



TOWN CLERK

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DUXBURY, MASS.

# Town of Duxbury Conservation Commission

**Minutes of October 10, 2017**

The Conservation Commission met on Tuesday, October 10, 2017 at 7:00 PM in the Mural Room at the Duxbury Town Hall.

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

**Members Absent:** Tom Gill

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

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

## **PUBLIC MEETING; BAYSIDE MARINE CORPORATION; 433 WASHINGTON STREET; RIPRAP**

Jack Kent Jr. of Bayside Marine described the project. Mr. Kent has applied for two previous Determinations, the first at the corner of the existing riprap wall and the second in the area behind the Talbots store, but the area in between is also showing erosion and they want to repair the area between the previously approved work. The work is above the bank and consists of riprap with fabric. Corey Wisneski asked if additional material will be brought in and Mr. Kent said material similar to what is already there will be brought in. Joe Grady recommended a Negative Determination.

On a motion by Corey Wisneski, seconded by Scott Zoltowski, it was voted 6-0-0 to issue a Negative Determination such that a Notice of Intent is not required for the project at 433 Washington Street.

## **AMENDMENT TO ORDERS; DUXBURY CONSTRUCTION LLC; 174 MARSHALL STREET; REMOVAL OF EXISTING AND INVASIVE VEGETATION SE18-1770**

Freeman Boynton of Duxbury Construction described the request for an amendment to the project. The original project was a seawall repair and they accessed the beach over the seawall which resulted in disturbing more than 50% of the vegetation, and the rest of the vegetation was removed and replanted with native vegetation. Holly Morris asked if the granite shown on the Planting Plan is being installed, and Mr. Boynton said no granite was installed. Corey Wisneski asked if the replanted area is exactly the same size as the original area, and Mr. Boynton said yes it was.

Joe Grady said the project was originally for a new house on the existing foundation, then it was changed to a new house on a new foundation, and this second change is for the vegetation; he hopes there are no more changes. Holly Morris asked if there is irrigation in the planting area, Mr. Boynton said there is now on a temporary basis. Robb D'Ambruoso asked if the planting has already occurred and Mr. Boynton said yes. Corey Wisneski asked Joe Grady if the plants there

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prior to the replanting were invasive species; Joe Grady said it was Rosa Rugosa covered with Bittersweet.

On a motion by Sam Butcher, seconded by Corey Wisneski, it was voted 5-0-1 to accept the amendment to the project at 174 Marshall Street (SE18-1770). Scott Zoltowski abstained stating he had concerns about the process used for this project.

**PUBLIC MEETING; CUNNINGHAM; 47 POND ROAD; SHED**

John Cunningham, the landowner, presented the project which is installation of a 10'x12' shed. Because of the slope of the property, there is only one area where the shed can be located. The shed will be 35' from the wetlands and built on a sonotube-type foundation.

On a motion by Sam Butcher, seconded by Scott Zoltowski, it was voted 6-0-0 to issue a Negative Determination such that a Notice of Intent is not required for the shed at 47 Pond Road.

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

Freeman Boynton of Duxbury Construction LLC explained that the project was continued because an engineering review was not complete; that has now been completed and a few technical revisions were made to the plans in response to that review. Joe Grady reported that as indicated in the Amory Engineering review letter, all comments have been addressed in the latest revision of the plans for this project.

The quorum for this project is Robb D'Ambruoso, Sam Butcher, Mickey McGonagle, and Holly Morris. On a motion by Robb D'Ambruoso, seconded by Sam Butcher, it was voted 4-0-2 to write Orders of Conditions for SE18-1780, 295 St. George Street, with Scott Zoltowski and Corey Wisneski abstaining because they are not part of the quorum.

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

This project, originally filed almost a year ago, has never been presented to the Commission though the plans have undergone a number of changes. Rick Grady of Grady Engineering, representing property owner Matt Tedeschi, described the project. The property is 22.5 acres and has an existing house, barn, riding arena, and garage. The original plan was for 19 new houses but, according to Mr. Grady, due to changing interpretations of zoning regulations, the plan had to be redesigned. The project is now a Definitive Subdivision proposal for 10 lots, one being a lot for the existing house and 9 additional lots. There is a 1249-foot roadway. The roadway falls under the Conservation Commission's jurisdiction near Summer Street where it is 80-100 feet from wetlands. A waiver has been requested from the Planning Board to eliminate the required radius of the road to shift the roadway away from the wetlands. The other area in the Commission's jurisdiction is the grading for the cul-de-sac. About 5 of the 10 homes will also require filing with the Commission because work will occur in the Buffer Zone.

The project includes a proposal to connect to the Town of Duxbury water system. The plan before the Commission shows individual wells but the project is being revised to propose a water main. There will be catchbasins and manholes for the drainage system. There will be an infiltration basin on a drainage lot, outside the buffer zone in an upland area. Mr. Grady stated that the drainage calculations have been reviewed and approved by Amory Engineering for the Planning Board. The septic systems will be onsite systems and percolation tests have been done for about half of the systems, all are more than 150' from the wetlands.

Joe Grady said that the Conservation Commission hired a peer review consultant, Nover-Armstrong, for this project and there is a review letter dated September 19, 2017. A number of issues are identified in the proposal, including the post-development drainage system which includes the home sites and the roadway. The infiltration basin has an emergency spillway that discharges onto adjacent Conservation Commission property and it is important to ensure that there is no discharge in excess of what exists there presently. Nover-Armstrong believes there will be a decrease in runoff towards the Conservation Commission land. A potential Vernal Pool was identified on the property by Nover-Armstrong and there are concerns that the water currently supplying the vernal pool won't continue to supply it after construction. The water main along the street was part of the original proposal; Joe Grady said he is just hearing tonight that the water main is being proposed instead of individual wells. The Commission's consultant will have to review that because it was not part of the revised plans submitted by the applicant; possible additional fees and updated plans need to be submitted.

Rick Grady asked about the Vernal Pool and whether the ANRAD approved within the last few years identified that; he said no Vernal Pool was noted by the state then. He said Nover-Armstrong says there is a certified Vernal Pool in the D-series flagging area and Rick Grady wants more information from Nover-Armstrong about this vernal pool.

Sam Butcher said that the plans show fill being brought in for the septic systems but not for the houses and asked if additional fill will be brought in for the houses. Rick Grady said the Planning Board requires a schematic for the houses identifying potential house locations only. Sam Butcher said he wants clarification about whether the plan accurately reflects the amount of fill that needs to be brought in for the project or if there will be additional fill required for the houses. Rick Grady said the grading shown on the plan for the house lots is realistic, and though it may increase it won't drastically increase. Sam Butcher said he wants a calculation of the fill needed to raise the grade for the house lots. He said based on the plans, an estimated 5100 cubic yards of fill is requested for the roadway. Overland flow is included in the Commission's jurisdiction and he wanted to know if Rick Grady will be doing calculations about the alteration of overland flow. Altering the grade at the site will redirect water, and the Commission needs assurances that the change in overland flow won't alter the wetlands.

Rick Grady said the direction of the runoff is indicated on the plan. He will look at the vernal pool issue to ensure the same runoff will exist post-construction. Sam Butcher said he is concerned about the fill for the house lots, and that evaluation of this needs to be considered now as part of this project and not later with individual filings.

Rick Grady said the proposed water main will go through some wetland areas because the wetlands are very close to the edge of the pavement. The options are to keep the main on the side of the road or to bring it within the paved surface of the road for a stretch; consultation with the DPW and Mass Highway need to occur regarding this. Joe Grady said it will be a challenge to squeeze the water main between the pavement and the wetlands given the steep slope that is present.

Sam Butcher reiterated that he believes the Commission needs a clear understanding of the amount of fill needed for the entire project; he does not want the Commission to approve the roadway and then say no to individual houses. Rick Grady said he prefers the individual house lots be considered pursuant to individual Notices of Intent.

Corey Wisneski asked for clarification of the vernal pool and that it be demonstrated that there will be no adverse impacts to the vernal pool.

Tom Borg of 941 Congress Street addressed the Commission; he owns property at the northeast corner of the project area. He has concerns about groundwater quality, particularly since he and others in the area have private wells. He has provided videos and photos to the Commission and he claims that every spring there is standing water that covers up to several acres of the applicant's property and can be 12" deep. The video showing standing water that he provided was taken in April in a year that there was less than normal rainfall. He is concerned with groundwater contamination with all the filling that is proposed and impacts on his and other wells. He referenced 4 homes in the area, 50% of which he claims have septic systems that have failed and all of which he claims have water in the basement requiring sump pumps, at least one of which runs continuously.

The Nover-Armstrong report references 7 homes in the development, and Mr. Borg asked why the report doesn't reference all 10 homes. He said the vernal pool is substantial and he has provided photos of obligate species seen there.

Rick Grady said that he wanted to provide some information to the Commission about Mr. Borg's property; Mr. Borg has cleared the lot to his property line and did not get a permit to do it; this involved clearing in the buffer zone for a pool, fire pits and other structures. The same rules should apply to everybody.

Dino Colucci of 951 Congress Street said he owns one of four homes in a nearby development. He explained that Mr. Borg did not alter his property; the pool was present when he bought the property. He shares the same concerns as Mr. Borg; there is a huge amount of fill proposed. His house has a French drain that runs 24 hours a day every day of the year. His well has failed and he had to go down 500' for his new well. The area that shows the vernal pool has water present all the time. He believes that a project of this size in this area is foolish. He believes the Commission should consider the likely consequences of a development of this size in this area.

Corey Wisneski said she wants more information on groundwater, the amount of fill required for the project, and drainage impacts on the wetlands.

Joe Grady will schedule a site walk for the Commission. Corey Wisneski wants to see Nover-Armstrong's comments about the revised plans (not yet submitted) showing the water main. She also wants more information on the fill required for the roadway.

On a motion by Corey Wisneski, seconded by Scott Zoltowski, it was voted 6-0-0 to continue the hearing for SE18-1757, 1065 Summer Street, to November 14 at 7:15 pm.

**CONTINUED PUBLIC HEARING; DIAMOND SINACORI LLC; 0, 397, 401, 405 WASHINGTON STREET; RESIDENTIAL SUBDIVISION SE18-1774**

Attorney Robert Galvin, Jr., Brad McKenzie and Brad Holmes were present representing the applicant. Corey Wisneski announced that she was recusing herself because she is a Battelle employee. The quorum for this project is Robb D'Ambruoso, Sam Butcher, Mickey McGonagle, and Scott Zoltowski. Sam Butcher became the acting Chairman for this hearing.

Mr. Butcher said that input has been received about this project from Hill Law, Amory Engineering, Wetlands Strategies, Inc., Ned Lawson, and Robert Galvin. He wants to focus on the question of whether the Town's regulations allow the filling of wetlands as this appears to be a question that will dictate the direction of the rest of the proceedings.

Bob Galvin said that Section 19.3.B of the Duxbury Wetlands Regulations can be overcome if the wetland does not protect any wetland values. He thinks the Bordering Vegetated Wetland (BVW) on this property does not protect any wetland values. The structure that is now called a BVW was built to collect runoff and it won't exist after the runoff changes due to this project. He said the basin has few features of a BVW and is overrun with invasive species. He asserts that the area is dry most of the time except after a storm, and that the seasonal high groundwater is just above the base of the BVW.

Sam Butcher said that species indicative of BVW are present. Mr. Galvin clarified that if the area doesn't protect any of the wetland values identified in the regulations, it can be filled even if there are wetlands plants there that will be impacted. Mr. Galvin said that there is no express prohibition on filling wetlands in the regulations and that you can therefore fill them if you don't harm the resource area. He said the regulations say the Commission 'is' authorized to deny filling but it does not say 'shall' or 'must' which indicates discretion is allowed.

Mr. Galvin stated that there is a surface water infiltration system proposed that is the first for any development along the Bay. The new roadway complies with the stormwater regulations. The septic systems comply with Title V and local Board of Health rules and regulations. They have voluntarily included nitrogen removing technology to minimize impacts to the Bay even though they are not required to do this. A wetlands replication area is proposed that is two times the size of the existing wetlands and in the same resource area and so will protect the Commission's interests.

Mr. Galvin continued and said the grading plan has been reviewed and approved by Amory Engineering with conditions from the Planning Board. Notices of Intent will be filed for each individual house site. In the Town's bylaws, Coastal Beaches, Coastal Dunes, and Barrier Beaches allow for filling of the salt marsh, such as for a pier project, which indicates the ability to approve filling is discretionary and not a complete prohibition.

Robb D'Ambruoso said the proposed replication is not germane to the question of whether wetlands can be filled. Bob Galvin said he wants that part of the discussion included as part of the record.

Brad Holmes said the BVW is a drainage BVW that is fed by a pipe. Because the drainage area was not maintained it is a BVW by definition. Mr. Holmes said the wetlands replication area is based on science, and the proposed species have been changed to those that are salt tolerant because this is Land Subject to Coastal Storm Flowage. Other improvements will be phragmites treatment and removal landward of the replication area where there is now a grassland area.

proposed which will enhance the diversity of wildlife. The BVW is a drainage pocket wetland infested with non-native species, they want to fill it, create a 2:1 replication area and do phragmites removal. The coastal grasslands area will be a new buffer that is better than what currently exists.

Sam Butcher asked what a 'coastal grassland management area' is, and who is responsible for ensuring its integrity – would it be included on the property's deed? Brad Holmes said it would be mowed once per year.

Joe Grady commented that discussing the wetlands replication area is premature, if the Commission decides to allow wetlands replication a consultant will be hired to review the proposal and provide guidance. What first needs to be answered is whether the Commission allows wetlands to be filled. The question that needs to be addressed is why fill the wetlands at all, why not enhance that wetland – what are the environmental reasons to move it. If it is not a good wetland, why not enhance it and make it into a feature that is improved. Mr. Galvin said it is in the front yard of a house lot, and without the runoff feeding the BVW it won't stay the same. Joe Grady said the Commission may not allow the feeding to be cut off; Mr. Galvin said that is not in the Commission's jurisdiction. There are 2.5 acres of impervious pavement there now, after the project there will be less than one acre. Holly Morris asked about the depth to groundwater at the resource area and where the seasonal high water is at the bottom of the basin. Joe Grady asked about the test pit that was dug; Brad McKenzie said there is seasonal groundwater at the bottom of the basin but it is primarily fed by stormwater from the paved parking areas and building roofs. It is dry 9-10 months of the year.

Mickey McGonagle asked for clarification about the statement that the regulations can be waived because the BVW doesn't protect any wetlands values. Robert Galvin said that is the case if the wetland values are not adversely affected. Mickey McGonagle said Section 23.8.C has a limitation of filling up to 2500 square feet for a limited project.

Robb D'Ambruoso said Section 23.8 is a red herring and the Commission should not look there. Brad McKenzie said Section 23.0, in the preface, says that performance standards apply to standards within the Resource Areas as defined in the Bylaw, and so any resource areas includes BVW.

Mr. Galvin said he has to leave the meeting and asked if they could discuss the peer review before he leaves. Sam Butcher said he wants a peer review if replication is considered, but the focus now is on whether wetlands can be filled which is a question of law more than a question for a wetlands scientist. Bob Galvin suggested getting input from Town Counsel. Scott Zoltowski agreed peer review will be needed if replication is considered. Robert Galvin said Nover-Armstrong is not an appropriate peer reviewer because they are not certified wetlands scientists, and they want someone who has familiarity with wetlands replication. Sam Butcher said Mr. Galvin's reservation about Nover-Armstrong is noted, however it is difficult to find reviewers who do not have conflicts of interest.

Ned Lawson of 34 Sunset Road said he has provided two letters to the Commission and Lenore White has been hired by a loosely identified citizens' group to provide input. He said Section 23.8.9 of the regulations provides the Commission the authority to deny a project to protect a resource area, it is not an authorization to allow alteration to wetlands areas. Section 23.8.9 is the relevant provision and there is no question the project does not comply with Section 23.8.C. The applicant says filling the basin won't alter the wetlands values. The water from the drainage pipe is absorbed by the ground which improves the water quality. The vegetation traps sediment

and improves water quality. The area will be flooded in a 100-year storm. Amory Engineering said the inundation will occur on a 12.5' tide and Mr. Lawson confirmed the calculation; there have been 31 high tides 12' or above in the last year. Looking at the plan, the replication area doesn't border the marsh and therefore is not a BVW, it is perhaps an isolated wetland. To be counted as a replication area it has to be the same type of wetlands. This BVW has beneficial value and there is no way around the prohibition to fill it.

Brad Holmes said they are not replicating the marsh, they are replicating the BVW, and the replication area does not need to touch the marsh. Ned Lawson said it has to touch another BVW. Brad Holmes said the replication area is BVW bordering BVW; the BVW is being expanded.

Lenore White of Wetlands Strategies Inc., raised concerns about the proposed activities. She is concerned with the delineation of the dune and thinks that should be reviewed. If this project goes forward she believes that all the wetlands on the site will be lost. She believes filling of the BVW area is prohibited although there may be discretion if the applicant can convince the board there is no value. Mr. Holmes thinks the BVW negatively affects the resource area but there is no proof of negative effects. Ms. White replies that the Stormwater regulations don't say if you don't meet the regulations that constitutes a negative effect, and asserts that the applicant has to demonstrate the area doesn't function, and to do that water quality analysis and soil analysis are required, not just opinions. Ms. White reiterates that there is no information being presented to demonstrate the BVW does not function.

Ms. White further notes that the proposed replication area takes out a BVW buffer zone that has trees, shrubs, and grasses and functions to protect the wetlands and uplands. The proposal takes that entire area out, including the soils so the soils can be replaced, and planted with small trees, shrubs, and grass which removes the functioning of the area. The two components of the project, filling the BVW and creating the replication area, will destroy all the wetlands currently on the property.

Brad McKenzie said that both Brad Holmes and Joe Grady have reviewed the Coastal Dune delineation, and no work is proposed near the area where Ms. White has questioned the delineation, the nearest grading is 100' away. There are 5 lots in the jurisdiction of the Commission, not the stormwater collection system and the road. The road is proposed such that there will be no drainage to the BVW. There is now direct discharge to the ocean from the BVW with little groundwater treatment, and the untreated stormwater goes into the bay. The applicant is open to suggestions for improvement for the replication area. Brad Holmes added that the wetlands replication being proposed is a 'Cadillac' wetland area and the proposed phragmites eradication will improve the salt marsh. There will be a 2:1 replication of native species rather than a 'dug hole' with phragmites.

Scott Zoltowski asked Brad Holmes what would happen to the BVW if approval is not granted to fill it in. Mr. Holmes said the phragmites will remain. Scott Zoltowski asked if the filling is being proposed for aesthetic reasons only. Mr. Holmes said this is a 'pocket wetland' and it is difficult to get homeowners to leave it alone so it makes sense to fill it and that eliminating it will add value to the lot. An easement is being proposed across this lot to provide access to the other lots.

Ned Lawson said that the proposed alteration of the stormwater drainage is a change to pre-existing drainage characteristics, and the flow to the BVW has to be maintained. Lenore White added the need to take sea level rise into account. Mr. McKenzie said at a previous meeting

that the BVW will be used during construction for drainage which implies that it does function. Mr. McKenzie clarified that he did not say the BVW does not function for stormwater drainage.

Robb D'Ambruoso said that he wants to have an expert opinion about whether this wetland meets any of the wetlands values or not. Mickey McGonagle said he wants a legal opinion from Town Counsel before getting the opinion of a wetlands scientist. Lenore White said the regulations say that the wetlands are presumed to be important and the applicant must prove otherwise.

Sam Butcher said he would like an informal sense from the Commissioners of whether they feel this is a regulated wetland or not, or if more information is needed. Mickey McGonagle wants input from Town Counsel about the applicability of the regulations and how they are interpreted, Scott Zoltowski concurred. Joe Grady said the Commission is responsible for interpreting the regulations; Robb D'Ambruoso said he does not feel the need for Town Counsel's input because he thinks the regulations are clear. Brad McKenzie said the applicant would like to know Town Counsel's opinion before a peer review consultant is hired.

Holly Morris asked why not improve the BVW rather than replicate it; and said she is concerned about setting a precedent by allowing a resource area to be filled. If the wetland is degraded, the answer might be to improve it. Scott Zoltowski said that other than aesthetics there does not seem to be a need to fill the BVW; filling a wetland area is a significant action. Mr. Zoltowski asked Joe Grady when the last time this was allowed and Mr. Grady said perhaps never.

Scott Zoltowski offered to draft a letter to Town Counsel on behalf of the Commission in order to get clarification about the regulations; the Commissioners agreed this would be helpful.

On a motion by Robb D'Ambruoso, seconded by Sam Butcher, it was voted 5-0-0 to continue the hearing for SE18-1774 until November 14 at 7:20 pm.

#### **RESTORATION PLAN; 700 BAY ROAD**

Brad Holmes of Environmental Consulting and Restoration, representing the property owner, Gary Gallagher, explained that they had received an Enforcement Order from the Conservation Commission about cutting of vegetation in the wetlands and buffer zone. The work immediately stopped and straw wattles were installed. Brad Holmes delineated the wetlands and prepared a restoration plan which shows the area impacted and the revegetation proposal. They will restore the BVW and the 25' buffer zone; outside the 25' buffer zone they will seed. There is a metal cistern in the wetland with spring water flowing out of it; they propose removing the cistern and will have DPW approve that before it happens. Joe Grady asked if they are proposing doing sprout maintenance to the cut trees and Mr. Holmes said that they will be doing sprout maintenance. Joe Grady pointed out that the restoration plan proposes a 'buffer zone management area' and said a Notice of Intent should be filed for that. Brad Holmes said that will be taken off the plan and that a Notice of Intent will be filed for any future activities.

Corey Wisneski asked what planting is planned in the 25' to 100' buffer zone; Mr. Holmes said it will be seeded and they will be doing sprout maintenance. Joe Grady said the Commission previously voted to assess a \$900 penalty. Mr. Gallagher said he thought based on the Enforcement Order that a fine would only be imposed if there was no response; they responded within 24 hours. Brad Holmes asked if the fine can be held until after the restoration plan is implemented. Scott Zoltowski asked if the fine can be waived and Sam Butcher said that it can



be suspended; Scott Zoltowski suggested no fine be collected at this point and it can be considered later if necessary.

Holly Motion made a motion to accept the proposed remediation plan with the planting to occur within 30 days and the requirement that the consultant submit a letter to the Conservation Commission saying the work has been done according to the proposed plan. The motion was seconded by Scott Zoltowski and the motion was approved 6-0-0.

Robb D'Ambruoso made a motion to suspend the levying of the \$900 fine at this time to be reviewed after the restoration planting is completed. The motion was seconded by Sam Butcher and approved by a vote of 6-0-0.

**PUBLIC HEARING; KING; 4 MIDWAY ROAD; CONSTRUCT PIER AND REMOVE OLD PIER SE18-1785**

Paul Brogna of Seacoast Engineering, represent homeowners Nancy and John King, explained the project which is to replace an existing pier that is 288' in length. Brad Holmes flagged the wetlands and identified the Resource Areas. This project is in FEMA V and AE zones. The new pier will begin and end in the same location as the existing pier but will be 2.5-3' higher.

Joe Grady asked about the deck elevation; it is 17' for the decking and 20' with the handrail. Mr. Brogna has a letter from Fisheries and Wildlife stating there will be no adverse impact from the pier. Robb D'Ambruoso asked about the chains on the mushroom anchors; Mr. Brogna said there will be 2 chains and mushrooms outboard of the float only so there will be 2 fewer chains and anchors. Joe Grady reminded the applicant that the gangway and float must be stored offsite. Corey Wisneski asked about the mosquito control channel that is nearby, Joe Grady said no visible erosion or slumping is occurring. The marsh is dead under the existing deck but the proposed deck is smaller than the existing one. Joe Grady said this is a rebuild of an existing pier and he recommends the Commission issue Orders of Conditions.

On a motion by Corey Wisneski, seconded by Holly Morris, it was voted 6-0-0 to issue Orders of Conditions for SE18-1785, 4 Midway Road.

**PUBLIC MEETING: MCKENZIE; 260 TEMPLE STREET: GRADING**

Freeman Boynton, Jr., representing the applicant Mike McKenzie, described the project. Mr. Boynton met with Mr. McKenzie last January about water and electric service and grading on his property. Due to a misunderstanding, the project was started by another contractor without the RDA having been filed. Corey Wisneski asked if the water line and electric are in, and the grading is done, and Mr. Boynton said yes but the grass has not yet been planted. Joe Grady said he recommends a Negative Determination.

On a motion by Robb D'Ambruoso, seconded by Sam Butcher, it was voted 6-0-0 to issue a Negative Determination such that a Notice of Intent is not required for the proposed grading work at 260 Temple Street.

## **ADMINISTRATIVE MATTERS**

### **MINUTES**

**July 25, 2017:** On a motion by Corey Wisneski, seconded by Sam Butcher, it was voted 6-0-0 to approve the minutes of July 25 with minor editorial edits.

**July 25, 2017 Executive Session:** On a motion by Corey Wisneski, seconded by Scott Zoltowski, it was voted to approve the Executive Session minutes of July 25 with minor revisions but not to release the minutes to the public.

**August 15, 2017:** On a motion by Holly Morris, seconded by Sam Butcher, it was voted 6-0-0 to approve the minutes of August 15 with minor revisions.

**August 22, 2017:** On a motion by Sam Butcher, seconded by Scott Zoltowski, it was voted 6-0-0 to approve the minutes of August 22 with minor revisions.

**September 5, 2017:** On a motion by Holly Morris, seconded by Sam Butcher, it was voted 6-0-0 to approve the minutes of September 5 as written.

### **CERTIFICATES OF COMPLIANCE:**

**SE18-1711; 38 Ocean Ave.** Joe Grady reported that he has inspected the site and has all required documentation and plans and he recommends issuing Certificates of Compliance for SE18-1711. On a motion by Sam Butcher, seconded by Scott Zoltowski, it was voted 6-0-0 to issue Certificates of Compliance for SE18-1711, 38 Ocean Ave.

### **CHAPTER 61 LAND; 74 BAY ROAD**

Joe Grady explained this land is in Chapter 61 and the Town has been notified of the intent to remove it from Chapter 61 which triggers a Right of First Refusal (ROFR) on behalf of the Town. Joe Grady said he does not recommend the Town exercise the ROFR for Open Space purposes because it does not fit into the land acquisition plan, although it could be considered for housing purposes. The Board of Selectmen will look for an opinion from the Conservation Commission about this.

Sam Butcher made a motion to not recommend to the Board of Selectmen that they exercise the Right of First Refusal for Assessor's Parcel #110-830-003 at 74 Bay Road for open space purposes. The motion was seconded by Holly Morris and the motion was approved by a vote of 6-0-0.

### **AMENDMENT TO PLANS; SE18-1748; 223 CHANDLER STREET**

Geoffrey Kane, property owner and applicant, explained that he would like to increase the size of the garage by 2', from 26' to 28' which increases the size of the garage by 118 square feet. This is not within a 100' buffer zone but is in a Riverfront Area. On a motion by Scott Zoltowski, seconded by Sam Butcher, it was voted 6-0-0 to accept the proposed changes on the revised plan under the existing Orders of Conditions for SE18-1748.

**BLAIRHAVEN CONSERVATION RESTRICTION APPROVAL**

Joe Grady reported that the Conservation Restriction for Blairhaven is ready to be submitted to the State for approval and a final vote of the Conservation Commission is necessary.

Robb D'Ambruoso moved that the Conservation Commission vote to grant the foregoing Conservation Restriction to Jones River Watershed Association, pursuant to M.G.L. Chapter 184, Section 32 and in compliance with M.G.L. Chapter 44B. The motion was seconded by Sam Butcher and approved by a vote of 6-0-0.

**0 TEMPLE STREET DEED; SIGNATURES**

Joe Grady explained that when the Town purchased land from Camp Wing, some land was set aside for community housing. The Town's previous Counsel recommended a new deed granting a portion of the land for housing purposes be prepared with some clarification to the language. The Commission is signing this new deed.

**Adjournment:** On a motion by Scott Zoltowski, seconded by Sam Butcher, it was voted 6-0-0 to adjourn the meeting at 9:50 pm.

**MATERIALS REVIEWED AT THE MEETING**

RDA materials for 433 Washington Street, 47 Pond Road; 260 Temple Street

NOI materials for SE18-1780; SE18-1757; SE18-1774; SE18-1785

Restoration Plan for 700 Bay Road

Proposed amendment to SE18-1770., SE18-1748

Draft minutes of July 25; august 15; August 22; September 5