

Approved 4/14/2015



Town of Duxbury

TOWN CLERK

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DUXBURY, MASS.

Conservation Commission

Minutes of March 24, 2015

The Conservation Commission met on Tuesday, March 24, 2015 at 7:00 PM in the Mural Room at the Duxbury Town Hall.

Members Present: Chairman Joe Messina; Sam Butcher; Tom Gill; Dianne Hearn; Barbara Kelley; Holly Morris; Corey Wisneski

Members Absent: None

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

The meeting was called to order at 7:00 PM by Chairman Joe Messina

CONTINUED PUBLIC HEARING; NESS/CROWLEY; 0 NORTH STREET; SINGLE FAMILY HOME

SE18-1683

There was no one present to represent the applicant. The Commission asked that the applicant's representative, Mr. Brogna, be informed that he should either withdraw the application, or get a determination from the zoning enforcement officer that this lot is a buildable lot.

Several residents attended the hearing to speak to the project. Kim Abplanalp of 120 Myrtle Street wondered what the steps are going forward. Joe Grady said the question is whether there is enough upland for a buildable lot, and that is for the Building Department to determine. Deborah Frangesh of 399 North Street asked about the lot across the street, and said she does not agree with the wetlands as shown on the plan. Joe Grady explained there is no application for that lot before the Commission. Mr. Abplanalp asked if the Commission verifies the wetlands lines; Joe Grady said it has been done for this property. Joe Messina explained that if the building department says it is a buildable lot, the applicant will then have to file with the Conservation Commission to show the structures and the wetlands to see if it meets the Commission's Rules and Regulations.

Tom Gill asked what would happen if the applicant does not follow up with the building department. Joe Grady said the Commission could then deny the NOI due to lack of information.

On a motion by Tom Gill, seconded by Sam Butcher, it was voted 7-0-0 to continue the hearing for SE18-1683 until April 14, 2015 at 7:05 PM; the deadline for submission of materials is 1 week before that date.

CONTINUED PUBLIC HEARING; SANMARCO; 48 GRAND VIEW AVE; PIER

SE18-1636

The consultant for this project, Nover-Armstrong, will hopefully complete the review of the additional materials submitted by the applicant's representative for the next hearing. On a motion

878 Tremont Street, Duxbury, MA 02332; Telephone: 781-934-1100 x 5471; Fax: 781-934-1137

by Joe Messina, seconded by Sam Butcher, it was voted 7-0-0 to continue this hearing until April 14, 2015 at 7:10.

CONTINUED PUBLIC HEARING; HOFFMAN; 5 CONGRESS STREET; SINGLE FAMILY HOUSE

SE18-1675

Rick Grady, Engineer; and Attorney Robert Galvin were present with the applicant, Garth Hoffman. The plans being reviewed are dated November 24, 2014. On these plans, pavement was removed except beyond 25 feet from the wetlands; the utilities located underneath the driveway have been removed and overhead utilities will be used. There will be no filling within the WPOD. This is an application for 1 house, a single family home on a 6.8 acre lot.

Joe Messina asked if anything was being done to the driveway, Rick Grady said no. Robert Galvin said it is an existing and lawfully constructed access. Joe Messina said normally the Commission requires a 25' setback from the wetlands for a driveway. Joe Messina asked about drainage. Mr. Galvin said they did not propose any changes to the driveway, though simple drainage could be added. Rick Grady proposed porous pavement which will result in very little runoff. Holly Morris asked about the heavy machinery necessary to install the driveway and Rick Grady said there would be no issues; the original submittal had detailed information about this and it is Rick Grady's engineering recommendation to use the porous pavement.

Sam Butcher asked how winter snow would be handled. Rick Grady said snow will be plowed to the sides of the driveway. Sam Butcher expressed concern that with sanding and plowing, the materials will go into the wetlands, and run into the wetlands during the spring melt. Barbara Kelley asked about the strength of the culvert; Mr. Hoffman said it is a highway rated culvert and can handle even heavy trucks. Holly Morris asked how many trees will come down to put in the driveway; the estimate was 20-30 trees.

In the audience, Neal Doherty of 8 Pheasant Hill Lane asked about the driveway, saying it was built as a narrow dike, will be hard to plow, is turtle nesting habitat, and will have impacts on the wetlands, particularly runoff. He said that at the Planning Board meeting, Mr. Hoffman said he will build 2 homes which will result in more vehicular traffic. He feels environmental and wetlands issues are not being addressed including the 25' setback to the wetlands and the 200' Riverfront setback.

Joe Messina explained that based on advice from Town Counsel it can be considered taking without due process to deny the roadway, and it has been used for agricultural access. Access to the lot cannot be denied, however the Orders of Conditions will be written to protect the wetlands as much as possible. The pervious pavement should help address the runoff issue. No salt or chemicals will be allowed to be applied to the pavement. A possible plan for a second house is not before the Commission as part of this filing.

Audience member Lorrie Hall of 175 Abrams Hill asked about the WPOD and the 100 foot buffer to the wetlands. Joe Messina explained that the WPOD is a zoning district and not under the jurisdiction of the Conservation Commission; the Commission concerns itself with the Wetlands Protection Act and tries to condition projects to minimize impacts on resource areas.

Mike Quinlan of 10 Pheasant Hill Lane asked whether his letter of January 23 was seen by Town Counsel, and if Town Counsel's opinion is public. Joe Messina replied that the Commission saw his letter, Town Counsel did not and Town Counsel's opinion is not public. Mr. Quinlan said that Mr. Hoffman choose to buy a parcel with known significant access issues, and now is saying it is

unbuildable and is forcing the Town to override its own rules. Joe Messina reiterated that there was agricultural access and there is no distinction that says it can't be used for other access.

Holly Morris questioned whether there is vegetation that could be added for erosion control; Sam Butcher said that without topsoil, plant growth will not be supported. It is a sand berm.

Tom Gill asked if sand clogs up pervious pavement. Rick Grady said a study indicates that does not happen. The Orders of Conditions will require that the pavement be maintained and vacuumed.

On a motion by Joe Messina, seconded by Corey Wisneski, it was voted 6-1-0 with Barbara Kelley voting no to write Orders of Conditions for SE18-1675 with provisions for pervious pavement, no chemicals, and maintenance of pavement.

CONTINUED PUBLIC HEARING; O'NEILL; 46 WINSOR STREET; SINGLE FAMILY HOUSE SE18-1693

This hearing was originally posted at a meeting that was cancelled due to snow; at a subsequent meeting the date and time of the continuation was voted and properly noticed.

Representing the applicant Kate O'Neil was Brendan Sullivan from Cavanaro Consulting. The corner of the existing building is actually located on an adjacent property. There is a wooden bulkhead on the Bay side. The project is to raze and rebuild a new dwelling conforming to building and conservation setbacks. There will be a pool, and a landscape wall with the ground raised to protect the house from flooding. The coverage in the 100' buffer is 14% currently and they are proposing 15% with this project. The existing dwelling has an 9.5 elevation; the proposed top of the foundation is 11 feet with the first floor elevation 12 feet; 2 feet above the flood zone elevation.

Mr. Sullivan addressed points in a letter dated March 15 from abutters. The issues were about the pool, an incorrectly marked 50 foot buffer zone, the lot being subject to coastal storm flowage, the embankment and retaining wall diverting storm flow, and that this is in an AO zone where construction is prohibited.

Kate O'Neil, applicant, said they designed a building compliant with conservation and zoning. Joe Grady said this is not a coastal beach; that based on FEMA flood maps there is no AO zone in this area, although there is obviously frequent flooding. The renovation of the house meets the rules and regulations, and rebuilding and expanding in a flood zone is allowed unless it is in a Velocity Zone.

Sam Butcher cautioned that being at the maximum 15% coverage leaves no room for any additional coverage and the Commission recommends leaving a little wiggle room in the design.

Holly Morris asked about the septic system. The existing system is not shared, but the leaching area is on another lot. Joe Messina asked for additional information on the landscape wall elevation and Brendan Sullivan said the elevation is about 2-2.5 feet.

Ted Pickering of 44 Winsor Street presented a petition to deny this project. He reviewed in depth the definition of a beach, coastal floodplain, and flood definitions. Mrs. Corey, an abutter, said water frequently comes over the existing wall and expressed her concern over erosion from the proposed wall. There was a discussion about types of flooding, AO and other zones, floods of record, and possible effects of the wall on erosion. Ted Nichols, representing Battelle, asked about scouring effect on foundations and land on adjacent property.

The foundation will have flood vents that let water enter and recede. The boiler will be on the first floor, not in the basement. The ductwork will be below the first floor.

Mr. Pickering said this is a sensitive site and that alternatives should be considered that will minimize impacts on wetlands. Their preference is to do minimal excavation and fill, and recommend a pier foundation on the original foundation location.

Joe Messina asked if the existing foundation of the house, which acts like a wall, shows evidence of scouring. Sam Butcher suggested continuing the hearing so that the Commissioners can look at the site and better understand the relationship of this property to neighboring properties. Any scouring will be observable. Sam Butcher asked for additional information about the size and location of the foundation vents. A site visit for the Commissioners will be set up by Joe Grady.

On a motion by Sam Butcher, seconded by Barbara Kelley, it was voted 7-0-0 to continue the hearing for SE18-1693 until April 14 at 7:15 pm.

PUBLIC MEETING; TOWN OF DUXBURY; BAY ROAD NEAR BAY VIEW RD, ELDERBERRY LANE, AND SEABURY POINT; INSTALL STORMWATER MITIGATION FACILITIES

The Town has received a grant for the last part of this stormwater mitigation project. It will provide leaching capability for up to 1 inch of rain. At Bay View Road and Bay Road the work will be done within a paved way. At Elderberry Lane infiltrators will be placed under the paved way and a rain garden will be placed at the end of the street in the buffer zone. At Seabury Point there will be infiltrators under the paved way.

On a motion by Sam Butcher, seconded by Dianne Hearn, it was voted 7-0-0 to issue a Negative Determination so that a Notice of Intent is not required for this work because there will be no impact to the Resource Areas.

ADMINISTRATIVE MATTERS

Minutes:

On a motion by Barbara Kelley, seconded by Dianne Hearn, it was voted 7-0-0 to approve the Executive Session minutes of December 16, 2014.

On a motion by Sam Butcher, seconded by Holly Morris, it was voted 5-0-2 with Barbara Kelley and Corey Wisneski abstaining to approve the minutes of February 24, 2015.

On a motion by Sam Butcher, seconded by Dianne Hearn, it was voted 6-0-1 with Tom Gill abstaining to approve the minutes of March 3, 2015.

Beach Reservation Extension Request for Cobble Repair: The Duxbury Beach Reservation (SE18-1198) requested an extension on the work to repair the cobble berm until the end of April because the cobble pits are not yet open due to weather. Amy Hoenig of the Natural Heritage & Endangered Species Program approved an extension of the deadline through April 30. The Beach Reservation is requesting approval from the Commission to extend this deadline. On a motion by Holly Morris, seconded by Tom Gill, it was voted 7-0-0 to approve the extension for the work on the cobble berm until April 30.

Duplicate Original Orders

The Commission is being asked to sign duplicate original orders for SE18-1589 (Harbormaster, dredging) and SE18-1592 (Duxbury Yacht Club, dredging) because the original orders were never recorded and have been lost. The original expiration dates and all conditions will remain in place.

Certificates of Compliance

Certificates of Compliance for SE18-1671 and SE18-1546 will be moved to the Agenda for the next meeting; there is currently too much snow on the ground to be able to inspect the projects.

Modification of Plan: SE18-1654, 65 Cushing Drive

The applicant's representative has requested a minor modification of the plan for this pool project, hoping to move the pool approximately 10 feet further away from the existing deck. Joe Grady said the project will still comply with all rules and regulations, although the pool is being moved slightly closer to the wetlands, he recommends accepting the revised plan, titled 'Building Location Plan, 65 Cushing Drive, Duxbury, MASS' drawn for Archia Homes, by Millbrook Survey, revised 3/03/2015. On a motion by Holly Morris, seconded by Dianne Hearn, it was voted 7-0-0 to approve the revisions to the plan as shown on the 3/03/2015 plan.

WPOD (Wetlands Protection Overlay District)

Sam Butcher asked what the Commission can do in terms of a town wide review of the WPOD. With the approval of the Commission, Sam Butcher and Holly Morris will do some research. Although this is not a Conservation Commission issue, other boards and committees do want to hear input from the Commission about this zoning issue.

Adjournment: On a motion by Sam Butcher, second by Barbara Kelley, it was voted 7-0-0 to adjourn the meeting at 9:35 pm.

MATERIALS REVIEWED AT THE MEETING

SE18-1675 Public Hearing materials

SE18-1693 Public Hearing materials

RDA, Town of Duxbury, Bay Rd, Elderberry Lane, Seabury Point materials

Draft minutes December 16, 2014; February 24, 2015; March 3, 2015

Beach Reservation extension request

Modified Plan and email for Se18-1654 for 65 Cushing Drive

Letter about Candlewick Close SE18-1687