

DARTMOUTH TOWN HALL- ROOM 103 - 7:00 P.M.
AGENDA - TUESDAY, NOVEMBER 19, 2013

RECEIVED
Dec. 19, 2013 @
10:35am
DARTMOUTH TOWN CLERK

APPROVAL of the minutes of October 22, 2013 meeting
RECEIVE the minutes of November 5 2013 meeting
APPROVAL of the field trip report of the November 5, 2013 meeting

FIELD TRIP REPORTS

1. A Request for Determination of Applicability from Tom Peters and Susan Sargent re: Map 9 Lot 37-2 on 90 Allens Neck Road (septic tank and pump chamber) (Alan Heureux)
2. A Request for Certificate of Compliance from Jaspar Evarts re: Map 113 Lot 54-5 on 75 Elm Street File 15-2168 (removal of invasive) (Prime Engineering)
3. A Request for Determination of Applicability from Town of Dartmouth re: Map 111 Lot 11 & 13 on Gulf Road (sidewalks) (DPW)
4. A Request for Determination of Applicability from Round Hill Community Corp - William Griffin re: Map 94 Lot 4 on Round Hill Beach Road (resetting displaced armor stones) (CLE Engineering, Inc)
5. Continued Request for an Extension permit from Jayesh Patel re: Map 165 Lot 1, Map 164 Lot 52 on State Road File 15-1888 (renovate Commercial Building) (Jayesh Patel)

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1. **CONTINUED PUBLIC HEARING** - Michael & Jeralyn Fernandes re: Map 105 Lot 86 on 47 East Avenue File 15-2160 (pier, gangway & float) (Boucher & Heureux, Inc) (Continuance until January 06, 2014 request)
 2. **PUBLIC HEARING** - Claremont Companies re: Map 113 Lot 20-1 on Rockland Farm File (drainage improvements) (Sitec, Inc.)
 3. **PUBLIC HEARING** - Round Hill Community Corp re: Map 93 Lot 3 on Ray Peck Drive File (replacement of a deteriorated bulkhead) (CLE Engineering, Inc)
 4. **PUBLIC HEARING** - Reis Asphalt re: Map 62 Lot 10, 12, 13 and 16 on Hixville Road File 15-2212 (After-the-fact alteration of BVW and Buffer zone) (Scott Goddard)

ITEMS FOR DISCUSSION:

- A) Quitclaim Deed for signatures on parcels
 - a. Faunce Corner Road Map 63, Lots 35 and 40
 - b. Lucy Little Road Map 45 Lot 1
 - c. Utica Lane Map 131 Lot 81-1
- B) Update on construction of rifle range in wetland and on Conservation Commission property
- C) Land donation on Map 42 Lot 30 on Chase Road
- D) Friedland & Youman, PC representing Joan and Roger Mendoza 31 Pembroke Dr regarding neighbor at 37 Pembroke Drive
- E) **New Business** - This time is being reserved for topics that the chair did not reasonably

Present Michael Kehoe, Chairperson, Jacquelyn McDonald, Vice-chair, Patricia Sweriduk, Richard Mallen, Jennifer Brindisi Kyle Ross, Michael O'Reilly, Environmental Affairs Coordinator, and Donna Farias, Administrative Clerk

Absent: Richard Golen

Mr. Kehoe, chair convened the meeting at 7:08 PM.

Approval of the minutes of October 22, 2013 was unanimously accepted by those Commissioners present.

Minutes of the November 5, 2013 meeting received for reading.

Approval of the field trip report of the November 5, 2013 meeting was unanimously accepted by those Commissioners present.

Discussion regarding quitclaim Deed for signatures on parcels (Faunce Corner Road map 63, Lots 35 and 40, Lucy Little Road Map 45, Lot 1, and Utica Lane Map 131 Lot 81-1) - Mr. O'Reilly explained a parcel transfer was done and it was voted at Town Meeting to properly change the wording to reflect the Conservation Commission ownership on these parcels. The Quitclaim deed was passed around for signatures.

Discussion regarding update on construction of rifle range in wetland and on Conservation Commission property - Mr. O'Reilly update the Commission the structure and targets have been moved. They have started to do the wetland delineation but additional wetlands need to be picked up. The restoration and delineation plan should be submit shortly.

Land donation on Map 42, Lot 30 on Chase Road- Mr. O'Reilly read Mr. DeMoranville's formal offer into the record donating the parcel to the Conservation Commission. It was the suggestion of the Conservation Commission that prior to the acceptance of the property Mr. O'Reilly do a re-inspection to make sure there are no violations and there needs to be a clear title and deed to the property. Mr. Kehoe entertained a motioned to accept the parcel with the conditions previously stated. Ms. McDonald motioned to accept the parcel with the conditions with Mr. Mallen seconding the motion. It was an unanimous decision of those present.

Discussion regarding Friedland 7 Youman, PC representing Joan and Roger Mendoza 31 Pembroke Drive regarding neighbor at 37 Pembroke Drive- Attorney Youman and Bob Rogers from Tibbetts Engineering were present to represent Mr. & Mrs. Mendoza who were also present. Attorney Youman referred to his letter dated September 4, 2013 regarding trees that are blocking and/or obstructing the stream, stream needs to be cleaned due to silt, and the detention pond is overgrown. Attorney Youman further stated as property has changed hands people have come in and done landscaping and put fill within the buffer zone. Attorney Youman suggested Bristol County Mosquito Control taking care of the stream. (Aerial photographs were handed out) Mr. Rogers explained Tibbetts did document an obstruction in the swale but was unable to determine if there was an obstruction in the detention pond because it is on private property. Mr. Kehoe clarified the stream runs down the Conservation Commission property on the South. Mr. Rogers wouldn't call it a stream. Mr. O'Reilly stated he would. Mr. Rogers explained people put grass clippings and debris in the swale. They don't have wet weather photographs of the area. Mr. Kehoe asked who obstructed the swale. Mr. O'Reilly explained it looks like

been permitted. Mr. O'Reilly wasn't saying there isn't any issue on the Mendoza property. Mr. O'Reilly suggests he contact DPW to look at the culvert. Mr. O'Reilly asked Mr. Rogers if he had done hydrological analysis. Mr. Rogers stated he had not. Mr. O'Reilly suggested the Commission may want to take a field trip to the view the site. Mr. Kehoe suggested that the Mendoza engineer should be present. Mr. Rogers noted he hadn't been to the site, so he has no evidence of a specific violation. Mr. Kehoe suggested Mr. Rogers visit the site, and orient himself. Then Mr. Rogers should contact the Environmental Affairs Coordinator, so an onsite visit could be scheduled. Attorney Youman stated his client had shown him a video of water in their backyard. Furthermore, when the Mendoza's had purchased the property there was an active stream. Mr. O'Reilly stated that Bristol County Mosquito Control may not have any legal authority do anything. Attorney Youman commented the stream being on DNRT property. Mr. O'Reilly explained it is on Conservation Commission property. Mr. Rogers will focus on the system as a whole.

With nothing further to discussed, Mr. Kehoe entertained a motion to adjourn the public meeting. Ms. Sweriduk motioned to adjourn the public hearing at 8:41 PM with Mr. Mallen seconding. It was an unanimous decision of those present.

Respectfully submitted,

Donna Farias
Administrative Clerk

There was a Conservation Commission hearing held in accordance with the provisions of the Dartmouth Wetlands Protection Bylaw and M.G.L., 131, § 40, the Wetlands Protection Act, on the Notice of Intent of Michael and Jeralyn Fernandes who wishes to construct a pier, gangway, & float on land located at Map 105 Lot 86 on 47 East Avenue in Dartmouth. The hearing was held on Tuesday, November 19, 2013 in Room 103 of the Dartmouth Town Hall at 400 Slocum Road in Dartmouth.

Present were Michael Kehoe, Chairperson, Jacquelyn McDonald, Vice-Chairperson, Richard Mallen, Patricia Sweriduk, Jennifer Brindisi, Kyle Ross, Michael O'Reilly, Environmental Affairs Coordinator, and Donna Farias, Administrative Clerk.

ABSENT: Richard Golen

Mr. Kehoe, Chair convened the hearing at 7:17 p.m. It was voted to waive the reading of the public hearing notice.

The applicant's representative requested a continuance until the beginning of next year.

With nothing further to be added, Ms. Mc Donald motioned to continue public hearing until Monday, January 06, 2014 at 7 PM with Mr. Mallen seconding the motion.

Respectfully submitted,

Donna Farias
Administrative Clerk

There was a Conservation Commission hearing held in accordance with the provisions of the Dartmouth Wetlands Protection Bylaw and M.G.L., 131, § 40, the Wetlands Protection Act, on the Notice of Intent of Claremont Companies who wishes to do drainage improvements on land located at Map 113Lot 20-1 on Rockland Farm in Dartmouth. The hearing was held on Tuesday, November 19, 2013 in Room 103 in the Dartmouth town Hall at 400 Slocum Road in Dartmouth.

Present were Michael Kehoe, Chairperson, Jacquelyn McDonald, Vice Chairperson, Patricia Sweriduk, Richard Mallen, Jennifer Brindisi, Kyle Ross, Michael O'Reilly, Environmental Affairs Coordinator, and Donna Farias, Administrative Clerk.

ABSENT: Richard Golen

Mr. Kehoe, chair convened the hearing at 7:18 p.m. It was voted to waive the reading of the public hearing notice. Plan file number 13-5348 dated October 28, 2013 of site were displayed. Certified mail receipts showing proof of abutter notification were submitted for the file.

Jeffrey Tallman, Sitec Inc. was present to represent the applicant. Mr. Tallman explained the purpose of this application is to make drainage improvements to the south end of Rockland Farm, a private way located in South Dartmouth. Some of the proposed work, which includes the installation of an underground stormwater conveyance/treatment system, is located in or within the 100' of a resource area. Mr. O'Reilly asked about why the piping was going from 15" to 12". Mr. Tallman explained the reduction and the resource areas that would be affected. Mr. O'Reilly stated he was not familiar with the stormwater control Mr. Tallman was proposing, and would like some more detail and specification of this system. Mr. Tallman handed Mr. O'Reilly some information on the stormwater treatment unit and would get Mr. O'Reilly the specification.

Mr. Kehoe requested Mr. Tallman getting that into the Commission five day before the next meeting.

With nothing further to be added, Ms. McDonald motioned to continue the public hearing until December 02, 2013 at 7 PM so Mr. Tallman can submit the additional information and for a file number with Mr. Mallen seconding the motion.

Respectfully submitted,

Donna Farias
Administrative Clerk

There was a Conservation Commission hearing held in accordance with the provisions of the Dartmouth Wetlands Protection Bylaw and M.G.L., 131, § 40, the Wetlands Protection Act, on the Notice of Intent of Round Hill Community Corp who wishes to construct a replace a deteriorated and failing circular timber bulkhead which surrounds and contains the seventh green located along Ray Peck Drive on land located at Map 93 Lot 3 on Ray Peck Drive in Dartmouth. The hearing was held on Tuesday, November 19, 2013 in Room 103 in the Dartmouth town Hall at 400 Slocum Road in Dartmouth.

Present were Michael Kehoe, Chairperson, Jacquelyn McDonald, Vice Chairperson, Patricia Sweriduk, Richard Mallen, Jennifer Brindisi, Kyle Ross, Michael O'Reilly, Environmental Affairs Coordinator, and Donna Farias, Administrative Clerk.

ABSENT: Richard Golen

Mr. Kehoe, chair convened the hearing at 7:25 p.m. It was voted to waive the reading of the public hearing notice. Plan file number 11076.3 dated 10/28/13 of site were displayed. Certified mail receipts showing proof of abutter notification were submitted for the file.

Scott Skuncik from CLE Engineering was present to represent the applicant. Mr. Skuncik explained this is to replace an existing and failing timber bulkhead on the existing seventh green on the Ruond Hill Community property. The replacement involves installing a new steel sheet pile bulkhead approximately 18 inches from the face of the existing structure. Mr. Skuncik explained the resource areas that would be impacted.

Mr. O'Reilly explained there has been analysis and discussion on this matter and this was the viable alternative which would have less impact. The green is in bad shape. Mr. O'Reilly asked Mr. Skuncik to discuss the staging area.

Mr. Skuncik explained the steel sheeting involves driving it 1-1.5 ft from the existing face. The bulkhead to bulkhead offset distance was set as the minimum required to fit the vibratory hammer. This would minimize wetland impacts. There would be no change in habitat quality, and the project is within the 100 ft buffer zone of Bordering Vegetated Wetland. The staging area is confined within the existing mowed tee area.

Mr. Mallen commented this makes it larger by 18 inches. Mr. O'Reilly explained this was the minimum they could get. Mr. Mallen asked what they will do with the timbers. Mr. Skuncik explained they would leave the timbers.

With nothing further to be added, Ms. McDonald motion to continue the public hearing until Monday, December 02, 2013 at 7PM because there is no file number with Mr. Mallen seconding the motion.

Respectfully submitted,

There was a Conservation Commission hearing held in accordance with the provisions of the Dartmouth Wetlands Protection Bylaw and M.G.L., 131, § 40, the Wetlands Protection Act, on the After the Fact alteration of BVW and Buffer Zone Notice of Intent of Reis Asphalt on land located at Map 62 Lot 10, 12, 13, and 16 on Hixville Road in Dartmouth. The hearing was held on Tuesday, November 19, 2013 in Room 103 in the Dartmouth town Hall at 400 Slocum Road in Dartmouth.

Present were Michael Kehoe, Chairperson, Jacquelyn McDonald, Vice Chairperson, Patricia Sweriduk, Richard Mallen, Jennifer Brindisi, Kyle Ross, Michael O'Reilly, Environmental Affairs Coordinator, and Donna Farias, Administrative Clerk.

ABSENT: Richard Golen

Mr. Kehoe, chair convened the hearing at 7:31 p.m. It was voted to waive the reading of the public hearing notice. Plan file number 11132 dated October 7, 2013 of site were displayed. Certified mail receipts showing proof of abutter notification were submitted for the file.

Scott Goddard, Goddard Consulting, LLC was present to represent the applicant as well as the Reis family. Mr. Godard explained this is for an after-the-fact filing for alteration of Bordering Vegetated Wetlands and the buffer zone. There has been an increase in activity from 2007 to present according to the aerial photographs. There is Eastern Box turtle from the powerline to the back of the property. LEC has flagged the wetlands which are reflected on the plan with some additional delineation done by Goddard Consulting. The Reis' are aware now of the resource areas, and are willing to bring the violations into compliance, permit the continued work going forward with the Notice of Intent. The plan shows five separate areas with approximately 41,000 square feet of Bordering Vegetated Wetlands (BVW) filled. The Reis' are planning on restoring four of the five wetland impact areas as well as replication. They are waiting on Site Design who is working on a plan intended to bring full engineer plans to satisfy this regulation. They would like to fill one square off to keep working in this area and replace it in another area. Mr. Goddard suggested demarcating the site so the Reis' can see where they can operate.

Derek Reis, Bryan Reis, and Krystal Reis apologized to the Commission and would like to make this right. Mr. Goddard stated the application is still incomplete but felt this was the first step.

Mr. O'Reilly suggested the Commission consider how this filling is structured. This after-the-fact Notice of Intent is in front of the Commission or do they separate out the straight enforcement action. There is a violation with Natural Heritage and Mr. O'Reilly has been keeping DEP updated. Mr. O'Reilly spoke with Liz Kouloheras from DEP who suggested the Commission consider issuing an enforcement order to restore all of the lost wetland resource areas in lieu of an Order of Conditions allowing fill to be left in place. The enforcement order could require submittal of a restoration plan with specific performance standards and deadline to achieve compliance. Mr. O'Reilly suggested the restoration be handled under an enforcement order and the Notice of Intent for the active commercial project.

Mr. O'Reilly agrees this is a step in the right direction and still needs an extensive restoration plan. The Commission had voted to go to Town Counsel which this is still a consideration and court action could commence at any point depending on the Commission. Mr. O'Reilly feels the restoration portion should be under enforcement.

Mr. Kehoe asked if DEP would be joining or considering it. Mr. O'Reilly couldn't say for sure if DEP would join in on the enforcement. Mr. O'Reilly stated the application isn't complete. Mr. Kehoe asked if it should be amended or withdrawn.

with this violation.

Ms. McDonald without a full restoration plan the Commission can't make a determination. Mr. Goddard didn't want this to wait any longer, so they filed this concept. They are still waiting on Tom Hardman from Site Design. Ms. McDonald asked how much longer will it take to get the plan. Mr. Goddard explained they are working with Site Design and there backed up. Mr. Kehoe would hope to have it for the next meeting. Mr. Kehoe stated the Commission takes the recommendations of DEP and Heritage seriously. The Commission appreciates that the owners and their representative are present. Mr. Kehoe asked that Town Counsel not file anything until the next meeting. Mr. O'Reilly will see what level of enforcement DEP would take.

Mr. Mallen asked that Mr. Goddard get the additional information and keep this positive movement every time we meet.

Mr. O'Reilly wanted clarified he is to find out DEP's level of involvement and the Commission wants to separate the enforcement.

Mr. Kehoe believes we should separate out the enforcement and DEP may send a representative to the Commission's meeting or to meet with Mr. O'Reilly. In fairness to find out where DEP is on this if they want to amend the request, have them withdraw and file a new, or have the Conservation Commission vote on this matter. Mr. O'Reilly explained DEP could go in with a Superseding Order of Conditions which leaves the applicant at risk of DEP intervening.

Mr. Goddard would like an opportunity to contact DEP and seek a written opinion from them for the next meeting. Mr. Kehoe thought this to be a reasonable request. Ms. Sweriduk would like an answer at our next meeting.

With nothing further to be added, Ms. McDonald motioned to continue the public hearing until Monday, December 02, 2013 at 7 PM in room 103 with Mr. Mallen seconding the motion.

Respectfully submitted,

Donna Farias
Administrative Clerk

1. A Request for Determination of Applicability from Tom Peters and Susan Sargent re: Map 9 Lot 37-2 on 90 Allens Neck Road (septic tank and pump chamber) (Alan Heureux)

ABSENT: Richard Golen

Ms. McDonald motioned to waive the reading of the public meeting notice with Mr. Mallen seconding the motion.

Mr. O'Reilly explained this application was for a septic tank, pump chamber, and studio. Mr. O'Reilly had viewed the site during a Wetland Site inspection. The proposed structure is approximately 35 feet from the wetland with no grade changes and Mr. O'Reilly doesn't believe there would be any negative impact and would recommend a negative determination.

DECISION: Ms. McDonald motioned to issue a **NEGATIVE 3** determination with Mr. Mallen seconding the motion.

2. A Request for Certificate of Compliance from Jaspar Evarts re: Map 113 Lot 54-5 on 75 Elm Street File 15-2168 (removal of invasive) (Prime Engineering)

ABSENT: Richard Golen

Ms. Sweriduk recused herself from all discussion and voting on this particular matter.

Mr. O'Reilly explained a letter had been received by an engineer. Mr. O'Reilly explained the wetlands are in the front and side. Mr. O'Reilly explained the placement of soil, seeds, and shrubs. At the base of the shrubs looks like it is lawn. The area has been mowed to keep the invasive down. Mr. O'Reilly did speak with Mr. Evarts that it looks like it had been recently mowed. A real estate closing is what is facilitating the issuance of a Certificate of Compliance. Mr. O'Reilly would suggest a partial for the shrubs and contact the closing attorney to make him aware that the new owners may not maintain this area like lawn. The area must be left alone and only mowed when the invasive have grown. Mr. Kehoe commented this may not be satisfactory to the closing counsel. It was suggested sending a letter to the closing attorney. Mr. Mallen asked if this would hold anything up. Mr. O'Reilly stated the closing isn't until the beginning of next year and suggested the Commission could table this matter. Mr. Kehoe also suggested putting something in writing to the potential buyer what is there and has the knowledge of it by signing the letter.

With nothing further to be added, Ms. McDonald motioned to table this matter until December 02, 2013 with Mr. Mallen seconding the motion.

3. A Request for Determination of Applicability from Town of Dartmouth re: Map 111 Lot 11 & 13 on Gulf Road (sidewalks) (DPW)

ABSENT: Richard Golen

Ms. McDonald motioned to waive the reading of the public hearing notice with Mr. Mallen seconding.

Mr. O'Reilly explained this is an after-the-fact filing for the DPW. They are installing ADA sidewalks. The ADA sidewalks are across from the Apponagansett Bay. Mr. O'Reilly doesn't see any negative impact and would recommend a negative determination.

DECISION: Ms. McDonald motioned to issue a **NEGATIVE 2** determination with Mr. Mallen seconding the motion.

4. A Request for Determination of Applicability from Round Hill Community Corp - William Griffin re: Map 94 Lot 4 on Round Hill Beach Road (resetting displaced armor stones) (CLE Engineering, Inc)

ABSENT: Richard Golen

Ms. Brindisi recused herself from all discussion and voting on this matter.

Mr. O'Reilly explained this is to replace stones that have been displaced do to wave action. It's a small section previously permitted to protect the dune. Mr. O'Reilly feels this is a safety issue and would recommend a negative determination.

DECISION: Ms. McDonald motioned to issue a **NEGATIVE 2** determination with Mr. Mallen.

5. Continued Request for an Extension permit from Jayesh Patel re: Map 165 Lot 1, Map 164 Lot 52 on State Road File 15-1888 (renovate Commercial Building) (Jayesh Patel)

ABSENT: Richard Golen

Mr. O'Reilly explained this was for a commercial project that the permit had expired. The Commission had requested an as-built and acknowledgement from the contractor and owner. Mr. O'Reilly spoke with the contractor who was bring a letter but it was worded incorrectly. The contractor has contacted Sitec, Inc who is working on getting the as-built plan that was requested.

Ms. McDonald tabled this matter until December 02, 2013. with Mr. Mallen