



Approved March 26, 2024

Town of Duxbury Conservation Commission

MINUTES OF MARCH 12, 2024

TOWN CLERK

2024 MAR 27 AM 11:32

DUXBURY, MASS.

The Duxbury Conservation Commission met in person in the Town Hall Mural Room on Tuesday, March 12, 2024 at 7:00 p.m.

Members Present: Vice Chair Scott Zoltowski, Samuel Butcher, Daniel (Mickey) McGonagle, Corey Wisneski, and Tom Gill III

Members Absent: Chair Robb D'Ambruoso and Holly Morris

Staff Present: Nancy Rufo, Conservation Administrator, and Allison Shane, Principal Assistant

Meeting was called to order by Vice Chair, Scott Zoltowski at 7:00 p.m.

PUBLIC HEARING: NOTICE ON INTENT; PITTSLEY/STENBACK & TAYLOR; 100 SUMMER STREET; DRIVEWAY RELOCATION.

SE18-2077

Mr. Zoltowski opened the Public Hearing by reading the legal notice into the record. Richard Servant of Stenbeck and Taylor presented the project for the owner Ryan Pittsley, which consists of removing and relocating a portion of existing paved driveway that services Mr. Pittsley. Currently Mr. Pittsley shares a driveway with 104 Summer Street. The subdivision was created in 1994 and an easement was established for the driveway. Mr. Servant explained the reason for the relocation is due to safety concerns for the children living at 104 Summer Street. An alternative option to Kingstown Way was considered, but the street is more heavily trafficked than Summer Street. The proposed 10ft wide pervious driveway would consist of seashells on top of a gravel base and would be located outside the 50ft BVW buffer. Most of the driveway would be constructed in an existing lawn area, but some small trees and brush would need to be cleared. Some minor grading would also need to occur.

Ms. Rufo agreed with the plan as presented and noted that the coverage in the buffer zone will decrease.

Joe Pollini of 104 Summer Street expressed his support for the plan because it mitigates traffic flow past his house. Ms. Rufo asked what will replace the torn-up pavement and Mr. Pollini stated he is going to plant grass.

Mr. Butcher made a motion to close the Public Hearing and write an Order of Conditions for SE18-2077. Mr. McGonagle seconded and the motion passed 5 to 0.

OPEN FORUM: None.

NEW BUSINESS:

3 Trout Farm Lane Violation Update: Re-planting Plan

Ms. Rufo explained the illegal clearing occurred between 3 Trout Farm Lane and Winter Street. Ms. Rufo spoke with Municipal Services who indicated the intent was to create a driveway to Winter Street. The current driveway is part of an easement with 2 Trout Farm Lane. There are no wetlands involved, rather this is a violation of Conservation Restriction (CR) #4. CR #4 established a 75ft buffer and no disturb area surrounding the outer parcels of Trout Farm. Ms. Rufo also spoke with Paul Morrison from Advanced Landscaping, who shared that Advanced Landscaping was on the property for two and half days to clear three

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cherry trees in the Fall of 2022. Additional clearing occurred between Advanced Landscaping's visits. During a trial period for NearMap software, Ms. Rufo was able to capture before and after images of the clearing. Ms. Rufo had requested a re-planting plan from the owner, Derek Lacks. Mr. Lacks used the Conversation Commission's Tree/Shrub Replacement Guidelines, which is fine as a starting point but the Guidelines are aimed at violations in or near Wetland Resource Areas, not CRs. This is the first CR violation the Ms. Rufo has seen. Mr. Lacks' re-planting plan consisted of three red maple trees. Ms. Rufo explained that more than three trees were removed and the goal of the re-planting plan is to restore the area back its pre-altered condition.

Brian Gibbons, Director of Horticulture at the Rose Kennedy Greenway Conservancy and current tenant of 3 Trout Farm, helped Mr. Lacks with the re-planting plan. He shared that the area is wet and they could include more trees and shrubs to create a canopy. He had a revised plan, but the Commission was unable to accept new information at the meeting. It was agreed that Mr. Lacks and Mr. Gibbons would submit their revised plan by the end of the week.

Leigh Smith of 69 Trout Farm Lane shared that Trout Farm is supposed to be hidden from the street. Ms. Smith observed two or three days of clear cutting without permission from the Trout Farm HOA or Conservation Commission. Pine trees were cleared and Ms. Smith would like the plan to include larger and denser trees to help restore the area.

Harvey Sakolsky of 62 Trout Farm Lane stated that there has never been any other construction along Winter Street.

Doug Carver of 52 Trout Farm shared that since the clearing occurred there have been noise issues from the traffic on Winter Street. Mr. Carver stated there was significant grubbing, scrubbing, and scraping of the area. He would also like a clear picture of the boundaries on the property. Mr. Carver submitted a letter past the deadline and requested it be shared with the Commissioners for the next meeting.

Mr. Lacks stated his property consists of 150ft of frontage on Winter Street and 35ft was cleared.

Mr. Gibbons asked where the authority lies in approving a plan and Mr. McGonagle stated it was the Commission's authority.

Mr. Zoltowski reiterated there was a violation of illegal clearing within the 75ft buffer. He requested a plan that includes timing of planting by the end of this week. It was agreed that the revised plan will be discussed at the next meeting on March 26.

ADMINISTRATIVE MATTERS:

160 Marshall St NOI Extension Request

Ms. Rufo summarized that the November 14, 2023 motion specified the ANRAD filing needs to be received by December 14, 2023 or fines would commence on December 15. However, the Commission requested the ANRAD be peer reviewed and the dates shifted. The ANRAD hearing closed on February 27, 2024 and the Commission imposed the deadline for a NOI filing for March 12, 2024. The motion did not mention that fines would commence.

Peter Vetere of Burns and Levinson, attorney for Jennifer Bylo (50% owner of 160 Marshall), shared that he has recently been retained because there are issues with the future use of the

property that the owners need to work out. Ms. Bylo would like to get the property in compliance. Mr. Vetere mentioned the property needs a new septic system, eight or more dead trees need to be removed, and there is unauthorized activity regarding chickens, pigs, and accessory structures. The owners have not come to an agreement yet.

Mr. Zoltowski stated that town counsel confirmed that an agreement between the multiple property owners is not required for a NOI to be filed by one of the owners, as long as they have a colorable ownership right.

CJ Husk of 160 and 162 Marshall Street explained that his wetlands specialist Tom Schutz has been out on vacation. Mr. Husk asked if multiple NOIs could be filed. The Commission reiterated that the NOI should include everything that needs to be remediated. Any future work can be included in the NOI or an additional NOI can be filed for future work before any work begins.

David Uitti, attorney for several property owners on Marshall Street, stated that the abutters requested an enforcement request in August 2023. There is an online website selling livestock. A violation gets reported and then gets slow played through delays. There is an active lawsuit against the Board of Health and Zoning Board of Appeals. The ANRAD was not accurate until it was peer reviewed.

Mr. Butcher made a motion to grant the extension request and require a responsive and complete NOI filing no later than March 26, 2024 with the expectation that it will be heard on April 9, 2024. If said NOI is not filed, a fine of \$300/day will commence on March 27, 2024. Mr. McGonagle seconded and the motion passed 5 to 0.

578 Lincoln Street; Plymouth Country Mosquito Control Project Letter

Mr. Zoltowski stated this is an FYI and no action is required.

Minutes for Approval: Regular Session minutes of February 27, 2024.

Mr. Butcher made a motion, seconded by Mr. McGonagle, to approve the Regular Session Minutes of February 27, 2024 as amended. The motion passed 5 to 0.

Request of Modification:

SE18-2070 88 Surplus Street; Garage

Ms. Rufo stated that the proposed adjustment is in response to an abutter concern. Property owner Brian Murphy agreed. Ms. Rufo requested a revised dated plan with coverage percentages.

Mr. Zoltowski noted that the entire footprint is moving and questioned the precedent the Commission would be setting.

Ms. Wisneski asked what is going in place of the old garage and Mr. Murphy replied that a parking space would be added. Ms. Wisneski asked if MassDEP has a list of minor modifications and Ms. Rufo stated it is largely up to the Commission's discretion.

The Commission agreed that the precedent is 1) reduction in coverage and 2) moving away from the buffer zone. The proposed modification meets that criteria.

Mr. Butcher made a motion to approve the relocation modification for SE18-2070 with the condition that a revised dated plan with coverage percentages be provided. Mr. McGonagle seconded and the motion passed 5 to 0.

SE18-2049 230 Marshall Street; Seawall

Freeman Boynton Jr. presented the modifications on behalf of James Currier. This project was approved in October of 2023. Mr. Boynton said it will make more sense to put concrete posts instead of wood to support the deck and fill in the deck's underneath with dirt. Additional modifications include eliminating the two-sided nature of the wall, adding steps, and connecting the wall to the two abutting properties. Plantings will be added.

Mr. Zoltowski asked if the wall was being widened and Mr. Boynton confirmed the modification is to narrow the wall width.

Mr. Butcher noted that the plan does not specify plantings and asked if that can be added as an amendment. Mr. Boynton agreed and stated no new lawn will be added.

Mr. Butcher made a motion to approve the modification to the seawall for SE18-2049 with the condition that bayberry bushes be planted where fill is presented. Mr. McGonagle seconded and the motion passed 5 to 0.

SE18-1972 433-447 Washington Street;

Deb Keller from Merrill Engineers and Land Surveyors presented the modifications on behalf of Jackson S. Kent, Jr. The project has existing orders and they proposed a new configuration to the garage. The proposed orientation allows the building to face the ocean better. Additional modifications include reducing the concrete apron from 40 SF to 20 SF and adding an additional garage bay (6 total) by reducing the size of each bay and increasing the building's square footage. The garage is staying at elevation 11 and the proposed plan still meets the impervious calculations of what was previously approved.

Ms. Rufo agreed with the plan as presented and noted that the changes will be a reduction in coverage from what is existing.

Mr. Butcher made a motion to approve SE18-1972 request for modification. Mr. McGonagle seconded and the motion passed 5 to 0.

Conservation Fund Expenditures:

\$750 for gravel to fill parking lots impacted by water:

Ms. Rufo explained there has been washout from the rain on Conservation roadways and parking lots. DPW is going to source the material. If Conservation pays for the material, DPW will spread it.

Ms. Wisneski made a motion to approve for \$750 for gravel to fill the roadways and parking lots impacted by water. Mr. McGonagle seconded and the motion passed 5 to 0.

ADJOURN: At 8:33 p.m. Mr. McGonagle made a motion, seconded by Ms. Wisneski, to adjourn the meeting. The motion passed unanimously 5 to 0.

The next Conservation Commission meeting is scheduled for Tuesday, March 26, 2024 at 7:00 p.m. in the Mural Room.