

Approved June 18, 2019



# Town of Duxbury Conservation Commission

TOWN CLERK

2019 SEP 10 AM 8:23

DUXBURY, MASS.

## Minutes of May 14, 2019

The Conservation Commission met on Tuesday, May 14, 2019 at 7:00 PM in the Mural Room at the Duxbury Town Hall.

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

**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; CALISTA; 315 KING CAESAR ROAD; PIER SE18-1836**

Dan Calista, the property owner, reminded the Commission that he had been at the April 23 meeting and discussed the situation with the pier location at his property, and got feedback from the Commission. He hired Brad Holmes to study the seagrass on his property and the location of peat. He said there is peat everywhere, but there are areas that he could fit a pier through with very sparse grass, just strands of grass. His idea is to put the pier through the area with the sparse grass, or if that is not acceptable, he is willing to have more studies done about where the peat and grass strands are and how to define that area. He said the zoning rules require the pier stops within 2 feet of the end of the marsh, so it's important to define where the marsh is and try to put it where there is no peat and no sparse grass.

Joe Grady said the definitions in the Regulations are what matter and they will review whatever Mr. Calista submits; the Commission's consultant will help with this.

On a motion by Scott Zoltowski, seconded by Tom Gill, it was voted 7-0 to continue the hearing for SE18-1836 until June 18 at 7:05 pm.

### **CONTINUED PUBLIC HEARING; DUXBURY CONSTRUCTION; 283 KING CAESAR ROAD; PIER SE18-1853**

The applicant has asked for a continuance. On a motion by Scott Zoltowski, seconded by Tom Gill, it was voted 7-0 to continue the hearing for SE18-1853 until June 18 at 7:10 pm.

### **1065 SUMMER STREET (DOGWOOD DRIVE); PROPOSAL TO ADD WELLS; GRADY CONSTRUCTION SE18-1828 (LOT H) AND SE18-1829 (LOT J)**

Rick Grady of Grady Engineering and Matt Tedeschi, property owner, were present. Rick Grady said the property is under agreement but the developer prefers wells to a public water supply

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connection. The plans have been revised to include the wells; 2 of the wells are in the Conservation Commission's jurisdiction.

On Lot H, the well is 36' from the wetlands. They have modified the location of the erosion control. The well contractor estimates the wells will be 200' deep in the bedrock. The location of the water lines is on the plan and the electric will be in the same trench as the water line.

Joe Grady asked how the wells will be constructed. Rick Grady provided a handout showing the construction sequence. A 4'x4'x4' hole or 'mud pit' will be excavated. Slurry will go to the mud pit which is within the silt fence area. There will be a discharge hose that goes to a 10'x10'x3' deep discharge pit outside of the buffer zone, about 70' from the well location. A staging area about 20'x35' is needed around the well head. Any excess material will be removed with a bobcat and used as fill in the yard outside of the buffer zone. The well casing and pump will be installed, a trench will be excavated to the house for the water supply line and electric service for the well, the area will be stabilized.

Joe Grady asked if the ditch will require dewatering, and Rick Grady said it depends on the time of the year that the work is done. He said there will be direct dewatering to a discharge pit outside the buffer zone.

Joe Grady said these are major changes and requires conditions for the work and a revised plan showing details. He suggested the applicant amend the NOI or file a new NOI. He said this is not just a 20' deep irrigation well, which sometimes can be allowed under existing orders – in this case the plans aren't complete, work is being proposed 35' from the wetlands at a tough site, and the Commission needs to condition the work to control the process.

Sam Butcher asked what the actual drilling method will be because he has concerns about the discharge of sediments as the well is drilled. Holly Morris asked whether the number of wells at the site will impact the wetlands. Sam Butcher said he did not feel there would be a big impact on the wetlands with groundwater wells; shallow irrigation wells are more of a concern in this regard. Scott Zoltowski said this is an entirely new concept and an amended NOI is needed.

Rick Grady said he was told wells could be added within the existing Orders of Conditions, that there are no minimum setbacks from wells and the Commission permitted a project on Congress Street for Garth Hoffman to add wells. Sam Butcher said that project included the well in the original application. Sam Butcher said the wells can be conditioned, and that the addition of the wells to the project requires an amendment.

Joe Grady said he expects more changes with these projects; people who buy these lots likely won't build what was proposed with the original NOI. Rick Grady said it helps with marketing the property to have the permits in place. Sam Butcher asked Rick Grady to confirm the drilling technique with the driller; one method is easier to control the sediment and water produced during the drilling than another method.

Rick Grady said on the other lot, Lot J, there is plenty of room to stage the project from the street and the well will be 54.5' from the wetlands. Rick Grady said that the State doesn't require a Public Hearing to amend all Orders of Conditions; Joe Grady said the hearing to amend the project will include a properly noticed Public Hearing.

Rick Grady said he will file amended Notices of Intent for these two lots. Sam Butcher said to be sure to show basins, dewatering method, diagram the utility trench, and state that the secondary basin will be closed after the trench work.

## **ADMINISTRATIVE MATTERS**

### **Minutes for Approval:**

On a motion by Holly Morris, seconded by Tom Gill, it was voted 6-0 to approve the minutes of **April 9, 2019**.

On a motion by Sam Butcher, seconded by Tom Gill, it was voted 6-0 to approve the minutes of **April 23, 2019**.

### **Certificates of Compliance:**

**SE18-1444, 12 Sawmill Road:** 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 SE18-1444. On a motion by Corey Wisneski, seconded by Holly Morris, it was voted 6-0 to issue Certificates of Compliance for SE18-1444, 12 Sawmill Road.

**SE18-1571, 44 River Lane:** 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 SE18-1571. On a motion by Corey Wisneski, seconded by Sam Butcher, it was voted 5-0-1 (with Robb D'Ambruoso abstaining) to issue Certificates of Compliance for SE18-1571, 44 River Lane.

### **Enforcement: 98 Harrison Street**

Joe Grady said that 2 weeks ago he received a call from John Zimmer, the wetlands consultant to the property owner, saying they were having difficulty locating the plants for the restoration plantings. Joe Grady reminded Mr. Zimmer that any changes to the planting plan must be requested in writing and approved by the Commission.

On Wednesday, May 8 Joe Grady said he got a letter from Mr. Zimmer but it did not meet the deadline to be put in the Commission's packets. However due to the urgency of needing to get these plantings done, the meeting agenda was amended for this discussion. Joe Grady said he has done research and contacted nurseries and he also contacted the Commission's consultant BETA who also did research on plant availability.

Joe Grady has prepared a memo for the Commission with recommended responses to Mr. Zimmer's request; the memo is dated May 14. The requests and recommended responses are:

**Request:** Substitute red cedar for pitch pine – no change in size or quantity

**Response:** Red Cedar is readily available in the sizes listed in the planting plan so no substitution is recommended

**Request:** Substitute 25 white oak (10-12' size is unavailable) with 35 scarlet/pin oak (6-8' size)

**Response:** Pin oak can be substituted for white oak; both white and pin oak are available in 10-12' size so no change in size or number of trees is recommended

**Request:** Substitute 15 black cherry (10-12" size is unavailable) with 20 black cherry (4-6' size)

**Response:** If a smaller size of black cherry (4-6') is used, then the quantity should be changed to 30 trees required

**Request:** Change size of Sweet Pepperbush from 3-4' height (unavailable until fall) to 2-3' height

**Response:** There is no Sweet Pepperbush on the approved planting list, it requires Sweet Fern. No change in size is recommended. This concerns Joe Grady because it indicates Mr. Zimmer is not looking at the approved planting list.

**Request:** Substitute Black Huckleberry (unavailable at any vendor) with lowbush Blueberry – no change in size or quantity

**Response:** Inkberry, Beach Plum, or Black Chokeberry can be substituted for the Black Huckleberry; lowbush Blueberry cannot be substituted. No change in size or quantity.

**NOTE:** The proposed planting plan requires Winterberry, and one of the 10 proposed Winterberry plants needs to be a male.

Joe Grady reiterated that all restoration activities must follow the 'Conditions for Enforcement Order' attached to the "Vote to Accept Remediation Plan" dated April 9, 2019.

AJ Reilly, the property owner, said he got different information from the same nurseries that Joe and BETA contacted just a week ago, and said he will follow up with them again tomorrow. Joe Grady said he wants the plantings done as soon as possible to maximize the chances the plants will survive.

Corey Wisneski made a motion to accept the recommendations in the memo dated 5/14 allowing the changes outlined for the 98 Harrison Street remediation plan. The motion was seconded by Mickey McGonagle and approved by a vote of 7-0.

#### **Discussion: Comprehensive Plan**

Joe Grady said that discussion related to Open Space is found under Transportation, Public Facilities, and the Open Space and Recreation sections. Joe Grady said that throughout the document, there are discussions about increasing access and public use of conservation lands, open space, waterfront facilities, and the beach. He thinks this is the wrong focus, that these facilities are just about at capacity, there are waiting lists for everything at the harbor and the parking lots for the waterfront and for open space areas are overflowing. He believes the focus needs to be on controlling public use so that the natural resource values aren't damaged and the areas aren't too crowded which impacts the experience. He thinks there needs to be better controls so as to not impact sensitive resources and have them be overused.

Scott Zoltowski said this is a philosophical change in approach, not just a question of working changes. The presumption in the document is that there is not enough access so the Town should develop more.

Mickey McGonagle said that the document makes recommendations but that doesn't mean any action will happen. There needs to be a plan for implementation.

Joe Grady said the Action Plan for this document was just received today and he needs to review it. The Master Plan as drafted includes recommendations to use open space for bike paths and multi-use paths, but this is not why the land was purchased. The Transportation section discusses using Open Space land with the Planner and Sidewalk Committee in charge; the Conservation Commission is responsible for the Conservation lands, and he questions whether these paths will be used.

Scott Zoltowski suggested inviting the Planner back and reviewing the action plan to see where the Commission is mentioned and what is expected. Tom Gill said that the Town needs to be protected and not become a playground.

Joe Grady said he is having a discussion with Animal Control and Town Counsel about fees for dog walking permits from the Town, and perhaps use these funds to hire someone to enforce the dog walking regulations. The Town's public spaces are overrun with dogs. Last year there were 1500 dog beach permits issued and they ran out.

Joe Grady said he will send the Action Plan to the Commission.

#### **Expiring Terms**

The terms expiring at the end of the June are Corey Wisneski, Scott Zoltowski, and Holly Morris. These members can think about whether they would like to be reappointed.

**Adjournment:** On a motion by Corey Wisneski, seconded by Mickey McGonagle, it was voted 7-0 to adjourn the meeting at 8:35 pm.

#### **MATERIALS REVIEWED AT THE MEETING**

NOI Materials for SE18-1836

Revised plans for SE18-1828 and SE18-1829; Dogwood Drive Lots H & J

Memo from Joe Grady regarding 98 Harrison Street Enforcement