



CONSERVATION COMMISSION MEETING MINUTES– February 24, 2020

Present: Laurie Freeman - Chair, Jacqueline Zane-Vice Chair, Bob Hidell, Bob Mosher, John Mooney and Crystal Kelly - Commissioners, Loni Fournier- Conservation Officer and Heather Charles-Lis-Assistant Conservation Officer

Absent: Thomas Roby

The meeting was called to order at 7:04 PM.

Approval of Minutes

Motion: Commissioner Kelly moved to adopt the draft minutes, as amended, of January 27, 2020 and February 10, 2020.

Second: Commissioner Hidell **In Favor:** All **Opposed:** None

Certificates of Compliance

15 Howard Road - DEP 034-1300, continued from 2/10/2020

Applicant: John Vermeulen

Representative: Jed Hannon, Atlantic Coast Engineering

Excerpts from the staff memo: No discussion took place. The representative submitted the attached letter and staff responded via email (also attached). The representative has indicated to staff that they would prefer a vote from the Commission, based on the submitted materials, in order to close out the Request for COC. Further discussion regarding an Amended OOC would be worthwhile, if the Commission feels that it is a productive path forward.

Meeting Documents & Exhibits: Wetlands Filing Summary Memo, Homeowners Supplemental Statement to the Variance Request for Dock dated 2/23/2020 (received via email in the office 2/24/2020 and distributed to the Commissioners via email ahead of the meeting)

Neither the representative nor applicant were present at the meeting. The Commission postponed discussion on 15 Howard Road to later in the meeting.

After the 2 Beach Lane vote, the Commission discussed 15 Howard Road. The C.O. noted that the Homeowners Supplemental Statement to the Variance Request for Dock, had been received in the office that day from the applicant and that she'd forwarded it on to the Commissioners. Commissioner Mooney made a motion to deny the Request for Certificate of Compliance. Commissioner Mosher seconded it. Commissioner Mooney noted that, as permitted by the state and the Wetlands Protection Act, the town has imposed more stringent regulations, limiting a float to 10' by 20', and this applicant is not in compliance with those regulations. He added that, through all the conversation on this matter, the Commission's use of its discretionary authority has been neither arbitrary nor capricious, nor abusive, nor legally untenable. Brief discussion followed with the Commission noting that if the applicant had only the 10' by 20' ft float, it would have been in compliance, and, with revised As-Built plans, a Certificate of Compliance could have been issued. The Commission briefly discussed various aspects of the submitted letter and, with all in agreement, confirmed that they would deny the request.

Motion: Commissioner Mooney moved to deny the Request for Certificate of Compliance for 15 Howard Road, MA DEP 034-1300.

Second: Commissioner Mosher **In Favor:** All **Opposed:** None

Commissioner Freeman read the Public Hearing Notice of Intent.

1 Old Derby Street- DEP 034-1354, continued from 1/27/20

Applicant: Tom Ward, Bloom General Contractors

Representative: Don Rose, CHA Consulting, Inc.

Proposed: Construction of car dealership

Excerpts from the staff memo: Staff reviewed the original application materials and provided detailed comments to the representative. Staff anticipates a response to those comments, including revised plans, and a request to continue to 3/9/20.

Meeting Documents & Exhibits: Wetlands Filing Summary Memo

The applicant contacted the office after the agenda posted, requesting to continue to March 9, 2020.

2 Beach Lane – DEP 034-1359, continued from 2/10/2020

Applicant: Theodore Sharp

Proposed: Demolition and reconstruction of single family home

Excerpts from the staff memo: Following a discussion at the last meeting, this hearing was continued to allow additional time for the applicant to respond to staff and Commission comments. Since then, the applicant has submitted a revised project description and a more detailed summary table of the proposed changes in structures and impervious area on the site (see attached). No substantive plan changes were made. There are still a number of remaining comments to be addressed.

Staff memo dated 2/10/20 excerpts

Staff made a site visit on 2/3/20. The wetland resource areas were not delineated in the field, however resource areas, including coastal bank, coastal beach, and salt marsh, were previously approved under an Order of Conditions (DEP 034-1330) issued in March 2019. Staff included some pertinent information regarding that approved project at the end of this memo. No work was done under the Order, which has since been closed out, so the majority of the lot remains as it was previously.

The lot is mostly level and set lower than the surrounding properties. A low stone wall runs along the western side of the property, and a stone and vegetated revetment runs along the northern side of the lot, with the wetland resource areas beyond. The lot previously contained a number of scattered trees and mature shrubs, which were recently removed without Conservation permission. Staff observed that within the 100ft buffer zone, at least four trees and several shrubs were removed. Two trees appear to be within the 50ft buffer zone. A silt fence has already been installed around most of the lot, however it would need to be repaired and fully trenched prior to any work proceeding.

Staff relayed a number of comments and questions to the applicant:

- *Erosion controls need to be added to the plan, along with a detail.*
- *It would be helpful to have a breakdown of the size of the existing vs proposed house, deck and porch, as well driveway and walkways.*
- *There is a significant amount of new structure being proposed particularly within the 50ft buffer zone, which is a no disturb zone. The Commission seeks to avoid and then minimize structures and activities in this buffer zone in accordance with their bylaw and regulations. In cases where the Commission allows some activity in this buffer, they seek mitigation, typically at a 2:1 ratio of native plantings or restored areas. Have you considered a smaller size or different orientation for structures? And have you considered mitigation for the additional encroachment into the buffer zone? It appears that it would be difficult to even achieve a mitigation area of the typical size in the current proposal.*
- *The regulations also prohibit expansions of existing structures in VE zones, though I think having as much of the structures on piers and sonotubes as possible as you've proposed will be a real positive and the Commission will factor this in.*
- *How are you managing rooftop runoff, particularly given the increase in impervious area?*
- *Similarly, how are you managing runoff from the outdoor shower?*
- *Please provide a detail or any information you may have on the driveway pavers, subbase, etc. if available.*
- *What is the purpose of the trench drain proposed along a portion of the driveway and porch and what runoff is being directed there?*
- *Are you proposing a culvert under the driveway (as I know this came up previously as a possibility)?*
- *The garage flood vents need to also be shown on the site plan and architectural plans.*
- *Are you proposing any work on the revetment at the rear?*
- *Are you replacing or changing the block wall on the west side of the property? If so, please explain and provide materials/dimension/height for any proposed wall.*

- *Do you have a planting plan or list? How will the area be landscaped or otherwise vegetated? You should also be aware the Commission has a Tree Removal and Replacement Policy, which will apply if any trees equal to or greater than 6" diameter at breast height (dbh) are being removed (or have been removed recently). I attached the policy for your information.*

Staff subsequently met with the applicant to discuss these comments in more detail. As of 2/6/20, no formal response or revised plan has been received, however the applicant indicated they would be adding erosion controls, providing size calculations, directing rooftop runoff to stone under the house, infiltrating outdoor shower runoff, and addressing some of the other comments and questions.

Meeting Documents & Exhibits: Staff memo dated February 10, 2020, Applicant revised narrative submitted 2/21/2020, site plan "Proposed Site Plan" dated 2-20-2020, "Existing Site Plan" dated 2-20-2020, and Foundation Plan set numbered S.1.1, S2.1-S2.3 dated 1/24/2020.

Admin note: a project at this address was approved by the Commission in March 2019 for Thompson Builders and subsequently closed out with no work having been done. That project is hereinafter referred to as the Thompson proposal.

Theo Sharp was present and briefly stated that his surveyor continues to have plotting problems and therefore the plans are off. He briefly summarized the project to demolish the existing house and rebuild a much bigger house. He stated that it would extend more into the 50 ft buffer zone, but by doing so, it limits the exposure of the house to storms, leaving a much larger side yard open for native plantings that he could work out with conservation staff. They tried to mitigate by putting the house all on piers, unlike the Thompson proposal which had subsurface collection chambers on every corner and a fully enclosed fixed foundation. He's committed to using pervious pavers for the driveway and walkways. There would be a covered porch for the front door; none of the deck is covered. He described the differences in impervious coverage from his proposal to the Thompson proposal. He explained that he has no planting plan but they will move to that level of detail when a house is approved, and the entire side yard, up and back, can be used to mitigate with native plantings. If the Commission approves this site plan and foundation plan, they'd be happy to come back with the structural plans, and work with the Commission in later meetings and the mitigation could be finalized.

Brief discussion followed regarding the chart provided by T. Sharp, clarifying the comparisons of impervious increase between the proposed project, the Thompson proposal, as well as the existing house. Commissioner Freeman summarized that there is overall less impervious with this project as compared to the Thompson proposal, however, there is more impervious proposed in the 50 ft buffer. T. Sharp stated that they are not proposing to disturb any area that isn't already disturbed.

Commissioner Freeman expressed concern regarding the regulation prohibiting expansion of existing buildings in the flood zone. The Asst. C.O. explained that regulations with regard to flood plain and new structures are partially covered under buffer zone specific regulations, but there are also additional 'protection of flood hazard zone' regulations as well. Historically there has been some allowance for some expansion, but only if it allowed free passage of flood waters. *(The C.O. arrived)*

The Asst. C.O. stated that it needs to be determined how much area is available for mitigation, and how many plantings would fit. Erosion controls and proposed flood vents need to be added to the plan. She added that details on how the shower runoff will be dealt with, a possible culvert under the driveway, and any work on the revetment still need to be worked out. She added that broadly, she sees a lot of positives to the plan; the piers are a significant improvement and the use of permeable pavers is positive, however, she feels a negative is the increase in impervious within the 50 ft buffer. The Asst. C.O. further clarified the square footage comparisons in the table and suggested that if built as proposed there might not be room for 2:1 mitigation in the 50 ft buffer where it has the maximum benefit. The Asst. C.O. noted the architectural plans show a hot tub in the deck and suggested that should be on the site plan and be included as impervious area since there's no connection to groundwater.

The Commission and applicant discussed the comparisons to the Thompson proposal. Commissioner Freeman asked T. Sharp if there were any possibilities of reorienting the house or reducing it in size. T. Sharp stated that in terms of mitigation, if it went to 2:1, that they could reduce the deck size and allow for plantings in front of the deck, which would increase the square footage offset, as well as the entire offset on the side.

Responding to questions from the Commission, T. Sharp stated that the spacing on the deck would be 1/8 of an inch and offered that he could make that bigger; the Commission agreed that would be better. Asked about the size of

the eaves, T. Sharp explained that they have the foundation plans but they do not have the framing or design plans for the house. Before proceeding with that they had wanted to see what foundation would be approved. Therefore, they also haven't settled on whether they would use gutters or a drip edge. T. Sharp stated the surface under the house would be 6" of large stone and, upon a suggestion from Commissioner Hidell, expressed his willingness to make that deeper and with larger stone in order to accommodate inundation with water, be heavy enough to resist movement and act to decelerate water flow.

There was brief discussion regarding the garage with T. Sharp explaining that the garage slab will be at 9 ft elevation. Discussion followed about the revetment, its loose composition and how water moves around it. Audience member and abutter, David Page, 12 Beach Lane, stated that sea water comes over the revetment but also comes up the driveway from the street side and goes to the back of the revetment. Commissioner Hidell summarized that the revetment is really to just break the waves up, not to prevent water.

Discussion followed regarding the footprint and location of the proposed house with the Commission asking if it could be repositioned to be more out of the 50 ft buffer. T. Sharp stated that it could potentially move to the right but had thought to keep that side open to allow for the water to flow. He added that, as far as bringing it back a little bit adjacent to the driveway, it is already a non-conforming lot and they've come back as far as they could.

Commissioner Freeman, noting that T. Sharp talked of having wider area for the water to flood in and out, asked the Asst. C.O. about her interest in narrowing that area and getting the house more out of the 50 ft buffer. The Asst. C.O. stated she felt it would be more in keeping with the intent of the regulations, and that the buffer zone regulation relative to the 50 ft, although referring not so much to floodwaters, emphasize the value of a vegetated buffer to the health of the resource area. She added that, although not an engineer, with the house on piers, she thinks the floodwaters will move in a similar fashion no matter how the house is configured. She added that the Thompson proposal was approved for 576 sq ft foundation and this house is 1211 sq ft. T. Sharp described the existing lot as having been disturbed for years and years with a 3 ft high revetment between the lot and the resource area.

Commissioner Hidell gave his opinion that the proposal is keeping the neighborhood peace, the site is a mess, and he has no problem with the incursion if it's up on piers. Lengthy discussion followed about the flood hazard zone regulations and language. The Commission discussed the buffer zones, prior projects, structures, regulation language, and the intent of the regulations regarding flood zones. The C.O. stated there had been approval of other projects where building was above the flood plain and the Commission had viewed the flood plain 3 dimensionally. Commissioner Mosher stated that the proposal seems like it is better than what's existing but, without knowing about the roof drains, eaves, gutters, the Commission cannot approve until the structural plans are done.

Further discussion about the distinctions between construction and reconstruction followed. The Commission stated that they were definitely interested in mitigation and Commissioner Freeman asked T. Sharp about the trees that were removed; 4 trees within the 100 ft buffer. He stated that his demolition crew went overboard and that one of the trees was dead. Brief discussion followed about plantings with Commissioner Hidell suggesting that soil stabilization plantings versus trees would be best. The C.O. pointed out that there could be certain types of trees that might survive in the front of the house, with the house acting as a buffer. The C.O. reviewed mitigation required by the Commission in the past, for work in the 50 ft buffer and coastal flood zone (versus inland areas), and suggested that, in this case, they would be looking for mitigation for encroachment in the 50 ft buffer and no mitigation for flood zone effects.

Further discussion followed regarding the intent, interpretation and language of the flood zone regulations. Commissioner Freeman noted that the Commission had approved the Thompson proposal, which was also an expansion, however, that proposal went from 504 sf to 566 sf within the 50 ft buffer, so it could be argued that it was de minimis, whereas in this proposal it's doubling. She would be more comfortable with a more modest proposal.

Commissioner Mosher summarized that it all comes back to the Commission not being able to make a decision until they know more details regarding the structure and runoff.

Commissioner Freeman invited any comments from the public.

Stacy and David Page, 12 Beach Lane, were present and requested that there be no drainage cisterns. D. Page, referring to T. Sharp's description of the property as a bathtub, expressed his concern that the topography might be changed and have a negative effect on the neighborhood. Asked by the Commission if he was changing the elevation or adding fill, T. Sharp stated that there would be no change in elevation.

Motion: Commissioner Zane moved to continue the hearing for 2 Beach Lane, MA DEP 034-1359 to March 23, 2020.

Second: Commissioner Kelly **In Favor:** All **Opposed:** None

12 Boulder Glen Road – DEP 034-XXXX

Applicant: Tracy Shriver

Representative: Joan Deely, Land Stewardship, Inc.

Proposed: Phragmites removal

Excerpts from the staff memo: Staff has reviewed the application materials, made a site visit, and provided detailed comments to the representative. There are a number of required items still pending for this application to be complete. Staff anticipates a request to continue to 3/9/20 or 3/23/20.

Meeting Documents & Exhibits: Wetlands Filing Summary Memo

The applicant contacted the office after the agenda posted, requesting to continue to March 9, 2020.

Other Business

- a. Approval of agricultural license agreements, 2020-2023 renewal

Commissioner Freeman signed the agricultural license agreements.

Commissioner Freeman adjourned the meeting at 8:23pm.

Submitted, _____

Sylvia Schuler, Administrative Secretary

Approved on March 9, 2020

Meetings are recorded. To obtain a copy of the recording, please contact the Conservation Office.