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DARTMOUTH TOWN CLERK

DARTMOUTH CONSERVATION COMMISSION
DARTMOUTH TOWN HALL- ROOM 103 - 7:00 P.M.
MEETING MINUTES - Tuesday, September 09, 2014

PRESENT: Michael Kehoe, Chair, Richard Mallen, Richard Golen, Jennifer Brindisi, Kyle Ross

ABSENT: Jacquelyn McDonald, Patricia Sweriduk

APPROVAL of the minutes of August 05, 2014 meeting

- *After a motion was made by Richard Mallen and seconded by Jennifer Brindisi, it was unanimously voted (5-0) to approve the minutes of August 05, 2014.*

RECEIVE the minutes of August 19, 2014, 2014 meeting

- *After a motion was made by Richard Mallen and seconded by Richard Golen, it was unanimously voted (5-0) to approve the minutes of August 19, 2014.*

APPROVAL of the field trip report of August 19, 2014 meeting

- *After a motion was made by Richard Mallen and seconded by Richard Golen, it was unanimously voted (5-0) to approve the minutes of August 19, 2014.*

FIELD TRIP REPORTS

1. A Continued Request for Determination of Applicability from John Brum re: Map 125, Lot 13-1 & 13-2 on 475 & 483 Russells Mills Road (removal fill from BVW and grading work) (Sitec, Inc)
 - **Motion to Waive the Reading: 1st: Richard Mallen, 2nd: Richard Golen**
 - Mr. O'Reilly explained this is for grading and removal of fill within the Bordering Vegetated Wetland (BVW)
 - Work had been done on an abutting property and the abutter and applicant are in agreement with the current plan
 - Mr. O'Reilly would recommend a negative determination
 - *After a motion was made by Jennifer Brindisi and seconded by Richard Golen, it was unanimously voted (5-0) to approve a Negative Determination 2 for Map 125, Lot 13-1 & 13-2 on 475 & 483 Russells Mills Road.*
2. A Request for Determination of Applicability from Pamela A Murray & Joseph MacLaughlin re: Map 23, Lot 59-4 on Horseneck Road (Single Family Home) (Boucher and Heureux)
 - **Motion to Waive the Reading: 1st: Richard Mallen, 2nd: Richard Golen**
 - Mr. O'Reilly stated this is for a single family home outside the buffer zone
 - There is a small portion of the porch in the buffer zone of the coastal bank and Mr. O'Reilly would recommend a negative determination



DARTMOUTH CONSERVATION COMMISSION
DARTMOUTH TOWN HALL- ROOM 103 - 7:00 P.M.
MEETING MINUTES - Tuesday, September 09, 2014

- *After a motion was made by Richard Golen and seconded by Kyle Ross, it was unanimously voted (5-0) to approve a Negative Determination 3 for Map 23, Lot 59-4 on Horseneck Road.*

- 3. A Request for Determination of Applicability from Town of Dartmouth re: Hixville Road (water main) (Town of Dartmouth)
 - **Motion to Waive the Reading: 1st: Richard Mallen, 2nd: Kyle Ross**
 - Mr. O'Reilly explained this is to install a water main located at the intersection of Hixville Road and Reed Road which will continue North to Hixville Road to the intersection of Old Fall River Road
 - There will be two stream crossings, work within the riverfront but not wetland resource disturbance
 - Mr. O'Reilly feels this work is necessary and would recommend a negative determination.
 - *After a motion was made by Richard Golen and seconded by Richard Mallen, it was unanimously voted (5-0) to approve a Negative Determination 2 on Hixville Road and Old Fall River Road.*

- 4. A Request for Determination of Applicability from DNRT re: Map 19, Lot 40-1 on Potomska Road (boardwalk) (DNRT)
 - **Motion to Waive the Reading: 1st: Richard Mallen, 2nd: Richard Golen**
 - Jennifer Brindisi recused herself from all discussion and voting on this matter
 - Mr. O'Reilly explained this is for the Frank Knowles/Little River Reserve area
 - DNRT would like to construct 100 ft boardwalk to replace existing boards to cross the wetland system
 - Mr. O'Reilly doesn't feel there would be any negative impact and would recommend a negative determination.
 - *After a motion was made by Kyle Ross and seconded by Richard Golen, it was unanimously voted (4-0, with 1 abstention) to approve a Negative Determination 2 on Map 19, Lot 40-1 on Potomska Road.*

- 5. A Request for Determination of Applicability from Richard Rheume re: Map 113, Lot 34 on 2 High Street (remodel dwelling) (Prime Engineering)
 - **Motion to Waive the Reading: 1st: Richard Golen, 2nd: Kyle Ross**
 - Richard Mallen recused himself from all discussion and voting on this matter
 - Mr. O'Reilly explained this is to do some interior and exterior remodeling of a dwelling in the outer extend of the flood plain
 - Mr. O'Reilly doesn't feel there would be any negative impact and would recommend a negative determination.



DARTMOUTH CONSERVATION COMMISSION
DARTMOUTH TOWN HALL- ROOM 103 - 7:00 P.M.
MEETING MINUTES - Tuesday, September 09, 2014

- *After a motion was made by Jennifer Brindisi and seconded by Kyle Ross, it was unanimously voted (4-0, with 1 abstention) to approve a Negative Determination 2 on Map 113, Lot 34 on 2 High Street.*

- 6. A Request for Determination of Applicability from Robert Forbes re: Map 68, Lot 1 on Faunce Corner Road (Commercial) (Prime Engineering)
 - **Motion to Waive the Reading: 1st: Richard Mallen, 2nd: Richard Golen**
 - Mr. O'Reilly reviewed the delineation and would recommend the issuance of a positive determination for the delineation
 - The proposed commercial building is outside the jurisdiction of the Conservation Commission, and Mr. O'Reilly would recommend a negative determination.
 - *After a motion was made by Richard Golen and seconded by Jennifer Brindisi, it was unanimously voted (5-0) to approve a Positive 2A determination and Negative Determination 4 on Map 68, Lot 1 on Faunce Corner Road.*

- 7. A Request for a Certificate of Compliance from Vermette Development and Real Estate Corporation re: Map 79 Lot 6-12 on Medeiros Lane File 15-1983 (dwelling) (Sitec, Inc)
 - Mr. O'Reilly has received the as-built plan, and a letter explaining the deviations from the original Order of Conditions. It is in Mr. O'Reilly's opinion, there would be no significant impacts and would recommend an issuance of a Certificate of Compliance.
 - *After a motion was made by Richard Golen and seconded by Jennifer Brindisi, it was unanimously (voted 5-0) to approve Certificate of Compliance for Map 79, Lot 6-12 on Medeiros Lane - file 15-1983.*

- 8. A Request for a Certificate of Compliance from Kenneth Steen re: Map 123 Lot 152-9 (sublot 8) on Clarks Cove Road File 15-1518 (dwelling) (Existing Grade Inc)
 - Mr. O'Reilly stated a letter from an Engineer has been received no work has commenced and would recommend the issuance of a Certificate of Compliance (COC).
 - *After a motion was made by Richard Golen and seconded by Jennifer Brindisi, it was unanimously (voted 5-0) to approve Certificate of Compliance for Map 123, Lot 152-9 (sublot 8) on Clarks Cove Drive - file 15-1518.*

- 9. A Request for a Certificate of Compliance from Kenneth Steen re: Map 123 Lot 152-9 (sublot 7) on Clarks Cove Road File 15-1519 (dwelling) (Existing Grade Inc)
 - Mr. O'Reilly explained this is the same thing as the previous COC. No work has commenced and would recommend the issuance of a Certificate of Compliance.
 - *After a motion was made by Richard Golen and seconded by Jennifer Brindisi, it was unanimously (voted 5-0) to approve Certificate of Compliance for Map 123, Lot 152-9 (sublot 7) on Clarks Cove Drive - file 15-1519.*



DARTMOUTH CONSERVATION COMMISSION
DARTMOUTH TOWN HALL- ROOM 103 - 7:00 P.M.

MEETING MINUTES - Tuesday, September 09, 2014

10. A Request for Certificate of Compliance from Tibbetts Engineering Corp re: Map 84 Lot 4 on Castaldi Drive File 15-1705 (roadway) (Tibbetts)
 - Mr. O'Reilly has received a letter from an engineer requesting a Certificate of Compliance.
 - This was for a roadway for the Industrial Park.
 - Mr. O'Reilly has done a site inspection and would recommend the issuance of a Certificate of Compliance
 - *After a motion was made by Richard Golen and seconded by Kyle Ross, it was unanimously (voted 5-0) to approve Certificate of Compliance for Map 84, Lot 4 on Castaldi Drive - file 15-1705.*

11. A Request for Certificate of Compliance from Tibbetts Engineering Corp re: Map 85 Lot 8 on Vertente Boulevard Extension File 15-1706 (roadway) (Tibbetts)
 - Mr. O'Reilly explained this is the same as the previous request and would recommend the issuance of a Certificate of Compliance.
 - *After a motion was made by Richard Golen and seconded by Jennifer Brindisi, it was unanimously (voted 5-0) to approve Certificate of Compliance for Map 85, Lot 8 on Vertente Boulevard Extension - file 15-1706.*

PUBLIC HEARINGS

1. CONTINUED PUBLIC HEARING for Abbreviated Notice of Resource Area Delineation - Quinary Irrevocable Trust re: Map 57, Lot 1 on Hathaway Road File #15-2229 (wetland delineation) (Thompson and Farland)
 - Motion to Waive the Reading: 1st: Richard Mallen 2nd: Richard Golen
 - The applicant has requested a two week continuance for the hearing.
 - *After a motion was made by Richard Golen and seconded by Jennifer Brindisi, it was unanimously voted (5-0) to approve a continuance until September 23, 2014.*

2. PUBLIC HEARING - J&T Home Builders re: Map 131, Lot 61 on Sagamore Drive (pave access for four lot subdivision) (Sitec, Inc)
 - Motion to Waive the Reading: 1st: Richard Mallen 2nd: Richard Golen
 - The applicant has requested a two week continuance for the hearing.
 - *After a motion was made by Richard Mallen and seconded by Richard Golen, it was unanimously voted (5-0) to approve a continuance until September 23, 2014.*



DARTMOUTH CONSERVATION COMMISSION
DARTMOUTH TOWN HALL- ROOM 103 - 7:00 P.M.
MEETING MINUTES - Tuesday, September 09, 2014

3. **CONTINUED PUBLIC HEARING AMENDED ORDER OF CONDITIONS-** Notice of Intent from Bruce Poor re: Map 128 Lots 14 on Annies Path a.k.a Avis Street (construct a driveway and a OOC extension) (Prime Engineering).
 - Richard Rheume from Prime Engineering was present to represent the applicant.
 - Mr. Rheume revised plans after meeting with Mr. Correia the abutter
 - Revision include: roof drains are underground, extended the Town drain pipe passed the driveway and added additional trees
 - Aguinaldo Correia stated he agrees with the revised plan
 - Mr. O'Reilly feels the plan meets the Performance Standards, but the plan doesn't meet the five day review time for submittal, so this will need to be continued for two weeks
 - *After a motion was made by Richard Mallen and seconded by Richard Golen, to continue this public hearing until Tuesday, September 23, 2014 at 7:00 PM it unanimous (5-0).*

4. **CONTINUED PUBLIC HEARING -** Notice of Intent from Nina Knowlton re: Map 125 Lots 56 on Country Way (replace 12 inch diameter culvert and remove fallen trees) (Prime Engineering).
 - **Motion to Waive the Reading: 1st: Richard Malle, 2nd: Richard Golen**
 - **Jennifer Brindisi recused herself from any discussion and voting on this particular matter**
 - Richard Rheume from Prime Engineering was present to represent the applicant
 - Mr. Rheume stated Natural Heritage is involved and has asked for additional information. Mr. Rheume has not heard if the changes have been accepted, so Mr. Rheume is requesting a two continuance.
 - *After a motion was made by Richard Mallen and seconded by Richard Golen, to continue this public hearing until Tuesday, September 23, 2014 at 7:00 PM it unanimous (4-0 with 1 abstention).*

5. **PUBLIC HEARING -** Michael Kalisz re: Map 155 Lot 81-2 on Carroll Street File #15- (Single Family Home) (Prime Engineering)
 - **Motion to Waive the Reading: 1st: Richard Mallen 2nd: Richard Golen**
 - Richard Rheume from Prime Engineering was present to represent the applicant.
 - Mr. Rheume explained this application had been previously before the Commission, but the Order of Conditions expired, and the delineation needed to be updated.
 - They have maintained a twenty-five foot no disturbed area, and the home will have water and sewer
 - Mr. O'Reilly has been to the site and approves the delineation. The house is in the buffer zone and meets the Performance Standards.
 - Mr. Rheume is requesting a two week continuance because there is no DEP file number.



DARTMOUTH CONSERVATION COMMISSION
DARTMOUTH TOWN HALL- ROOM 103 - 7:00 P.M.
MEETING MINUTES - Tuesday, September 09, 2014

- *After a motion was made by Richard Mallen and seconded by Richard Golen, to continue this public hearing until Tuesday, September 23, 2014 at 7:00 PM it unanimous (5-0).*

- 6. **CONTINUED 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)
 - **Motion to Waive the Reading: 1st: Richard Mallen 2nd: Richard Golen**
 - Attorney Jim Marsh was present to represent the applicant. Krystal Reis was present.
 - Attorney Marsh stated the revision to the timeline now reflects through September 2016
 - Attorney Marsh explained the Notice of Intent requires a Stormwater management plan and Site Design Engineering hasn't completed this yet even at the urging of the applicant. Attorney Marsh is hoping to have this by the next meeting
 - Attorney Marsh asked if there could be some change to the order of how things are complete, until they get the information from the engineer.
 - Mr. O'Reilly explained the enforcement action has now been properly separated from the Notice of Intent; there is a timeline for the replication and restoration area. Mr. O'Reilly stressed it is important that the restoration areas commence now. Mr. O'Reilly visited the site today, and saw additional alterations to the buffer zone being done (pictures submitted for the record).
 - The restoration needs to occur right now because we are running out of season. If this isn't complete then there will be no plantings for the 2014 season, stated Mr. O'Reilly. Mr. O'Reilly's recommendation to the Commission is to require the Reis' to start immediately, and then continue the hearing on the Notice of Intent for two weeks to give them time to submit the Stormwater Management plan for review.
 - Mr. Kehoe questioned doing the restoration without the Order of Conditions
 - Mr. O'Reilly clarified the restoration works is under the enforcement order; the Commission has ordered the restoration to occur.
 - Krystal Reis stated there was a misunderstanding, because this is the area they have been working on. Ms. Reis explained where the stone is and the long section in the front is where they have been working.
 - Mr. O'Reilly showed the pictures of a machine, a rock pile and a screener
 - Ms. Reis explained they were taking out the stone to clear.
 - Mr. O'Reilly clarified that they were crushing the stone and removing it
 - Ms. Reis agreed.
 - Mr. O'Reilly stated it is possible, but it looked like additional work being done. Mr. O'Reilly reiterated that this needs to get done.
 - Mr. Kehoe asked if Mr. O'Reilly was satisfied with the restoration plan
 - Mr. O'Reilly had requested some modification to the restoration plan. Mr. O'Reilly asked Attorney Marsh if those were added.



DARTMOUTH CONSERVATION COMMISSION
DARTMOUTH TOWN HALL- ROOM 103 - 7:00 P.M.
MEETING MINUTES - Tuesday, September 09, 2014

- Attorney Marsh stated he believe they were.
- Mr. Golen added they would like to postpone the replication and substitute a restoration area. Which one are they substituting. Mr. Golen would like to see areas more specified.
- Ms. Reis showed they are working on the area suggested by the Commission, but was under the assumption that as long as the percentage was down they were fine.
- Mr. Kehoe stated the restoration work should commence on September 10, 2014; he agreed the Commission wasn't concerned with the sequencing but the percentage of completion at a previous hearing. The pink area is what you needs the Notice of Intent.
- This was the area Ms. Reis was confused on.
- **After a motion was made to continue the public hearing for two weeks until September 23, 2104 for the replications on the Notice of Intent by Richard Mallen and seconded by Richard Golen. It was unanimously voted (5-0) to approve a continuance until September 23, 2014.**
- **A motion was made to accept the plan for the wetland restoration dated August 7, 2014, work to commence on September 10, 2014, by Richard Golen and seconded by Richard Mallen. It was unanimously voted (5-0) to accept the plan.**
- **A motion was made that this work will commence on September 10, 2014, and this has to be completed as quickly as possible because of the short season and seconded by Richard Golen. It was unanimously voted (5-0) for work to commence of September 10, 2014.**

ITEMS FOR DISCUSSION:

- A) Duplicate original Order of Condition for Jayesh Patel/618 State Road-**
- Mr. O'Reilly gave the Commission an overview of what has transpired until now.
 - Mr. Kehoe stated the Order of Conditions should have been recorded and its possible they may have to file a new Notice of Intent; there could be potential violations and he isn't inclined to issue a duplicate Order of Conditions
 - Mr. O'Reilly has spoken with Ms. Patel who stated the she would like a 2-3 days to works this out.
 - Mr. O'Reilly is in receipt of an as-built plan that was never submitted to the department but there is no letter from an engineer
 - Mr. O'Reilly stressed to Ms. Patel that there could be a potential for an enforcement situation, potentially court action
 - Mr. O'Reilly explained the original request for a duplicate OC came from Fairhaven Excavating who is also owned money by the applicant
 - Mr. Rheume explained to the Commission that he has the original Order of Conditions (OC) and did not recorded the OC, because he had not been paid by the applicant
 - Mr. Kehoe commented work shouldn't have progressed without the Order of Conditions being recorded.



DARTMOUTH CONSERVATION COMMISSION
DARTMOUTH TOWN HALL- ROOM 103 - 7:00 P.M.
MEETING MINUTES - Tuesday, September 09, 2014

- It was the decision of the Commission to table this matter until September 23, 2014, at 7PM to see if there can be some sort of resolution to this problem.
- B) Duplicate Certificate of Compliance for File 15-641, Map 33, Part of lots 11 and 12 on Smith Neck Road**
 - Mr. O'Reilly explained this had been signed before but the applicant had misplaced the original Certificate of Compliance.
 - Commission signed the duplicate Certificate of Compliance
- C) 2 East River Drive - Pinto property**
 - Mr. O'Reilly informed the Commission that Mr. Pinto has contacted an engineer who will be filing an after the fact Notice of Intent
- D) Dutch Belt Farm Agricultural Preservation restriction**
 - Mr. O'Reilly explained the area goes from the corner of Copicut Road to North Hixville
 - Mr. O'Reilly informed the Commission of an Atlantic White Cedar grove that should be protected
 - The long term goal is to connect the trail system from Ridge Hill to the Bio Reserve
 - Discussion on the roadway/access to the Atlantic White Cedars ensued, and the use of Fall River property for access
- E) New Business** - This time is being reserved for topics that the chair did not reasonably anticipate would be discussed.

A handwritten signature in cursive script, appearing to read "Donna Farias", written over a horizontal line.

Respectfully submitted by: Donna Farias
Administrative Clerk