



TOWN CLERK
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DUXBURY, MASS.
Town of Duxbury
Conservation Commission

Minutes of January 23, 2018

The Conservation Commission met on Tuesday, January 23, 2018 at 7:00 PM in the Mural Room at the Duxbury Town Hall.

Members Present: Corey Wisneski, Chair; Sam Butcher; Robb D'Ambruoso; Tom Gill (arrives 7:05); Mickey McGonagle; Holly Morris; Scott Zoltowski

Members Absent: none

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

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

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

Rick Grady of Grady Consulting reported that he is working to address the comments in the peer review consultant's letter. The water main has been relocated into the paved roadway. When it gets within 50' of wetland resource areas, an 18" silt sock will be used. The drainage calculations have been updated.

Marta Nover, of Nover Armstrong Associates, the Commission's peer reviewer, discussed the project and reviewed the basic findings. Joe Grady had expressed concern about whether there was enough drainage being maintained for the vernal pool, Ms. Nover said that Grady Consulting ran calculations on the water budgets for the vernal pools and it is her professional opinion that there will be enough water there. She recommends that on lot H the 100' buffer be maintained in perpetuity. There are five lots in the Commission's jurisdiction, the applicant wants to include lot development in the Orders of Conditions. This can be an administrative nightmare when lot development is part of the Orders of Conditions for construction of the road, particularly in terms of Certificates of Compliance for individual houses as they are built. Additionally if one lot owner wants to make changes to the lot, if the entire project is permitted together the Orders of Conditions for the entire project must be amended. Also, the septic systems for this development are not permitted yet, and if the septic systems have to move the houses may have to move. Because of all this, she recommends that individual Notices of Intent are required for each house lot in the Commission's jurisdiction.

Joe Grady said he agrees with this approach; attorneys representing buyers require Certificates of Compliance before lots are conveyed but if it is all permitted together that becomes extremely difficult. It also allows for individual lot designs to change without having to change the Orders of Conditions for the entire project.

Ms. Nover said that after several rounds of review, the stormwater design is satisfactory. Nover-Armstrong worked with Amory Engineers and did soil evaluations for seasonal high groundwater.

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

Regarding the water main, Ms. Nover said she just noticed that there are no references on the plan as to where the information on the plans came from and the plans are not stamped by a Professional Land Surveyor. She further recommended that the application to MassDOT to open the road for the water main must be provided to the Commission for review; that application may have more construction details than the conceptual plan the Commission now has.

Rick Grady said he preferred the Commission not require that individual lots have to file NOIs. There is 1 house located in the buffer zone and 4 lots with site work in the buffer zone. He suggested that if the houses move any closer to the wetlands than currently shown, that could require a new filing, but he wants lot approval to be included.

Joe Grady pointed out that there are no coverage calculations provided for these lots; this hearing could be continued and more information provided on the lots, the Commission has not looked at each individual lot as would be required to include the lots in the Orders of Conditions for this filing. Bob Galvin, Jr., representing the applicant, said they do not want the hearing continued.

Sam Butcher commented that he is concerned because now the drainage on the site is directed away from the wetlands. Lots of activity outside of the buffer zone can affect the wetlands, and there is a lot of fill coming in for these lots from an outside source. He is inclined to agree with Joe Grady that individual NOIs be required so this can be evaluated. Tom Gill concurred that he preferred separate NOIs for the lots.

Marti Nover suggested maybe RDAs could be filed for the individual house lots. Bob Galvin Jr. said that might be a good approach, file an RDA to see if an NOI is required. Joe Grady said a NOI is needed for drainage analysis, and wants Orders of Conditions on these houses so a NOI will be required. Mickey McGonagle said having walked the site he believes this is going to be a challenging development and supports the filing of NOIs. Corey Wisneski agreed that an NOI is needed for each lot; the project was for a road and water main.

Rick Grady said he had amended his original application in November and included fees for one house site and 4 lots with site work. He asked if he can get a waiver on future filing fees. Joe Grady said that Rick Grady can make that request when he files those NOIs and see what the Commission decides; the Commission agrees to entertain the request to waive the local fees only for the NOIs for the individual lots. Sam Butcher said the minutes should reflect the agreement to waive up to the value of the additional local fees paid in November (not to include the fees paid with the original filing).

Rick Grady said regarding comments for dewatering, he believed that was addressed in a notation on the plan, that the water would be sent to silt bags. Marti Nover said that for the water main and culvert locations, if the culverts have to be cut and a stream is flowing at that time, there is no detail provided on that situation, nor on how the water main will go under the culverts.

On a motion by Sam Butcher, seconded by Tom Gill, it was voted 7-0-0 to write Orders of Conditions for SE18-1757; 1065 Summer Street with the special conditions recommended by the consultant's report included.

CONTINUED PUBLIC HEARING; CHENEY 59 BEECHWOOD LANE; PIER SE18-1787

Paul Brogna of Seacoast Engineering and Brad Holmes of ECR were present representing Joe Cheney. A peer reviewer was hired by the Commission for this project. Revised plans were submitted on January 11. A 50' setback is required from the abutting Landing Road Beach Association property, and revisions to the coastal bank and coastal dune delineations were made after the peer review. The staging area for the project will be near the driveway.

Brad Holmes said there is a coastal dune, salt marsh, bordering vegetated wetlands, coastal bank, and land subject to coastal storm flowage on this property. The pier meets DEP small dock and pier guidance. The ramp and float will be stored offsite or at the staging area. Joe Grady commented that a lot of time was spent getting the resource areas accurately identified and shown on the plan and he is comfortable with the resource areas as shown on the revised plan.

On a motion by Corey Wisneski, seconded by Holly Morris, it was voted 7-0-0 to write Orders of Conditions for SE18-1787, 59 Beechwood Drive.

DUXBURY BEACH RESERVATION: PROPOSED PROJECTS FOR 2018

Joe Grady stepped aside for this discussion because he is a member of the Duxbury Beach Reservation.

Brynna McGlathery and Al Vautrinot of the Duxbury Beach Reservation were present on behalf of the Beach Reservation. There are 19 proposed projects this year; 12 are annual maintenance and 4 are new projects, with 3 additional projects proposed due to the recent storms. These are outlined in the report to the Commission. They are asking for the Commission to approve the proposed projects.

On a motion by Sam Butcher, seconded by Scott Zoltowski, the proposed projects for 2018 under DEP File # SE18-1198 were approved by a vote of 7-0-0.

298 POWDER POINT AVE; DISCUSSION; SEAWALL AND COASTAL BANK ISSUES

The Commission invited representatives from 290 and 298 Powder Point Ave for a general discussion of the situation at 298 Powder Point Ave. Gene Guimond, representing property owner Wes Langeland (298 Powder Point Ave), believes an enforcement order or filing of a Notice of Intent by the property owner to restore the area to the conditions before the work was done is necessary. They believe there are daily violations of State regulations and local bylaws because there was filling and disturbance of the Coastal Bank.

Freeman Boynton Jr. of Duxbury Construction LLC has filed a Notice of Intent to restore the bank and construct a seawall on the easement that the Chase's have rights to, the NOI also includes beach nourishment; this is scheduled before the Commission on February 6. Joe Grady pointed out that the property owner did not sign the NOI and the property owner's signature is required. Sam Butcher commented that the interpretation of the easement rights is not the Commission's issue to resolve.

Brooks Chase of 290 Powder Point Ave said he doesn't feel like any progress is being made.

DISCUSSION: SEALEGS

Joe Grady commented that Sealegs can cause damage to marshland, this has been a problem in certain locations in town. Scott Zoltowski said that as the price for these vehicles drop, it is likely there will be more and more of them in use. Sam Butcher said in one location, a project was required by the Conservation Commission to restore the marsh, but it has been damaged again.

There was discussion about how to educate users before damage is done and it becomes an enforcement issue. Mickey McGonagle asked if other Towns have any regulations for these vehicles; Joe Grady was not aware of any regulations in other towns. It was suggested that public education is important.

Corey Wisneski suggested that an Enforcement Order be issued against the repeat offender, and that an article be put in the Clipper about the problem. Different ways to track down owners of these vehicles were discussed but the consensus was there is no way to really do this. Joe Grady suggested doing enforcement on a case by case basis, to this point there has only been one person that has caused marsh damage with a Sealegs vehicle in Duxbury.

EXECUTIVE SESSION

Robb D'Ambruoso made the following motion: To go into Executive Session to discuss strategy with respect to litigation, as an open meeting may have a detrimental effect on the litigating position of this Commission; and to reconvene in open session at the conclusion of the Executive Session in accordance with Mass. General laws Chapter 30A, Section 21. The motion was seconded by Corey Wisneski. Roll call vote was: Corey Wisneski, yes; Sam Butcher, yes; Robb D'Ambruoso, yes; Tom Gill, yes; Mickey McGonagle, yes; Holly Morris, yes; Scott Zoltowski, yes.

ADMINISTRATIVE MATTERS

CERTIFICATES OF COMPLIANCE:

SE18-1687; 51 Candlewicke Close: Joe Grady reported that this project was revegetation and required 3 years of sprout maintenance and plantings which has been done. Joe Grady recommends Certificates of Compliance for this project. On a motion by Scott Zoltowski, seconded by Holly Morris, it was voted 6-0-0 to issue Certificates of Compliance for SE18-1687, 51 Candlewicke Close. .

Adjournment: On a motion by Robb D'Ambruoso, seconded by Corey Wisneski, it was voted 7-0-0 to adjourn the meeting at 8:30 pm.

MATERIALS REVIEWED AT THE MEETING

NOI materials for SE18-1757; SE18-1787

Duxbury Beach Reservation letter regarding Proposed Projects