



Town of Duxbury Conservation Commission

Approved 12/17/19

TOWN CLERK

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DUXBURY, MASS.

Minutes of November 19, 2019

The Duxbury Conservation Commission met on Tuesday, November 19, 2019 at 7:00 PM in the Mural Room at the Duxbury Town Hall.

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

Members Absent: Tom Gill; Scott Zoltowski

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

The meeting was called to order at 7:05 pm

PUBLIC HEARING; DUXBURY CONSTRUCTION LLC; 661 WASHINGTON STREET; RETAINING WALL SE18-1885

Freeman Boynton Jr. of Duxbury Construction described the project. There is an existing retaining wall on 2 sides of the property made out of wood railroad ties. The wall is leaning and could fall in the future. They propose removing the existing wall and constructing a retaining wall and filling to elevation 9. At Joe Grady's recommendation, Mr. Boynton had wetlands scientist Brad Holmes out today to look at the vegetated strip around the perimeter of the property. Mr. Holmes said this area is upper salt marsh plants and recommends re-establishing the strip after building the wall and not extending the height more than 1 foot, so the top of the wall would be reduced from 9 feet to 8.65 feet. Mr. Holmes said the vegetation can be maintained with the lower height.

Joe Grady said he is concerned that the work being proposed behind the wall is in an area that is now a salt marsh. The wall is not really a wall, there is no difference in elevation from one side to the other; he doesn't agree with the wetlands delineation on the plan. The DEP notes on the project say the project is in a salt marsh. Mr. Grady has not seen Mr. Holmes' report yet. Joe Grady said wetlands are determined on a 3-year cycle and can change, and in this situation, he believes the wetlands have changed. There is no difference between an upper and lower salt marsh. Mr. Boynton said a 5' wide buffer of plants is proposed; Mr. Grady said none of the proposed plants are salt marsh plants. He recommended either hiring a peer review consultant or doing a site visit. Sam Butcher suggested the wall could be constructed behind the salt marsh.

Joe Grady will speak with Brad Holmes about the wetlands; the Commissioners can visit the site to see the existing conditions.

On a motion by Sam Butcher, seconded by Robb D'Ambruoso, it was voted 5-0 to continue the hearing for SE18-1885 until December 3 at 7:20 pm.

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.

PUBLIC HEARING; DUXBURY CONSTRUCTION LLC; 54 BAY POND ROAD; REPLACE BOAT HOUSE PILINGS SE18-1884

Freeman Boynton Jr. said that about a year ago a project was filed to stabilize the bank with a stone revetment and by removing rocks and beach nourishment. They began the project and discovered most of the pilings on the boathouse are decrepit and some are sitting on broken concrete footings. They want to move the boathouse, remove 17 pilings supporting the deck and boathouse, drive 11 piles, construct a retaining wall and then put the boathouse back. An excavator with a hydraulic hammer will be used to drive the piles with access being partly on the lawn and partly on the coastal beach but without going onto the salt marsh.

Corey Wisneski asked where the boathouse will be stored during the project, and Mr. Boynton said it will be stored on the beach. She asked how long the boathouse will be moved and he said about 2 weeks. She asked if the piling configuration is changing and Mr. Boynton said they are using a different configuration and are eliminating some stairways. There will be 6 new pilings for the boathouse and 11 new pilings for the deck. The pilings will be larger and the elevation will be 2' higher.

A fence will need to be placed on the beach indicating the limit of work.

On a motion by Sam Butcher, seconded by Scott Zoltowski, it was voted 5-0 to write Orders of Conditions for SE18-1884, 54 Bay Pond Road with the requirement of placing a fence on the coastal beach indicating the limit of work.

PUBLIC MEETING; DUXBURY CONSTRUCTION LLC; 24 SHORT LANE; SEAWALL REPAIR

Freeman Boynton Jr. said there is an existing wall with a concrete footing that is failing. They want to remove the cracked concrete and add a thicker concrete footer to the existing footing and raise the elevation from 5 to 6.2'. Corey Wisneski asked if the work will be done from the land and Mr. Boynton said yes, the concrete will be poured over the wall.

On a motion by Sam Butcher, seconded by Robb D'Ambruoso, it was voted 5-0 to issue a Negative Determination such that a Notice of Intent is not required for the wall repair work at 25 Short Lane.

PUBLIC MEETING; DUXBURY CONSTRUCTION LLC; 89 HORNBEAM ROAD; LANDSCAPING

Freeman Boynton Jr. said that work was approved at 95 Hornbeam Road by the Commission, and the residents at 89 Hornbeam Road and 95 Hornbeam Road are working together to vegetate the buffer between the properties. Some trees were cut as part of the 95 Hornbeam project and they want to remove the stumps and do plantings at 89 Hornbeam Road. Sam Butcher asked if the stump pulling is on the 89 Hornbeam Road property and Mr. Boynton said yes it is, pulling the stumps and spreading loam are the only activities proposed under this RDA. Joe Grady said there is a gully between the properties and he asked if the gully will remain after the filling and Mr. Boynton said the gully is not being filled, they are just blending the grade and planting some trees between the two houses.

On a motion by Sam Butcher, seconded by Robb D'Ambruoso, it was voted 5-0 to issue a Negative Determination such that no Notice of Intent is required for the proposed landscaping at 89 Hornbeam Road.

**PUBLIC HEARING; DUXBURY CONSTRUCTION LLC; 1 MODOC STREET; WIDEN ROAD, GRADE, UTILITIES
SE18-1886**

This project will be discussed concurrently with SE18-1887 below.

**PUBLIC HEARING; DUXBURY CONSTRUCTION LLC; 244 WEST STREET; WIDEN ROAD, GRADE, UTILITIES, LAWN
SE18-1887**

Bo Boynton, the owner of these properties, described the project which is to widen the road, grade, install utilities and plant a lawn. This will improve access to his property, as it is now the road is narrow and hard to plow and he wants a 20' 2-way road. A month ago he cut trees, stumped, and widened the road and tried to stay outside of the 100' buffer, and he is before the Commission now to continue this work further down the road. The widening will occur onto his property, and he will connect to town water and replace the electric service. The road will be pitched so the surface water will drain away from the Resource Areas.

Holly Morris asked if Modoc Street is a Town road, and Joe Grady said no it is not, the Conservation Commission owns property along it, in some places on both sides. All of the work that is being proposed is on Mr. Boynton's property. Sam Butcher asked if the pavement will end at 255 West Street and Mr. Boynton said that work is not part of this filing.

Steve Gandt of 265 West Street, an abutter asked if the work that has already been done required permitting. Joe Grady said that work did not require any permits from the Conservation Commission because it is not in the Commission's jurisdiction. Mr. Gandt asked if there are further development plans for Modoc Street and Mr. Boynton said not on the plan before the Commission. Mr. Gandt asked the time frame for installation of utilities and Sam Butcher said the Orders of Conditions expire after 3 years.

Corey Wisneski asked about the revised plan and Mr. Boynton said the State Natural Heritage and Endangered Species Program asked that square footages of some areas be added to the plan and lines be extended for the utilities.

On a motion by Sam Butcher, seconded by Holly Morris, it was voted 5-0 to write Orders of Conditions for SE18-1886, 1 Modoc Street.

On a motion by Holly Morris, seconded by Sam Butcher, it was voted 5-0 to write Orders of conditions for SE18-1887, 255 West Street.

**PUBLIC HEARING; DUXBURY CONSTRUCTION LLC; 321 KING CAESAR ROAD;
REPLACE WOODEN WALL AND REGRADE
SE18-1889**

Freeman Boynton Jr. described the project which is to replace a wooden wall and regrade. The ocean is overtopping the railroad tie wall in spots; they want to remove the railroad tie wall and replace it in the same location and raise the elevation to 11 from 9'. Corey Wisneski asked if this

project is for just a section of the wall and Mr. Boynton said yes, in the corner where the wall is short.

On a motion by Sam Butcher, seconded by Holly Morris, it was voted 5-0 to write Orders of Conditions for SE18-1889, 321 King Caesar Road.

PUBLIC HEARING 315 KING CAESAR ROAD; RAISE SEAWALL AND FILL SE18-1888

Freeman Boynton Jr. said that the home has been flooded 3 times in the last 3 years, and this project is intended to protect the house. A more permanent solution is to raise the house above the flood elevation, which will likely be done in the future, but in the meantime they want to build a berm between the ocean and the house, and raise the wall and fill in front, and put a dike around other sides where the grade is low. The Commission has gotten revised plans which removed a cross-section E-E that does not belong on the plan and another inaccurate label was removed. The first proposal was going to be to fill the isolated wetland and do wetland replication, but after speaking with Joe Grady they revised the project to build a retaining wall against the isolated wetland. This will also help keep water off of King Caesar Road.

Corey Wisneski asked about the drain pipe in the wetlands, Mr. Boynton said if the water reaches street height this will provide an escape for the water. Sam Butcher said he was concerned with filling within 25' of an isolated vegetated wetland, this is doing filling in the 25' buffer zone. Mr. Boynton said it's typical to fill behind a wall, Mr. Butcher said it is not typical to have wetlands behind a wall. He asked what will happen if the wall is raised and the filling around the wetlands is not done, Mr. Boynton said it will cause the street to flood.

Corey Wisneski asked what kind of maintenance will be done to the lawn between the wall and the wetland, Mr. Calista, the property owner, said they use a professional company and will try to use environmentally sensitive approaches. It was agreed this is a unique situation, with the need to protect the house but not cause street flooding with the wall.

On a motion by Robb D'Ambruoso, seconded by Holly Morris, it was voted 5-0 to write Orders of Conditions for SE18-1888, 315 King Caesar Road.

ADMINISTRATIVE MATTERS

Minutes:

October 8, 2019: On a motion by Corey Wisneski, seconded by Robb D'Ambruoso, it was voted 5-0 to approve the minutes of October 8, 2019 as written.

October 8, 2019 Executive Session: On a motion by Holly Morris, seconded by Sam Butcher, it was voted 5-0 to approve the Executive Session minutes of October 8, 2019 as written but not to release them to the public.

October 29, 2019: On a motion by Corey Wisneski, seconded by Sam Butcher, it was voted 5-0 to approve the minutes of October 29, 2019 as written.

October 29, 2019 Executive Session: On a motion by Corey Wisneski, seconded by Sam Butcher, it was voted 5-0 to approve the Executive Session minutes of October 29, 2019 as written but not to release them to the public.

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Certificates of Compliance:

SE18-1835; 246 Marshall Street: Joe Grady said all required documentation has been received, he has inspected the property and the project conforms to the Orders of Conditions, and he recommends issuing Certificates of Compliance for SE18-1835. On a motion by Corey Wisneski, seconded by Sam Butcher, it was voted 5-0 to issue Certificates of Compliance for SE18-1835, 246 Marshall Street.

SE18-1861; 156 Marshall Street: Joe Grady said he has received all required documentation, he inspected the property and the project conforms to the Orders of Conditions, and he recommends issuing Certificates of Compliance for SE18-1861. On a motion by Corey Wisneski, seconded by Sam Butcher, it was voted 5-0 to issue Certificates of Compliance for SE18-1861, 156 Marshall Street.

Conservation Fund Expenditure

Joe Grady is requesting \$2,410 from the Conservation Fund for work on the electric fence project at the Jaycox Tree Farm. Sam Butcher made a motion to approve the expenditure of \$2,410 from the Conservation Fund to pay Benjamin Forestry Services for work on the Jaycox Tree Farm electric fence project. The motion was seconded by Holly Morris and approved by a vote of 5-0.

Request: Use of conservation land for race

Joe Grady said Wolf Pack Adventures has made a request to hold a fundraising 50K event in the North Hill and Round Pond conservation areas; the Commission has been given the request letter. Joe forwarded the request to Mass Audubon and they said this could not be done on their land. Concerns were expressed about lack of parking, lack of capacity for a large event, impacts on others who want to use the land, and the inappropriateness of an event like this at these locations. The unanimous consensus is that this type of use not be allowed. Mickey McGonagle suggested the Commission should develop detailed guidelines for use of Conservation Land; there are currently some guidelines but Mr. McGonagle said he will try to do some research and bring some suggestions about guidelines to the Commission.

Executive Session: Sam Butcher made a motion to go into Executive Session to consider the taking, purchase, exchange, lease or value of real property, as such discussion in open meeting may have a detrimental effect on the negotiating position of this Commission; and to reconvene in open session at the conclusion of the Executive Session in accordance with the Massachusetts General laws Chapter 30A, Section 21. The motion was seconded by Robb D'Ambruoso, and the roll call vote was: Sam Butcher, yes; Robb D'Ambruoso, yes; Mickey McGonagle, yes; Holly Morris, yes; Corey Wisneski, yes.

Right of First Refusal Vote: Joe Grady explained the Board of Selectmen have an opportunity to vote to exercise the Right of First Refusal on the Loring Bogs property on East Street across from the East Street Bogs. This land has long been a focus for purchase because it abuts other conservation holdings.

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On a motion by Corey Wisneski, seconded by Robb D'Ambruoso, it was voted 5-0 to recommend to the Board of Selectmen that they exercise the Right of First Refusal for Open Space purposes for the Loring Bogs property at 0 East Street.

Adjournment: On a motion by Corey Wisneski, seconded by Sam Butcher, it was voted 5-0 to adjourn the meeting at 9:05 pm.

MATERIALS REVIEWED AT THE MEETING

NOI Materials for SE18-1884; SE18-1885; SE18-1886; SE18-1887; SE18-1888; SE18-1889

RDA Materials for 25 Short Lane and 89 Hornbeam Road

Request letter from Wolf Pack Adventures