

WEYMOUTH CONSERVATION COMMISSION
NOVEMBER 18, 2009

PRESENT: George Loring, Chairman
Steven DeGabriele, Vice Chairman
Laura Harbottle, Clerk
Adrienne Gowen, Commissioner
Scott Dowd, Commissioner

ALSO PRESENT: Mary Ellen Schloss, Conservation Administrator

Chairman Loring called the November 18, 2009 meeting to order at 7:30 PM in the Council Chambers of Weymouth Town Hall.

Minutes for approval and signature

October 14, 2009 – Comm. Dowd moved to approve the minutes of the 10/14/09 meeting, as amended. Comm. DeGabriele seconded. **UNANIMOUSLY VOTED.**

81-1068 1340 Washington Street – Continued Hearing

Comm. DeGabriele moved to open the public hearing. Comm. Dowd seconded. **UNANIMOUSLY VOTED.**

Rod Gaskell of SITEC, Inc. and Ken Ryder of Ryder Development, the applicant, provided a revised plan and drawings. Wetland boundary was measured three times in three different seasons to settle on the ultimate line as presented in the revision. The revision proposes moving the structure out of the 25-foot buffer zone, and reducing the footprint by 20 percent. These changes and sacrificing back yard space will avoid having to seek a variance. A variance is not being sought with this revision. No fertilization, control of invasive species or replication of wetlands is planned. Driveway surface to be packed crushed stone, which is somewhat porous. The drain culvert will be cleaned out and improved with a pipe size increased from 12” to 18”, buried 1/3. The existing septic system will be pumped of effluent and will collapse into itself. The house will be demolished and removed; the granite will be salvaged. House will be removed to a licensed landfill, and the site will then be leveled with topsoil.

Responding to Ms. Schloss’ email regarding the concern with work on a tight site being done so close to the buffer zone, Mr. Gaskell responded that it is the intent to not disturb the buffer zone. The work will be monitored and the commission can shut down the project if the zone is disturbed. The buffer zone boundary can be delineated with a post and rail fence. The developer is trying to be responsive to the issues that were raised.

A discussion followed. Comm. DeGabriele thanked them, but felt it would not be feasible to conduct the work without disturbing the no-activity zone, especially at the two rear corners of the structure, which are within a foot of the buffer zone. Mr. Gaskell responded that excavation will be done from the front of the property, and that any

disturbance of the area will ultimately benefit with the removal of the structure and failed septic system.

Comm. DeGabriele also asked how realistic a post and rail fence will be to deter activity in the wetlands by future dwellers. Mr. Gaskell responded that the fence is for demarcation; it will not prevent access to the wetlands, but will keep it more controlled.

Comm. Harbottle asked if the size and placement of the proposed parking area and in relation to the wetlands might not need to be reviewed. Mr. Gaskell responded that the building department would review the parking when the project comes under its consideration.

Mr. Ryder noted that the access from the property to Queen Anne's Gate is to be blocked. He is also willing to plant arbor vitae or similar native shrubbery if the commission would prefer it to the fencing along the back of the structure along the buffer zone.

Ms. Schloss noted her comments and observations. She requested confirmation that the 12-inch pipe embedded 1/3 will equal the same open volume as the existing pipe. She would recommend that in the standard order of condition the erosion control line be placed by survey prior to the start of any work. Plantings should be native species and not placed within the 25-foot zone. Mr. Ryder responded that a temporary no disturb line can be placed 6-8 feet from the rear corners and any disturbance be repaired. Ms. Schloss also requested that the commission be notified of any additional trees that are being considered for removal.

Mr. Gaskell requested resolution at this meeting rather than continuing further due to the time and expense already incurred by Mr. Ryder.

Comm. Gowen asked if dry wells are in the plan or if runoff will be a concern. Mr. Gaskell responded that they are not in the plan as the parking surface is not impervious, but agreed that if runoff were to become a problem at some future time it would be addressed. There is no intent to change the topography; there should not be any runoff impact. He noted Mr. Ryder's intends to retain the building as rental property after construction is complete and would be around to address any issues.

Comm. Dowd asked for confirmation that a variance is not being requested. It is not.

There was a brief discussion of native plantings and the concern that arbor vitae would not thrive due to a lack of sunlight. Comm. Dowd noted that many of the species currently on the site, such as rosa rugosa, blackberry, and multiflora rose serve well currently as a deterrent. He noted that with a multifamily house on the property there should be as much fortification to protect the wetlands as is possible.

Mr. Ryder noted he is open to suggestion for recommendations to deter access to the wetlands. Ms. Schloss noted that the area is pretty overgrown now, and would like to

prohibit any possible clearing in the future. She recommended the use of signage posted, particularly by the parking area.

There was a brief discussion regarding the commission's vote to close the hearing; once closed, the commission has 21 days to render a decision, but will not meet prior to then.

Comm. DeGabriele noted that the burden is on the applicant to meet the conditions; he personally is not persuaded that has been met. He is not of the opinion that construction can occur on the site without disturbing the no-activity zone and that the project is not in the best interests of the wetlands in Weymouth. He believes the project should require a variance.

Mr. Ryder responded that he has been around, will continue to be, and has proven cooperative. He has the right to develop the land. He cited his willingness to accommodate the commission with the sale of the Woodbine Road land to the town, and the agreement to leave 50+ acres in the Tirrell Woods project undeveloped.

Chairman Loring noted that this is a public hearing and asked if there was anyone present who would like to comment on this matter. There was no response.

Comm. DeGabriele moved to close the public hearing. Comm. Dowd seconded.
UNANIMOUSLY VOTED.

The commission held a discussion of order of conditions, and included a lack of request for a variance, the enforcement levels, and the governing town ordinance. Comm. Harbottle moved to consider the issuance of Standard Order of Conditions, with a discussion of special conditions. UNANIMOUSLY VOTED. A discussion followed, to determine the conditions.

Comm. Harbottle moved to issue a standard Order of Conditions, with Special Conditions:

- Split rail fencing
- Re-seed areas with appropriate seed mix
- (3) Signs consistent with use for conservation area- do not disturb, affixed to 4' posts, set in, at corners where the angle changes
- erosion control line set by survey and certified to compare with approved plan- on-site inspection after erosion control line place and before both demolition and construction permits can be issued
- standard 48-hour notification to commission prior to work
- no egress from the rear of the building (no doorways from the rear)
- replace the existing culvert
- no fertilization (standard language)

Comm. Gowen seconded. Vote carries 3/2 (Comms. DeGabriele and Dowd voted NO).

2-24 Commercial Street – Request for Determination of Applicability-Public Hearing;

Comm. DeGabriele moved to open the public hearing. Comm. Dowd seconded.
UNANIMOUSLY VOTED.

George and Nick Delegas, owners of the property presented their plan. The plan is to demolish the property, leave the retaining walls on the Commercial Street side and cover the daylighted area of Smelt Brook with plywood to minimize any impact to this part of the Herring Run while demolition being done. No new construction is being considered. . The owners have been unable to find a buyer for the building.

A land survey was done when Walgreens Pharmacy was considering the site for future development. (Plan was scrapped following neighborhood opposition.) Demolition is for tax abatement and liability purposes. Once demolished, the area is to be filled and hydro-seeded. Work cannot be done by the end of this year, so the owners are willing to be flexible in scheduling next year to least impact the migratory activity of the fish in Smelt Brook. Comm. Dowd noted he would want input from Brad Chase with regard to when is the optimal time in the year to conduct the work. Ms. Schloss will address this with Brad.

Chairman Loring noted he would want a professional opinion regarding the integrity of the retaining wall in the brook. Ms. Schloss will address with the building and engineering departments. She will also request that the demolition process incorporate construction control including certifications, inspections and affidavits, with progress and final reports, as appropriate. She will address with Jeff Richards.

There was a brief discussion on whether to continue the hearing pending a structural engineering report, or to incorporate it into an order of conditions.

Comments were sought from neighboring Braintree. Ms. Schloss reported the results:

- catch basin behind the building but on the property be maintained and protected
- Plywood cover over the daylighted section of the brook
- Require a performance guarantee for the seeding – seeding with a drought tolerant seed mix

There was a discussion regarding in what condition a vacant lot can be left; if seeded, is it the owner's responsibility to water and mow? The project is not an ecological restoration. It is not the intent of the current owners to allow the site to be used for parking, but if parking on the site is ever proposed, it would again come before the commission. The area will likely be fenced off, with signage posted prohibiting parking. Ms. Schloss stated that a site visit had been conducted with Building and Planning Departments. Ms. Harbottle asked if the site need an erosion control plan.

Chairman Loring noted that this is a public hearing and asked if there was anyone present who would like to comment on this matter. There was no response.

Comm. Dowd moved to continue the public hearing to April 14, 2009 to allow time for a structural engineering study to be completed. At the request of Mr. Delegas, Ms. Schloss will have the building department recommend engineering firms in the area. Comm. DeGabriele seconded. UNANIMOUSLY VOTED.

81-1042 214 Lake Shore Drive – Certificate of Compliance

Ms. Schloss noted that the required shrubs have been planted, and everything else is done according to the plans. She is comfortable with the site. Comm. Harbottle moved to issue the Certificate of Compliance. Comm. DeGabriele seconded. UNANIMOUSLY VOTED.

Healy Road – Notice of Intent – Public Hearing

Comm. DeGabriele moved to open the public hearing. Comm. Dowd seconded. UNANIMOUSLY VOTED.

Rod Gaskell of SITEC, Inc. distributed the plans to the commission on behalf of Ken Ryder of Ryder Development. Mr. Ryder was not in attendance for this hearing. Plans call for a single family home on a 60,000-foot square lot, with frontage on Norma Avenue and Healy Road. The property owned by Ryder Development is under agreement. Plans include building on an unimproved lot, adjacent to vegetated wetlands, with direct connection to the sewer line, an asphalt driveway and parking area, a modest lawn area, all outside the 25-foot buffer zone. Mr. Gaskell reviewed the wetland boundary, which was difficult to ascertain due to alterations over time (drainage ditch and sewer lines), and does not coincide with that on the overlay. Because of the difference in the way he and Ms. Schloss interpret the field manual and the manner in which the trees are being counted (crown vs. stem), he would like Ms. Schloss to make a site review with him. He noted that the ultimate decision will be at the discretion of the commission. The plans can be altered in that case, and the house moved on the site. Comm. DeGabriele noted that it is important to establish the line to determine if the proposed dwelling will be within the no-disturb zone. Ms. Schloss will make a site visit with the consultant.

There was also a brief discussion of driveway contours and slope. Comm. Harbottle asked if the parking area, which is outside the 25-foot buffer zone but within 60 feet of wetlands, can be reduced in size, and if crushed stone could be considered. Ms. Schloss noted there should be an erosion control blanket and would like a proposal shown for any trees to be taken down within 20 feet of the house foundation. There should be a dry well.

Chairman Loring noted that this is a public hearing and asked if there was anyone present who would like to comment on this matter. There was no response.

Comm. DeGabriele moved to continue the public hearing to December 9, 2009. Comm. Harbottle seconded. UNANIMOUSLY VOTED. Ms. Schloss will call to schedule a site visit.

The commission recessed for five minutes.

Other Business

- Request to Amend Order of Conditions DEP #81-1038

Ms. Schloss reported on the request from Fore River Development. There is an existing Order of Conditions. The land is owned by the power plant. The amendment affects the bulkhead in the north area of the Fore River, in and adjacent to the Algonquin easement for the gas line. It is DEP policy for the commission to review proposed changes and determine if they can be approved administratively, or if the applicant must come before the board for an amendment or a new NOI. It has not been sent to Marine Fisheries but can before the next commission meeting. The consensus of the board is to have the applicant come before the board at its December 9, 2009 meeting for an amendment to the orders.

Conservation Report

Request from Bob O'Connor and Chip Fontaine of DPW to remove approximately 13 additional trees in the Iron Hill Dam area of Whitmans Pond, in the side spillway by the fish ladder. The dam is in poor condition. The DPW came before the commission previously seeking to remove trees. These thirteen are in addition to the original filing and don't necessarily need another filing. The consensus of the commission is to allow the additional 13 trees be removed without the DPW having to make another filing.

Ms. Schloss reported on the recent seeding of 120,000 clams, funding provided by the MWRA mitigation agreement for a bentonite spill on the J. Cashman project. There are funds left; the total mitigation award was \$8700 and only about \$2400 has been spent. There was a brief discussion of the question of ecological value of seeding in areas not open to shellfish harvesting.

Ms. Schloss reported that the Thayer Academy is organizing a cleanup at the East Weymouth train station on November 22, 2009 at 10:30 AM.

Ms. Schloss briefly reported on anticipated changes at the DEP with further budget cuts announced by the state. Comm. DeGabriele further elaborated on the expected cuts. All aspects are currently under discussion at the DEP, particularly regarding the Wetlands Protection program.

The December 9, 2009 Meeting will begin at 7:30 P.M. at the Weymouth Town Hall.

APPROVED

Conservation Commission Clerk

Respectfully submitted,
Mary Briggs, Recording Secretary