

TOWN CLERK

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DUXBURY, MASS.



# Town of Duxbury Conservation Commission

## Minutes of November 14, 2017

The Conservation Commission met on Tuesday, November 14, 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

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

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

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

### **PUBLIC MEETING; RYER; 233 WASHINGTON STREET; GRADING AND LAWN**

Emmett Sheehan representing Scotia Ryer described the project which is to bring in loam, top dress and seed about 300 square feet of lawn. A neighboring project was completed and the grades between the properties don't meet and rainwater is puddling; this project will minimize that issue. Joe Grady added that the project area is existing lawn and no new lawn area is being created.

On a motion by Sam Butcher, seconded by Corey Wisneski, it was voted 5-0-0 to issue a Negative Determination such that a Notice of Intent is not required for the project at 233 Washington Street.

### **PUBLIC MEETING; TOWN OF DUXBURY DPW; BAY AVE & GURNET AVE; REVETMENT REPAIR**

Patrick Brennan of Amory Engineers representing the Duxbury DPW described the project which is to repair the revetment at the north end of the beach. Work was last done in this area in 2007 when the revetment was rebuilt and a toe installed; the stones are now dislodging and they want to put them back on the revetment. A repair at a second location about 120 feet further south will also be done.

In 2007, the Orders of Conditions for the revetment project included two conditions: that all work be down at low tide and that all floatable debris be removed at every high tide, and that the grade of the beach be re-established each day. Sam Butcher suggested these conditions be included with the RDA.

Corey Wisneski asked how long the project will take; Patrick Brennan said approximately 2-3 days. Joe Grady said the work is to replace fallen stones and he recommends a negative determination for this work with the previously mentioned conditions. Jim Ryan from the audience said that every year a few stones wash out, and asked if the DPW can just do repairs as maintenance without having to go through the process of filing with the Conservation

Commission. Joe Grady explained that a Determination is good for 3 years, if the DPW wants to file a Notice of Intent the Orders could be extended for a longer duration.

On a motion by Sam Butcher, seconded by Robb D'Ambruoso, it was voted 5-0-0 to issue a Negative Determination such that a Notice of Intent is not required for the project at Bay Ave and Gurnet Ave.

**PUBLIC HEARING; SEALUND CORPORATION; 136 & 138 ALDEN STREET; ANRAD  
SE18-1786**

Mark Casey of South Shore Survey said that Brad Holmes of Environmental Consulting & Restoration did the delineation on the property. There are several wetlands lines, a potential vernal pool, and in intermittent stream. He said Brad Holmes observed that 4 out of 5 days there was no standing water present in the intermittent stream; this meets the requirement to classify this as an intermittent stream.

Joe Grady said he would like to hire a peer consultant to take a look at the stream and review it's designation. He recommended the hearing be continued to allow for review by the consultant and recommended the hiring of Nover-Armstrong associates to conduct the review.

Corey Wisneski made a motion to hire Nover-Armstrong to conduct a peer review on this ANRAD, the motion was seconded by Sam Butcher and approved 5-0-0. Corey Wisneski made a motion by continue the hearing until December 19 at 7:05 pm, the motion was seconded by Sam Butcher; this motion was approved by a vote of 5-0-0.

**PUBLIC HEARING; CHENEY; 59 BEECHWOOD LANE; PIER;  
SE18-1787**

Joe Grady suggested the Commission hire a peer consultant to look at the resource areas at this site. He suggested the Commission hire Nover-Armstrong associates to help with the delineation and interface with the wetlands and uplands at this somewhat complicated site.

On a motion by Sam Butcher, seconded by Holly Morris, it was voted 5-0-0 to hire Nover-Armstrong to conduct a peer review at 59 Beechwood Lane.

On a motion by Corey Wisneski, second by Sam Butcher, it was voted 5-0-0 to continue the hearing for SE18-1787, 59 Beechwood Lane, until December 19 at 7:10 pm.

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

Rick Grady and Bob Galvin Jr. were present representing the applicant. Corey Wisneski explained that revised plans for the water main were submitted to the Commission on November 13, well past the deadline for the hearing and so no discussion about the water main will be included in this continued hearing.

Joe Grady said a site visit had been conducted, and at the last hearing for this project, the Commission had raised a number of concerns. He explained that in response to those concerns, the applicant revised the water main plans. In order for the Commission's peer

consultant to conduct a review of the water main plans, which had not been part of the original submittal, additional funds were requested from the applicant but have not yet been received.

Bob Galvin said that with the revised plan, the water main is under the pavement, which perhaps is a narrower scope than the original water main plan. He wondered if the scope of services would therefore be narrower because they will be working in the layout of the street and will use erosion control measures and therefore the wetlands line does not need to be confirmed, which simplifies things. Sam Butcher asked if Mass Highway is involved, and Bob Galvin said they would have to get a Mass Highway permit. Corey Wisneski asked how much farther from the wetlands the water main would be than when it was on the shoulder of the road, and Rick Grady said it is 5-8' further away and entirely within the pavement. Bob Galvin added that not much stormwater analysis is necessary, so a reduction in the cost of the additional peer review would make sense.

Sam Butcher said he is inclined to have a second set of eyes on the project, and is inclined to approve the proposal as it is, and that if the consultant's review takes less time than the original price proposal, they can adjust it in the billing. Bob Galvin asked if Nover-Armstrong can be asked to revise their cost proposal for the additional services. Joe Grady said the Commission can wait and ask Nover-Armstrong to review their proposal which can be brought to the next hearing for discussion; Bob Galvin asked if the revised proposal can be approved without the Commission's approval. Joe Grady said the Commission must approve the proposal. Mr. Galvin indicated he did not want to further delay the process, and would bring a check for the requested \$3000 for additional review services to the Conservation office the next day.

On a motion by Corey Wisneski, seconded by Sam Butcher, it was voted 5-0-0 to accept Nover-Armstrong's proposal for additional peer review services for 1065 Summer Street.

Corey Wisneski asked about the calculations of fill needed for the house lots, and Robb D'Ambruoso asked about the source of fill for the lots. Sam Butcher said the plans indicate that 5100 cubic yards of fill are needed for the road, and wanted to know if that is all the fill for the entire site including the houses. Sam Butcher and Robb D'Ambruoso commented that they want revised calculations of the fill required on the site that includes the house lots and not just the road. Sam Butcher said the Commission is concerned about where the runoff will be going in the future versus where it goes now and whether watersheds will be altered by this project.

Sam Butcher asked if the rate of flow of water during storm events is going to change; Rick Grady said it will decrease because the infiltration basin will take some of the water. Holly Morris asked about overflow of the infiltration basin during large storm events; Rick Grady said the overflow won't exceed the pre-development runoff and that these calculations were reviewed by Nover-Armstrong and by Patrick Brennan. Joe Grady said that the consultant was hired to determine if there will be any increase in flow to the adjacent conservation land.

Dan Constanza, an abutter, wanted to know where the water will go where he abuts this property. Rick Grady said the road runoff will be away from Mr. Constanza's property and there will not be an increase in runoff from current conditions. There is a pond in the woods that won't be used as part of the drainage system. Dan Constanza said a property line on the plans had to be changed, and Rick Grady confirmed the line had been revised and the abutter was correct about where the line actually was.

Rick Grady said the houses will have full foundations and will be rear walk-outs to minimize the amount of fill required. Mr. Constanza asked how much fill is required and Rick Grady said it will

be about 4' of fill. Mr. Constanza asked for a confirmation that there will not be an increase in runoff to his property and Rick Grady said water is being moved away from that area of the property.

Paula Borg of Congress Street asked if the plans being discussed tonight are new plans, because she said at the last meeting the engineer said the houses were going to be on slabs. Rick Grady said this is not a change from what was previously presented, Mrs. Borg believed it was. Mrs. Borg asked how there will be less runoff after the project is built. Rick Grady said that it must decrease post development, so the roadway and front of the roofs will drain down to a central collection area and into the ground. Mrs. Borg asked how the collection area might affect the neighbors, and Rick Grady reiterated that there will be no increase in runoff and that two consultants had reviewed the plans and confirmed this.

Mrs. Borg raised the question about the certification of a vernal pool. Joe Grady explained that under the State law, a vernal pool has to be certified and the State maps it out. Under Duxbury's Wetlands Protection Regulations, the vernal pool does not have to be certified to be protected.

Corey Wisneski suggested the hearing be continued and reminded the applicant that the Commission wants additional information about the volume of fill being proposed. Joe Grady reminded the applicant and his representative that all submissions should go through the office and that there should be no direct contact with the consultant because the consultant is working for the Conservation Commission.

On a motion by Corey Wisneski, seconded by Sam Butcher, it was voted 5-0-0 to continue the hearing for SE18-1757 until January 9, 2018 at 7:05 pm.

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

A letter has been received notifying the Commission that the applicant wishes to withdraw this project. On a motion by Robb D'Ambruoso, seconded by Sam Butcher, it was voted 5-0-0 to accept the withdrawal of SE18-1774.

The Commission had sought an opinion from Town Counsel regarding the filling of Bordering Vegetated Wetlands related to some proposed work for this project. Joe Grady asked the Commission if they wanted to release this opinion to the public; it remains confidential unless the Commission chooses to release it. Sam Butcher suggested that it be released and Joe Grady said Town Counsel recommended it be released. He said that Counsel also recommended the Commission consider a change to the language in the regulations to add that 'Bordering Vegetated Wetlands can't be filled unless it is a limited project' and the Commission could consider making this change in the next revision of the regulations.

On a motion by Sam Butcher, seconded by Robb D'Ambruoso, it was voted 5-0-0 to release Town Counsel's opinion about the filling of BVW to the public.

**PUBLIC HEARING; ANDERSON; 126 FLINT LOCKE DRIVE; SEPTIC  
SE18-1789**

Shane McGlone, representing the Andersons, described the project which is a new septic system. There is a ditch through the property that is an intermittent stream. The existing septic

system is in front of the house. They are proposing a 1500 gallon tank with a 1000 gallon pump chamber to pump to a leaching area in the back yard that is 80 feet from the wetlands. The project requires variances from the Board of Health for the setbacks but otherwise complies with the septic regulations.

Sam Butcher asked Mr. McGlone if there are any concerns about the length of the run to the back yard and Mr. McGlone said no, with a 2" line and flat topography the distance is acceptable.

On a motion by Corey Wisneski, seconded by Sam Butcher, it was voted 5-0-0 to write Orders of Conditions for SE18-1789, 126 Flint Locke Drive.

#### **PUBLIC MEETING; MORIN; 91 PARTING ROCK ROAD; SHED**

Joe Grady said this project is a shed more than 35 feet from the wetlands that meets the Commission's Rules and Regulations.

On a motion by Sam Butcher, seconded by Robb D'Ambruoso, a negative determination was voted 5-0-0 so no Notice of Intent is required for the shed at 91 Parting Rock Road.

#### **PUBLIC MEETING; TOWN OF DUXBURY DPW; TOWN LANDING MAINTENANCE**

Joe Grady said that every 3 years the Duxbury Department of Public Works files an RDA so they can do routine maintenance at Town Landings as needed. He recommends a Negative Determination.

On a motion by Corey Wisneski, seconded by Sam Butcher, a Negative Determination so that no Notice of Intent is required for the Town Landing maintenance was voted by a vote of 5-0-0.

#### **DUXBURY CONSERVATION COMMISSION; MINOR REVISIONS TO REGULATIONS REGARDING USE OF CONSERVATION LAND**

Joe Grady explained the Conservation Commission is authorized to set rules and regulations for the use of its properties. These regulations were last updated in 2013 and required some cleanup and reformatting, with some clarifications made to the language in the hunting regulations. No substantive changes have been made.

On a motion by Corey Wisneski, seconded by Sam Butcher, it was voted 5-0-0 to approve the revised Rules and Regulations Regarding Use of Conservation Land.

#### **ADMINISTRATIVE MATTERS**

##### **MINUTES**

**October 10, 2017:** On a motion by Sam Butcher, seconded by Robb D'Ambruoso, it was voted 5-0-0 to approve the minutes of October 10, 2017 as written.

##### **CERTIFICATES OF COMPLIANCE:**

**SE18-748; 700 Franklin Street.** Joe Grady reported that he has inspected the site and has all required documentation and plans and he recommends issuing Certificates of Compliance for SE18-748. On a motion by Corey Wisneski, seconded by Sam Butcher, it was voted 5-0-0 to issue Certificates of Compliance for SE18-748, 700 Franklin Street.

**SE18-1719; 118 Depot Street.** Joe Grady reported that he has inspected the site and has all required documentation and plans and he recommends issuing Certificates of Compliance for SE18-1719. On a motion by Sam Butcher, seconded by Robb D'Ambruso, it was voted 5-0-0 to issue Certificates of Compliance for SE18-1719, 118 Depot Street.

**SE18-1697; 30 Bradford Road (partial).** Joe Grady is recommending partial Certificates of Compliance for the wall and associated drift fence, with conditions #16, 18, 22, 23, 26, 30, 31, 35, 36, 37, 38, 39, 40, 41 of the Town Order of Conditions and conditions 16, B, F, G, J, N, O, S, T, U, V, W, X, and Y of the Mass DEP Order of Conditions remaining as ongoing conditions. Joe Grady has inspected the site and required documentation and fees have been received. On a motion by Sam Butcher, seconded by Corey Wisneski, it was voted 5-0-0 to issue Partial Certificates of Compliance for SE18-1697, 30 Bradford Road.

**SE18-650; 52 School Street.** Joe Grady reported that Certificates of Compliance for this project have previously been issued and he recommends the Commission vote to issue Duplicate Original Certificates of Compliance. On a motion by Sam Butcher, seconded by Holly Morris, it was voted 5-0-0 to issue duplicate original Certificates of Compliance for SE18-650, 52 School Street.

**SE18-1496; 126 Flint Locke Drive.** Joe Grady reported that he has inspected the site and has all required documentation and he recommends issuing Certificates of Compliance for SE18-1496. On a motion by Sam Butcher, seconded by Mickey McGonagle, it was voted 5-0-0 to issue Certificates of Compliance for SE18-1496, 126 Flint Locke Drive.

**SE18-1160; 154 Birch Street.** Joe Grady reported that he has inspected the site and has all required documentation and he recommends issuing Certificates of Compliance for SE18-1160. On a motion by Corey Wisneski, seconded by Sam Butcher, it was voted 5-0-0 to issue Certificates of Compliance for SE18-1160, 154 Birch Street.

**SE18-1035; 363 Washington Street.** Joe Grady reported that he has inspected the site and has all required documentation and plans and he recommends issuing Certificates of Compliance for SE18-1035. On a motion by Corey Wisenski, seconded by Mickey McGonagle, it was voted 5-0-0 to issue Certificates of Compliance for SE18-1035, 363 Washington Street.

#### **Duxbury Beach Reservation Letter**

Joe Grady recused himself for this discussion because of his involvement with the Duxbury Beach Reservation. There is damage to the beach near the third crossover and the reservation wants to install more fence to try to collect sand. On a motion by Sam Butcher, seconded by Corey Wisneski, it was voted 5-0-0 to accept construction of 350'

of sturdy drift fence as a maintenance activity under the current Orders of Conditions for the beach.

**Changes to Foundation Plan: SE-1750; 43 Ocean Road North**

Matt Kruger, the contractor for this project, explained that they jacked the house up 20' and took the foundation out and determined that to place the 7'x7' footing, it will extend onto the neighbor's property so they can't do it. The new plan they have submitted uses piers tied together, although the foundation is not continuous. Joe Grady explained that the original submission had some connected piers on the other side, with 13 connected and 4 not connected which is almost a slab.

Joe Grady, Corey Wisneski, Holly Morris, and Sam Butcher went to some training that said no footings should be allowed. Footings are allowed in Duxbury but they are not allowed to be connected. Tom Kelly, the homeowner, said he is afraid to lose the house which is now up on jacks. Sam Butcher said the Commission does not like connected piers, but the lot is very narrow so he is inclined to support the request.

On a motion by Sam Butcher, seconded by Robb D'Ambruoso, it was voted 5-0-0 to accept the revised foundation plan pending receipt of a plan stamped and signed by an engineer.

**EXECUTIVE SESSION:**

Robb D'Ambruoso made the following motion: I move we go into Executive Session to consider the taking, purchase, exchange, lease or value of real property because such discussion may have a detrimental effect on the negotiating position of the governmental body, and to reconvene in open session in accordance with MGL C.39, Section 23B, Subsection 6 to adjourn. The motion was seconded by Sam Butcher. Roll call vote: Corey Wisneski, yes; Sam Butcher, yes; Robb D'Ambruoso, yes; Mickey McGonagle, yes; Holly Morris, yes. The motion passed by a vote of 5-0-0.

**Adjournment:** On a motion by Sam Butcher, seconded by Robb D'Ambruoso, it was voted 5-0-0 to adjourn the meeting at 9:00 pm.

**MATERIALS REVIEWED AT THE MEETING**

RDA materials for 233 Washington Street, Bay Ave & Gurnet Ave; 91 Parting Rock Road; Town Landing Maintenance

NOI materials for SE18-1786; SE18-1787; SE18-1757; SE18-1789

Proposed Revised Regulations for use of Conservation Land

Letter from Duxbury Beach Reservation

Proposed changes to foundation plan for SE18-1750