

**CONSERVATION COMMISSION
RECORD OF MINUTES AND PROCEEDINGS
WEYMOUTH TOWN HALL COUNCIL CHAMBERS
December 9, 2009**

PRESENT: George Loring, Chairman
Steven DeGabriele, Vice-Chairman
Adrienne Gowen, Commissioner
Scott Dowd, Commissioner

NOT PRESENT: Laura Harbottle, Clerk

ALSO PRESENT: Mary Ellen Schloss, Conservation Administrator

Chairman Loring called the December 9, 2009 Conservation Commission meeting to order at 7:30 PM in the Council Chambers of Weymouth Town Hall.

Minutes: 10/14/09 (signature), 10/28/09, 11/18/09 (review/approval)

Cmmr. DeGabriele made a MOTION to ACCEPT the minutes for 10/28/09 as amended and was seconded by Cmmr. Gowen. Cmmr. DeGabriele noted that on the 10/28/09 he is listed as both present and not present. This will be corrected. The MOTION to ACCEPT the minutes as amended PASSED UNANIMOUSLY.

Cmmr. DeGabriele made a MOTION to ACCEPT the minutes for 11/18/09 as amended and was seconded by Cmmr. Gowen and UNANIMOUSLY VOTED.

**81-1066
West Lake Drive/Essex Street Replication Project
Continued Hearing**

Cmmr. DeGabriele made a MOTION to OPEN the continued public hearing and was seconded by Cmmr. Dowd and UNANIMOUSLY VOTED.

Ms. Schloss stated that negotiations are on-going regarding purchase of one of the parcels. The applicant has requested an extension until 01/27/10.

Cmmr. DeGabriele made a MOTION to CONTINUE the public hearing until 01/27/10 and was seconded by Cmmr. Gowen and UNANIMOUSLY VOTED.

**81-1069
Healy Road – Continued Hearing**

Cmmr. Dowd made a MOTION to OPEN the public hearing and was seconded by Cmmr. DeGabriele and UNANIMOUSLY VOTED.

Mr. Gaskell of SITEC Environmental Inc. appeared before the Commission on behalf of the applicant. He noted that there was a series of things that needed to be done since the last hearing. He stated that he believed that the most important of which was to go out into the field to examine the wetland line area and decide if the line needed to be adjusted and the extent it should be adjusted. He distributed a revised plan.

Mr. Gaskell noted that the area he reviewed with the Chairman and the Administrator was between wetland flags (WF) 33 and WF 38. He noted that changes have been made on the revised plan to show the revised line.

Mr. Gaskell noted that the prior plans show a gravel walkway. He questioned if pavers could be used. He noted that he has submitted a technical diagram of the pavers.

Mr. Gaskell noted that the adjusted plan shows a reduction in the amount of asphalt, the downspouts at all four corners, and a notation of the trees to be removed.

Cmmr. DeGabriele asked what is the distance from the dwelling to the erosion control line. Mr. Gaskell stated that it is three feet. He noted that the dwelling could be moved northward one foot to the 10- foot building setback but he stated that he prefers to have more space to allow for construction adjustments.

Cmmr. DeGabriele asked where the pavers would be used. Mr. Gaskell clarified that the pavers are just for sidewalk.

Ms. Schloss clarified that the drywells are two foot not two inches. Mr. Gaskell pointed out that the drywells are shown on the plans as circles.

Chairman Loring asked if there was anyone present who would like to speak in regards to this applicant to which there was no reply.

Cmmr. DeGabriele made a MOTION to CLOSE the public hearing and was seconded by Cmmr. Gowen and UNANIMOUSLY VOTED.

Cmmr. DeGabriele made a MOTION to ISSUE a standard Order of Conditions with special conditions as noted this evening and in Ms. Schloss' memo. The motion was seconded by Cmmr. Dowd and UNANIMOUSLY VOTED.

81-1033 Tirrell Woods

Request re: Access Roadway

Condition #54

Al Trakimas, SITEC Environmental appeared before the commission on behalf of the applicant. He stated the Order of Conditions for this project limited the driveway construction to between mid July to mid October. The project is a Planned Unit Development (PUD) with a project area of 57 acres of which 52 acres will be preserved as open space. The development has been clustered on approximately 5 acres of the site.

Mr. Trakimas stated that the installation of the driveway required a wetland crossing which is under a limited project. He noted that the driveway is graveled in. The applicant would like to continue with the construction as the weather allows. He noted that there is a modular retaining wall proposed on either side of driveway.

Mr. Trakimas stated that on the side slope of the driveway there is very little ponding; with the recent rain there has only been a one and a half foot rise since Monday.

Mr. Trakimas noted that any water could be pumped out. The drainage basin has been excavated and water could be pumped into detention basin.

Mr. Trakimas stated that as time moves forward and the water levels in the wetland area drop to the levels as shown in the pictures taken prior to Thanksgiving, the applicant would like to be allowed to do work on the driveway.

Cmmr. Dowd expressed concern about allowing work to be done in the spring as this could affect the amphibians in the ecosystem during the breeding period.

Ms. Schloss noted that there is little standing water in the summer as long as the downstream culvert is not plugged.

Cmmr. DeGabriele noted that there are no details about when and how water would be pumped into the detention basin, nor provisions for notice prior to resuming work.

Mr. Trakimas stated as for pumping they would use a sump. He stated that the procedure for doing this would vary based on the conditions. He noted that the outer perimeter would have sandbags and only the immediate area would be pumped, not a full scale pump-out.

Mr. Trakimas stated that he would provide additional information as to the process.

Ms. Schloss noted that she was onsite today and the water was over the silt fence. She also noted that the water is higher on the southerly side than on the northerly side. She questioned why the road was built without culverts as the road was permitted to have culverts.

Mr. Trakimas stated that this road is the initial crossing but is just the sub-base. This will not be removed but will be raised up to finished grade.

Ms. Schloss stated that there needs to be conversations with Department of Environmental Protection (DEP) and Army Corps of Engineers (ACE).

Mr. Trakimas stated that time ran out of the construction period so the culverts were not installed. He noted that water should be flowing out the 30 inch pipe under Route 3. If the Route 3 culvert is blocked, the state needs to be called.

Ms. Schloss stated that more information is need to make a decision as to whether this should be done now or wait until next summer. She stated that another possibility is to continue construction in frozen conditions. However she stated that the Commission should rule on the conditions at this time as to when work can be done, not open ended.

Ms. Schloss noted that there was a trucked parked on the road. She reminded the applicant that there is a condition that no vehicles or equipment are to be stored on the road.

Ms. Schloss stated that there is another issue regarding proposed changes to the replication area. She stated that this needs to be put on a future agenda.

Ms. Schloss noted that the applicant needs to keep an eye on the silt fence and remove limbs sitting on the silt fence.

This issue will be continued to a future date for additional information as proceeding with work at this time is not appropriate.

81-1038 Fore River Development

Amend Order of Conditions

Public Hearing

Cmmr. DeGabriele made a MOTION to OPEN the public hearing and was seconded by Cmmr. Dowd and UNANIMOUSLY VOTED.

Joe Marrone, Ocean and Coastal Construction, appeared before the commission representing Fore River Development, LLC. He submitted the abutter notifications.

Mr. Marrone gave a brief overview of the project. He noted that what was previously permitted for this site was to replace the timber bulkhead with a steel bulkhead. There is concern with a gas company easement and a large gas line; the original plan was to cross over the easement but this has proven problematic. The change proposed is to use riprap. The work will be done within the timber bulkhead.

Cmmr. DeGabriele noted that the fill material is coal ash which exceed some of the MCP standards. He asked what is going to be done during construction to minimize the impact of the soils coming in contact with the water and/or the runoff and the potential for leaching.

Greg McBride, GZA, stated that he is a licensed site professional. He stated that he worked to prepare the soil and the concrete management plan. He stated that there is a revision to the management plan. A boom type system is required under the Order of Conditions. He noted that there is no odor from the fill. He pointed out that the staff on site will be 40 hour trained.

Cmmr. DeGabriele asked if there was any other material that might be found at the site.

Mr. McBride noted that gas tanks were on the site previously. He noted that the only other material would be petroleum but he does not expect to find this.

Ms. Schloss noted that this was forwarded to the Division of Marine Fisheries where no concerns were noted.

Ms. Schloss stated that procedurally this application will need to go to ACE and Chapter 91 as there may need to be minor modifications.

Ms. Schloss asked about the integrity of the bulkhead.

Mr. Marrone stated that the bulkhead is still retaining soil.

Mr. McBride noted that as soil is removed from the bulkhead the stability is improved.

Cmmr. Loring noted that this is a public hearing and asked if there was anyone present who would like to speak. There was no response.

Cmmr. DeGabriele made a MOTION to CLOSE the public hearing and was seconded by Cmmr. Dowd and UNANIMOUSLY VOTED.

Cmmr. DeGabriele made a MOTION to AMEND the Order of Conditions as specified previously and noted this evening as well as notation of the new plans and drawings of 11/3/09 and the soil management plan of 12/9/09. The motion was seconded by Cmmr. Dowd and UNANIMOUSLY VOTED.

**144 Bridge Street
Public Hearing
Map 6 Bl 62, Lot 14
Linda McMillan
Request for Determination of Applicability**

Cmmr. Gowen made a MOTION to OPEN the public hearing and was seconded by Cmmr. DeGabriele and UNANIMOUSLY VOTED.

Ms. McMillan appeared before the commission. She stated that she would like to build a three car garage with an overhang. She noted that John Bartlett will be doing the construction.

Cmmr. DeGabriele noted that the garage is within the 100 foot buffer zone as it is 65 feet from the garage to the top of the slope.

Cmmr. Loring asked if there would be any filling or change to the run-off from the site.

Mr. Bartlett noted that there will be a small amount in front of the garage but the run-off from the site should not change. The Commission and Mr. Bartlett discussed methods to absorb runoff from the new construction and the applicant agreed to construct a stone trench around the building or a drywell.. Erosion controls will be moved closer to the building and outside the 25-foot no disturb zone.

Cmmr. DeGabriele made a MOTION to CLOSE the public hearing and was seconded by Cmmr. Dowd and UNANIMOUSLY VOTED.

Cmmr. DeGabriele made a MOTION to ISSUE a negative 3 determination and was seconded by Cmmr. Dowd and UNANIMOUSLY VOTED.

**81-937 0 Pond Street
Extension to Local Order of Conditions**

Public Hearing

Cmmr. DeGabriele made a MOTION to OPEN the public hearing and was seconded by Cmmr. Dowd and UNANIMOUSLY VOTED.

Tom Pozerski, Merrill Associates, appeared before the commission on behalf of the applicant, South Shore Affordable Housing. He stated that the applicant is requesting a 1 year extension of the original Order of Conditions issued 7/20/05, which became effective on 3/13/07 following a voluntary dismissal of an appeal to Superior Court.

Mr. Pozerski noted that the Order of Conditions is valid for three years and is set to expire on 3/13/10. If the extension is granted, the Order of Conditions will be valid until 3/13/11. He also noted that there is a current valid extension from the DEP for a Superseding Order of Conditions valid until 9/20/12.

Cmmr. DeGabriele asked if there were any other changes. Mr. Pozerski stated that this request is strictly for an extension.

Cmmr. Gowen asked if financing was causing the delays.

Mr. Pozerski stated that the applicant is waiting for a resolution of a permit for off-site improvements. He noted that he expects a favorable resolution to this application.

Cmmr. Loring asked if there was anyone present who would like to comment on the application. He reminded those present to keep their comments pertinent to the issue at hand, which is the request for an extension.

A resident asked what is the address of the property.

Mr. Pozerski stated that the address is 679 Pond Street and was formerly known as Zero Pond Street.

John Smith, 595 Pond Street, asked to whom the permit is issued to as he pointed out that the notice is ambiguous. He also stated that he did not receive notification of tonight's meeting. He stated that he would like to have a new date for this discussion so that other residents would be aware of it.

Ms. Schloss stated that the original Order of Conditions was issued to South Suburban Affordable Housing, LLC. She noted that the address has been Zero Pond Street as an actual address is not issued until the building permit is issued. She stated that the block and lot from the assessors' are referenced.

Mr. Pozerski stated that abutter notifications are sent out based on the assessors' list.

Mr. Smith stated that he cannot find South Shore Affordable Housing listed with the Secretary of State for tax purposes or anything else.

Mr. Smith stated that there is confusion as to the name of the company as there are several names that have been used: SSAH, LLC, South Suburban Affordable Housing, and South Shore Affordable Housing.

Mr. Smith also stated that he is concerned that the plan has changed and he would like to have the meeting continued to find out this information.

Ms. Schloss stated that there changes were made when the DEP issued a superseding order of conditions. This change was to increase the size of the surface water treatment unit. The size of the building footprint has decreased and the amount of impervious area has been reduced. She stated that these types of changes do not trigger the need for an amendment and public hearing.

Mr. Smith stated that the plan has changed from a gabled style roof to a flat roof. He would like to see a new set of plans presented and an independent engineer review the plans.

Stephanie Keefe spoke on behalf of the applicant. She stated that the applicant is strictly asking for an extension.

Harvey Welch, 674 Pond Street, asked what is the legal name of the applicant.

Mike Jacobs, a representative for the property owner, stated that the original sponsor was South Suburban Affordable Housing Inc. who formed an entity SSAH, LLC. SSAH, LLC is the property owner.

Ms. Schloss noted that she is the one who sends out the notification to the newspaper.

Ms. Schloss stated that George Lane, the town's solicitor, ruled that the town's local order expires 3/13/10.

Joe Seleni, 17 Sea Captain's Way, expressed the same concerns as Mr. Smith. He stated that the least the Board can do is continue the hearing and have the proper notification with the proper name and address listed.

Councilor Smart asked the commissioners if they had all been to the site. Several members indicated that they had been to the site. Councilor Smart suggested that since this commission has four new members and these four members did not vote on the original plan that the hearing be continued.

Mr. Pozerski pointed out that the abutter notification was from SSAH LLC, property owner, who is the responsible and liable party to make sure the project proceeds properly.

Cmmr. Gowen suggested that the meeting be continued.

Cmmr. DeGabriele stated that the issue at hand is whether or not to grant an extension of time. He noted that he understands the concern about the entity who is the applicant but this is not within the commission's jurisdiction.

Cmmr. DeGabriele made a MOTION to CLOSE the public hearing and was seconded by Cmmr. Gowen and UNANIMOUSLY VOTED.

Ms. Schloss stated that there are rules for extensions which do not allow for a thorough review of everything when an extension is requested unless the work does not adequately protect the wetland, the work is incomplete and causing problems, or the work was never done but not because of an appeal. Unless one of these situations exists the commission is not allowed to deny a request for an extension.

Cmmr. DeGabriele made a MOTION to ISSUE an extension and was seconded by Cmmr. Dowd and UNANIMOUSLY VOTED.

Other Business

Ms. Schloss asked the board for direction from the commission. She noted that there is a resident who wants to add a small mudroom between his house and garage using two sona tubes which are to be hand dug. The two buildings were built within the 100 foot wetland setback without Conservation Commission approval. She asked if a filing should be required. After discussion among the commissioners, it was decided to have the applicant file a Request for Determination.

Conservation Report

Ms. Schloss noted the following:

- Clean up with Thayer Academy students went well
- Enforcement issue on Park Ave West
- Tidal restoration in Great Esker Park

The January 13, 2009 meeting will begin at 7:00 P. M. at the Weymouth Town Hall.

Cmmr. DeGabriele moved to adjourn at 10:10 pm. Cmmr. Dowd seconded. UNANIMOUSLY VOTED.

APPROVED: _____
Laura Harbottle, Conservation Commission Clerk

Respectfully submitted: Janet Murray, Recording Secretary