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DUXBURY, MASS.

**Town of Duxbury**  
**Conservation Commission**

**Minutes of April 27, 2021**

The Duxbury Conservation Commission met on Tuesday, April 27, 2021 at 7:00 p.m. via a remote Zoom meeting.

**Members Present:** Corey Wisneski, Chair; Sam Butcher; Tom Gill; Mickey McGonagle; Holly Morris; and Scott Zoltowski.

**Members Absent:** Robb D'Ambruoso

**Staff Present:** Joe Grady, Conservation Administrator; Nancy Rufo, Administrative Assistant; Pat Loring, volunteer

Meeting was called to order by Chair, Corey Wisneski at 7:00 p.m.

Ms. Wisneski read the following preamble: Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, M.G.L. Chapter 30A, Section 18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, the Town of Duxbury's Board and/or Committee meetings will be conducted via remote participation to the greatest extent possible with members. For this meeting, members of the public who wish to watch the meeting may do so by following the Zoom meeting links listed on the Agenda. No in- person attendance of members of the public will be permitted. Every effort will be made to ensure the public can adequately access the proceedings to the best of our technical abilities.

Members present on a roll call vote: Sam Butcher, yes; Tom Gill, yes; Mickey McGonagle, yes; Holly Morris, yes; Scott Zoltowski, yes; Corey Wisneski, yes.

**ADMINISTRATIVE MATTERS:**

**Minutes for Approval: Regular Session: April 6, 2021.** Scott Zoltowski made a motion, seconded by Sam Butcher to approved the minutes of April 6, 2021. Motion passed unanimously on a roll call vote: Sam Butcher, yes; Tom Gill, yes; Mickey McGonagle, yes; Holly Morris, yes; Scott Zoltowski, yes; Corey Wisneski, yes. Motion carried 6 to 0.

**Certificates of Compliance:**

**SE18-1892; 0 Hornbeam Road:** Joe Grady stated he has received an As Built Plan and he recommends issuing a Certificate of Compliance. Tom Gill made a motion, seconded by Sam Butcher, to issue a Certificate of Compliance for SE18-1892. Motion passed unanimously on a roll call vote: Sam Butcher, yes; Tom Gill, yes; Mickey McGonagle, yes; Holly Morris, yes; Scott Zoltowski, yes; Corey Wisneski, yes. Motion carried 6 to 0.

**SE18-390; 60 Long Point Lane:** On a request from Attorney Kathy Muncey, Joe Grady found the project to be complete and he recommends issuing a Certificate of Compliance. Sam Butcher made a motion, seconded by Scott Zoltowski, to issue a Certificate of Compliance for SE18-390. Motion passed unanimously on a roll call vote: Sam Butcher, yes; Tom Gill, yes;

Mickey McGonagle, yes; Holly Morris, yes; Scott Zoltowski, yes; Corey Wisneski, yes. Motion carried 6 to 0.

**SE18-393; 60 Long Point Lane:** On a request from Attorney Kathy Muncey, Joe Grady found the project to be complete and he recommends issuing a Certificate of Compliance. Sam Butcher made a motion, seconded by Holly Morris, to issue a Certificate of Compliance for SE18-393. Motion passed unanimously on a roll call vote: Sam Butcher, yes; Tom Gill, yes; Mickey McGonagle, yes; Holly Morris, yes; Scott Zoltowski, yes; Corey Wisneski, yes. Motion carried 6 to 0.

**SE18-1723; 32 Abrams Hill:** On a request from Paul Brogna, Joe Grady found the project to be complete. He has received an As Built Plan and he recommends issuing a Certificate of Compliance. Scott Zoltowski made a motion, seconded by Tom Gill, to issue a Certificate of Compliance for SE18-1723. Motion passed unanimously on a roll call vote: Sam Butcher, yes; Tom Gill, yes; Mickey McGonagle, yes; Holly Morris, yes; Scott Zoltowski, yes; Corey Wisneski, yes. Motion carried 6 to 0.

**Request for Modification:**

**SE18-1831; 54 Bay Pond Road:** Joe Grady has received a new project plan for 54 Bay Pond Rd. He recommends accepting the new plan under the existing Order of Conditions. The applicant will be required to sign and date a form referencing the new Plan of Record. Holly Morris made a motion, seconded by Tom Gill, to modify SE18-1831's Order of Conditions to include the new plan. Motion passed unanimously on a roll call vote: Sam Butcher, yes; Tom Gill, yes; Mickey McGonagle, yes; Holly Morris, yes; Scott Zoltowski, yes; Corey Wisneski, yes. Motion carried 6 to 0.

Chair, Corey Wisneski referenced the Board of Selectmen's *Statement on Diversity, Equity and Inclusion* which was distributed to each Commissioner. She encouraged everyone to read and take seriously this important Statement.

**REQUEST FOR AMENDMENT; EVERGREEN TERRACE LOT B:**

**SE18-1922**

Corey Wisneski read the Legal Notice for an Amendment to the Lot B, Evergreen Terrace Order of Conditions. Austin Chartier, McKenzie Engineering, presented the project changes. Lot B is sold and under construction. New owners would like to add a pool, fencing and landscaping. There will be no change in stormwater runoff. There will now be 3.9% impervious coverage in the Buffer Zone (15% is allowed), previously there was 0%. The proposed fencing and landscaping should improve the runoff downslope to the wetland. Joe Grady stated the amendment meets the Commission's Rule and Regulations. He recommends issuing the Order of Conditions Amendment.

Sam Butcher made a motion, seconded by Tom Gill to issue an Amendment to the SE18-1922 Order of Condition. Motion passed unanimously on a roll call vote: Sam Butcher, yes; Tom Gill, yes; Mickey McGonagle, yes; Holly Morris, yes; Scott Zoltowski, yes; Corey Wisneski, yes. Motion carried 6 to 0.

Sam Butcher made a motion, seconded by Tom Gill to close the Public Hearing for SE18-1922. Motion passed unanimously on a roll call vote: Sam Butcher, yes; Tom Gill, yes; Mickey McGonagle, yes; Holly Morris, yes; Scott Zoltowski, yes; Corey Wisneski, yes. Motion carried 6 to 0.

**CONTINUED PUBLIC HEARING; DUXBURY CONSTRUCTION LLC; 187 KING CAESAR ROAD; SEAWALL:  
SE18-1951**

Freeman Boynton, Duxbury Construction, LLC, presented the project. Mr. Boynton met with the abutter and developed a solution for merging the new seawall at 187 King Caesar Road with abutting existing seawalls. "Wing walls" with footings and stone and mortar walls will be constructed at either end of the new seawall to tie into the abutting walls. "Wing walls" will be 2 ft. wide and 1 ft. tall.

Sam Butcher made a motion, seconded by Tom Gill, to close the Public Hearing and write an Order of Conditions referencing the modified plans for SE18-1951. Motion passed unanimously on a roll call vote: Sam Butcher, yes; Tom Gill, yes; Mickey McGonagle, yes; Holly Morris, yes; Scott Zoltowski, yes; Cory Wisneski, yes. Motion carried 6 to 0.

**CONTINUED PUBLIC HEARING; HUSK; 160 MARSHALL STREET; COASTAL BANK  
REVETMENT PLANTINGS:  
SE18-1933**

Applicant has again requested a continuance to May 25, 2021. Discussion followed on the applicant's name (C.J. Husk) and whether to continue the Public Hearing. Mr. Boynton stated he has developed a project plan. Sam Butcher emphasized the need for a complete set of plans.

Sam Butcher made a motion, seconded by Tom Gill, to continue the Public Hearing to May 25 at 7:15 p.m. Motion passed unanimously on a roll call vote: Sam Butcher, yes; Mickey McGonagle, yes; Tom Gill, yes; Holly Morris, yes; Scott Zoltowski, yes; Corey Wisneski, yes. Motion carried 6 to 0.

**CONTINUED PUBLIC HEARING; READ/STENBECK & TAYLOR; 224 GURNET ROAD;  
SINGLE FAMILY HOME ADDITION  
SE18-1945**

Applicant is waiting for a wetland delineation and has requested a continuance to May 25, 2021.

Holly Morris made a motion, seconded by Scott Zoltowski, to continue the Public Hearing to May 25, 2021 at 7:20 p.m. for SE18-1945. Motion passed unanimously on a roll call vote: Sam Butcher, yes; Tom Gill, yes; Holly Morris, yes; Mickey McGonagle, yes; Scott Zoltowski, yes; Corey Wisneski, yes. Motion carried 6 to 0.

**CONTINUED PUBLIC HEARING; MCLAUGHLIN/SEACOAST ENGINEERING; 37 OCEAN ROAD NORTH; SITE IMPROVEMENTS AROUND SEAWALL:  
SE18-1952**

Paul Brogna, Seacoast Engineering, reviewed the project history, the uniqueness of the site, the August 2020 Enforcement Order, and the Notice of Intent (NOI) filing on March 23, 2021. The NOI seeks to permit a paved driveway, fill, reconstructed timber wall and concrete pad for a condenser and A/C. Mr. Brogna believes the applicant should be able to return site grades to 2018 levels. Six Commissioners visited the site on April 12, 2021 and found additional work had been done without authorization. Mr. Brogna has advised his client against any further work. Joe Grady reviewed the Conservation Department's project history. An Enforcement Order was issued on August 2020 requiring the retaining walls, fill and decking be removed within 30 days. The McLaughlins want to keep the grades and not restore the site to prior conditions. They therefore filed a Notice of Intent on March 23, 2021. A February 2021 storm caused additional scouring to the site. The McLaughlins then reconstructed the timber wall and brought in fill without permission (second offense). Mr. Zoltowski noted that the Commission has the power to

levy fines when issuing Enforcement Orders and, especially in cases when it is reasonable to conclude that illegal activity under an Order of Conditions is intentional, the Commission should consider utilizing fines to obtain compliance. The NOI requests construction of a driveway, concrete pilings and concrete pad, a timber wall and fill behind the timber wall. The Town of Duxbury has a permanent easement for maintenance purposes on both sides of the seawall, which is on the ocean side of the timber wall. Mr. Grady read the easement language for the audience. Commissioners commented on the sensitive resource areas; Enforcement Order non-compliance; deliberate flaunting of statutes, second offense; and the applicant being rewarded for ignoring the Commission's Rules and Regulations. Joe Grady noted this is a high hazard Velocity Zone. The timbers in the wall could become projectiles during a severe storm. Timber walls would not be permitted in this area. Mr. Brogna questioned how to move the project to a resolution. Clarification of the Town Easement is needed before anything further is done. Mr. Brogna assumed responsibility for working with the Town Manager and Town Counsel to understand the easement and to determine what, if anything, is allowed.

Sam Butcher made a motion, seconded by Mickey McGonagle to continue the Public Hearing to May 25, 2021 at 7:25. Mr. Butcher emphasized the Commission will not be pleased if any further work is done without permission. Motion passed unanimously on a roll call vote: Sam Butcher, yes; Tom Gill, yes; Mickey McGonagle, yes; Holly Morris, yes; Scott Zoltowski, yes; Corey Wisneski, yes. Motion carried 6 to 0.

**PUBLIC MEETING; LEACH/SOUTH RIVER ENVIRONMENTAL; 10 PINE POINT PLACE;  
DECK & STAIRS REPLACEMENT:**

Corey Wisneski read the Public Meeting Legal Notice for 10 Pine Point Place. John Zimmer, South River Environmental, represented the homeowner. He stated the applicant wants to replace an 8 ft x 8.6 ft deck and attached stairs within a saltmarsh Buffer Zone and Land Subject to Coastal Storm Flowage. There will be concrete piers and a concrete pad for the deck and stairs. The stairs are slightly wider than the existing stairs in order to meet the Building Code. Joe Grady recommended a Negative Determination.

Sam Butcher made a motion, seconded by Tom Gill, to issue a Negative Determination for 10 Pine Point Place. Motion passed unanimously on a roll call vote: Sam Butcher, yes; Tom Gill, yes; Mickey McGonagle, yes; Holly Morris, yes; Scott Zoltowski, yes; Corey Wisneski, yes. Motion carried 6 to 0.

**PUBLIC HEARING; DUXBURY CONSTRUCTION LLC; 184 MARSHALL STREET;  
DEMOLISH & REBUILD SINGLE FAMILY HOME:  
SE18-1955**

Corey Wisneski read the Public Hearing Legal Notice for SE18-1955. Freeman Boynton, Duxbury Construction, LLC., presented the project to demolish the existing home and build a new one at 184 Marshall Street. House will be outside the 100 ft. Buffer Zone. Pool, deck and a corner of the house will be within the Buffer Zone with 14.8% impervious coverage (15% is allowed). Abutter, Charles Sullivan, sent a letter, which Ms. Wisneski read to the audience, and showed photos of a large sycamore maple tree on the property line. He requested the pool at 184 Marshall St. be moved 5 ft. to reduce impact to the tree. The Pontiffs stated they would take every precaution to protect the tree, but did not want to move the pool. Ms. Wisneski stated the project met the Commission's Rules and Regulations and she advised letting the applicant and neighbor work out the tree problem. Mr. Butcher encouraged Mr. Boynton and the Pontiffs to carefully watch the impervious coverage.

Holly Morris made a motion, seconded by Tom Gill, to close the Public Hearing and write an Order of Conditions for SE181955. Motion passed unanimously on a roll call vote: Sam Butcher, yes; Mickey McGonagle, yes; Tom Gill, yes; Holly Morris, yes; Scott Zoltowski, yes; Corey Wisneski, yes. Motion carried 6 to 0.

**PUBLIC HEARING; CROSSROADS, INC./WATER& WETLANDS, LLC; 742 KEENE STREET; AQUATIC MANAGEMENT PROGRAM: SE18-1957**

Corey Wisneski read the Public Hearing Legal Notice for SE18-1957. Colin Gosselin, Water & Wetland, presented the proposed Aquatic Management Program for Crossroads' Keene and Ashdod Ponds. This is a multi-year pond management program to control invasive and nuisance plant growth such as fanwort and variable watermilfoil. Ashdod Pond will not receive treatment during the first year. Treatment will be based on survey and water quality sampling. Information was provided to the Commission on Sonar (fluridone), Diquat and other possible herbicide treatments and their impacts.

Tom Gill made a motion, seconded by Sam Butcher, to close the Public Hearing and write an Order of Conditions for SE18-1957. Motion passed unanimously on a roll call vote: Sam Butcher, yes; Mickey McGonagle, yes; Tom Gill, yes; Holly Morris, yes; Scott Zoltowski, yes; Corey Wisneski, yes. Motion carried 6 to 0.

**PUBLIC MEETING; DUXBURY SUGAR KELP LLC; DUXBURY BAY; KELP FARM:**

Corey Wisneski read the Public Meeting Legal Notice for the proposed Sugar Kelp Farm. John Lovett, Duxbury Sugar Kelp Farm, presented his project for a new kelp farm location. Mr. Lovett addressed the Commission with a full Kelp Farm presentation on March 2, 2021. MA Division of Marine Fisheries required relocation of the kelp farm because of Atlantic Right Whales proximity. The new location is northwest of Clarks Island. Kelp is a winter crop, with all gear being removed by May 15<sup>th</sup> of each year. Mr. Lovett will be partnering with Woods Hole Oceanographic Institute and Massachusetts Maritime Academy.

Sam Butcher made a motion, seconded by Holly Morris, to issue a Negative Determination for the Sugar Kelp Farm in Duxbury Bay. Motion passed unanimously on a roll call vote: Sam Butcher, yes; Mickey McGonagle, yes; Tom Gill, yes; Holly Morris, yes; Scott Zoltowski, yes; Corey Wisneski, yes. Motion carried 6 to 0.

**PUBLIC MEETING; DUXBURY CONSTRUCTION, LLC; 44 POWDER POINT AVENUE; UNDERGROUND WATER/ELECTRIC TO PIER:**

Corey Wisneski read the Public Meeting Legal Notice for 44 Powder Point Avenue. Freeman Boynton, Duxbury Construction LLC, presented the project which will provide a utility connection between the owner's house and pier using a Directional Boring Method under the street. The horizontal bore hole will be 56 ft. long. A silt fence will be installed on the water side to prevent erosion.

Sam Butcher made a motion, seconded by Tom Gill, to issue a Negative Determination for 44 Powder Point Avenue. Motion passed unanimously on a roll call vote: Sam Butcher, yes; Mickey McGonagle, yes; Tom Gill, yes; Holly Morris, yes; Scott Zoltowski, yes; Corey Wisneski, yes. Motion carried 6 to 0.

**PUBLIC HEARING; DUXBURY CONSTRUCTION, LLC; 52 LINCOLN STREET;  
GARAGE/GUEST HOUSE:  
SE18-1958**

Corey Wisneski read the Public Hearing Legal Notice for SE18-1958. Freeman Boynton, Duxbury Construction, LLC. representing homeowner, David Slayter presented the project for construction of a garage/guest house with a deck, tree removal, grading, landscaping and replanting evergreen trees. There will be .5% coverage in the Buffer Zone (15% is allowed) A silt fence will be installed to prevent erosion.

Sam Butcher made a motion, seconded by Holly Morris, to close the Public Hearing and write an Order of Conditions for SE18-1958. Motion passed unanimously on a roll call vote: Sam Butcher, yes; Mickey McGonagle, yes; Tom Gill, yes; Holly Morris, yes; Scott Zoltowski, yes; Corey Wisneski, yes. Motion carried 6 to 0.

**PUBLIC HEARING; DUXBURY BEACH RESERVATION/WOODS HOLE GROUP; DUXBURY  
BEACH RESERVATION; ROADWAY RESILIENCY IMPROVEMENTS:  
SE18-1959**

Joe Grady and Corey Wisneski recused themselves from the discussion.

Sam Butcher read the Public Hearing Legal Notice for SE18-1959. Elise Leduc, Woods Hole Group presented the project for the Duxbury Beach Reservation, Inc. Project goals involve developing a comprehensive management approach for the beach and roadway flooding at High Pines. Two components are included in this filing: elevating 1375 linear feet of a low road area prone to flooding during spring high tide and controlling runoff during storm events by adding five crushed stone catch basins and stone drains. There will be no impact to the Piping Plovers. Project objectives include: increased roadway resiliency, reduced impacts to adjacent wildlife habitat and wetland resource areas, improved storm damage protection and flood control and increased passive recreational value.

Tom Gill made a motion, seconded by Holly Morris to close the Public Hearing and write an Order of Conditions for SE18-1959. Motion passed unanimously on a roll call vote: Tom Gill, yes; Sam Butcher, yes; Mickey McGonagle, yes; Holly Morris, yes; Scott Zoltowski, yes; Motion carried 5 to 0.

**ENFORCEMENT; RUSSELL/LLOYD; 38 HORNBEAM ROAD; VEGETATION CUTTING.**

Violation involves cutting of 28 trees in a 10,706 sq. ft. area of a Bordering Vegetated Wetland (BVW), and Land Subject to Coastal Storm Flowage (LSCSF) and alteration of 1253 sq ft. of BVW Buffer Zone, without permission. Cut trees and brush have been stacked throughout the area. Violation is subject to a Settlement Agreement. Brad Holmes, ECR, consultant to homeowner Heather Russell presented the project history. Mr. Holmes previously developed an existing conditions and replanting plan and a restoration plan. Lenore White, Wetland Strategies, Inc. consultant to the Commission, reviewed the Settlement Agreement, visited the site and found the restoration plan did not address needed restoration. Particularly, there was no tree replanting included in the plan. Ms. White emphasized the essential component large trees play in the wetland system especially their value as part of the habitat and in flood control to the saltmarsh. She stated the following must be included in the restoration plan: replanting of 28, 4 to 6 ft trees as well as native shrubs; a detailed methodology for 3 years of monitoring and an access plan including any clearing and re-vegetation for bringing trees to the site. The site is to be restored to its pre-alteration condition. Ms. White did not believe the wood piles added to the wildlife habitat and stated they should be removed, as requested by abutter, Mr. Lloyd. Mr. Holmes delivered a revised wetland restoration plan to the Conservation Department this morning and agreed to further revise the plan as needed. Robert Galvin, attorney for Heather

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*Approved May 25, 2021*

Russell requested permission for Ms. White and Mr. Holmes to communicate directly in order to save time resolving the issue. Ms. Wisneski agreed to the direct communication.

Holly Morris made a motion, seconded by Tom Gill, to continue the Public Hearing to May 11, 2021 at 7:20 p.m. Motion passed unanimously on a roll call vote: Sam Butcher, yes; Mickey McGonagle, yes; Tom Gill, yes; Holly Morris, yes; Scott Zoltowski, yes; Corey Wisneski, yes. Motion carried 6 to 0.

**Adjournment:** Tom Gill made a motion, seconded by Sam Butcher to adjourn the meeting at 9:35 p.m. Motion passed unanimously on a roll call vote: Tom Gill, yes; Holly Morris, yes; Sam Butcher, yes; Mickey McGonagle, yes; Scott Zoltowski, yes; Corey Wisneski, yes. Motion carried 6 to 0.

**Next Meeting:** The next meeting of the Conservation Commission is scheduled for Tuesday, May 11, 2021 at 7:00 p.m.