



Approved November 28, 2023

Town of Duxbury Conservation Commission

TOWN CLERK
2024 JAN 30 AM 10:55
DUXBURY, MASS.

Minutes of November 14, 2023

The Duxbury Conservation Commission met in person in the Town Hall Mural Room on Tuesday, November 14, 2023 at 7:00 p.m.

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

Members Absent:

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

Meeting was called to order by Robb D'Ambruoso at 7:00 p.m.

CONTINUED PUBLIC HEARING; NOTICE OF INTENT; HARLOW BROOK/SOUTH SHORE SURVEY CONSULTANTS, 766 & 782 TEMPLE STREET, 40B HOUSING DEVELOPMENT SE18-2053

Mark Casey of South Shore Survey Consultants requested Thomas Ballestero's credentials and response to Commission's questions be read into the record. In a letter dated 6/8/2022 addressed to the ZBA, Mr. Ballestero stated the project meets stormwater and wastewater requirements. Abutter Adam Schwebach, 756 Temple Street, asked what impact the Temple Street dam removal will have on floodplain. Nancy Rufo explained the watershed travels North away from site and the dam removal would not exacerbate flooding. Mr. Schwebach, and Abutter Rob Levitt, 724 Temple Street, voiced concern about nutrient loading and asked why independent peer reviewer Scott Horseley calculated higher nitrogen levels. Mr. Casey explained that Mr. Horseley did not factor in the MicroFAST wastewater treatment system. Mr. Casey proposed to include the condition that nitrogen-based fertilizers will not be used. To prevent lawn encroachment into wetland buffer, Mr. Casey further proposed to install 4"x4" treated posts with signage every 50' at the Limit of Work line.

Sam Butcher made a motion, seconded by Holly Morris, to close the hearing for SE18-2053 and issue Orders with the following Conditions; 1) No nitrogen-based fertilizers are to be used, 2) Include a regulation prohibiting the use of nitrogen-based fertilizers in the condominium bylaws, 3) Limit of Work must be delineated with 4"x4" treated wood posts every 50', and at corners where the boundary direction changes, with a badge stating 'Wetland Buffer Zone Do Not Disturb'. Motion carried 6 – 0 with 1 abstention.

PUBLIC HEARING; NOTICE OF INTENT; BALDWIN/ENVIRONMENTAL CONSULTING & RESTORATION LLC; 0 NORTH STREET, OFF KEENE STREET, 40B HOUSING DEVELOPMENT SE18-2060

Robb D'Ambruoso read the public hearing notice into the record. Brad Holmes, Environmental Consulting & Engineering and Rick Grady, Grady Consulting presented proposed project. The northern portion of the development is partially within riverfront area. 9 of the 16 units are within Conservation jurisdiction and no work is proposed within 25' buffer. Mr. Grady stated they are currently working with NHESP regarding signage to prevent encroachment on protected turtle habitat, and are awaiting letter of 'No Take'. Commissioners informed applicant that no work can begin until the 'No Take' letter from NHESP is provided to the Conservation Commission. Several abutters in attendance raised questions that are not under Conservation jurisdiction. Attorney for applicant informed abutters in attendance that questions raised were previously addressed by ZBA.

878 Tremont Street, Duxbury, MA 02332; Telephone: 781-934-1100 x 5471; Fax: 781-934-1137

Sam Butcher made a motion, seconded by Mickey McGonagle, to close the hearing and issue Orders of Conditions for SE18-2060 with the following Special Conditions; 1) Limit of Work must be delineated with 4"x4" treated wood posts every 50', and at corners where the boundary direction changes, with a badge stating 'Wetland Buffer Zone Do Not Disturb, 2) 'No Take' letter from NHESP must be provided to the Commission, 3) Include a regulation prohibiting the use of nitrogen-based fertilizers in the Homeowners Association bylaws.

Motion passed unanimously 7 – 0.

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

A request to continue the hearing to the December 12, 2023 meeting was received from PGB Engineering on 11/9/2023. DPW, Duxbury Beach Reservation (DBR), Coastal Zone Management, MassDEP, and NHESP continue to work on a revised plan to prevent erosion and scour at the southern terminus of the wall. Candace Martin, 59 Gurnet Road, voiced concern for the delay and requested an earlier hearing date. The Commission stated that the Town's representative requested the continuance date and was not present at the meeting. The Commission cannot change a hearing date without applicant or representative knowledge and approval.

Scott Zoltowski made a motion, seconded by Sam Butcher, to continue the hearing for SE18-2052 to December 12, 2023 at 7:01 PM. Motion passed unanimously 7 – 0.

**CONTINUED PUBLIC HEARING; NOTICE OF INTENT; WALSH/CROWELL ENGINEERING; 50 RAILROAD AVE, SITE PREPARATION FOR DEVELOPMENT
SE18-2059**

Nancy Rufo informed the Commission that a continuance is necessary to allow time for Wetland Strategies to conduct the peer review.

Scott Zoltowski made a motion, seconded by Sam Butcher, to Continue the hearing for SE18-2059 to November 28, 2023 at 7:00 PM. Motion passed unanimously 7 – 0.

**PUBLIC MEETING; REQUEST FOR DETERMINATION OF APPLICABILITY;
SETTINO/DUXBURY CONSTRUCTION; 830 FRANKLIN STREET, REBUILD PORCH ON PIERS,
SEPTIC, LANDSCAPING**

Robb D'Ambruoso read the public meeting notice into the record. Freeman Boynton Jr. presented proposed project to remove existing covered porch, construct new screened porch on piers, install new septic, and perform related landscaping. A small portion of the project is within 100' buffer. Nancy Rufo stated that she conducted a site visit, agrees with plans, and recommends issuing a Negative Determination.

Holly Morris made a motion, seconded by Mickey McGonagle, to issue a Negative Determination for the proposed work at 830 Franklin Street, and a Notice of Intent is not required. Motion passed unanimously 7 – 0.

PUBLIC MEETING; REQUEST FOR DETERMINATION OF APPLICABILITY; BROWN/DUXBURY CONSTRUCTION; 249 WASHINGTON STREET, SFH DEMOLITION

Robb D'Ambruoso read the public meeting notice into the record. Freeman Boynton Jr. presented proposed project to raze a dilapidated cottage on pilings. Work will involve driving on upland, not over wetlands. A Notice of Intent will eventually be filed for construction of a new SFH. Nancy Rufo stated that she conducted a site visit, agrees with plans, and recommends issuing a Negative Determination.

Sam Butcher made a motion, seconded by Holly Morris, to issue a Negative Determination for the proposed work at 249 Washington Street, and a Notice of Intent is not required. Motion passed unanimously 7 – 0.

OPEN FORUM

NEW BUSINESS

160 Marshall Street Show Cause

Chair Robb D'Ambruoso reminded attendees that the purpose the 160 Marshall Street hearing was to respond to David Uitti's request for enforcement letter dated 8/31/2023. No other matters would be discussed.

The Husk's counsel submitted the reply brief on Monday at 1:46pm. David Uitti began the discussion with a PowerPoint presentation. Husk counsel Christopher Davidson rebutted much of what was said including many of his regulatory interpretations. Cleo and CJ Husk were vocal about trying to get guidance from Conservation, and proceeding anyway when they felt they received none. The Commissioners strongly refuted this assertion. The Husks indicated they are having difficulty finding a surveyor but believe they have one who will prepare a site plan of the property including resource areas, buffer zones, and FEMA flood zones. Co-owner Jennifer Bylo (who was also in attendance) stated she was not involved in the activities discussed. After much discussion, the following was agreed to, motioned, and unanimously voted by the full board of seven Commissioners:

An ANRAD for 160 Marshall Street must be filed with the Conservation Commission within 30 days (no later than 12/14/2023) to be heard at the Conservation Commission meeting on 1/9/2024. Fines up to \$300/day will commence on 12/15/2023 if this filing is not received by the established and agreed upon deadline. Further, any necessary NOI(s) for the relevant activities occurring on the property must to be filed with the Conservation Commission within 60 days (no later than 1/13/2024) to be heard at the Conservation Commission meeting on 1/23/2024.

Green Harbor Trail

Mickey McGonagle proposed a placeholder for an ATM article to protect the historic and critically important Green Harbor Trail.

Sam Butcher made a motion, seconded by Tom Gill, to put on warrant, a placeholder to protect the historic Green Harbor Trail. Motion passed unanimously 7 – 0.

Isaac Simmons - 0 Temple Street CR

The Commission reviewed the Conservation Restriction for 0 Temple Street.

Sam Butcher made a motion, seconded by Holly Morris, to accept the Conservation Restriction for 0 Temple Street. Motion passed unanimously 7 – 0.

Conservation Fund Expenditure

Nancy Rufo requested approval from the Commission to pay \$199.99 for the Spartan Camera annual data plan.

Sam Butcher made a motion, seconded by Scott Zoltowski, to approve the expenditure of \$199.99 from the Conservation Fund for the annual data plan. Motion passed unanimously 7 – 0.

ADMINISTRATIVE MATTERS

Certificates of Compliance:

SE18-0759 Moody/Webby Engineering; 64 Keene Street, SFH

Nancy Rufo informed the Commission she conducted a site visit, the project was completed in compliance with the Orders of Conditions, and recommends issuing a full Certificate of Compliance.

Scott Zoltowski made a motion made a motion, seconded by Corey Wisneski, to issue a full Certificate of Compliance for SE18-0759. Motion passed unanimously 7 – 0.

Minutes for approval:

Regular Session Meeting Minutes: October 24, 2023

Sam Butcher made a motion, seconded by Scott Zoltowski, to approve the meeting minutes of October 24, 2023. Motion passed unanimously 7 – 0.

ADJOURN

Scott Zoltowski made a motion, seconded by Sam Butcher, to adjourn the meeting at 10:11 p.m. Motion passed unanimously 7 - 0

The next meeting is scheduled for November 28, 2023