

TOWN CLERK

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DUXBURY, MASS.



# Town of Duxbury Conservation Commission

## Minutes of August 15, 2017

The Conservation Commission met on Tuesday, August 15, 2017 at 7:00 PM in the Mural Room at the Duxbury Town Hall.

**Members Present:** Acting Chair Sam Butcher; Robb D'Ambruoso; Mickey McGonagle; Holly Morris

**Members Absent:** Tom Gill; Corey Wisneski; Scott Zoltowski

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

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

### **PUBLIC HEARING; BENNETT; 24 HICKS POINT; GRADING SE18-1778**

Bill Bennett, the property owner, described the project which is to construct an 18" berm around the perimeter of the back yard on existing lawn. The bottom of the berm will be about 9' wide. The homeowners are concerned with flooding because of sea level rise, and the yard currently slopes towards the house.

On a motion by Robb D'Ambruoso, seconded by Mickey McGonagle, it was voted 4-0-0 to write Orders of Conditions for SE18-1778, 24 Hicks Point Road.

### **CONTINUED PUBLIC HEARING; BALDWIN; NORTH & KEENE STREET; SINGLE FAMILY HOME SE18-1763**

Rick Grady of Grady Consulting said the Commission now has a revised plan for the project following a meeting on site with Joe Grady and the Commission's consultant, Marta Nover. The house was moved closer to the street so it is 20-30' farther from the Riverfront and 140' from the Bordering Vegetated Wetland. The septic design was changed in order to move the house. In response to the Nover-Armstrong review letter, the flag numbering was corrected by moving flags and renumbering. The altered area in the Riverfront is 9.8%, less than the 10% allowable area. The back yard is reasonably sized with 60' of lawn behind the house. National Heritage has reviewed the project and has no concerns.

Joe Grady said there were about 12 comments received from the Commission's peer review consultant and all have been addressed by the applicant. The Consultant recommended the following three items be noted in the Special Conditions in the Orders of Conditions:

1. The Bordering Vegetated Wetland boundary on the D series flags is not confirmed
2. The mean high water level is not confirmed
3. The flood zone is not determined

Robb D'Ambruoso said he struggled with the alternatives analysis under Chapter 310 section 10.58(4)(c). If the alternatives analysis only requires what stands currently in terms of land area and ownership, it limits its usefulness because the property owner can divide up the parcels and sell them off which can then enable the buyer to site a project differently. He is inclined to interpret the regulations as meaning the property should be considered before division to avoid this. He does not understand how the alternatives analysis works. Sam Butcher and Holly Morris agreed that they also find it difficult. Sam Butcher said the regulations require lots created after 1997 to go through the alternatives analysis. If the land is broken up and sold, it is not feasible for the Commission to require the applicant to buy the neighboring property.

Deborah Frangesh of 399 North Street said the entire property all was part of one deed, including the land across the street. Under the regulations all of the lots should be considered in the alternatives analysis including the 6 lot development currently in litigation. She feels the land is being parceled off when the regulations are clear that the entire piece should be considered.

Rick Grady said Lot 4 on Keene Street is not within the Riverfront area and no feasibility analysis is required. This parcel is a separate assessor's parcel and no additional work is proposed in the Riverfront area.

Kim Abplanalp of 120 Myrtle Street said he has the same concerns as Mrs. Frangesh and does not understand why the property on both sides of the street are not considered together. Deborah Frangesh said she feels that the applicant is circumventing the regulations. Mickey McGonagle said that the Commission hired a peer reviewer who did not have a problem with the process used to evaluate the work in the Riverfront area.

On a motion by Mickey McGonagle, seconded by Holly Morris, it was voted 4-0-0 to write Orders of Conditions for SE18-1763, North St. & Keene St., with the inclusion of three conditions clarifying that the Bordering Vegetated Wetland boundary on the D series flags is not confirmed; the mean high water level is not confirmed; and the flood zone is not determined on the plans for the project.

**PUBLIC HEARING; DUXBURY CONSTRUCTION LLC; 295 ST. GEORGE ST.; DEMOLISH BUILDING AND CONSTRUCT NEW BUILDING, SHED, LANDSCAPING, UTILITIES, DRAINAGE  
SE18-1780**

Freeman Boynton Jr. of Duxbury Construction LLC, representing property owner Jack Robie, described the project which is to demolish an existing 3-bedroom house and construct a new building. The new house will be built in the footprint of the existing house with a new garage building behind it. The driveway will go down the right of way. The septic is located as far from the wetlands as possible. There will be a catch basin with a sediment trap. Most of the site will be paved except for a few parking spaces on the side which will be gravel.

Joe Grady suggested that an engineer be retained by the Commission to review the drainage calculations. He has a proposal from Amory Engineering and recommends the Commission retain Amory Engineering's services. This is a commercial site so the Commission's coverage limitations do not apply.

Joe Grady asked about grade changes; Mr. Boynton said they will elevate the area about 1.5 feet to get adequate separation for the septic system. Sam Butcher commented that the house is out of the Commission's jurisdiction but the parking area and large shed are in the

Commission's jurisdictions. Holly Morris asked if there will be any swales and Mr. Boynton said no, the rear of the site will be graded towards the catch basin so all water will be kept on site.

Marjorie 'Kitsy' Mayo of 291 St. George Street said she hopes the project can begin soon to avoid turmoil near her home. Zoe Lindeman of 294 St. George Street listed her concerns including an intense use of a small lot, and she wondered what will be stored in the large shed. Freeman Boynton said the owner is a local builder who will use the lower level as an office and have an apartment on the second floor. Sam Butcher asked for clarification if this will be a contractor's yard, and Mr. Boynton said it will not, that ancillary tools and equipment will be stored on site. Kitsy Mayo expressed concern over the safety of pipes during construction and Mr. Boynton said they will use great care and will include a new pipe to Ms. Mayo's property in the utility trench.

On a motion by Mickey McGonagle, seconded by Holly Morris, it was voted 4-0-0 to hire Amory Engineers as a consultant to review the drainage calculations for this project. On a motion by Holly Morris, seconded by Holly Morris, it was voted 4-0-0 to continue the hearing for SE18-1780 until September 5 at 7:10 p.m.

**PUBLIC HEARING; WHITE, TTE; 498 LINCOLN STREET; SEPTIC SYSTEM  
SE18-1777**

Bob Crowell of Crowell Engineering described the project which is to repair a septic system at a house that is being prepared for sale. The existing system is 47' from the wetlands. The proposed new system is a chamber system that is 76' away from the wetlands. Joe Grady reviewed the wetlands line on the plan and it is accurate. The Health Agent is recommending approval to the Board of Health. Joe Grady recommends the project.

David Cheney of 478 Lincoln Street asked how far the system will be from his property line. Bob Crowell said it will be about 11' away.

On a motion by Mickey McGonagle, seconded by Holly Morris, it was voted 4-0-0 to write Orders of Conditions for SE18-1777, 498 Lincoln Street.

**PUBLIC HEARING; DUXBURY CONSTRUCTION LLC; 57 JOSSELYN AVE; DEMOLISH  
EXISTING HOME AND CONSTRUCT A SINGLE FAMILY HOME  
SE18-1779**

Freeman Boynton Jr. of Duxbury Construction LLC representing homeowner Stacy Walsh described the project which is to take down the existing house and rebuild a new house very similar to the existing house. They have worked with the neighbors and town departments on the design. The septic will be replaced with a more modern system as far from the wetlands as it can be located; it has been moved further back from the original location that was proposed following a discussion with Joe Grady. Proposed coverage will be 14%. The applicant, Stacy Walsh, reported that she spoke with her neighbors about the project and also thanked Joe Grady and Mr. Boynton for offering useful guidance through the design process.

Sandy Bondlow of 42 Josselyn Ave expressed her support for the project. Antonia Shoham of 35 Shipyard Lane also expressed support for the project, and also expressed concern over the many noncompliant septic systems around the Bay and thinks the Town should consider a town-wide septic system. Freeman Boynton said the project meets all DEP Title V requirements; it does not meet Duxbury's required setback to wetlands because of the lot but will get a waiver from the Board of Health. Joe Grady said the Town has worked diligently on monitoring pollution and has constructed three shared septic systems – near the Bluefish River, Snug Harbor, and

along Bay Road – that are the first shared systems in the State. The locations were chosen based on areas of concern based on studies.

On a motion by Robb D'Ambruoso, seconded by Holly Morris, it was voted 4-0-0 to write Orders of Conditions for SE18-1779, 57 Josselyn Ave.

**PUBLIC HEARING; DUXBURY CONSTRUCTION LLC; 52 BAY ROAD; DEMOLISH EXISTING HOME AND CONSTRUCT A SINGLE FAMILY HOME  
SE18-1781**

Freeman Boynton, representing Jonathan Mark, described the project which is to fill in a cesspool, take a house down, and build a new house with the septic system in front. The new house will be built in the footprint of the existing house within the 50 foot setback. The existing driveway is large so some coverage will be removed from the driveway to use for the house. The project is 83' from the wetlands.

Robb D'Ambruoso disclosed that he represented Jonathan Mark as his legal counsel during the purchase of this house but he has no involvement with the property or project since the closing.

Joe Grady has no concerns about the project. Sam Butcher pointed out that the coverage is at its allowable maximum and advised Mr. Boynton to be careful not to exceed the allowable coverage. Sam Butcher asked if any grading will be done outside of the lawn area and Mr. Boynton said no, that they are cutting the grade and flattening the area and making a walk-out basement, and that less surface water will go to the wetlands after the construction is complete than does now.

On a motion by Mickey McGonagle, seconded by Robb D'Ambruoso, it was voted 4-0-0 to write Orders of Conditions for SE18-1781, 52 Bay Road.

**ADMINISTRATIVE MATTERS**

**MINUTES:** On a motion by Holly Morris, seconded by Robb D'Ambruoso, it was voted 4-0-0 to approve the minutes of **June 6** as written. On a motion by Holly Morris, seconded by Robb D'Ambruoso, it was voted 4-0-0 to approve the minutes of **June 27** as written.

**CERTIFICATES OF COMPLIANCE:**

**SE18-1752; 283 King Caesar Road.** Joe Grady reported that he has inspected the site, has all required documentation and plans and he recommends issuing Certificates of Compliance for SE18-1752. On a motion by Robb D'Ambruoso, seconded by Holly Morris, it was voted 4-0-0 to issue Certificates of Compliance for SE18-1752, 283 King Caesar Road.

**SE18-1698, 20 Bradford Road.** This project was a seawall and Joe Grady explained it was a complicated project that has ongoing conditions. The Commission decided to not include any long-term covenant, but instead to only issue a partial Certificate of Compliance. Beach renourishment is required and is triggered by the appearance of a stone marker. Ongoing conditions for the Town Certificate of Compliance should include Conditions 16, 18, 26, 30, 31, 35, 36, 37, 38, 39, and 4. For the State

Certificate of Compliance the conditions that continue include Conditions B, J, K, N, O, S, T, U, V, W, and Y.

Robb D'Ambruoso made the following motion: To issue Partial Certificates of Compliance for SE18-1698 to include the ongoing Conditions 16, 18, 26, 30, 31, 35, 36, 37, 38, 39, and 4 in the Town Certificate of Compliance and ongoing Conditions B, J, K, N, O, S, T, U, V, W, and Y of the State Certificate of Compliance. The motion was seconded by Mickey McGonagle and the vote was 4-0-0.

Joe Grady said this property has been sold, and compliance with the condition requiring the applicant to submit to the Commission a statement signed by the buyer saying they are aware of the outstanding Orders of Conditions has not yet been received in the office.

**EMERGENCY CERTIFICATION: DUXBURY BEACH**

Joe Grady reported that the Board of Health declared an emergency at the beach near Gurnet Road and Joe Grady approved an Emergency Certification so the seaweed could be buried in place. The Commission needs to reaffirm the Emergency Certification. On a motion by Holly Morris, seconded by Mickey McGonagle, the Commission voted 4-0-0 to reaffirm the Emergency Certification for the burial of seaweed at the beach.

**Adjournment:** On a motion by Mickey McGonagle, seconded by Holly Morris, it was voted 4-0-0 to adjourn the meeting at 8:10 pm.

**MATERIALS REVIEWED AT THE MEETING**

NOI materials for SE18-1763; SE18-1777; SE18-1778; SE18-1779; SE18-1780; SE18-1781  
Draft minutes of June 6, 2017 and June 27, 2017