

Approved January 26, 2016



Town of Duxbury
Conservation Commission

TOWN CLERK
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DUXBURY, MASS.

Minutes of January 5, 2016

The Conservation Commission met on Tuesday, January 5, 2016 at 7:00 PM in the Mural Room at the Duxbury Town Hall.

Members Present: Chairman Corey Wisneski; John Brawley; Sam Butcher; Tom Gill; Robb D'Ambruoso (arrives 7:05)

Members Absent: Dianne Hearn; Holly Morris

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

The meeting was called to order at 7:00 PM

PUBLIC MEETING; O'BRIEN; 56 GURNET ROAD; GRADING AND FILLING

Mr. O'Brien described the project, which is to use clean fill from the project across the street to restore the grade around his house. Joe Grady has been to the site and reviewed the project with Mr. O'Brien. Mr. Grady had gone by the site again and was surprised that some fill seemed to have been added already before this meeting. Mr. O'Brien said he had simply smoothed some ruts with a few loads of fill, he had not brought much in, and he plans to bring in enough fill to raise the grade up about 6" further to the level where it had originally been. Joe Grady said he noted some erosion in the newly filled areas; Mr. O'Brien said it was not an erosion line, it was the line from where he had driven his truck. Corey Wisneski asked about the effects of very high tides; Mr. O'Brien said that since Gurnet Road was raised he hasn't seen water rise above the road. Joe Grady asked about loam and seed; Mr. O'Brien said he plans to add 4-6' of loam and sod and seed in the spring, and the driveway will remain a stone driveway.

Sam Butcher clarified that the project involves: replenishing the crushed stone driveway with more stone, raising the railroad tie wall up, bringing in about 150 cubic yards of fill, and clarified that no wetlands should receive any fill.

On a motion by Sam Butcher, seconded by Tom Gill, it was voted 5-0-0 to issue a Negative Determination such that a Notice of Intent is not required for the proposed work described in the RDA (and clarified in the paragraph above) at 56 Gurnet Road.

**CONTINUED PUBLIC HEARING; ANRAD; DUCKS BERRY LLC; 1065 SUMMER STREET;
WETLANDS DELINEATION
SE18-1716**

Rick Grady described the property which was a horse farm and is 22.5 acres. They conducted an existing conditions survey and delineated the wetlands. There are bordering vegetated wetlands along Summer Street and in the back an isolated vegetated wetland (under the Town of Duxbury bylaws only). There also is an abandoned manmade concrete pond.

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

Joe Grady said he accepts the wetlands delineation. The Isolated Vegetated Wetland is not big enough to be Isolated Land Subject to Flooding under the State wetlands regulations.

On a motion by Sam Butcher, seconded by Tom Gill, it was voted 5-0-0 to accept the ANRAD delineation for SE18-1716, 1065 Summer Street.

**PUBLIC HEARING; PANIO; 118 DEPOT STREET; ADDITION
SE18-1719**

Joe Webby described the project which is an addition to an existing dwelling. There is about 1% coverage of the buffer zone. Corey Wisneski asked if the driveway is in the buffer zone and Mr. Webby said a small part of it will be. Corey Wisneski and Sam Butcher questioned the coverage calculations and the applicant will update them. Joe Grady said it is a large site and the work is mostly away from the buffer zone; the project meets the Commission's rules and regulations.

On a motion by Sam Butcher, seconded by Tom Gill, it was voted 5-0-0 to write Orders of Conditions for SE18-1719, 118 Depot Street. Updated coverage calculations will be provided.

**PUBLIC HEARING; DUXBURY CONSTRUCTION FOR GARRETT; 237 KING CAESAR
ROAD; REPLACE EXISTING PIER
SE18-1720**

Freeman Boynton described the project which is to replace the pier which has rotting of the walkway and pilings. The existing pier is about 6' x 79'; the proposed pier will be 4' wide and 79' long, with a platform at the end that is 6' x 8'. The pier will be raised to the height of the wall that was improved last year, and the new pier will have 4 more pilings than are currently there.

Joe Grady said this pier has a smaller footprint, with pilings 10' on center versus the existing pier with 14' on center. Tom Gill asked if they will be using the existing float and gangway, and Mr. Boynton said yes, they are just replacing the pier itself.

On a motion by Sam Butcher, seconded by John Brawley, it was voted 5-0-0 to write Orders of Conditions for SE18-1720, 237 King Caesar Road.

**PUBLIC MEETING; HUB DEVELOPMENT GROUP LLC; 304 LAKE SHORE DRIVE; SEPTIC
TANKS**

There was no applicant or representative present to describe the project. Joe Grady was familiar with the project and had done a site inspection, and reported that there would be a septic tank 86 feet from the edge of the wetlands, and he recommends a negative determination.

On a motion by Tom Gill, seconded by Sam Butcher, it was voted 5-0-0 to issue a Negative Determination such that a Notice of Intent is not required for the proposed septic work described in the RDA at 304 Lake Shore Drive.

**PUBLIC MEETING; MCCRYSTAL; 2 INGALLS GROVE; CLEAN OUT INVASIVE VINES;
DEAD PLANTS AND WOOD**

Paul Brogna described the project which is to remove invasive plants from the area specified on the plan submitted with the RDA. The work will be done with hand equipment; no motorized equipment will be used. Tom Gill asked if any chemicals would be used; Mr. Brogna did not

know. Joe Grady said that use of herbicides is the only way to eliminate some invasive plants; but each individual stem should be treated and there should be no application by spraying.

Joe Grady asked if the final result will be that only native plants are in the area to be cleaned up; Mr. Brogna said he believes no lawn is being added and there will be no additional plantings.

Joe Grady recommended the following conditions for the Determination:

- No additional lawn area allowed
- Any chemical treatment shall be applied only to individual stems; no spraying is allowed
- No additional plantings are allowed
- No new landscaping is allowed

Paul Brogna said he wasn't sure if the homeowners would agree with the above conditions. Joe Grady asked Mr. Brogna if he would prefer to wait for a vote, and Mr. Brogna said he preferred the vote be taken. Joe Grady said the area indicated on the plan was originally landscaped, so perhaps the original plants are under the litter and invasive plants. John Brawley asked if the phragmites in the area indicated on the plan are to be cleaned out; Paul Brogna said no, they are not being cleared out.

On a motion by Sam Butcher, seconded by Robb D'Ambruoso, it was voted 5-0-0 to issue a Negative Determination such that a Notice of Intent is not required for the proposed cleaning out of invasive plants and dead wood at 2 Ingalls Grove subject to the conditions outlined above by Joe Grady which will be included with the Determination.

PUBLIC HEARING; WATSON; 282 POWDER POINT AVE; ENCLOSE EXISTING PATIO WITH PILE FOUNDATION SE18-1721

Paul Brogna described the project which is to enclose a patio with an open pile foundation. Brad Holmes did the wetlands delineation and provided a report. According to Mr. Brogna, the owners want to enclose the brick patio which is 36.5 feet from the edge of the wetlands; there is 48% site coverage. The closest point to the top of the coastal bank is 35' which meets the Commission's regulations. As described in Mr. Holmes' report, the riverfront area is considered a 'degraded' riverfront. The proposal is to enclose the same footprint which is about 12'7" wide and 24' long and it will be 35-50 feet from the wetlands on an open pile foundation. There will be 6 piles within the footprint of the existing patio and the roof structure will remain within the patio footprint. The owner is willing to remove some impervious site coverage to reduce the 48% coverage by possibly reducing the walkway to the right of the house or the patio on the back of the house to the left of the enclosure.

Joe Grady asked Mr. Brogna why the riverfront area and mean high water line are not shown on the site plan filed with the Notice of Intent. He said the Commissioners have been provided minutes from April 12, 1994 describing the denial of the same project (a 3 season room on the patio). At the time, the patio was constructed of concrete. Based on Mr. Grady's review of the previous plans and inspection of the property, there has been significant patio construction since 1994 without the benefit of Commission review, and the Coastal Bank is 23' from the corner of the patio. The coastal Bank is defined by slope, flood zone, and break of slope. At this lot, the revetment along the toe of the slope is short (to elevation 11) and then there is a strip of grass, and then another slope to the house. The revetment stops at the end of the lot where the patio is – so for the last 30-40' the break of slope doesn't exist and the top of the coastal bank is at the top of the slope and contrary to what Mr. Brogna has described, the 35' setback cannot be met.

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Mr. Grady summarized that there are a number of issues. There are patios present in the buffer zone that have not been permitted, the coastal bank is not properly shown and is 23' from the patio, this project was denied in 1994, and the riverfront area is not shown on the plan.

Sam Butcher asked if it was possible to calculate how much patio has been added since 1994. The patio being discussed to be enclosed now was permitted but the 3 season room was denied.

Paul Brogna said he can add the mean high water line and the 200' riverfront area to the plan. The area of Coastal Bank that Mr. Grady has pointed out is higher than the top of the revetment wall (where there is no revetment wall) is de minimus compared to the rest of the resource area. He agrees with Joe Grady that in that small section in the northeast corner the top of the coastal bank is at the top of the slope.

Sam Butcher said that the area that Mr. Brogna describes as 'de minimus' is only de minimus because of a property line – it actually continues to extend along the next property, so it is only being called de minimus because only a portion of the bank extends onto the property and not because it is a small area of coastal bank. He continued to say that even if it is only a small area of coastal bank that in his opinion, it is coastal bank and a protected resource area.

Corey Wisneski asked if the bricks for the existing patio will be removed when it is enclosed; Mr. Brogna said the bricks will remain and piles driven down within that footprint.

Sam Butcher asked why, if Mr. Brogna agrees with Joe Grady about where the coastal bank is at the end of the property, it is not shown that way on the plan. Joe Grady said that the coastal bank determination is an engineering determination. Mr. Brogna agrees with Mr. Grady about the location of the coastal bank.

Mr. Brogna asked for guidance from the Commission about bringing this project back with a section less than 35' from the coastal bank. Sam Butcher said the regulations require a 35' setback and that the Commission was not likely to approve a variance to this setback; Corey Wisneski concurred.

Mr. Brogna said the coverage is not increasing with this project. Joe Grady said areas that are covered that are not permitted are not grandfathered. Sam Butcher suggested calculating how much of the coverage is unpermitted, and if Mr. Brogna wishes, he can propose something that is in compliance with the regulatory setback requirements and addresses the noncompliance. Joe Grady said it is not possible to consider degraded area under the riverfront regulations because what is there is not there legally. This project is up against coverage, riverfront, and setback limitations which are going to be difficult to overcome. Sam Butcher said the homeowners can come back with a significantly modified proposal that is in compliance or choose to leave things as they are. The house itself is over 15% coverage as it is, and unpermitted projects are not grandfathered.

Mr. Brogna requested a continuance until early March. On a motion by Robb D'Ambruoso, seconded by Sam Butcher, it was voted 5-0-0 to continue the hearing for SE18-1721 until March 8 at 7:05 pm.

ADMINISTRATIVE MATTERS

MINUTES:

On a motion by Tom Gill, seconded by Sam Butcher, it was voted 4-0-0 to approve the minutes of **December 15, 2015**. (Note: the vote was 4-0-0 because Robb D'Ambruoso had not yet arrived)

Adjournment: On a motion by John Brawley, second by Tom Gill, it was voted 5-0-0 to adjourn the meeting at 8:15 pm.

MATERIALS REVIEWED AT THE MEETING

RDA materials for 56 Gurnet Road; 304 Lake Shore Drive; 2 Ingalls Grove

NOI materials for 118 Depot Street; 237 King Caesar Road; 282 Powder Point Ave

ANRAD materials for 1065 Summer Street

Draft minutes of December 15, 2015