

**BROCKTON CONSERVATION COMMISSION**  
**Thursday, August 16, 2018 – 7:00 PM**  
**Basement Level – City Hall**  
**Minutes**

Members present: David Zaff, Ray Henningson and Mark Speizer. Also present: Megan Shave, Caitlin Nover and Pamela Gurley.

The secretary said that they had received a request for testing in Washburn Meadow due to an oil spill on some abutting property. A copy of the request and the agreement were in their packets.) She said that the law department has put together an Access Agreement for the testing and collection of environmental samples (Anthony F. Andronico, LSP); although the agreement is signed by the law department and the Mayor they (law) felt that the commission should take a vote as the property is conservation land.

Action: Allow for testing within Washburn Meadow and for Mayor to execute the agreement.

Motion: Speizer

Second: Henningson

In favor: 3

Opposed: 0

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1. Request for Determination - 34 Rock Meadow Drive

Applicant: Larry Spiegel

Discussion: Megan Shave said she conducted a site visit and located and identified four trees. She said she agrees that the property owner should take down the two dead trees, but the two cherry trees should only be trimmed, there is no need for them to come down.

Action: Negative 3 determination for the tree removal (two dead trees only) and a positive 2b.

Motion: Henningson

Second: Speizer

In favor: 3

Opposed: 0

2. Danielson Gomes – 1288 Pleasant St. (lot 3A)

Request for release of Enforcement Order

David Zaff asked if the silt sock was reestablished, consultant money had been paid, and if NAA had looked at the close out documents. Megan Shave said she was out at the site and they had reestablished the siltation. The secretary said that the outstanding balance had been paid off. Caitlin Nover said that the cleanup was closed as per DEP, but there is still a background level of contamination. David Zaff said there will always be small levels of contamination and asked if there were any re-use restrictions and was told no.

Mark Speizer said that at the last meeting the commission discussed recording the clean up information at the registry of deeds so that future homeowners would be aware. It was agreed that the letter from the LSP regarding the closing site should be recorded.

Action: Motion to lift the enforcement order.

Motion: Henningson

Second: Speizer

In favor: 3

Opposed: 0

### 3. Plan Amendment - 1288 Pleasant St. (lot 3A)

Applicant: Danielson Gomes/Lino Depina

Representative: Ed Jacobs, Jacobs Driscoll

Applicant's statement: Ed Jacobs said that the plan has been revised and the in ground pool was removed. He said the proposed addition is as previously proposed, but that the owner is looking to clear the trees back 220+/- to allow them to have a bigger backyard. They are outside the BVW and at the 25' line; he said that the plan shows the wetland markers.

Discussion: Meghan Shave suggested that the commission vote to keep the limit of work where it is on the accepted plan, she said that taking the pool off the plan offers them additional backyard. She said if the commission were to agree to the additional tree cutting and clearing she would like to make sure the amended order contains the following additional special conditions: Another pre construction meeting to approve the installation of the new silt sock (for the additional tree work and clearing); she said they have already cleared/cut down trees beyond the original limit of work and to avoid that from happening again would like to make sure all the trees to be cut are marked.

Caitlin Nover said that the erosion control detail is incorrect and asked for it to be corrected on the plan; she said this proposal calls for 10,000 sf of additional buffer zone impact. She said that the buffer zone in this area is protecting wildlife habitat.

Ray Henningson said he wants to make sure that there are proper erosion controls and trees are marked.

Decesion: Motion to amend with stipulations for another preconstruction meeting, all trees to be taken down are to be marked; and the letter from the LSP regarding the closing site is to be recorded with the Registry of Deeds.

Motion: Speizer

Second: Henningson

In favor: 3

Opposed: 0

4. Notice of Intent – Plot 2 Belgravia Avenue – **Continued to September 13, 2018**

Applicant: Buskull Properties

Representative: Curley & Hansen

5. Request for Determination - 533 & 553 North Cary St.

Applicant: Scott Burgess

Representative: Scott Faria, JK Holmgren

Applicant's statement: Scott Faria said they are requesting a negative 3 determination from the commission (that there are no areas that fall under the wetland protection act). He said there are a couple of low areas but they do not qualify as protectable wetlands. He said this is their first step in looking to develop the property; he said they will need ZBA and planning board approval.

Discussion: David Zaff asked if there were any wetlands off site; Scott Faria said there is nothing.

Meghan Shave said she reviewed the existing aerial imagery, MassGIS/Oliver and conducted a site visit on 8/8/18. She said that there is evidence that they contain transitional species wetland; she said that the cellar does hold water, but there is no evidence of standing water, a defined channel or bank. She said the cellar area is not large enough to hold a ¼ acre foot and is not protectable. She said the other area is larger; she said she calculated the area and it is still not large enough to hold a ¼ acre foot – not ILSF. She said that neither area is jurisdictional...there are no bodies of water, no flowing water, no channel.

Caitlin Nover said she also looked at the area; she looked at the soils and agreed that the area is not jurisdictional.

David Zaff said that the commission must go by the Mass DEP Rules and Regulations David, he said further development of the site will be handled by the planning board or zba. Ray Henningson said that the commission's job is to determine if this site falls under the jurisdiction of the wetlands protection act. He said the actual project, traffic issues, etc. are not under the jurisdiction of this board.

Ward Councilor Jack Lally said he is here to represent his constituents; he said that the area is very wet and seems to hold a lot of water.

Representative Michelle Dubois said that she found a web site that states there are 10 issues that should be considered when determining what a wetland is and what is protectable. She said this property is definitely a wetland and she does not agree that it is not protectable. She said that it is possible that the experts looked at the wrong time of year. She said if the commission decides that the property is not protectable that she will get 10 citizens group and file an appeal.

David Zaff said that from what he has heard both the consultant hired by JK Holmgren and our consultant and agent agree that the area is not protectable.

Scott Faria said there are no listed protectable species in that area. He said that the project will need to go before the planning board who will have the stormwater management design reviewed.

Caitlin Nover said there is no doubt that area floods but said that is a separate issue from whether it is jurisdictional under the act; she said that any potential project would have a stormwater management design and that may be an improvement to the area.

Megan Shave said that there was no imagery showing standing water; she said she made a conservative measurement of how much water might be there.

Comments: Patricia Spenser said that in the spring there is a continuous flow of water; it is swamp land; Megan Shave asked if the water from the ground bubbles up and was told (by Melissa) that whenever it rains her yard is wet and her basement floods...the ground is like a sponge.

Bill Conner said he has two sump pumps in his cellar ....he said a wetland is when you walk about your door and your ground goes "squish"...they (developer) should correct the problem if he wants to build .

Joanne Zygmunt said there used to be an old spring off site that has dried up; she said there are many communities in Massachusetts where wetland protection regulations are more regulated; she said the commission should be more pro active. David Zaff said they have a bylaw or ordinance.

Megan Shave said that regulations are under the purview of commission; she said she started in March and is working on draft ordinance for Brockton.

Marianne Dodero said that the land is swampy up there.

Rep. Michelle Dubios said that her web site says 50% of site has to be wetland vegetation. Caitlin Nover said she looked at soil and it is not hydric. Rep. Dubios said that if there is any doubt the commission should error on the side of the residents.

Mark Speizer said that the commission has to vote on what has been presented to them. He said the experts specialize in their fields and have done their due diligence. Ray Henningson said they rely on their expertise.

Decision: Negative One

Motion: Speizer

Second: Henningson

In favor: 3

Opposed: 0

6. Notice of Intent - 1854 Main St.

Applicant: Mass Best Motors

Representative: JK Holmgren Engineering

Applicant's statement: Scott Faria said that the applicant is seeking to add an addition to the existing building for his repair shop and used car license lot. He said the property abuts the Salisbury Plan River. He said they have identified the flood plain, top of bank; the property has no drainage and they have designed a full stormwater management system. He said they do have some changes to make to the plan; he said that at the time they submitted their wetland report from botanist she was unable to flag the entire property so she estimated limit of work; he said they have to move the detention basin closer to the street; he said they just received NAA's review and have no issues with the comments. He said they also need to address parking...need 110 spaces.

Continued to September 13<sup>th</sup> by agreement of the parties.

7. Certificate of Compliance - 130 Elliot Street

Applicant: Joe Savino

Representative: JK Holmgren Engineering

Statement: Megan Shave said that based on review of the COC request, the original OOC aerial imagery and other associated files her recommendation is that a complete COC cannot be issue due to insufficient evidence that special conditional 1 & 2 were completed.

She said that MassDep has flagged the project and said that the soils under the fill should be evaluated; she said that the soil evaluator (hired by JKH) was unable to provide his locations and she said she cannot accept the wetland line as flagged. She said that per special condition #2 a planting plan was to be submitted to the commission; she said no plan was ever submitted and there is no evidence that the

work was ever done; she said that the site has partly revegetated. She said that based on the removal of the loam piles a partial COC can be issued.

David Zaff said that the original OOC was issued 13 years ago; he said that the new proposed project will be a vast improvement over what is there now and feels that the commission could issue a partial COC for the work that was completed (removal of the loam piles) and address the outstanding work through a new OOC.

Decision: Issue a partial COC for removal of the loam piles

Motion: Speizer

Second: Henningson

In favor: 3

Opposed: 0

8. Notice of Intent - 130 Elliot Street (proposed condominiums)

Applicant: Joe Savino

Representative: JK Holmgren Engineering

Scott Faria said they were denied last night at the ZBA; he said they are asking for a continuance, at this time, to September 13<sup>th</sup> to regroup.

Continued to September 13<sup>th</sup> by agreement of the parties.

#### **Other Business/On-going Projects/Minutes/Discussion/Up-Dates**

Motion to accept the minutes from 6-28-18 & 7-19-18 as presented.

Motion: Speizer

Second: Henningson

In favor: 3

Opposed: 0

**The listing of matters is those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.**

Meeting Adjourned.