



Town of Duxbury Conservation Commission

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DUXBURY, MASS.

Minutes of October 7, 2014

The Conservation Commission met on Tuesday, October 7, 2014 at 7:00 PM in the Mural Room at the Duxbury Town Hall.

Members Present: Tom Gill, Acting Chair; Sam Butcher; Dianne Hearn; Barbara Kelley; Corey Wisneski

Members Absent: Joe Messina; Holly Morris

Staff Present: Joe Grady, Conservation Administrator; Susan Ossoff, Administrative Assistant

The meeting was called to order by Acting Chairman Tom Gill at 7:00 PM.

PUBLIC MEETING; TOWN OF DUXBURY CONSERVATION COMMISSION; O STANDISH AVE; VEGETATION CUTTING FOR VIEW EASEMENT; 7:02 PM

Joe Grady explained that the Conservation Commission bought the 'Stookey Overlook" on Standish, approximately 0.5 acres, to memorialize the last view of the Winslow Tree Farm over Eagle's Nest Cove. There is a land courted View Easement but the view is now blocked. The Winslow family retained the maintenance requirements of the view easement and now want to transfer the maintenance requirements to the Town. The Town would remove some trees and grind the stumps to re-establish the view.

Sam Butcher asked why the Town would want to take over maintenance of the easement. Joe Grady said that the only way to make sure that the work is done is for the Town to be responsible for it. Others have transferred the easements on their property from the Winslow's to themselves for their portion of the easement.

On a motion by Sam Butcher, seconded by Barbara Kelley, it was voted 5-0-0 to to issue a Negative Determination so that a Notice of Intent is not required for the proposed project of clearing vegetation for the view easement.

PUBLIC HEARING; GARRETT; 237 KING CAESAR ROAD; SEAWALL; 7:04 PM SE 18-1681

At 7:07 PM, Freeman Boynton representing Jim Garrett explained that the project is to replace an existing poured wall with a sloped stone seawall. The beach has eroded under the existing concrete seawall and there is concern that the wall is going to collapse. Neighbors have expressed concern about the type of wall, so Mr. Boynton requested a continuance to be able to have further discussions with the neighbors.

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The mission of the Town of Duxbury is to deliver excellent services to the community in the most fiscally responsible and innovative manner while endeavoring to broaden our sense of community and preserve the unique character of our town.

On a motion by Sam Butcher, seconded by Corey Wisneski, it was voted to continue the hearing for SE18-1681 until Tuesday, October 21 at 7:30 PM.

**CONTINUATION OF PUBLIC HEARING; SANMARCO; 48 GRANDVIEW; PIER; 7:05 PM
SE 18-1636**

The applicant is not ready to move forward with this hearing at this time. On a motion by Barbara Kelley, seconded by Corey Wisneski, it was unanimously voted 5-0-0 to continue this hearing until December 2, 2014 at 7:05 PM.

**PUBLIC HEARING; BAKER; 30 BRADFORD ROAD, GARAGE; 7:10 PM
SE 18-1682**

At 7:13 pm, Jeff Baker, the homeowner, described the project which is to add a garage. Joe Grady stated that based on the site plan, there are 3 feet of the structure that are in the Commission's jurisdiction within 100' of the top of the coastal bank; the majority of the structure is outside of the 100' buffer. The project complies with the percentage coverage and foundation setbacks.

Sam Butcher asked what the landscape between the garage and the house is now; Mr. Baker replied that it is all grass.

Shirley Fallon of 296 Marshall Street, in the audience, stated that this garage project was previously turned down. Corey Wisneski replied that it was not reviewed by the Conservation Commission before so must have been turned down by another department. Shirley Fallon said the house is on the beach and should not have been allowed to be built and that the garage will spoil everyone's view, and she wanted to make people aware of that. Tom Gill reminded everyone that the extent of the Commission's jurisdiction is 3 feet of the garage. Sam Butcher added that most of the structure is outside of the commission's jurisdiction and that the part that is within it meets the rules and regulations of the Conservation Commission.

On a motion by Sam Butcher, seconded by Barbara Kelley, it was unanimously voted 5-0-0 to write Orders of Conditions for SE18-1682 at 30 Bradford Road.

**PUBLIC MEETING; LEONARD; 82 KING CAESAR ROAD; ALUMINUM GANGWAY AND
WOODEN FLOAT OVER THE SALT MARSH; 7:15 PM**

At 7:22 PM, Freeman Boynton representing property owner John Leonard, described the project. There is an earthen pier across from the house and he wants to install posts at the end of the earthen pier and add a 20' x 20' float. Joe Grady reported that the Harbormaster had been provided information about the project and no comment had been received back.

Sam Butcher asked for more information about the float; Mr. Boynton replied that it will be on skids. Mr. Butcher asked if the plan is accurate in showing that the float won't be on the riprap and Mr. Boynton said the float will sit at an angle but not on the riprap.

On a motion by Sam Butcher, seconded by Dianne Hearn, it was voted 5-0-0 to issue a Negative Determination so that a Notice of Intent is not required for the proposed project of constructing an aluminum gangway and wooden float over the salt marsh at 82 King Caesar Road.

**PUBLIC HEARING; ZANDER; 175 CHERRY LANE; EXCAVATE TRENCH TO RUN
ELECTRIC TO HOUSE; 7:20 PM
SE 18-1683**

At 7:26 PM, the Committee was informed by the applicant's representative that this meeting needed to be continued due to some issues with abutter notification. On a motion by Barbara Kelley, seconded by Dianne Hearne, it was voted 5-0-0 continue this hearing until Tuesday, October 21 at 7:15 PM.

**PUBLIC HEARING; CROWLEY; 0 NORTH STREET; SINGLE FAMILY HOME; 7:25 PM
SE 18 – 1683**

Paul Brogna representing the interested buyers of the property, the Naegelins, spoke to the project. He explained that the legal owner of the property is Pamela Crowley of Cumberland Maine, and the Naegelin's have an option to purchase. Mr Brogna started to describe the property. Joe Grady said that he and Mr. Brogna had talked on the phone, and his understanding was that the application was not complete because the riverfront area was not shown on the plans and new plans were to be submitted. There will be additional fees, procedures and different standards for a riverfront area and an alternatives analysis is required. Mr. Brogna responded that he was looking for guidance about the position of the house. Tom Gill said that the Commission prefers to work from the final, complete plan.

On a motion by Barbara Kelley, seconded by Sam Butcher, it was voted 5-0-0 to continue 18-1683, 0 North Street, to Tuesday, November 4 at 7:05 PM.

ADMINISTRATIVE MATTERS:

Minutes:

On a motion by Sam Butcher, seconded by Barbara Kelley, it was unanimously voted 5-0-0 to approve the minutes of September 2, 2014

Reissue Original Orders SE18-1659 160 Powder Point Ave

The originals of these orders were lost by the applicant; the original orders are being reissued.

Certificates of Compliance; SE18-849; 326 Powder Point Ave

Joe Grady reported that a this is a pier constructed in 1997 and it meets the Orders of Conditions, and he recommends a Certificate of Compliance for SE 18-849. On a motion by Barbara Kelley, seconded by Corey Wisneski, it was unanimously voted 5-0-0 to issue Certificates of Compliance for SE18-849, 326 Powder Point Ave.

Enforcement Orders, 51 Candlewick Close, Tanzilla

Joe Grady reported that last week he issued enforcement orders about the cutting of trees on a property. He spoke to the homeowner about a restoration plan, and requests that the Commission reaffirm the issuance of the enforcement order at 51 Candlewick Close. On a motion by Barbara Kelley, seconded by Dianne Hearn, it was unanimously voted 5-0-0 to support the enforcement orders for 51 Candlewick Close.

Certificates of Compliance; SE 18-1255; 20 Bradford Road

Paul Brogna representing the property owner, Dr. Scott Oliver, asked whether there are other properties where the Commission has allowed pervious pavers to count towards pervious coverage.

Joe Grady said that the Commission allowed 36% coverage in 2004 in the Orders of Conditions, and this has been exceeded. The property owner replaced the patio with pervious pavers without getting any input or permission from the Commission after being advised not to do so by Joe Grady.

Mr. Brogna said that in preparing the as-built, he discovered the allowed coverage was exceeded by 245 square feet more than the 36.3% allowed in the Orders of Conditions. Following a discussion by phone with Chairman Messina, they replaced the patio at a cost of \$7000-\$8000 to try to get to the site coverage percentage that is required. Mr. Brogna re-measured last week and found that they are 150 square feet over (he reduced the overage by 90 square feet by re-measuring).

Corey Wisneski asked why Mr. Brogna assumed no permit was required for the patio work. Mr. Brogna replied that he was trying to get to the allowed coverage, and it was minimal repair work and not creating any new areas.

Mr. Grady reviewed the history, which was that 36% coverage was allowed in the Orders of Conditions. In 2008 a partial as-built was provided and Joe Grady inspected it and informed the applicant of violations. There was no response after that until October 2014. Joe Grady met Mr. Brogna on the site and informed him the pavers will not count and suggested other ways to remove the excess square footage. Mr. Grady advised Mr. Brogna that the Conservation Commission didn't approve the work and doesn't allow pervious pavers to be counted as pervious coverage. The patio was moved and reconstructed without a permit, using pervious pavers without permission and ignoring Joe Grady's recommendation not to do it.

Sam Butcher pointed out that there is no plan available for the Commissioners to look at. Joe Grady said the submitted plan shows coverage calculations that are different from the approved plan. His understanding after meeting with Mr. Brogna was that actions would be taken to lower the coverage, perhaps by making a deck smaller, and that the Certificate of Compliance request would be addressed at a subsequent meeting.

Paul Brogna again asked if there are other sites where pervious pavers are approved. Sam Butcher said it is not the presence of pavers, but the capacity for run off that is of concern. He thinks they may have been approved but does not know the context. Joe Grady pointed out that the Conservation Regulations have changed and that pervious pavers don't count now.

Audience member Tony Kelso of Elder Brewster Road said that as a neighbor with beach rights, since the reconstruction of the house there has been more erosion of the coastal bank. The house is now very close to the coastal bank, and he suggested the Commissioners make a site visit after a rain storm to see how what has been done might impact erosion. Corey Wisneski said a site visit will likely not be made unless there are plans and a project application to the Commission.

Sam Butcher asked for additional information because without it it is not possible to evaluate the situation. Tom Gill said it would help if they had something that identified the phases of changes

that have occurred at the property since the original application. Corey Wisneski asked what the Certificate of Compliance is actually for.

Mr. Brogna asked to return to his original request for a list of properties in town where pervious pavers are approved. Joe Grady said he had no idea. A plan showing what had been approved and what is there now would be useful to have. Sam Butcher clarified it would be good to have a plan from 2004, 2008, and for what is there now. At a minimum they need a plan of what was approved and a plan of what is presently there.

Joe Grady said it is not possible to search files for where the pavers are used; that Mr. Brogna can put in a request and look through the files himself. Mr. Grady offered 4 or 5 solutions at the site visit and believed this was being delayed until the next hearing date.

Mr. Brogna said he didn't cause this, was brought in to try to solve it, and that he won't stamp a drawing that is not correct.

This situation will be addressed at a subsequent meeting

Open Space and Recreation Plan Survey

Sam Butcher has a comment on the wording of the question asking about future acquisitions and made some suggested edits.

Adjournment: On a motion by Sam Butcher, seconded by Corey Wisneski, it was unanimously voted 5-0-0 to adjourn the meeting at 8:04 PM.

MATERIALS REVIEWED AT THE MEETING

- SE 18-1681 NOI application materials
- SE-18-1682 NOI application materials
- SE 18-1680 NOI application materials
- SE 18- 1683 NOI application materials
- 0 Standish Street RDA application materials
- 82 King Caesar Road RDA application materials
- Open Space and Recreation Plan draft survey