

Approved July 23, 2019



# Town of Duxbury Conservation Commission

TOWN CLERK  
2019 SEP -5 PM 3:35  
DUXBURY, MASS.

## Minutes of July 9, 2019

The Conservation Commission met on Tuesday, July 9, 2019 at 7:00 PM in the Mural Room at the Duxbury Town Hall.

**Members Present:** Robb D'Ambruoso; Sam Butcher; Mickey McGonagle; Holly Morris; Tom Gill; Scott Zoltowski

**Members Absent:** Corey Wisneski

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

### REORGANIZATION

The Commissioners wanted to wait until the next meeting to reorganize. On a motion by Scott Zoltowski, seconded by Sam Butcher, the Commission voted 6-0 to elect Robb D'Ambruoso the pro tem chair for tonight's meeting.

### PUBLIC HEARING; MCGRATH; 16 PINE POINT ROAD; SINGLE FAMILY HOME SE18-1866

Glen McGrath, the property owner, explained that he had a house plan drawn by Grady Consulting who had determined the house was not in a flood zone, but after meeting with Joe Grady it was determined the house is in a Velocity Zone which changes the building requirements. The current plan does not meet the Velocity Zone requirements in the regulations which state that the square footage of the dwelling can't be increased. He understand the Town has hired Leslie Fields to file a LOMR (Letter of Map Revision) because they don't believe this area should be designated a V zone, it should be an AO zone.

Joe Grady said that Mr. McGrath's home on Gurnet Road is on a barrier beach, and was destroyed in January 2018 flooding. The house is uninhabitable. Mr. McGrath went to Grady Engineering who mistakenly determined this was an AO zone where the Town's regulations do allow expansion. Joe Grady said there are errors in the FEMA mapping, and Marshfield and Scituate found errors too. The Woods Hole Group was hired to look at the maps and file a LOMR for the Towns who are now awaiting a ruling. Woods Hole Group said this area should be an AO Zone at elevation 10.

Joe Grady said Mr. McGrath is in a difficult situation, and that he advised him to start the NOI process with the Commission. The regulations don't allow building expansion in the V Zone. Town Meeting accepted the FEMA maps in 2016. Another option is a LOMA, which is a Letter of Map Amendment, which Mr. McGrath could file for his individual property by providing engineering data to FEMA. He believed this process takes about 60 days and said Mr. McGrath could try to get a LOMA while the Town waits for the LOMR. He said he would get in touch with Leslie Fields, the consultant at Woods Hole Group for an update on the status of the LOMR, and he will ask if she can provide written information regarding why this area should be an AO Zone.

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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 asked what will happen if the maps don't get revised and the Commission permitted this house to be built based on believing they will be revised. Mickey McGonagle said he understand the applicant has a dilemma but he does not feel the Commission's regulations should be violated, and that waiting for the LOMA or LOMR would be a reasonable course of action. Robb D'Ambruoso pointed out that if the engineer had correctly identified this house as being in a V zone, the design would have been for a much smaller house, so this delay may result in the applicant having a larger house. He said he is hesitant to consider allowing a project that is not in compliance with the regulations.

Sam Butcher suggested getting Leslie Field's input and in the meantime continuing the hearing. He would like to see the basis of the engineering that has determined why this should be a different zone. Tom Gill said that the Commission needs to hear what FEMA determines, that proceeding based on Leslie Field's determination would be a gamble. Robb D'Ambruoso wants to review Section 12 of the Regulations which addresses Burden of Proof; he is concerned with people pushing the envelope and letting applicants prove something outside the regulations by bringing in experts.

On a motion by Sam Butcher, seconded by Holly Morris, it was voted 6-0 to continue the hearing for SE18-1866 until August 13 on 7:05.

**CONTINUED PUBLIC HEARING; DUXBURY CONSTRUCTION; 283 KING CAESAR ROAD; PIER**

**SE18-1853**

The applicant has requested that this hearing be continued. The Division of Marine Fisheries has raised some issues with the project and there are some other issues requiring further attention. On a motion by Sam Butcher, seconded by Holly Morris, it was voted 6-0 to continue the hearing for SE18-1853 until August 13 at 7:05 pm.

**PUBLIC MEETING; DUXBURY CONSTRUCTION; 270 KING CAESAR ROAD; GRADING**

Bo Boynton of Duxbury Construction presented the project. There will be no changes to the house or driveway, this project will be bringing in some fill and the lawn will be regraded to fill a low area.

Scott Zoltowski asked if there will be any impact on stormwater in the neighborhood, and Mr. Boynton said he did not believe so, filling this depression will be a negligible change as compared to the volume of water that occurs when this area floods.

Sam Butcher moved a negative determination such that no Notice of Intent is required for the proposed grading at 270 King Caesar Road. The motion was seconded by Tom Gill and approved by a vote of 6-0.

**ADMINISTRATIVE MATTERS**

**Minutes:**

**June 4, 2019.** On a motion by Sam Butcher, seconded by Scott Zoltowski, the draft minutes of June 4, 2019 were approved by a vote of 6-0.

**June 18, 2019.** On a motion by Sam Butcher, seconded by Scott Zoltowski, the draft minutes of June 18, 2019 were approved by a vote of 6-0.

**June 18, 2019 Executive Session.** On a motion by Sam Butcher, seconded by Scott Zoltowski, the draft Executive Session minutes of June 18, 2019 were approved by a vote of 6-0 but not for public release

**Certificates of Compliance:**

**SE18-1767; Lot 4 850 Keene 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 SE18-1767. On a motion by Holly Morris, seconded by Tom Gill, it was voted 6-0 to issue Certificates of Compliance for SE18-1767, Lot 4, 850 Keene Street.

**SE18-1848; 40 Wadsworth Lane:** Joe Grady said that he recommends postponing action on this request. When he inspected the property he found that the landscaping was done differently than the planting plan and he has requested additional information.

**Request for Revisions: SE18-1858; 95 Hornbeam Road**

Joe Grady said this request is to construct a slope stone wall instead of the concrete wall that the Commission has approved. The slope stone wall will be better for the beach and the marsh. They will take up some of the lawn area with the sloped wall, it will not extend further onto the beach, and he recommends accepting this request for a plan revision. On a motion by Tom Gill, seconded by Sam Butcher, it was voted 6-0 to approve the revisions for SE18-1858.

**Dog Walking Permits:** Joe Grady said he is looking for feedback from the Commission about the idea of issuing dog walking permits for dogs that walk on conservation and other town-owned land. The Town Clerk, Animal Control Officer, and Joe Grady all think there should be a permit, permit fee, and regulations. The goal is to have better regulations and raise revenue so that there is money to hire people to enforce the regulations. The next steps would be to bring the proposed regulations to Town Counsel, possibly Town Meeting, have the regulations adopted by the Board of Selectmen and/or Conservation Commission. A higher fee for non-residents would be proposed.

Joe Grady said that dog waste removal is costly for the DPW and more collection container locations need to be added. He further suggested the Commission consider having some trails be no dogs allowed. There are large numbers of unlicensed dogs which is a public health issue, the permit would require the dog be licensed which means the dog would be vaccinated for rabies which helps protect public health.

Mickey McGonagle said he supports the idea. There is overuse of some Conservation lands, with critical areas being East Street and Round Pond. The dog waste is a public health problem. Scott Zoltowski said this is a good idea that needs more work. Further discussion will be held at the next Conservation Commission meeting.

**Enforcement:**

**98 Harrison Street:** Joe Grady reported he thought there was a violation but there wasn't, and that the plants have been planted.

**242 Enterprise Street:** Joe Grady said there was filling and grading of vegetated wetlands. The homeowner has been responsive to the need to address the violation. There was a previous filing for this property so there is an accurate wetlands line.

On a motion by Tom Gill, seconded by Sam Butcher, the Commission voted 6-0 to reaffirm the Enforcement Order at 242 Enterprise Street.

**Conservation Fund Vote:** Joe Grady said he need a small amount of money from the Conservation Fund to pay for gravel that has been used for a roadway on the DeLorenzo property. Scott Zoltowski made the following motion: That the Conservation Commission approve the expenditure of up to \$350 from the Conservation Fund to pay TL Edwards for gravel. The motion was seconded by Sam Butcher and approved by a vote of 6-0.

**Executive Session:** Joe Grady said no executive session is needed.

**Adjournment:** On a motion by Sam Butcher, seconded by Tom Gill, it was voted 6-0 to adjourn the meeting at 8:07 pm.

**MATERIALS REVIEWED AT THE MEETING**

Draft minutes of June 4, 2019, June 18, 2019 (regular and executive session)

NOI materials for Se18-1866

RDA materials for 270 King Caesar Road

Draft Dog Walking Permit brochure