



Approved August 8, 2023

# Town of Duxbury Conservation Commission

TOWN CLERK

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DUXBURY, MASS.

Minutes of July 25, 2023

The Duxbury Conservation Commission met in person in the Town Hall Mural Room and via remote ZOOM on Tuesday, July 25, 2023 at 7:00 p.m.

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

**Members Absent:** Tom Gill

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

Meeting was called to order by Chair, Robb D'Ambruoso at 7:04 p.m.

Mr. D'Ambruoso read the following preamble: *Pursuant to Chapter 2 of the Acts of 2023, this meeting will be conducted in person and, as a courtesy, via remote means in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided, the meeting/hearing will not be suspended or terminated if there are technological problems, unless required by law.*

Roll call vote of members present: Robb D'Ambruoso, yes; Corey Wisneski, yes; Mickey McGonagle, yes; Sam Butcher, yes; and Holly Morris, yes

## **CONTINUED Public Hearing; Notice of Intent; Town of Duxbury, Duxbury Seawall Phase II SE18-0000 (DEP file # pending)**

Corey Wisneski stated that she will abstain from the hearing due to a conflict of interest. Pat Brennan presented most recent plans of Duxbury Seawall revetment project and stated that meetings were held with MEPA and U.S. Army Corps of Engineers. Plans were refined as Army Corps did not approve of any seaward revetment. Beach nourishment will be a required component of the revetment process. New seawall design is similar to Marshfield which includes sunken steel sheeting to protect against scour. Notice of project change will be submitted this week and MEPA will most likely respond mid-September. In the meantime, application will be submitted to DEP and NHESP which typically issue time of year restrictions.

Cris Lutazzi (via ZOOM) of Duxbury Beach Reservation (DBR) informed Commissioners that a Cease and Desist letter was delivered to a resident who installed boardwalk, stone revetment, and stairs on DBR property during shorebird season. Ms. Lutazzi stated that a violation notice was also sent to MassDEP and DBR is awaiting a response from the state. This unauthorized construction will impact the seawall project, but Ms. Lutazzi will work with Mr. Brennan towards a resolution.

Michael Clifford, resident of 4 Lewis Court, asked Mr. Brennan if there is a timeline for the project. Mr. Brennan stated best case scenario is a June 2024 start date which would take two construction seasons. Worst case scenario is a Spring 2023 start date.

Mr. Brennan requested a continuance of the hearing to provide time for regulatory agencies to review and respond to plan revisions.

Sam Butcher made a motion, seconded by Mickey McGonagle, to continue the hearing for the Notice of Intent for the Duxbury Seawall project Phase II, III, and IV, to September 26, 2023 at 7:00

p.m. Motion passed unanimously on a roll call vote 4-0: Robb D'Ambruoso, yes; Mickey McGonagle, yes; Sam Butcher, yes; and Holly Morris, yes.

**Public Hearing; Notice of Intent; Bay Farm Association/TRC, 0 Parks Street and 0 Bay Farm Road, aquatic management of upper and lower ponds  
SE18-2044**

Robb D'Ambruoso read the public hearing notice into the record. James Treacy (via ZOOM) of TRC Environmental presented proposed aquatic management of two ponds at Bay Farm Association. The applicant filed a Notice of Intent with the Town of Kingston, as the lower pond lies on the Kingston and Duxbury boundary. Mr. Treacy stated the project was reviewed at Kingston Conservation meetings several times before approval. The aquatic management plan includes chemical and mechanical methods to remove Phragmites and an enzyme to break down muck and improve oxygenation. Mr. Treacy stated the upper pond is where most of the chemicals will be used, but no aerial spray will be used. A targeted foliar spray which will only be active for a couple of hours will be used on Phragmites, which will then be cut and mulched.

(Scott Zoltowski arrived to the meeting at 7:30 p.m. and abstained from the hearing)

Sam Butcher made a motion, seconded by Mickey McGonagle to issue Orders of Conditions for SE18-2044. Motion passed unanimously on a roll call vote 5-0: Robb D'Ambruoso, yes; Corey Wisneski, yes; Mickey McGonagle, yes; Sam Butcher, yes; and Holly Morris, yes

**Public Hearing; Notice of Intent; Clifford/Merrill Engineers, 4 Lewis Court, raze and rebuild of single-family home  
SE18-2046**

Robb D'Ambruoso read the public hearing notice into the record. Brendan Sullivan of Merrill Engineers presented the proposed project which is located in a coastal beach resource area. Mr. Sullivan stated the entire lot is in coastal dune, VE17 zone, and AO zone with a depth of 3 feet. Mr. Sullivan described the existing conditions as non-conforming with 100-foot buffer in front of house. The applicant is proposing a slightly larger footprint and front lawn will be maintained. Mr. Sullivan stated foundation is open pile with first-floor elevation of 21 feet allowing flow through. Nancy Rufo informed Mr. Sullivan that the property is at their 500 square foot limit for hardened surfaces in an AO Zone and cannot add any more. Mr. Sullivan acknowledged that no additional hardened surfaces are allowed for this project.

Jessica Williams of 1243 Tremont interrupted the hearing stating that she objected to the applicant not referring to top of pile elevation. Ms. Williams stated Conservation is inconsistent with the bylaw and elevation measurement should refer to first floor or finished floor. Ms. Williams was asked several times to refrain from interrupting the hearing, to refrain from speaking over the Conservation Administrator, and to refrain from directing hostile comments to the Conservation Administrator. Ms. Williams agreed to change her tone.

Mr. Sullivan confirmed for the record that the elevation will be 19.2' at top of pile and noted the project is AO, not velocity zone. Commissioners discussed requiring architectural plans for all pile foundations which must indicate top of pile, finished floor, and first floor elevations going forward. Commissioners agreed that the project be approved contingent on receiving architectural plans from the applicant.

Sam Butcher made a motion, seconded by Mickey McGonagle, to close the hearing and issue Orders of Conditions for SE18-2046, contingent upon receiving architectural plans which detail elevations as discussed. Motion passed unanimously on a roll call vote 6-0: Robb D'Ambruoso, yes;

Scott Zoltowski, yes; Corey Wisneski, yes; Holly Morris, yes; Mickey McGonagle, yes; Sam Butcher, yes.

**Public Hearing; Notice of Intent; Fricot/Webby Engineering, 122 Tremont Street, shed demolition**

**SE18-2045**

Joe Webby, Webby Engineering presented propose to demolish a shed. Mr. Webby confirmed that the concrete pad will remain and no new construction is planned.

Corey Wisneski made a motion, seconded by Sam Butcher to close the hearing and issue Orders of Conditions for SE18-2045. Motion passed unanimously on a roll call vote 6-0: Robb D'Ambruoso, yes; Scott Zoltowski, yes; Corey Wisneski, yes; Holly Morris, yes; Mickey McGonagle, yes; Sam Butcher, yes.

**CONTINUED Public Hearing; Notice of Intent; Daly/Grady Consulting, 5 Hummock Lane, raze and rebuild single family home on pile foundation**

**SE18-2043**

Jessica Williams referred to information submitted to the Commission on July 27<sup>th</sup> for review regarding bylaw 20.1 and requested approval of the plan as proposed. Ms. Williams stated a 2.8 elevation was incorporated into the design and the plan follows Building code, which follows FEMA codes. Commissioners reminded Ms. Williams that Building codes and Conservation regulations and bylaws are separate, and Conservation bylaws are more stringent. Nancy Rufo stated that precedent has been set with two single family homes constructed with additional 2.8' at top of pile. It was also noted that the Commission has been consistent in applying the bylaw in AE zones, and this site in AE10 (Stillwater flood zone) and Ms. Williams is comparing to AO3 zone. Ms. Williams stated the Conservation Administrator and Commission do not have authority to enforce 2.8 feet at top of pile.

Commissioners discussed intention of bylaw 20.1 is to protect property and prepare for sea level rise. Commissioners agreed the need for legal counsel to confirm if bylaw has been applied correctly before they can vote on Ms. Williams' request.

Corey Wisneski made a motion, seconded by Holly Morris to continue the hearing for SE18-2043 to August 8, 2023 at 7:03 p.m. to allow time for legal counsel to review Duxbury Wetlands Regulation 20.1 and Ms. William's request to approve plans as proposed. Motion passed unanimously on a roll call vote 6-0: Robb D'Ambruoso, yes; Scott Zoltowski, yes; Corey Wisneski, yes; Holly Morris, yes; Mickey McGonagle, yes; Sam Butcher, yes.

**Public Meeting; Request for Determination of Applicability, Korey/Duxbury Construction, 738 Mayflower Street, septic**

Freeman Boynton, Duxbury Construction, presented the proposed project of a failed septic system. Mr. Boynton stated Board of Health approved necessary variances and leeching field is as far away from wetlands as possible and is watertight. Nancy Rufo informed the Commission she made a site visit and agrees with wetland line that Brad Holmes delineated. Ms. Rufo recommended issuing a Negative determination.

Sam Butcher made a motion, seconded by Mickey McGonagle, to issue a Negative determination and a Notice of Intent is not required for the septic system installation at 738 Mayflower Street. Motion passed unanimously on a roll call vote 6-0: Robb D'Ambruoso, yes; Scott Zoltowski, yes; Corey Wisneski, yes; Holly Morris, yes; Mickey McGonagle, yes; Sam Butcher, yes.

## **ADMINISTRATIVE MATTERS**

### **Certificate of Compliance:**

#### **5 Cable Hill Way, SE18-1007, beach nourishment**

Nancy Rufo explained the original Orders of Conditions issued on March 23, 2000 were related to emergency beach nourishment after seawall collapse. Since then, a new seawall has been constructed. Ms. Rufo stated that she conducted a site visit and recommends issuing a full Certificate of Compliance.

Scott Zoltowski made a motion, seconded by Corey Wisneski, to issue a full Certificate of Compliance for SE18-1007. Motion passed unanimously on a roll call vote 6-0: Robb D'Ambruso, yes; Scott Zoltowski, yes; Corey Wisneski, yes; Holly Morris, yes; Mickey McGonagle, yes; Sam Butcher, yes

### **Minor Modification Request:**

#### **SE18-1993; 35 Winsor Street, pier**

Paul Brogna of Seacoast Engineering presented a minor modification to lower the walkway height and shorten the length of pier on landward side. Lowering the walkway will still exceed minimum clearance requirement.

Corey Wisneski made a motion, seconded by Scott Zoltowski, to approve the minor modification of SE18-1993 as presented. Motion passed unanimously on a roll call vote 6-0: Robb D'Ambruso, yes; Scott Zoltowski, yes; Corey Wisneski, yes; Holly Morris, yes; Mickey McGonagle, yes; Sam Butcher, yes.

### **Minutes for approval:**

#### **Regular Session Meeting Minutes July 11, 2023**

Holly Morris made a motion, seconded by Mickey McGonagle, to approve the meeting minutes of July 11, 2023. Motion passed unanimously on a roll call vote 6-0: Robb D'Ambruso, yes; Scott Zoltowski, yes; Corey Wisneski, yes; Holly Morris, yes; Mickey McGonagle, yes; Sam Butcher, yes.

### **Parkside Conservation Restriction**

The Conservation Restriction for the Parkside Development Off Keene Street has not yet been submitted to Commission for review.

## **NEW BUSINESS**

### **Hybrid ZOOM Meetings**

Commissioners discussed and agreed that hybrid ZOOM Conservation Commission meetings will only be held when a Board Member is unable to attend in-person and can only attend remotely.

### **CONSERVATION EQUIPMENT**

Commissioners discussed recent repairs of the weed harvester and suggestions for additional safety measures when operating the machine.

**ADJOURNMENT**

Sam Butcher made a motion, seconded by Corey Wisneski, to adjourn the meeting at 9:02 p.m. Motion passed unanimously on a roll call vote 6-0: Robb D'Ambruoso, yes; Scott Zoltowski, yes; Corey Wisneski, yes; Holly Morris, yes; Mickey McGonagle, yes; Sam Butcher, yes.

**The next meeting is scheduled for August 8, 2023**