



Approved October 24, 2023

TOWN CLERK
2023 OCT 27 AM 11:47
DUXBURY, MASS.

Town of Duxbury Conservation Commission

Minutes of September 26, 2023

The Duxbury Conservation Commission met in person in the Town Hall Mural Room on Tuesday, September 26, 2023 at 7:00 p.m.

Members Present: Scott Zoltowski, Vice Chair; Sam Butcher; Mickey McGonagle; Holly Morris; and Corey Wisneski

Members Absent: Robb D'Ambruoso, Chair; Tom Gill, III

Staff Present: Nancy Rufo, Conservation Administrator; Debbie Ballem, Principal Assistant

Meeting was called to order by Scott Zoltowski at 7:02 p.m.

CONTINUED PUBLIC HEARING; NOTICE OF INTENT; TOWN OF DUXBURY, DUXBURY SEAWALL PHASE II, II, IV SE18-2052

Pat Brennan of PGB Engineering provided an update on seawall project. Regulatory agencies instructed town to revise plans and use beach nourishment in place of stone at ends of seawall. Next steps include filing with Army Corps, obtaining DEP 401 Water Quality Certification, and a federal review. Mr. Brennan informed Commissioners that further collaboration with NHESP regarding Priority Habitat at southern end of seawall is necessary.

Cris Luttazi, Executive Director of Duxbury Beach Reservations, stated beach nourishment at ends of seawall is not sufficient, and proposed a combination of rock, revetment, beach nourishment, and ongoing maintenance. Ms. Luttazi intends to work with Pat Brennan and NHESP towards a solution. Ms. Luttazi confirmed enforcement action was taken with unpermitted work at end of seawall.

Candace Martin, 59 Gurnet Road, voiced concern with continuing hearing and expressed urgency in preventing seawall breach. Ms. Martin requested Commissioners issue a conditional approval based on approval by NHESP and close the hearing. Commissioners discussed and decided a conditional approval was not appropriate for an expansive and impactful project, and noted a continuance was not a factor in project delay. Pat Brennan and Cris Luttazi agreed that a continuance was necessary to provide time to work with NHESP.

Sam Butcher made a motion, seconded by Mickey McGonagle, to continue the hearing for SE18-2052 to October 24, 2023 at 7:02 p.m. Motion passed unanimously 6 – 0.

CONTINUED PUBLIC HEARING; NOTICE OF INTENT; SHEA/GRADY CONSULTING, 0 GURNET ROAD, SFH CONSTRUCTION ON PILE FOUNDATION SE18-2040

Nancy Rufo informed the Commission of a request from Grady Consulting on behalf of the applicant to withdraw the Notice of Intent application without prejudice.

Holly Morris made a motion, seconded by Corey Wisneski, to accept the request to withdraw the Notice of Intent application for SE18-2040. Motion passed unanimously 6 – 0.

PUBLIC MEETING; REQUEST FOR DETERMINATION OF APPLICABILITY; DUXBURY CONSTRUCTION, 727 BAY ROAD, SEPTIC

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.

Scott Zoltowski read public meeting notice into the record. Freeman Boynton Jr. of Duxbury Construction presented proposed septic system located 76' from BVW. Activities including guesthouse and garage are beyond wetlands buffer and out of Conservation jurisdiction. Nancy Rufo stated she made a site visit, agrees with the wetland delineation, and recommends issuing a negative determination.

Sam Butcher made a motion, seconded by Mickey McGonagle, to issue a negative determination and a Notice of Intent is not required for the installation of a septic system at 727 Bay Road. Motion passed unanimously 6 – 0.

PUBLIC HEARING; NOTICE OF INTENT; SOUTH SHORE SURVEY CONSULTANTS, 766 & 782 TEMPLE STREET, 40B HOUSING DEVELOPMENT

SE18-2053

Scott Zoltowski read public hearing notice into the record. Mark Casey of South Shore Survey Consultants presented the Harlow Brook 40B housing development project. Lots are located within Zone II Aquifer Protection Overlay District (APOD). An ANRAD was previously filed, Brad Holmes delineated wetlands, and ORAD issued. Existing structures will be replaced with 36 homes that are a combination of duplex, triplex, and fourplex – totaling 76 bedrooms. Nancy Rufo confirmed the wetland delineation and added 7 additional flags. Although waivers were granted by Zoning Board of Appeals (ZBA), project is not within the 25' wetland buffer and no walls are within 50'. Nancy Rufo stated she made a site visit and agrees with the wetland delineation and flood zone.

Pat Brennan is the peer reviewer for ZBA and Board of Health (BOH) and applicant was granted waiver to use same peer reviewer for Conservation. Mr. Brennan stated the project meets stormwater standards and complies with BOH and Title V. Septic is 150 feet from BVW. All homes have subsurface drainage systems to capture roof runoff. Mr. Brennan stated the development cannot have more water leaving the site than what was prior to the construction, according to regulations.

Rob Levitt of 724 Temple Street voiced concern about a large development in small area and impact on drinking water safety. Mr. Levitt stated that an independent peer review by Hydrologist Scott Horsely calculated high volumes of nitrogen and requested Commissioners review the information submitted to ZBA by concerned residents. Mr. Levitt also requested Commissioners to obtain a different peer reviewer for the project.

Commissioners discussed and agreed to continue the hearing to allow time to carefully review the project and ZBA waivers. Mounir Tayara introduced himself as the developer and requested the Commission prepare and submit questions via email before next hearing date. Pat Brennan stated he will send an email to Commissioners clarifying what ZBA waivers were granted and used.

Sam Butcher made a motion, seconded by Holly Morris, to continue the hearing for SE18-2053 to November 14, 2023 at 7:00 p.m. Motion passed unanimously 6 – 0.

Certificates of Compliance:

SE18-1944; Rees/Grady Consulting; 90 Marshall Street, SFH raze and rebuild

Nancy Rufo stated that a site visit confirmed work was completed in compliance with approved plans aside from minimal work that slightly increased coverage. Ms. Rufo recommended issuing a full Certificate of Compliance with the condition that an accurate As-built plan is submitted to Conservation reflecting all finished work on the site.

Sam Butcher made a motion, seconded by Mickey McGonagle, to issue a Certificate of Compliance for SE18-1944 with the condition that an accurate As-built plan is submitted to the Conservation Department. Motion passed unanimously 6 – 0.

OPEN FORUM

Mickey McGonagle addressed the ambiguity of wetlands regulations in Land Subject to Coastal Storm Flowage. Conservation staff will create matrix for regulations in AO and Velocity zones, and add to a future agenda for review and discussion.

NEW BUSINESS

Island Creek Pond Update

Mickey McGonagle provided update on controlling nuisance vegetation in Island Creek Pond. Since the water is used for irrigating cranberry bogs, herbicides cannot be used. At the October 10th meeting, TRC Environmental will present how the use of biotics can help manage muck in Island Creek Pond.

Land Transfer Discussion

Conservation began discussion with Selectboard about transferring North Hill land to the Conservation Commission to protect from development in perpetuity. Expansion of the golf course was mentioned as a possible use of the North Hill land. Ms. Morris discussed how the land and trails are actively used for passive recreation every day including the historic Green Harbor Trail. Conservation seeks to preserve trails, protect the Hounds Ditch Well, and the North Hill Marsh that would be downstream of fertilizers, herbicides, and pesticides from a golf course.

Bob Hayes, Chair of Cemetery Trustees, stated Duxbury is obligated to have enough cemetery land for residents and town will run out of room in ~35 years if additional land is not set aside. Mr. Hayes noted residents often begin or end their hikes by walking through the cemetery which is an important connection to maintain. Commissioners and Mr. Hayes discussed working together with other town departments towards a plan that benefits residents now and in the future.

Chris Sherman, Sr. (92 Hounds Ditch Lane) voiced support for Conservation and Cemetery and stated that Conservation land and North Hill trails are just as important to residents as the beach. Mr. Sherman has observed vernal pools and a variety of wildlife while walking the trails and supports preserving the land.

Hunting Regulations

Nancy Rufo explained hunting was added to agenda in response to recent bear activity and questions whether bear hunting is allowed in Duxbury. Mickey McGonagle suggested referring to MassWildlife fact sheet, and possibly arranging informational session with Environmental Police about black bears. Mr. McGonagle pointed out there has never been a human fatality attributed to black bear. Ms. Rufo confirmed Massachusetts hunting map shows Duxbury is Zone 11 – which includes bear hunting. Residents Jack Kent (30 Western Way) and Seth Chandler (48 Old Cove Way) inquired if Conservation approval is required for bear hunting. Commissioners confirmed that advance notice and permission for all hunting in town is necessary, but a formal application is not required. Hunters contact the Conservation Administrator with notice of when, where, and what they are hunting. Commissioners noted the Duxbury hunting map needs to be updated to provide clarity on what type of is allowed where. Mr. Kent suggested the term “deer” be changed to “upland game”.

FY25 Budget Discussion

Nancy Rufo informed the Commission she is preparing the FY25 budget to submit to Finance Director. Commissioners offered their support and discussed possibly attending finance meeting.

ADMINISTRATIVE MATTERS

Request to Amend Orders of Conditions

SE18-2014; Bradford/Grady Consulting; 15 Lewis Court, raze and rebuild on pier foundation

Nancy Rufo informed Commissioners the Orders of Conditions for SE18-2014 required 2.8' at top of pile. Applicant requests to amend Orders with revised plans to lower top of pier elevation from 12.8' to 12.3' to accommodate ceiling height. Ms. Rufo recommended approving revised plans and issuing amended Orders of Conditions for SE18-2024.

Sam Butcher made a motion, seconded by Holly Morris, to approve revised plans and issue Amended Orders of Conditions for SE18-2014. Motion passed unanimously 6 – 0.

Certificate of Compliance

SE18-1944; Rees/Grady Consulting; 90 Marshall Street, raze and rebuild SFH

Nancy Rufo stated she conducted a site visit and As-built does not accurately reflect all work performed. Ms. Rufo recommends issuing a Certificate of Compliance with the condition that an accurate As-built plan is submitted.

Sam Butcher made a motion, seconded by Mickey McGonagle, to issue a Certificate of Compliance for Se18-1944 with the condition that an accurate As-built is submitted to the Conservation Department. Motion passed unanimously 6 – 0.

Minutes for approval

Regular Session Meeting Minutes, September 12, 2023

Sam Butcher made a motion, seconded by Corey Wisneski, to approve the meeting minutes of September 12, 2023. Motion passed unanimously 6 – 0.

ADJOURNMENT

Mickey McGonagle made a motion, seconded by Holly Morris, to adjourn the meeting at 9:34 p.m. Motion passed unanimously 6 – 0.

The next meeting is scheduled for October 10, 2023