



Town of Duxbury Conservation Commission

Approved 2/25/2020

TOWN CLERK

2020 MAR 16 PM 1:39

DUXBURY, MASS.

Minutes of February 11, 2020

The Duxbury Conservation Commission met on Tuesday, February 11, 2020 at 7:00 PM in the Mural Room at the Duxbury Town Hall.

Members Present: Acting Chair Sam Butcher; Tom Gill; Mickey McGonagle; Holly Morris; Scott Zoltowski

Members Absent: Robb D'Ambruoso; Corey Wisneski

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

The meeting was called to order at 7:00 pm by acting Chair Sam Butcher

CONTINUED PUBLIC HEARING; A.W. PERRY INC.; 0KEENE STREET; ANRAD SE18-1893

Sam Butcher said this project is to determine wetland lines only, there is no proposed project before the Commission. The Commission hired a peer review consultant for this project to review the wetlands lines for accuracy.

Brad McKenzie of McKenzie Engineering said there are 3 parcels, 1 of which is owned by the Town. Permission was granted by the Town Manager to include that parcel as part of this ANRAD. Lenore White of Wetlands Strategies Inc., the Commission's peer reviewer, said the wetland delineation is accurate although some flags on an adjacent parcel are not confirmed. Most of the wetlands are on an adjacent parcel owned by the Town. Under the Town Wetlands Regulations there is a presumed Vernal Pool on the Town Property; under the Town Regulations it does not matter whether or not the Vernal Pool is certified. Joe Grady said Mr. McKenzie disputed this finding in his February 4, 2020 letter.

Mr. McKenzie said he only asked the Commission to approve the delineation on the 3 parcels; the offsite wetlands are included to show where the buffer zone is on these 3 parcels. He agrees it is presumed to be a vernal pool but because the application only asked for review of Isolated Vegetated Wetlands and Bordering Vegetated Wetlands, he doesn't want it included in the ORAD. He is asking the Commission to not include the vernal pool on the ORAD, only the BVW and IVW. If a NOI is filed for the site, the presumed vernal pool can be further investigated.

Lenore White said the bylaw defines Isolated Vegetated Wetlands to include vernal pools, it is not a separate resource area, it is part of another resource area. If IVW are confirmed, the vernal pool is confirmed. Brad said under the Wetlands Protection Act, vernal pools are under Land Subject to Flooding. He said an IVW is a regulated resource under the bylaw but a vernal pool is within the IVW. Sam Butcher asked about the buffer for an IVW and the buffer for a vernal pool; the buffer zone is the same. Sam Butcher then asked what added protection there is for a vernal pool as compared to Land Subject to Flooding, and Lenore White said Isolated Land Subject to Flooding does allow discharge but discharges to vernal pools are not allowed.

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.

Brad McKenzie reiterated that he does not want the vernal pool included for this ORAD. On a motion by Sam Butcher, seconded by Tom Gill, it was voted 5-0 to approve the delineation as shown on the plan without identifying the vernal pool for the purposes of this ORAD.

**CONTINUED PUBLIC HEARING; SAVARD; 124 EVERGREEN STREET; ANRAD
SE18-1894**

Sam Butcher explained that the applicant is asking the Commission to confirm the accuracy of the wetlands lines and no project is proposed as part of this filing. The Commission hired Lenore White of Wetlands Strategies Inc. to do a peer review of this project. Lenore White said there is a clear break in slope that clearly identifies where the wetlands line is; she walked the property and agrees with the delineation on the plan.

On a motion by Tom Gill, seconded by Scott Zoltowski, it was voted 5-0 to accept the delineation as shown on the project plan.

**CONTINUED PUBLIC HEARING; DUXBURY CONSTRUCTION LLC; 230 MARSHALL STREET; SEAWALL & BEACH NOURISHMENT
SE18-1892**

Joe Grady explained that there is not a quorum present for this hearing so it needs to be continued. Revised plans were received by the Commission and the Commission's peer consultant will be reviewing those plans. It is recommended that a site visit be planned for the site.

On a motion by Scott Zoltowski, seconded by Holly Morris, it was voted 5-0 to continue the hearing for SE18-1891 until February 25 at 7:20 pm.

**PRESENTATION: DUXBURY BEACH RESERVATION PROJECTS PROPOSED FOR 2020
SE18-1198**

Brynna McGlathery of the Duxbury Beach Reservation said they have submitted a list of 25 projects of which 16 are annual maintenance, 5 are new (4 of these are maintenance and 1 is planting vegetation in an area prone to flooding), and 4 are under review and design and will be submitted later. One of the new projects will provide 2 new pedestrian access paths near High Pines to stop destruction of vegetation where people walk where there are no paths. Scott Zoltowski asked if there will be signage for these pathways; Brynna McGlathery said they will be indicted on the beach pamphlet and maps.

On a motion by Scott Zoltowski, seconded by Holly Morris, it was voted 5-0 to accept the projects as described in the January 17 report from the Duxbury Beach Reservation.

**PUBLIC HEARING; DUXBURY CONSTRUCTION LLC; 246 MARSHALL STREET; SEAWALL
SE18-1898**

Freeman Boynton Jr., representing Alicia Bolze, said this project is intended to fortify the bank with a revetment. Mr. Boynton said Joe Grady had let him know that on the north side of the property there may be a coastal dune. Mr. Boynton has talked to the property owner about shortening the project, and only doing the revetment to the southern end where there is a coastal bank with a steep wall.

Joe Grady suggested a site visit might be useful. He said this is a transition area, to the south it is a coastal bank with a wall and then to the north a coastal dune; his concern is that the wall will occupy the dune. The bank is vegetated, and the phragmites that are there might be native phragmites. The Commission has a review proposal from a peer consultant, Wetland Strategies Inc.. Wetland Strategies submitted a proposal for \$1200 for that review.

Mr. Boynton said he will speak with his client about building the wall only in the area with the existing vertical wall because the wall is crumbling. Sam Butcher said if the project is only for the area with the existing wall, it may not be necessary to hire a peer reviewer for the project. Mr. Boynton said he will revise the plan and have the area with the coastal dune identified. The Commission will hold off hiring a review consultant until a revised plan is submitted to see if a peer review will be necessary.

On a motion by Tom Gill, seconded by Mickey McGonagle, it was voted 5-0 to continue the hearing for SE18-1898, 246 Marshall Street until March 10 at 7:05 pm.

**CONTINUED PUBLIC HEARING; DUXBURY CONSTRUCTION LLC; 20 MARSHALL STREET; GARAGE
SE18-1897**

Freeman Boynton Jr. said that as part of the Orders of Conditions for a previous project, the driveway drainage was to be fixed but this has not yet been done so he has not sought Certificates of Compliance for that project. With this proposed garage, the drainage will be repaired to the way it was proposed to be in the last project. Only a small area of the garage is within the 100' buffer and the project meets all coverage requirements.

On a motion by Scott Zoltowski, seconded by Holly Morris, it was voted 5-0 to write Orders of Conditions for SE18-1897, 20 Marshall Street.

**CONTINUED PUBLIC HEARING; DUXBURY CONSTRUCTION LLC; 59 STANDISH STREET; GRADING
SE18-1896**

Freeman Boynton Jr. of Duxbury Construction LLC said this project is to grade the backyard to provide a flatter area of yard. A new septic system and garage are being built outside of the buffer zone, and the spoils from that construction will be used to create a flat area in the yard. Holly Morris asked about the distance the grading will be from the wetlands, and Mr. Boynton said about 40' from the wetland area at the base of the slope, and all of the work is being done in existing yard.

On a motion by Holly Morris, seconded by Mickey McGonagle, it was voted 5-0 to write Orders of Conditions for SE18-1896, 59 Standish Street

ADMINISTRATIVE MATTERS

Minutes:

On a motion by Mickey McGonagle, seconded by Holly Morris, it was voted 5-0 to approve the minutes of **January 21, 2020** as written.

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Certificates of Compliance:

SE18-1865; 167 Bay Road: Joe Grady reported he has inspected the project and it complies with the Orders of Conditions and all required documentation has been received and he recommends the Commission vote to issue Certificates of Compliance. On a motion by Scott Zoltowski, seconded by Tom Gill, it was voted 5-0 to issue Certificates of Compliance for SE18-1865, 167 Bay Road.

Continued Discussion: Conservation land use guidelines

Because both the Chair and Vice-Chair of the Commission are not present at the meeting, the consensus was to delay this discussion until a future meeting.

Proposed Stormwater General Bylaw

Joe Grady explained that this bylaw will be on the March Annual Town Meeting warrant. With significant alterations now being done to properties such as filling and grading, the contours can be changed and water can be shed to neighboring properties and the street. This bylaw is intended to regulate this, and require a permit if the project reaches certain thresholds. Scott Zoltowski asked who wrote the bylaw and Joe Grady said it has been copied from the bylaws of other communities. Each land use board can issue a permit; so if alteration is being done sufficient to trigger the requirement for a permit for a project before the Commission, it will be issued in conjunction with the Conservation permit. If no permits are required the Building Inspector and staff can issue the permits. Peer review consultants will be used to evaluate the drainage calculations. The purpose of this is to stop shedding water onto neighboring properties or streets which is increasingly becoming a problem.

On a motion by Holly Morris, seconded by Scott Zoltowski, it was voted 5-0 to support the Town Meeting article to adopt the Stormwater Regulations Bylaw.

Proposed CPA Surcharge Restoration discussion

Holly Morris explained there is a citizen's petition article on the Town Meeting warrant to return the CPA surcharge to 3%. If it passes at Town Meeting, it will be a vote at the polls in November. With the limited funds now available, it is hard to be proactive versus reactive about important issues. It is difficult to address affordable housing needs, protect drinking water sites, and protect open space as examples. The fees were raised at the Registry of Deeds so the match is projected to increase to as much as 35%. Since 2002 approximately 25 million dollars has been spent on projects with another 9.5 million in matching funds, donations, goods, gifts in kind, etc. CPA funds can help the Town develop housing to reach the 10% affordable housing goal, and can be used as matching funds for grants. It is important to encourage people to go to Town Meeting and keep the momentum going until the election in the fall. The money stays in Duxbury and is used for Duxbury projects.

On a motion by Mickey McGonagle, seconded by Scott Zoltowski, it was voted 5-0 to support the restoration of the CPA surcharge to 3%.

Executive Session: Scott Zoltowski made a motion to go into Executive Session to consider the taking, purchase, exchange, lease or value of real property, as such discussion in an open meeting may have a detrimental effect on the negotiating position of this Commission, and to reconvene in open session at the conclusion of the Executive Session in accordance with MGL C.30A, section 21. The motion was seconded by Sam Butcher, and the roll call vote was: Sam Butcher, yes; Tom Gill, yes; Mickey McGonagle, yes; Holly Morris, yes; Scott Zoltowski, yes.

Adjournment: On a motion by Scott Zoltowski, seconded by Mickey McGonagle, it was voted 5-0 to adjourn the meeting at 8:33 pm.

MATERIALS REVIEWED AT THE MEETING

Draft minutes of January 21, 2020

NOI materials for SE18-1896, SE18-1897, and SE18-1898

ANRAD materials for SE18-1893 and SE18-1894

Duxbury Beach Reservation Proposed Projects

Draft of Proposed Stormwater Regulations