



Town of Duxbury Conservation Commission

Approved 2/12/2019

TOWN CLERK

2019 FEB 13 AM 9:38

DUXBURY, MASS.

Minutes of January 8, 2019

The Conservation Commission met on Tuesday, January 8, 2019 at 7:00 PM in the Mural Room at the Duxbury Town Hall.

Members Present: Robb D'Ambruoso, Acting Chair; Mickey McGonagle; Holly Morris; Tom Gill; Scott Zoltowski

Members Absent: Sam Butcher; Corey Wisneski

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

The meeting was called to order at 7:00 pm.

CONTINUED PUBLIC HEARING; CALISTA; 315 KING CAESAR ROAD; PIER SE18-1836

Paul Brogna of Seacoast Engineering said that Nover-Armstrong (now BETA) was hired by the Commission to do a peer review of the project. A conference call with Mr. Brogna, Joe Grady, and Laura Krause of BETA was held. Mr. Brogna said an alternative location for the pier may be more easily permissible. The regulations restrict the pier to 1-2 feet beyond the salt marsh which is impractical in this location. If the pier is moved to the east there will be fewer restrictions though the pier will be longer. The homeowner is considering this change and Mr. Brogna is requesting a continuation until February so comments in the peer review can be addressed and revised plans submitted.

Joe Grady suggested a site visit with the Commission; the site visit was scheduled for Tuesday, February 5 at 8:00 am.

On a motion by Holly Morris, seconded by Scott Zoltowski, it was voted 5-0 to continue the hearing for SE18-1836 until February 26 at 7:05 pm.

ENFORCEMENT; 98 HARRISON STREET; SE18-1796

Robb D'Ambruoso said the site visit by the Commission a few weeks ago was held but there was no discussion about the project. He asked for any comments. Tom Gill said he did not attend the site visit but asked if the locations of the trees cut and the areas of remediation be marked on a plan. Holly Morris commented on the tremendous wildlife diversity at the site and said there is an obligation to be good caretakers, especially within the buffer to a salt marsh and in a Riverfront Area. She said more than 120 trees were cut and they are an important food resource for birds and mammals especially in the winter when they provide food and shelter. It was striking how much vegetation has been removed including large trees. She felt the regulations were violated as follows: Section 18.4.d.1: The activities have impacted flood control, erosion, sediment control, and wildlife habitat. Section 21.1 Riverfront; possibly 23.2 landscaping; 22.D.2 buffer zone regulations. The replanting is proposed on the east side but not to the north, and the north side is in the Riverfront and in the Buffer Zone; it is important to see revegetation in this area.

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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.

Tom Gill said that when the trees are placed they have to serve the same purpose as what has been removed. Scott Zoltowski said he agrees with Holly that the situation is egregious especially in back of the house. The concept seems to have been to have a lot of water exposure; he can't speak to intent but he believes the trees were taken down to have a view; the Bylaws are in place to protect these important areas. There must be remediation in that area as well; vegetation has to be replaced where it was taken down and be the same or similar to what was taken down. Mickey McGonagle concurred. Robb D'Ambruoso shared his concerns and believes the goal should be to restore the area to what it was previously.

Joe Grady said they must determine the number, type, and size of trees cut, and where each was located. The plan submitted in June began this but no species were identified. At the site visit it could be seen that black cherry, cedar, locust, oak, red pine and birch trees were cut. The species to be replanted have to have the same values in terms of wetlands and wildlife values. In terms of square footage, the Orders of Conditions for the house required a mitigation area; that is separate and not part of this enforcement situation. Beyond that area, he wants to know what square footage is affected; this is not shown on the plan and should be and include the tree layer, shrub layer, and herbaceous layer. There is slash on the site and especially the cedar slash can provide cover for wildlife in the winter. The black cherry can be re-established with sprout maintenance, but the Commission needs to know where they are located on a plan. The proposed remediation plan is partway there but more detail is needed.

Laura Krause of BETA said there is no compass on the plan. She has not been to the site but believes the area to the north has excessive slash, she suggested some be left for habitat but it makes it difficult to determine what was cut because there is so much slash covering the area. If some is removed it would be possible to further identify the extend of clearing. There is bittersweet, an invasive species, and the remediation proposal says they will do management of invasives in the restoration area to the east but it should be done throughout the property. If herbicides will be used an effective paper trail is necessary showing who is doing it, the application rate etc. – more detail is needed in such a sensitive area before the work begins. Herbicides are likely needed for effective removal.

John Zimmer of South River Environmental said he recognizes the severity of the issues and that the values lost through cutting must be restored. The planting plan must promote wildlife habitat. He said he did the original delineation and the area from the house to the marsh had overstory and understory but limited shrubs. There would be greater wildlife benefits to create a more developed strata. He needs to revisit the north area and said species of equal or better habitat values must be used. The remaining section of the large topped tree should remain and over time it will create wildlife habitat if it doesn't sprout. He will come back with a supplemental planting schedule for the area to the north. The brush piles can be left; Robb D'Ambruoso said it is important to identify what was cut underneath where the brush now lies, and he wants a detailed plan showing what was removed and the replacement plan. John Zimmer said you can't replace a 24" tree but you can replace it with something that will replace its value over time.

Joe Grady reiterated that the restoration area that was part of the house construction project can't be included as part of the restoration area for this violation. The back area has lots of cherry stumps which should be flagged and marked on a plan, they will revegetate quickly. John Zimmer said the existing seed bank with invasives management can provide natural regrowth in the area.

The discussion about this Enforcement Action will be continued on February 12 at 7:05 pm.

CONTINUED PUBLIC HEARING; DUXBURY CONSTRUCTION LLC; 331 BAY ROAD; PIER

Joe Grady said this is a repair of an existing pier. The Commission at the previous hearing suggested the pier could be straightened and made shorter; the applicant did that and submitted a revised plan. Joe Grady recommends the Commission accept the revised plan.

On a motion by Tom Gill, seconded by Scott Zoltowski, it was voted 5-0 to write Orders of Conditions for SE18-1846.

**PUBLIC HEARING; PALMISANO, TRUSTEE; 40 WADSWORTH LANE; REVETMENT
SE18-1848**

Tom Pozerski of Merrill Engineering said the according to the deed, his client owns Wadsworth Lane and has the right to use it for repair access. There is erosion and overtopping of the bank in late winter and erosion to the revetment. They will remove the stairs and put in a ramp for an excavator to have access; most of the work will be done from the top down. The wall will be taken apart and the boulders reused to the extent possible and the revetment will be no closer to the resource area than it currently is. On the other side they will use 2-3 layers of coir logs and natural plantings, and reinstall the fence and replant the area. One tree has to be removed.

Scott Zoltowski asked if the applicant is aware of the next hearing at 40 & 43 Wadsworth Lane and if that is acceptable to them; Mr. Pozerski said they have all agreed to do the work and that he will work closely with the other project to coordinate the work. Joe Grady asked if the lawn area to the northeast will be raised about a foot, and Tom Pozerski said yes it would be raised to soften the grade. Joe Grady asked what types of plantings will be done on the wetland side of the coir logs and how it will be stabilized; he suggested High Tide bush on the wetlands side of the wall. Robb D'Ambruoso asked about the life of coir logs and Tom said the newer heavier duty ones last a few years; he will look into longer term geotextile logs. Joe Grady said that along the riprap wall the cross section shows plantings along the fence but that is not shown on the plan. Tom said similar plantings will be done there. Joe Grady said the planting plan doesn't have enough plants, and Tom Pozerski said they will include additional plants. The Orders of Conditions will require a revised planting plan before construction can start, and the Orders will require plantings to be done along the top as shown in the cross section.

Joe Grady said erosion fence won't work here so that metal stakes should be driven in to mark the limit of work line and not silt fence or socks which can be destroyed by the tides. This will also be included as an Order.

On a motion by Scott Zoltowski, seconded by Tom Gill, it was voted 5-0 to write Orders of Conditions for SE18-1848.

**PUBLIC HEARING; HOROWITZ & SINGER; 40 & 43 WADSWORTH LANE; REVETMENT
SE18-1847**

Paul Brogna of Seacoast Engineering presented the project. The neighbors at 40 Wadsworth Lane own the land where the wall is located which is the waterfront portion in front of 43 Wadsworth Lane. The residents at 43 Wadsworth Lane have filed this Notice of Intent and both property owners are in accordance with building the revetment. The existing wall failed. There was no footing to the wall and the concrete failed and the wall settled 12-18" and needs to be reconstructed. The work will be done from the top down. 63' of the wall are on the applicant's property and about 5'-6' is on the Morse property (73 Washington Street). If the portion on the

Morse property isn't repaired the stones will fall in during construction. It will be raised 6-8" and be built with a 3:2 slope so about 3'-4' of yard will be lost.

Robb D'Ambruoso said he had a procedural concern in that he feels Mr. Morse needs to file a NOI for the portion of the work on his property. Joe Grady concurred as did Scott Zoltowski. Work can't be permitted through this filing on a neighbor's property. Mr. Brogna said he could file another NOI and submit revised color-coded plans showing that only the work on this property would be done as part of this NOI.

On a motion by Tom Gill, seconded by Holly Morris, it was voted 5-0 to write Orders of Conditions for SE18-1847 contingent on the receipt of a color-coded plan showing the portion of work to be done as part of this NOI.

ADMINISTRATIVE MATTERS

Minutes for Approval:

On a motion by Scott Zoltowski, seconded by Holly Morris, it was voted 5-0 to approve the minutes of **September 25, 2018**.

Land Donation

Joe Grady explained the Rogerson family is donating 3 pieces of salt marsh north of the Powder Point Bridge. This needs to go to Town Meeting because the land is still in the father's name, so the Town will do a friendly eminent domain taking which will cleanse the title. This process has been used before.

Scott Zoltowski made the following motion: To Support the friendly taking by eminent domain of the following 3 parcels of land off Pine Point Road at the 2019 Annual Town Meeting: Assessor's Property ID 132-054-000 containing approximately 4 acres; Assessor's Property ID 141-043-000 containing approximately 3 acres; and Assessor's Property ID 141-044-000 containing approximately 5.6 acres, from the Rogerson family for Conservation and Open Space purposes. The motion was seconded by Tom Gill and approved by a vote of 5-0.

Conservation fund Expenditure

Joe Grady is asking for \$9950 to create a new brochure of Town-owned open space and walking trails. This will be a single pamphlet rather than the individual brochures that have been printed in the past. The open space map and trail maps need to be updated.

Scott Zoltowski made the following motion: to approve the expenditure of up to \$9,950 from the Conservation fund to pay MapWorks to produce a Walking Trail Guide. The motion was seconded by Tom Gill and approved by a vote of 5-0.

Adjournment: On a motion by Tom Gill, seconded by Scott Zoltowski, it was voted 5-0 to adjourn the meeting at 8:10 pm.

MATERIALS REVIEWED AT THE MEETING

NOI applications for SE18-1836; SE18-1846; SE18-1847; SE18-1848
Materials related to Enforcement at 98 Harrison Street