



Town of Duxbury Conservation Commission

MINUTES OF MARCH 26, 2024

Approved April 09, 2024

TOWN CLERK

2024 APR 10 AM 8:26

DUXBURY, MASS.

The Duxbury Conservation Commission held a hybrid meeting in the Town Hall Mural Room and on Zoom on Tuesday, March 26, 2024 at 7:00 p.m.

Members Present: Vice Chair Scott Zoltowski, Samuel Butcher, Daniel (Mickey) McGonagle, Corey Wisneski, and Holly Morris (via Zoom)

Members Absent: Chair Robb D'Ambruoso and Tom Gill III

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

The meeting was called to order by Mr. Zoltowski at 7:00pm and he read the following Preamble: Pursuant to Chapter 2 of the Acts of 2023, this meeting will be conducted in person and, as a courtesy, via remote means in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public and board members, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless required by law. For this meeting, members of the public who wish to attend remotely may do so by following the Zoom meeting link in the agenda.

Roll Call Confirmation of Members Present: Mr. Butcher: here; Mr. McGonagle: here; Ms. Wisneski: here; Mr. Zoltowski: here; Ms. Morris: here

PUBLIC HEARING: NOTICE ON INTENT; BOLZE/DUXBURY CONSTRUCTION; 246 MARSHALL STREET; SEAWALL, RAMP, AND RETAINING WALL SE18-2078

Mr. Zoltowski opened the Public Hearing by reading the legal notice into the record. Freeman Boynton Jr. of Duxbury Construction presented the project for homeowners Steve and Alicia Bolze. The proposed project ties into the existing seawall at 230 Marshall Street. There is a coastal dune out front that has been replanted with grass. Mr. Boynton proposed a typical slope stone revetment and a ramp to provide access to the beach for nourishment and vegetation.

Ms. Rufo stated she visited the property and agrees as presented.

Mr. Butcher asked if the proposed seawall cross section A-A prime will extend onto the dune. Mr. Boynton replied that there will be no encroachment. Mr. Butcher asked if cross section B-B will extend into the marsh. Mr. Boynton replied no, there is 47 feet to the salt marsh and the mean high-water line is a ways out.

Ms. Morris asked where access for construction will be. Mr. Boynton explained the seawall will be constructed from the landward side and nourishment and vegetation will be accessed through the ramp.

Jim Merlin of 241 Marshall inquired if cross section C-C is upland. Ms. Rufo provided photos from her site inspection to aid in the discussion. Mr. Boynton explained the two to three feet tall granite block retaining wall will provide a buffer between the two properties. Mr. Merlin asked if the existing brush and overgrowth will be cleared. Ms. Rufo pulled up an image of the coastal dune and brush and Mr. Boynton stated some trees have already been taken down and some of the existing brush will be cleared to construct the retaining wall.

Mr. Butcher made a motion to close the Public Hearing and write an Order of Conditions for SE18-2078. Mr. McGonagle seconded and the motion passed 5 to 0 on a roll call vote: Mr. Butcher: aye; Mr. McGonagle: aye; Ms. Wisneski: aye; Mr. Zoltowski: aye; Ms. Morris: aye.

PUBLIC MEETING: REQUEST FOR DETERMINATION OF APPLICABILITY; QUINN; 502 WEST STREET; SHED

Mr. Zoltowski opened the Public Meeting by reading the legal notice into the record. Property owner Tim Quinn presented his proposed project, which entails a 24 feet by 20 feet three-sided lean to shed for storing equipment.

Ms. Rufo stated she went to the property, met with the owner and saw the location. The shed is outside the 50 foot buffer and the regulations allow sheds up to 192 square feet. The proposed shed is larger, which is the reason for the filing. Ms. Rufo recommends a negative determination.

Ms. Wisneski asked if gasoline will be stored in the shed and Mr. Quinn replied no, he has another structure for that.

Mr. Butcher made a motion to issue a negative determination. Mr. McGonagle seconded and the motion passed 5 to 0 on a roll call vote: Mr. Butcher: aye; Mr. McGonagle: aye; Ms. Wisneski: aye; Mr. Zoltowski: aye; Ms. Morris: aye.

PUBLIC MEETING: REQUEST FOR DETERMINATION OF APPLICABILITY; WALSH/ENVIRONMENTAL CONSULTING & RESTORATION; 50 RAILROAD AVE; STREAM STATUS

Mr. Zoltowski opened the Public Meeting by reading the legal notice into the record. Brad Holmes of Environmental Consulting and Restoration presented the plan for applicant Matthew Walsh. During the Public Hearing on February 27, 2024 for SE18-2059, it was decided that the applicant would file a Request for Determination of Applicability on the disputed stream status. Mr. Holmes stated he is asking for a determination on whether the area is subject to the Wetlands Protection Act as an intermittent or perennial stream and he asking for confirmation that the area is not a riverfront area.

Mr. Holmes showed a contour profile of the stream (Intermittent Stream Bottom Centerline Profile) and described the elevation from IB1 to IB19. Mr. Holmes described the stream as relatively flat and stagnant. The change in topography occurs closer to Alden Street. Mr. Holmes's previous findings have documented the stream dry.

John Zimmer of South River Environmental reiterated the Commission's previous intermittent determinations for the abutters' projects. Mr. Zimmer described several models he ran using StreamStats and each one came back intermittent because of the lack of flow. Each test he ran did not meet the performance standard for a perennial stream.

Ms. Rufo stated her concern is at flag IB1 where a human-made diversion created cranberry bog channels and impacted the stream's flow. Further, she voiced concern that the diverted water backs up at the cranberry bog culvert so that water never re-enters the stream further south. This could result in the stream appearing intermittent since that water is lost from the stream channel. Ms. Rufo provided photos from her site inspection and Commissioner site visit on March 25, 2024 to aid in the discussion. Mr. Holmes stated the site is a historic cranberry bog and human-made canals such as the Cape Cod Canal and mosquito ditches do not have riverfront areas. Ms. Wisneski pointed out that the diversion is not shown on the plan.

Mr. Walsh stated that 114 Alden Street was the last project that has been adjudicated and the Commission deemed it intermittent. Ms. Morris noted that there has been significant development since the stream was deemed intermittent. Discussion followed on the impact of impervious coverage. Bob Crowell from Crowell Engineering described the proposed project stormwater runoff plan and the drainage for Millbrook and Cooper Hill subdivision. Mr. Crowell mention the Town's peer reviewer Pat Brennan's previous determinations. Ms. Rufo stated she spoke with Mr. Brennan, who is not a wetlands scientist. Mr. Brennan confirmed via email to Ms. Rufo that he did a paperwork search to determine the intermittent status for 50 Railroad Ave and relied solely on the Order of Resource Area Delineation issued under DEP file number SE18-1786 (136 and 138 Alden Street) which expired on April 24, 2022. He did not rely on any other information or investigation to classify the stream as intermittent.

Mr. Zoltowski reiterated there is a diversion on the site and that the plan does not show all the streams. The Massachusetts Wetlands Protection Act is clear that streams affected by diversions shall be deemed perennial [310CMR10.58(2)(a)1f]. Mr. Crowell offered to redo the survey to include the diversion.

Ms. Rufo stated she was not here for the three past projects and they are different sites than the proposed site.

Mr. Butcher made a motion to make a positive determination that a NOI is required for the resource area as it is a perennial stream. Mr. McGonagle seconded and the motion passed 5 to 0 on a roll call vote: Mr. Butcher: aye; Mr. McGonagle: aye; Ms. Wisneski: aye; Mr. Zoltowski: aye; Ms. Morris: aye.

OPEN FORUM: Mr. Zoltowski rode through the E Street bogs and spoke with the individual growing flowers in a hoop house. Ms. Rufo and Ms. Morris remember going on a site visit two years ago. Mr. Zoltowski requested the flower growers come talk to the Commission and provide an update.

NEW BUSINESS:

Geocaching on Conservation Land

The Commission was pleased that Liv Colombo asked for permission to place a geocache at the Cushing Ice House Conservation area. The Commission granted Ms. Colombo permission but noted that the Cushing Ice House area is in a precarious location with traffic on Tremont Street. They asked that Ms. Colombo include a note about traffic in the geocache notice.

Aboveground pools count as coverage?

Ms. Rufo and Ms. Shane have received inquiries about above ground pools in the buffer zone and their inclusion in impervious coverage calculations. The Commission asked Ms. Shane to research neighboring town's regulations. The Commission also suggested asking the ZBA if they have an opinion on whether above ground pools are temporary and count as coverage. It was noted that Massachusetts Regulations include hot tubs. Ms. Shane will conduct research and report back to the Commission.

ADMINISTRATIVE MATTERS:

3 Trout Farm Lane Violation Update: Re-planting Plan

Ms. Rufo explained 3 Trout Farm Lane violated Conservation Restriction #4 and the initial plan presented on March 12, 2024 was inadequate as it only proposed three trees in total. Property owner Derek Lacks has an expert helping him and the revised plan submitted on March 18, 2024 is markedly improved.

Brian Gibbons, Director of Horticulture at the Rose F. Kennedy Greenway Conservancy and current tenant of 3 Trout Farm Lane, explained he is trying to remedy the loss of vegetation in the area. At the March 12, 2024 meeting Mr. Gibbons was asked to enhance the existing plan and increase the vegetation. The revised plan includes four trees and 12 shrubs that are all native. The proposed plants will mature into a buffer.

Mr. Zoltowski asked if the proposed vegetation matches the areas on either side of the violation. Mr. Gibbons stated the plants are indigenous and there are no red maples. The red maples could be swapped with oaks. Mr. Zoltowski noted that there are no pine or pine-like trees on the plan and Mr. Gibbons explained that the area is succeeding into a hardwood community. The existing pines are 60 to 75 years old and the existing oaks are 20 to 45 years old. Pines are sun loving trees and the shade in the area would reduce the quality of the tree. Mr. Zoltowski asked how long revegetation would take and Mr. Gibbons replied three years if the native grasses aren't cut.

Mr. Butcher asked about the proposed trees' caliper and Mr. Gibbons punted the question back to the Commission. He replied the Conversation Commission's Tree/Shrub Replacement Guidelines state a one-inch caliper for trees under 12 inches. Given this is an unprecedented event, Mr. Gibbons asked the Commission to determine the caliper required.

Ms. Wisneski asked how quickly growth occurs and Mr. Gibbons replied the red maples could grow 18 inches to two feet if the area is wet. Mr. Butcher asked Mr. Gibbons what he proposed for size and Mr. Gibbons replied that smaller trees get established quickly. Ms. Morris asked if there is a water supply in the area and Mr. Gibbons replied that there is no sprinkler system. Ms. Morris stated maintenance and follow up will be required to make sure everything took root.

Ms. Wisneski asked about bayberry or ink berry trees and Mr. Gibbons advised on staying to two to three species.

Kate Rafoth of 2 Trout Farm Lane spoke as the Trout Farm Home Owner's Association (HOA) President. Ms. Rafoth assured the Commission that the HOA is in full agreement with whatever they decide and that the HOA will be fully supportive of the restoration effort. She also voiced concern that, as a direct abutter to 3 Trout Farm Lane, pine trees are dropping frequently. If there is a solution where other tree and plant varieties can be successful, the Trout Farm HOA may come before the Commission at a future date with a proposal to build up the 75-foot buffer with additional plantings.

Doug Carver of 52 Trout Farm Lane voiced concern that this sounds like a very long, slow process and remembers prior to the cutting that you could not tell there was a house located at 3 Trout Farm Lane due to the thick buffer. Ms. Rufo reiterated the ultimate goal of revegetating and recreating a disturbed buffer zone protected by a Conservation Restriction. Mr. Butcher cautioned that for the first several years, the area will not look like it did pre-cutting. This is a process that requires some level of patience to allow the area to revegetate. Mr. Carver noted that red maples are highly seasonal. They will look great in the summer, but suggested evergreen varieties may help with the visual blocking particularly in the fall and winter months. He is hoping for denser coverage.

Mr. Carver also questioned the boundary lines and whether any clearing was done within Trout Farm's common land. Ms. Rufo displayed an overlay image and clarified that the

violation occurred only on Mr. Lack's property. Mr. Carver asked that the Commission require the removal of existing roots and soil preparation before planting. Mr. Zoltowski stated that the Commission will require trees and shrubs be professionally planted.

It was agreed that Mr. Gibbons will plant in April and report to the office when the plantings occurred. The shrubs will be two-gallon plants and the trees will be one-inch caliper trees. Any die off will be replaced. There will be a three-year monitoring and reporting requirement and Mr. Gibbons or Mr. Lacks will provide an update each year on the anniversary of the planting date. Ms. Rufo will conduct a site visit each year and report back to the Commission.

160 Marshall Street NOI Due

Ms. Rufo confirmed she received a complete NOI in good order. She expects the Public Hearing to be scheduled for the April 9th Conservation Commission meeting with time to be determined once confirmed by the applicant.

Cranberry Revenues

Ms. Rufo shared that she has is working with the Cranberry farmers to gather the requested data. She hopes to have information to report to the Commission at the April 9th meeting.

Minutes for Approval:

Executive Session Minutes of March 12, 2024: Ms. Wisneski made a motion, seconded by Mr. McGonagle, to approve the Executive Session Minutes of March 12, 2024 but not publicly release them. The motion passed 5 to 0 on a roll call vote: Mr. Butcher: aye; Mr. McGonagle: aye; Ms. Wisneski: aye; Mr. Zoltowski: aye; Ms. Morris: aye.

Regular Session minutes of March 12, 2024: Ms. Wisneski made a motion, seconded by Mr. McGonagle, to approve the Regular Session Minutes of March 12, 2024 as amended. The motion passed 5 to 0 on a roll call vote: Mr. Butcher: aye; Mr. McGonagle: aye; Ms. Wisneski: aye; Mr. Zoltowski: aye; Ms. Morris: aye.

Extension of Permit:

SE18-1957 742 Keene Street (Camp Wing): Aquatic Management

Ms. Rufo recommended issuing a permit extension for SE18-1957 which relates to on-going aquatic management of the pond at Camp Wing. Mr. Butcher made a motion to issue an extension for SE18-1957 from May 6, 2024 to May 6, 2027. Mr. McGonagle seconded and the motion passed 5 to 0 on a roll call vote: Mr. Butcher: aye; Mr. McGonagle: aye; Ms. Wisneski: aye; Mr. Zoltowski: aye; Ms. Morris: aye.

ADJOURN: At 8:53pm Mr. McGonagle made a motion, seconded by Mr. Butcher, to adjourn the meeting. The motion passed 5 to 0 on a roll call vote: Mr. Butcher: aye; Mr. McGonagle: aye; Ms. Wisneski: aye; Mr. Zoltowski: aye; Ms. Morris: aye.

The next Conservation Commission meeting is scheduled for Tuesday, April 9, 2024 at 7:00 p.m. in the Mural Room.

