340 Washington Street, DEP File #81-1068: Ms. Schloss provided a copy of her draft letter to Mr. Ryder, pointing out the discrepancy between the approved plan and the actual distance between foundation and the silt fence, as this constitutes an encroachment into the no-disturb area.

A discussion followed as to whether there should be a letter sent vs. issuing a Violation Notice.

A Notice of Violation was approved 2 to 1; Cmmrs. Dowd and DeGabriele approved, Cmmr. Harbottle was opposed.

Cmmr. Harbottle asked if this would go to the Building Dept.; Ms. Schloss said it would.

- Herring Run State Park: Ms. Schloss talked to the landscape architect about maintenance, as she can't get DPW to take care of it and the grass is 6" high. The landscaper advised weed-wacking

and Round-Up application. She added that high-school students will be out Oct. 26th to remove some grass and spread mulch.

Cmmr. Dowd expressed that he did not think Round-Up applied during the fall will affect the fish, but it may have more of an affect if it were applied in the spring.

Cmmr. DeGabriele suggested these students be made aware they are working next to water.

Ms. Schloss commented that she would like to check with DPW and the arborist.

- Whitman's Pond meeting: There will be a CPC meeting at 7pm on Oct. 13th at the McCulloch Building.

Ms. Schloss reported that Bob Luongo said he does not consider it a conflict of interest for Cmmr. Dowd to voice his support for the project. Cmmr. Dowd said he would like to be there in case any discussion comes up about the herbicide.

- Agenda for our next meeting: A Notice of Intent for a complex Town sewer replacement project in the Idlewell area. Filing requirement under Ch. 91, DEP, Army Corps. There are lots of questions about resources. A wetland scientist and an engineer are going out Oct. 14th.
- Oct. 26th: There will be a ribbon-cutting ceremony on Pond Street.
- Belmont Street Enforcement Order: There was an approval letter sent to Mr. Campbell and Sean Farrell approving the restoration plans with conditions.
- Show-Cause Hearing discussion: discussion was postponed until Cmmr. Loring is present.

Adjournment:

Cmmr. Harbottle moved to adjourn the meeting at 9:08 PM and to meet again on October 26, 2011 at Town Hall in Council Chambers, seconded by Cmmr. Dowd. UNANIMOUSLY VOTED

Respectfully submitted,

Patricia Fitzgerald

Approved:

Laura Harbottle, Conservation Clerk

Date