



# Town of Duxbury

## Conservation Commission

Approved 6/23/15

TOWN CLERK

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DUXBURY, MASS.

### Minutes of May 26, 2015

The Conservation Commission met on Tuesday, March 26, 2015 at 7:00 PM in the Mural Room at the Duxbury Town Hall.

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

**Members Absent:** Tom Gill

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

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

#### **CONTINUATION OF PUBLIC HEARING; MCLAUGHLIN; 685 WASHINGTON STREET; PIER SE18-1653**

Mr. Driscoll described his discussions with Special Counsel Bobrowski about the schedule. There are three things to be addressed this evening: whether piers are prohibited on this lot, a response to the April 1 Horsley-Witten Report, and a Power Point explaining why the project is not unique.

Chairman Messina responded that he would like them to focus on the key points so the Commissioners will have time to ask their questions, and whether or not piers are allowed on the property is a matter of real estate law and not an issue before the Commission, so he recommended that the focus be made on the other two issues.

Mr. Driscoll reviewed a number of documents that in his opinion clearly allow a pier to be built on this property. He then discussed the Horsley-Witten April 15 report and made some comments about its conclusions.

Bob Gray, representing the applicant, said that after review, he believes that the absence of a freshwater creek means the area of the pier is a Tidal Flat and that no Tidal Creek exists on the Site or within the project limits. He further believes that the project meets all the performance standards for Tidal Creeks and Tidal Flats. Sam Butcher asked if he is now changing his opinion about its being a Tidal Creek and Mr. Gray said he had reassessed and was changing his opinion and that he believes it is a Tidal Flat. Joe Messina asked Mr. Gray to clarify whether he believes that all Tidal Creeks have to have a freshwater creek source, and Mr. Gray said yes that is his belief. He then said he does not believe this site is unique, and discussed whether the Bluefish River is a fish run.

Jim O'Connell said the area is a Tidal Flat and meets performance standards for land containing shellfish. He said the pier design is consistent with the guidelines and compliant with the regulations.

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

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.

Sam Butcher asked if any testing was done on the jars of muck and whether ASTM methods were used to collect the samples, and said it was unclear what was to be done with them. Paul Brogna said there was no testing or sampling protocol used. Mr. Driscoll said the Commission has enough experience to visually examine the samples and see the composition; that they are muck not mud, and that there is no burden of proof on an applicant for scientific analysis of samples.

Paul Brogna reviewed a list of piers and floats in different categories.

Holly Morris asked about the length of the chains to the float; Paul Brogna said he would have to calculate that and it gets adjusted year to year.

Sam Butcher asked a number of questions about skid design, wave reflection, effects on the resource area, slumping and sedimentation, shellfish closure, and the Commission's obligation to consider the latest science.

Joe Messina said at the next hearing, there will be final statements and the Commission will vote to recommend Counsel draft a decision to be approved by the Commission. Mr. Driscoll was concerned about the 2 weeks submission rule; Joe Messina said that will not be in effect for that final hearing.

On a motion by Sam Butcher, seconded by Barbara Kelley, it was voted 6-0-0 to continue the hearing until June 2 at 7:10 pm.

## **ADMINISTRATIVE MATTERS**

### **Certificates of Compliance**

**SE18-1105, Brook Street Subdivision:** Joe Grady has inspected the property, the as-built plan of the road and the engineering certificate have been submitted, the project conforms to the Orders of Conditions and he recommends Certificates of Compliance be issued. On a motion by Dianne Hearn, seconded by Barbara Kelley, it was voted 6-0-0 to issue Certificates of Compliance for SE18-1105, Brook Street Subdivision.

**Adjournment:** On a motion by Sam Butcher, second by Barbara Kelley, it was voted 6-0-0 to adjourn the meeting at 8:57 pm.

## **MATERIALS REVIEWED AT THE MEETING**

SE18-1653 Public Hearing Materials