



Town of Duxbury Conservation Commission

Approved August 4, 2020

TOWN CLERK

2020 SEP 17 PM 3:19

DUXBURY, MASS.

Minutes of July 14, 2020

The Duxbury Conservation Commission met on Tuesday, July 14, 2020 at 10:00 AM via remote Zoom meeting.

Members Present: Corey Wisneski, Chair; Robb D'Ambruoso; Sam Butcher; Tom Gill; Holly Morris; Mickey McGonagle;

Members Absent: Scott Zoltowski

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

Chair Corey Wisneski called the meeting to order at 10:00 am. She confirmed that all members and persons anticipated on the agenda are present and can be heard. She confirmed the following individuals to be present (followed by their response): Robb D'Ambruoso, yes; Sam Butcher, yes; Tom Gill, yes; Holly Morris, yes; Mickey McGonagle, yes;

Corey Wisneski read the following: Welcome to the July 14, 2020 meeting of the Duxbury Conservation Commission. This Open Meeting is being conducted remotely consistent with Governor Baker's Executive Order of March 12, 2020, due to the current State of Emergency in the Commonwealth due to the outbreak of the COVID-19 Virus. In order to mitigate the transmission of the COVID-19 Virus, we have been advised and directed by the Commonwealth to suspend public gatherings, and as such, the Governor's Order suspends the requirement of the Open Meeting Law to have all meetings in a publicly accessible physical location. Further, all members of public bodies are allowed and encouraged to participate remotely. The Order, which you can find posted on our agenda, allows public bodies to meet entirely remotely so long as reasonable public access is afforded so that the public can follow along with the deliberations of the meeting. For public access – please email conservation@town.duxbury.ma.us or call-in at 781-934-1100 ext. 5470 for questions or comments.

This meeting is convening via Zoom video conference produced and recorded by PACTV, and can be viewed live on the Duxbury Government Access Channels – Verizon 30 or Comcast 15; or for those without cable, on PACTV's Prime streaming channel at PACTV.org/LIVE. This meeting will then be available by video on-demand on PACTV's website.

ADMINISTRATIVE MATTERS

Minutes: Robb D'Ambruoso said the minutes shown him as present but he was not present at this meeting. On a motion by Sam Butcher, seconded by Tom Gill, the minutes of **June 16, 2020** were approved as written with the correction of who was in attendance by a vote of 6-0. The roll call vote was: Corey Wisneski, yes; Robb D'Ambruoso, yes; Sam Butcher, yes; Tom Gill, yes; Holly Morris, yes; Mickey McGonagle, yes.



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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.

Conservation Fund Expenditure

Joe Grady explained the children of the Rogerson family donated 3 parcels of salt marsh. There are outstanding real estate taxes due, and these are usually paid from the Conservation Fund.

Tom Gill made the following motion: to approve the expenditure of up to \$1,400 from the Conservation Fund to pay the back taxes due on 3 parcels of land donated to the Conservation Commission by the Rogerson family. The motion was seconded by Holly Morris. The roll call vote was: Corey Wisneski, yes; Robb D'Ambruoso, yes; Sam Butcher, yes; Tom Gill, yes; Holly Morris, yes; Mickey McGonagle, yes; the motion carried by a vote of 6-0.

Request for modification of plans: SE18-1829, Dogwood Drive Lot J

Joe Grady reported that he approved this modification because it was a minor change during the pandemic before the Commission was meeting. He recommends this change be approved under the existing Orders of Conditions. There is a slight increase in coverage from 7.9% to 8.2% because the house design has changed and is now slightly closer to the wetlands. The project complies with the regulations.

Tom Gill made the following motion: to accept the modification of the plan under the existing Orders of Conditions for SE8-1829 as shown on the plan titled 'Site Plan, Lot J Dogwood Drive' by Grady Consulting revision date 6/10/2020. The motion was seconded by Holly Morris. The roll call vote was: Corey Wisneski, yes; Robb D'Ambruoso, yes; Sam Butcher, yes; Tom Gill, yes; Holly Morris, yes; Mickey McGonagle, yes; the motion carried by a vote of 6-0.

Conservation Restriction approval: Gifford Bog

Joe Grady said this the third of 3 packages of properties to be placed under a Conservation Restriction (CR) from the Merry land acquisition. The requirement when acquiring properties with CPC funds is that a third party must hold the CR, in this case it will be Wildlands Trust. Pat Loring is working on preparing these CRs; the North Hill and Gifford Bog CRs are complete. The CRs must be approved by the state and an endowment must be paid to the holder of the CR; in this case it will be approximately \$10,000 and Wildlands Trust will do an annual inspection to be sure the restrictions are being adhered to.

Tom Gill made the following motion: to approve and grant the Gifford Bog Conservation Restriction to the Wildlands Trust, Inc. pursuant to Massachusetts General Laws, Chapter 184, Section 32, and Chapter 40, Section 8C. The motion was seconded by Robb D'Ambruoso. The roll call vote was: Corey Wisneski, yes; Robb D'Ambruoso, yes; Sam Butcher, yes; Tom Gill, yes; Holly Morris, yes; Mickey McGonagle, yes; the motion carried by a vote of 6-0.

Policy change: Submittal procedures during State of Emergency

Joe Grady explained that in order to try to move forward and hold some public hearings, the department's submission requirements must be changed. The suggested requirements include requiring materials to be submitted 3 weeks prior to the meeting date, and requiring all projects to be submitted electronically and by paper copy. These new requirements will be posted on the Conservation website.

Tom Gill made the following motion: To adopt the submittal requirements as outlined on the July 14, 2020 version. The motion was seconded by Robb D'Ambruoso. The roll call vote was: Corey Wisneski, yes; Robb D'Ambruoso, yes; Sam Butcher, yes; Tom Gill, yes; Holly Morris, yes; Mickey McGonagle, yes; the motion carried by a vote of 6-0.

Discussion: Policy for Public Hearings

Joe Grady reported that he and Susan Ossoff talked with Town Counsel Amy Kwesell about holding Public Hearings. Under the State of Emergency the Commission does not have to hold these hearings. Town Counsel suggested if the Commission chooses to proceed with hearings, to do simple projects and adopt a policy regarding which hearings will be held. Joe Grady is recommending the Commission start with projects in the buffer zone only because these tend to be less complicated. The recommendation is that the Commission adopt a policy to do buffer zone hearings for one meeting only to see how things go.

Corey Wisneski made the following motion: To adopt the approach for the next meeting that the Commission will try to resume holding some Public Hearings for projects in the Buffer Zone only. The motion was seconded by Holly Morris. The roll call vote was: Corey Wisneski, yes; Robb D'Ambruoso, yes; Sam Butcher, yes; Tom Gill, yes; Holly Morris, yes; Mickey McGonagle, yes; the motion carried by a vote of 6-0.

Affirmation of Enforcement Order: SE18-1867, 234 Gurnet Road

Joe Grady said this project was to tear down and reconstruct a house within the existing footprint. This house is only 16' from the salt marsh. During the hearing, the Commission requested that the exit stairs at the back be moved to the side to maximize the distance from the resource area. On inspection, Joe Grady found a cantilevered deck on the back of the house. He spoke to the contractor about the situation and advised him of the need to bring the project in compliance with the Orders of Conditions, the house as it is built does not comply with the Commission's rules and regulations. He issued an Enforcement Order requiring removal of the deck.

Robb D'Ambruoso asked if the Commission has accepted a cantilevered deck in a situation like this in the past. Joe Grady said no, and it is specifically stated in the rules and regulations that cantilevered structures count as coverage.

Holly Morris made the following motion: to affirm the Enforcement Order issued to Richard Burchill for SE18-1867, 234 Gurnet Road on July 8, 2020 requiring the removal of a deck to bring the project into compliance with the Orders of Conditions. The motion was seconded by Tom Gill. The roll call vote was: Corey Wisneski, yes; Robb D'Ambruoso, yes; Sam Butcher, yes; Tom Gill, yes; Holly Morris, yes; Mickey McGonagle, yes; the motion carried by a vote of 6-0.

Review of Remediation Plan: 3 Garden Lane Enforcement Action

Joe Grady issued an Enforcement Order for 3 Garden Lane in May for grading and removal of vegetation in the buffer zone to a salt marsh which also caused erosion into the salt marsh. This was reaffirmed by the Commission at its last meeting. The owners have diligently tried to address the situation and hired Brad Holmes and attorney Mike

Gill to represent them. Brad Holmes is participating in the Zoom meeting to represent the property owners.

Brad Holmes provided aerial photo evidence of the previous conditions at the site. Vegetation had been cut previously but there was no grading or damage to the lower vegetation. Trees had been cut prior to the violation but not shrubs and herbaceous vegetation. The restoration plan proposes pulling the material off the marsh and replanting trees and shrubs and establishing a lawn in the disturbed area beyond the 25' zone. The disturbance is in the view area, not lot line to lot line, to both sides there is natural vegetation left.

Brad Holmes presented the proposed remediation plan. A narrow wetland fringe and the buffer area were impacted by the work. From 25' to 100' they propose a fescue mix, closer than 25' they will restore with plantings. In the 'platform' area of the yard, they will stabilize the sides and use the surface as a vegetated seating area, no patio or hardscape is proposed.

Holly Morris asked if any cutting was done in the salt marsh and about phragmites removal. Brad Holmes said there was no cutting in the salt marsh but fill was pushed into the salt marsh and will be removed. The salt marsh is dominated by phragmites and it is important to make sure it doesn't overtake the restoration area. Joe Grady said this area is close to a discharge drain and that fuels the growth of phragmites. With the new school project much of the discharge has been redirected and is treated and discharged to the Bluefish River. He suggested the project should include some phragmites control, as well as 3 years of monitoring and annual reports – the monitoring and annual reports are typical of the Commission's enforcement actions.

Brad Holmes said he will revise the remediation plan to include those requirements. Joe Grady suggested he include a sketch of the area subject to phragmites control.

Sam Butcher made the following motion: To accept the proposed remediation plan for 3 Garden Lane prepared by Environmental Consulting & Engineering dated June 5, 2020 with the added requirements of 3 years of annual monitoring, annual reports, and phragmites control. The motion was seconded by Tom Gill. The roll call vote was: Corey Wisneski, yes; Robb D'Ambruso, yes; Sam Butcher, yes; Tom Gill, yes; Holly Morris, yes; Mickey McGonagle, yes; the motion carried by a vote of 6-0.

Accept Edited Rules & Regulations

Joe Grady said there are no substantial changes to the Rules and Regulations for the use of conservation land, this effort was mostly to reorganize and clarify wording. The inclusion of additional rules and regulations for other activities is something the Commission can address in the future. Joe Grady is in the process of doing a 20-panel brochure of the walking trails and wants the edited regulations adopted so they can be included in the brochure.

Sam Butcher made the following motion: to adopt the revised Rules & Regulations for Use of Town of Duxbury Conservation Lands dated July 14, 2020. The motion was seconded by Holly Morris. The roll call vote was: Corey Wisneski, yes; Robb D'Ambruso, yes; Sam Butcher, yes; Tom Gill, yes; Holly Morris, yes; Mickey McGonagle, yes; the motion carried by a vote of 6-0.

CONSERVATION MINUTES

July 14, 2020

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Approved August 4, 2020

Mickey McGonagle and Robb D'Ambruoso had to leave the meeting.

Adjournment: Corey Wisneski made a motion to adjourn the meeting at 11:02 am. The motion was seconded by Sam Butcher. The roll call vote was: Corey Wisneski, yes; Sam Butcher, yes; Tom Gill, yes; Holly Morris, yes; The motion carried by a vote of 4-0.

MATERIALS REVIEWED AT THE MEETING

Draft minutes of June 16, 2020

SE18-1829 Request for modification of plans

Proposed remediation plan for 3 Garden Lane

Draft policy for submittals during State of Emergency

Enforcement Order for Se18-1867, 234 Gurnet Road

Draft of Rules & Regulations for Use of Duxbury Conservation Lands