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TOWN CLERK

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DUXBURY, MASS.



# Town of Duxbury Conservation Commission

Minutes of July 25, 2017

The Conservation Commission met on Tuesday, July 25, 2017 at 7:00 PM in the Mural Room at the Duxbury Town Hall.

**Members Present:** Chair Corey Wisneski; Sam Butcher; Holly Morris; Scott Zoltowski

**Members Absent:** Robb D'Ambruoso; Tom Gill; Mickey McGonagle

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

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

Chair Corey Wisneski announced that the hearings for Ducks Berry LLC (SE18-1757); Diamond Sinacori LLC (SE18-1774), and Baldwin (SE18-1763) were all going to be continued if anyone in the audience was attending for those hearings. Thomas Borg of 941 Congress Street said he was there about the Ducks Berry LLC project but would be out of the country for the continued hearing and asked if he could present materials; Corey Wisneski said there would be no presentation of content this evening. Mr. Borg said he has delivered letters and materials for the Commission to review; Corey Wisneski said those materials would be given to the Commissioners for their review at the continued hearing.

## MEETING SCHEDULE DISCUSSION

Joe Grady explained that because of the volume of projects being filed, the Commission likely needs to have a second meeting in August; it was suggested that a meeting be added on August 22 in addition to the already scheduled meeting on August 15. The Commission agreed to meet on the 15<sup>th</sup> and 22<sup>nd</sup>.

## PUBLIC MEETING; BLARNEY CONSTRUCTION: 567 BAY ROAD: GRADING

Sean Moran of Blarney Construction described the project; the goal is to create a larger flat area in the yard and have it slope down and tie into the existing topography. The flat area would be about 18' x 70'. Corey Wisneski pointed out that the grading is outside of the 100' buffer but the construction equipment will need to operate within the 100' buffer.

On a motion by Sam Butcher, seconded by Scott Zoltowski, a negative determination was voted such that a Notice of Intent is not required for the lawn regrading work at 567 Bay Road. The motion was approved by a vote of 4-0-0.

## PUBLIC MEETING; FITZGERALD; 51 CANDLEWICK CLOSE; DECK

Tim Fitzgerald, the property owner, described the project which is to install an 18' x 22' deck off the back of the house. The deck at its closest point will be 37' from the wetlands and will be on a sonotube type foundation. Coverage in the buffer zone will be 8.5%.

On a motion by Sam Butcher, seconded by Holly Morris, a negative determination was voted such that a Notice of Intent is not required for the deck at 51 Candlewick Close. The motion was approved by a vote of 4-0-0.

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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.

**CONTINUED PUBLIC HEARING; DUXBURY CONSTRUCTION LLC; 290 POWDER POINT AVE; RELOCATE BOATHOUSE AND CONSTRUCT NEW SEAWALL  
SE18-1776**

Freeman Boynton of Duxbury Construction described the project which is to relocate the boathouse and build a seawall. The resource areas are a coastal bank, beach, and salt marsh. There is an existing railroad tie wall and the boathouse is on the beach. The project is to build a new seawall, maintaining the toe of the wall as it is now. The boathouse will be moved back and up so it will be above the flood elevation. There will be stairs near the boathouse and in front of the house. The wall will tie into the wall to the west at 282 Powder Point Ave. Access will be through the homeowner's property and all work will be outside of the marsh. A vegetated buffer will be established between the seawall and the house.

Joe Grady said the septic tank should be 150' away from the wetlands but this one is only 40'. Freeman Boynton said the tank and pit meet the requirements of Title V and a new septic system is not proposed. Sam Butcher asked if it is an eroding coastal bank, Mr. Boynton said it was stable except near the boathouse. Sam Butcher asked how far into the beach the toe will extend below grade, Freeman Boynton said 3-4' beyond the toe. Holly Morris asked where machinery will be used and Mr. Boynton said it will travel past the house onto the beach and will not operate in the salt marsh.

Wes Langeland, a neighbor, asked how the topography will be tied to his property. There now is a slope from the applicant's property to his but there is no erosion. Mr. Boynton said the walls will be integrated seamlessly and the elevation dropped to meet the contours of the property. Sam Butcher asked if the wall will have a finished edge and Mr. Boynton said if the neighbor decides to do a wall he will leave it cobbled, if not he will finish the edge.

On a motion by Scott Zoltowski, seconded by Sam Butcher, it was voted 4-0-0 to write Orders of Conditions for SE18-1776, 290 Powder Point Ave.

**CONTINUED PUBLIC HEARING; DUCKS BERRY LLC; 1065 SUMMER STREET; DRIVEWAY ENTRANCE, INFILTRATION BASINS  
SE18-1757**

Joe Grady explained that the review from the consultant is still pending.

On a motion by Holly Morris, seconded by Sam Butcher, it was voted 4-0-0 to continue the hearing for SE18-1757 until Tuesday, August 22 at 7:15 pm.

**PUBLIC HEARING; DIAMOND SINACORI LLC; 0, 397, 401, 405 WASHINGTON STREET;  
RESIDENTIAL SUBDIVISION  
SE18-1774**

Joe Grady explained that additional information from the applicants is going to be submitted, and in the meantime the hearing will be continued.

On a motion by Sam Butcher, seconded by Scott Zoltowski, it was voted 4-0-0 to continue the hearing for SE18-1774 until August 22<sup>nd</sup> at 7:20 pm.

**CONTINUED PUBLIC HEARING; BALDWIN; NORTH ST. & KEENE ST.; SINGLE FAMILY HOME  
SE18-1763**

The Commission is waiting for the consultant's report to be submitted, so the hearing will be continued.

On a motion by Holly Morris, seconded by Sam Butcher, it was voted 4-0-0 to continue the hearing for SE18-1763 until August 15 at 7:10 pm.

## **ADMINISTRATIVE MATTERS**

**MINUTES:** On a motion by Scott Zoltowski, seconded by Sam Butcher, it was voted 4-0-0 to approve the minutes of May 23, 2017 with a minor editorial correction.

### **CERTIFICATES OF COMPLIANCE:**

**SE18-1731; 44 Elder Brewster Road.** Joe Grady reported that he has inspected the site, has all required documentation and plans and he recommends issuing Certificates of Compliance for SE18-1731. On a motion by Holly Morris, seconded by Scott Zoltowski, it was voted 4-0-0 to issue Certificates of Compliance for SE18-1731, 44 Elder Brewster Road.

### **ENFORCMENT ACTION: 700 BAY ROAD**

Joe Grady reported that trees were cut in a Bordering Vegetated Wetland and its buffer zone, and vegetation removal and grading were done in the buffer zone without any permits. He visited the site and required 2 rolls of siltation barrier be installed and he spoke with the property owner. The property owner has retained Brad Holmes to develop a restoration plan. The Commission discussed imposing a fine in order to try to stop the unauthorized clearing that is occurring in town because a stronger response than simply requiring replanting seems necessary.

Joe Grady explained that under the Town's bylaws, it is possible to assess a fine of \$300 per day per offense. In this case there are 3 offenses: cutting trees in the BVW, cutting vegetation in the buffer zone, and grading in the buffer zone. The Commission's consensus was to levy one days' worth of fines per offense since in this case the homeowner did act quickly once notified of the issues, so the fine would be \$900. Corey Wisneski suggested copying the contractor on the enforcement letter.

Holly Morris made a motion that the Commission assess a fine of \$900 for 3 violations of the Wetlands Regulations at 700 Bay Road. The motion was seconded by Sam Butcher and approved by a vote of 4-0-0.

### **SEALEGS DISCUSSION; 46 STANDISH ROAD**

Joe Grady said that at 46 Standish Road the Commission previously required replanting for damage to the marsh and a Certificate of Compliance was issued in July of 2016.

Joe Grady spoke to Leo Vercollone, the property owner, who said the current damage is being done by others who use the stairs on his property. In general, the use of Sealegs on tidal flats and over salt marshes is a problem that requires further discussion. Corey Wisneski asked if Conservation Commissions in other communities have any experience in dealing with this problem. Sam Butcher said that Sealegs damage seagrass, but kayaks, dinghies, and posts with dinghies, for example, also cause issues. Corey Wisneski said the damage from a heavy vehicle as opposed to a kayak is a significant

difference. Holly Morris said the there are decades old tire tracks on the Cove Street marsh and the marsh has never recovered. Corey Wisneski said that the Bay Management Commission looked at this issue but she believes no concrete action or recommendations were taken. This will be put on a future agenda for further discussion.

**EXECUTIVE SESSION:**

Sam Butcher made the following motion: I move we go into Executive Session to discuss strategy with respect to litigation where an open meeting may have a detrimental effect on the litigating position of the governmental body and to reconvene in open session in accordance with MGL C.39, Section 23B, Subsection 3 to adjourn. The motion was seconded by Holly Morris. Roll call vote: Corey Wisneski, yes; Sam Butcher, yes; Holly Morris, yes, Scott Zoltowski, yes. The motion passed by a vote of 4-0-0.

**Adjournment:** On a motion by Corey Wisneski, seconded by Sam Butcher, it was voted 4-0-0 to adjourn the meeting at 8:10 p.m.

**MATERIALS REVIEWED AT THE MEETING**

NOI materials for SE18-1776

RDA materials for 567 Bay Road and 51 Candlewick Close

Draft minutes of May 23, 2017