



Approved January 23, 2024

# Town of Duxbury Conservation Commission

Minutes of January 9, 2024

TOWN CLERK  
2024 JAN 30 AM 10:55  
DUXBURY, MASS.

The Duxbury Conservation Commission met in person in the Town Hall Mural Room on Tuesday, January 9, 2024 at 7:00 p.m.

**Members Present:** Robb D'Ambruoso, Chair; Scott Zoltowski, Vice-Chair; Samuel Butcher, Daniel McGonagle, and Holly Morris.

**Members Absent:** Tom Gill III and Corey Wisneski

**Staff Present:** Nancy Rufo, Conservation Administrator and Pat Loring, Volunteer

Meeting was called to order by Chair, Robb D'Ambruoso at 7:03 p.m.

## **PUBLIC HEARING: NOTICE OF INTENT; CURRIER/DUXBURY CONSTRUCTION; 0 OCEAN AVENUE; RAISE BOATHOUSE, CONSTRUCT NEW DECK, RAMP, STAIRS, AND REPAIR SEAWALL**

**SE18-2066**

Robb D'Ambruoso opened the Public Hearing by reading the legal notice into the record. Freeman Boynton Jr., Duxbury Construction, presented the project for owner, James Currier. The project includes raising the existing boathouse, moving it back from the Coastal Bank while the seawall is rebuilt, a new deck, ramp and stairs are constructed and granite stairs to the beach are installed. The boathouse will then be returned to its current location.

Nancy Rufo stated she met with Bo Boynton on the site and she agrees with the project as presented. Sam Butcher asked how the boathouse could be moved without disturbing the Coastal Bank and would the toe of the seawall be in the same location. Freeman Boynton replied the boat house will be raised and rolled away from the Coastal Bank. The toe of the seawall will remain in the same location, additional seawall will be under the beach.

Sam Butcher made a motion, seconded by Holly Morris, to close the Public Hearing and write an Order of Conditions for SE18-2066. Motion passed unanimously 5 to 0.

## **PUBLIC HEARING: NOTICE OF INTENT; OWENS/DUXBURY CONSTRUCTION; 702 CONGRESS STREET; SFH ADDITION, WALKWAY, AND STEPS**

**SE18-2069**

Robb D'Ambruoso opened the Public Hearing by reading the legal notice into the record. Freeman Boynton Jr., Duxbury Construction, presented the project for owner, Tim Owens. The project is an addition to the current house. Onsite wetlands were flagged by Brad Holmes, Environmental Consulting & Restoration (ECR). The project is within the 200 ft riparian zone of a river. According to the WPA Regulations, the new 387 sq. ft. addition requires a mitigation area twice the size of the impacted area or 774 sq. ft. To reduce the site coverage, an existing shed will be removed and the driveway narrowed. Site coverage will be reduced to 12.8%.

Nancy Rufo stated she visited the site and met with the homeowner. She agrees with the project as presented.

Sam Butcher made a motion, seconded by Mickey McGonagle, to close the Public Hearing and write an Order of Conditions for SE18-2069. Motion passed unanimously 5 to 0.

878 Tremont Street, Duxbury, MA 02332; Telephone: 781-934-1100 x 5471; Fax: 781-934-1137

**PUBLIC HEARING: ANRAD, HUSK & 160 MARSHALL LLC; 160 MARSHALL STREET;  
WETLAND DELINEATION  
SE18-2068**

Tom Schutz, Goddard Consulting, presented the project for homeowners, C.J. and Cleo Husk and Jennifer Bylo, who were present. As the result of a September 28, 2023 Request to Appear for a Show Cause Hearing and the applicant appearance on November 14, 2023, this Public Hearing was being held to determine the location and type of onsite Wetlands Resource Areas under the MA Wetlands Protection Act and the Duxbury Local Wetland Bylaw. Mr. Schutz stated there are two Wetland Resource Areas, a Saltmarsh, and a Coastal Bank, also a 50 ft. and 100 ft. Buffer Zone to each. Except for the primary home and a guest house, the entire site is also located within Land Subject to Coastal Storm Flowage. Unpermitted accessory structures, livestock (pigs and chickens) and a livestock shed currently exist within the Resource Area. As part of the Request to Appear for a Show Cause Hearing, the homeowners are under a deadline of 1/13/2024 to file a Notice of Intent (NOI) to permit on-going and planned activities. Approval of this ANRAD is the first step.

Nancy Rufo stated that, due to the complexity of the property and multiple overlapping resource areas present on site, a peer review will be necessary to confirm the Wetland Delineation. The Commission agreed. Tom Schutz requested an extension for the Notice of Intent filing because the peer review will take time and they will be unable to meet the 1/13/2024 deadline. Because of the violation history on the site, Mr. Shultz was urged to begin preparing the NOI immediately.

David Uitti, attorney for the neighbors, presented photographs of pigs and chickens living in the 160 Marshall St. Resource Area. He also stated trailers are in the AE 13 Flood Zone. He agreed a peer review is necessary.

Sam Butcher stated that prior to moving forward with a Notice of Intent, a wetland delineation is needed.

Neighbor, Jenny Rice (152 Marshall Street) stated the wetland lines, not shown on the current plan, curve onto the two abutting properties. Following discussion, abutter Manuel Weiss (158 Marshall Street), gave permission for the Wetland Scientists to enter his property while he was not present to continue the wetland delineation as long as he is notified first.

Lenore White, Wetland Strategies, Inc., consultant to the Commission, emailed a peer review proposal for \$1700 on 12/20/23 to be paid by the applicant. She estimated it would take two weeks to complete the work. Nancy Rufo stated once the \$1700 check is received from the applicant, the Town Accountant will have to set up an Escrow Account and issue a purchase order, then Lenore White can begin the Peer Review. As a result, the ANRAD will be continued until February 13, 2024. For the full project filing, the Notice of Intent (NOI) submission deadline will be February 27, 2024 and the Public Hearing for that NOI will be held on March 12, 2024.

Sam Butcher made a motion, seconded by Holly Morris, to hire Wetland Strategies, Inc. for \$1700 to review the ANRAD at 160 Marshall Street. Motion passed unanimously 5 to 0.

Sam Butcher made a motion, seconded by Mickey McGonagle, to continue the ANRAD Public Hearing to February 13, 2024 at 7:00 p.m. Motion passed unanimously 5 to 0.

**PUBLIC HEARING: NOTICE OF INTENT, DORAN/FLAHERTY & STEFANI; 1398 TREMONT STREET, POOL  
SE18-2067**

Robb D'Ambruoso opened the Public Hearing by reading the legal notice into the record. Kevin Flaherty, Flaherty & Stefani, presented the project for the landowner. A new 18 ft x 40 ft. pool will be located within the 100 ft. Buffer Zone to Mill Pond. No trees will be removed. A silt sock will be

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installed for erosion control on the 8.3-acre lot. MA Natural Heritage and Endangered Species Program (NHESP) had no issues with the project.

Nancy Rufo stated she visited the site and met with the homeowners. She agrees with the project as presented.

Sam Butcher made a motion, seconded by Mickey McGonagle, to close the Public Hearing and write an Order of Conditions for SE18-2067, pending receipt of the NHESP review. Motion passed unanimously 5 to 0.

### **PUBLIC HEARING: NOTICE OF INTENT; MURPHY/ENVIRONMENTAL CONSULTING & RESTORATION; 88 SURPLUS STREET; GARAGE RECONSTRUCTION SE18-2070**

Robb D'Ambruoso opened the Public Hearing by reading the legal notice into the record. Brad Holmes, Environmental Consulting & Restoration, presented the project for the applicant. The applicant has an Order of Conditions for other work on the site that does not include garage reconstruction. The garage is located on a steep slope above a Bluefish River feeder stream, making the reconstruction project within the 200 ft Riverfront Area. The project consists of razing the existing garage and building a new garage on the same foundation.

Nancy Rufo visited the site, met with the homeowner, and agrees with the project as presented. Abutter Geoff Ide (98 Surplus Street) stated his concern about the height of the new garage and the fact that the foundation may require reconstruction and excavation. The garage is close to his property line and he is concerned about impacts to his trees and shrubs. Robb D'Ambruoso explained the Local Wetland Bylaw and that the garage height is not within the Commission's jurisdiction. Foundation removal and reconstruction is not part of this filing. Further discussion followed.

Sam Butcher made a motion, seconded by Mickey McGonagle, to close the Public Hearing and issue an Order of Conditions for SE18-2070. Motion passed unanimously 5 to 0.

### **CONTINUED PUBLIC HEARING; NOTICE OF INTENT; WALSH/CROWELL ENGINEERING; 50 RAILROAD AVENUE; SITE PREPARATION FOR 40B DEVELOPMENT. SE18-2059**

Applicant has requested another Public Hearing continuance. There were no project representatives in attendance. Discussion followed on the number of continuances to date and how to proceed. Commission members recently visited the site to assess the Wetland Resource Areas and the intermittent vs perennial status of two nearby streams. John Zimmer, South River Environmental, in attendance for another project, stated time was needed to review Wetland Strategies memo #2 (dated 12/27/2023). Scott Zoltowski reported the ZBA closed their Public Hearing on December 14, 2023. They cannot accept any new information. Nancy Rufo confirmed this with town counsel at KP Law regarding the process. Also, all applicants should request Public Hearing continuances from the Commission, not from the staff. Nancy Rufo outlined the history of the project. Commission consultant, Lenore White, who was in attendance, stated her wetland delineation was complete.

Sam Butcher made a motion, seconded by Mickey McGonagle, to continue the Public Hearing for 50 Railroad Avenue, SE18-2059 to January 23, 2024 at 7:05 p.m. Motion passed unanimously 5 to 0.

**OPEN FORUM:** No one was present for Open Forum

**NEW BUSINESS:**

Show Cause Hearing -158 Marshall St. – Nancy Rufo stated three violations have been noted at the 158 Marshall Street property; a float on the saltmarsh, an unapproved grassed area with firepit within 25 feet of a resource area (saltmarsh), and an unapproved boardwalk behind the seawall. Landowner Manuel Weiss stated he has removed the float from the saltmarsh and the firepit from the grassed area and has provided photographs to Ms. Rufo. He will replant the grassed area following instructions from the Commission. His builder will file a Notice of Intent “after the fact” to permit the boardwalk. Nancy Rufo restated the history of the site. Aerial photographs were shown. The driveway was originally gravel then paved as requested in a prior Order of Conditions. A regular condition states, “Any disturbed areas shall be revegetated” which the Weisses misinterpreted as meaning landscaped. Commissioners agreed the area should be revegetated with saltmarsh/salt tolerant vegetation similar to what exists on neighboring undisturbed properties. The area for replanting is roughly from the firepit to the rock wall (to remain in place). The grassy area between the firepit and driveway should be allowed to return to its previous condition naturally. Mr. Weiss stated he does not fertilize or irrigate the grassed area in question. Commission requested Mr. Weiss submit a non-professional planting plan to by February 13, 2024.

Abutters, Cleo and C.J. Husk (160 Marshall Street) commented on the Weiss project. C.J. Husk requested “That the record show other abutters targeted C.J. and Cleo and not Manny Weiss.”

Sam Butcher repeated the instructions to Mr. Weiss. He is to present a non-professional revegetation planting plan to the Commission for the area to be replanted in the spring, and an after-the-fact Notice of Intent must be filed with the Commission for seawall boardwalk. Both submittals must be received by February 13, 2024

Parkside Conservation Restriction Discussion: Attorney Robert Hopkins, Phillips & Angley Attorneys at Law, discussed his letter of December 19, 2023 to the Commission requesting their approval of two Conservation Restrictions (CR) on 9.5 acres and 12 acres of land associated with the Parkside Residential Development. The CR is required by the MA Natural Heritage and Endangered Species Program (NHESP) because the site contains Eastern Box Turtle habitat. NHESP will hold \$25,000 in escrow for future monitoring of these CRs. Discussion followed on the obligations the Commission is undertaking.

Sam Butcher made a motion, seconded by Mickey McGonagle, to agree to be the Grantee for the two Parkside Conservation Restrictions. Motion passed 5 to 0. A written memo of the vote to NHESP was requested.

Annual Town Meeting Article Update: Mickey McGonagle reported he, Nancy Rufo and Bob Hayes, Chair, Cemetery Trustees recently walked the entire Historic Green Harbor Trail (HGHT) and discussed its suitability for a future cemetery. The terrain is very hilly with deep kettle holes. Mr. Hayes understood the terrain during the site walk. However, at a following Community Preservation Committee meeting he stated his strong objection to protecting the HGHT. Mickey McGonagle suggested writing to the Cemetery Trustees and Cemetery Director with a copy to Town Manager, Rene Reed, requesting a site walk prior to Annual Town meeting on March 9, 2024.

Potential Enforcement – Bolas Road Pond: Nancy Rufo reported a resident called with a request to remove a tree that might fall on his dock. When Ms. Rufo researched the site, she discovered the dock was on Duxbury Conservation Land. Additionally, there were at least three other docks on the conservation land. Discussion followed, without a conclusion, on

how to remove all the docks. Ms. Rufo will request Town Counsel's advice on how to proceed.

December 18<sup>th</sup> Storm Follow-up: Trails on Duxbury Conservation land were cleared by Mountain Bikers following a recent storm. The Commission offered their thanks. Scott Zoltowski, reported the group worked several hours to clear large downed trees. He will supply Ms. Rufo with mountain bikers' names so they can be thanked individually.

Revised Wetland Regulations for Public Comment: The Commission postponed action on this item.

Revised 2024 schedule: Nancy Rufo reported the revised meeting dates for November 2024 are: 11/5/24 and 11/19/24.

**ADMINIISTRATIVE MATTERS:**

**Minutes for Approval:** Regular Session: December 12, 2023.

Sam Butcher made a motion, seconded by Holly Morris, to approve the Minutes of December 12, 2023. Motion passed unanimously 5 to 0.

**Certificates of Compliance:**

SE18-0936 Gilpin/Webby Engineering; 218 Elm Street; demo, grading, and construction. Nancy Rufo reported she visited the site and the project was never started and the orders have since lapsed. Ms. Rufo recommends a Certificate of Compliance.

Scott Zoltowski made a motion, seconded by Sam Butcher, to issue a Certificate of Compliance for SE18-0936. Motion passed unanimously 5 to 0.

SE18-1986 Haskoor; 755 Franklin Street; single family home (complete after partial). Nancy Rufo reported she visited the site and the project has been completed according to plan.

Scott Zoltowski made a motion, seconded by Sam Butcher, to issue a Certificate of Compliance for SE18-1986. Motion passed unanimously 5 to 0.

**Extension of Permit:**

SE18-1930 Lattore/Duxbury Construction; 373 King Caesar Road; single family home and pool (Issue date 1/20/2021; original expiration 1/20/24; request to extend to 1/20/27)

Sam Butcher made a motion, seconded by Holly Morris, to extend the Notice of Intent for SE18-1930 to 1/20/27. Motion passed unanimously 5 to 0.

**ADJOURN:**

At 9:10 p.m. Mickey McGonagle made a motion, seconded by Sam Butcher, to adjourn the meeting. Motion passed unanimously 5 to 0.

**The next Conservation Commission meeting is scheduled for Tuesday, January 23, 2024 at 7:00 p.m. in the Town Hall Mural Room.**