

BROCKTON CONSERVATION COMMISSION
Thursday, June 6, 2019 – 7:00 PM
GAR Room – City Hall
AGENDA

Members present: David Zaff (chairman), Sam Ward and Ray Henningson
Also present: Phil Paradis (BETA Group), Megan Shave and Pamela Gurley

Update - 1330 Pleasant St. (a/k/a 1288 Pleasant Ste – Lot 3) – Danielson Gomes

Megan Shave said that Danielson Gomes requested to come to the meeting to update the commission, but is not here. She said she went out to the site today and there is still fill up to the erosion control 3-4' high in some places; she said the erosion control is holding up and holding back the fill; she said that the back yard should have no fill according to the approved site plan.

Ray Henningson asked if there was still trash on the site and was told there is some construction debris.

David Zaff said that we have given this builder every opportunity to fix the problem, and at this time would suggest that they meet one final time on site with the agent, and if the issue has not been fixed the commission agreed to issue a cease and desist.

1. Request for Determination – 12 Monarch Street
Addition to single family home
Owner/Representative: Robert O’Keeffe/Danny Venuto

Megan Shave said the property owner is looking to put an addition on to the back of the house. She said intermittent stream does not show on the plan, but she said it is fairly channelized (purple lines shown on aerial image are the stream) with no BVW. She said she is recommending a negative with 3 with conditions that the stream is to be added to building plan and there is to be erosion control to western area of lawn.

Action/Decision: Motion to issue a negative with 3 with conditions that the stream is to be added to building plan and there is to be erosion control to western area of lawn.

Motion: Henningson

Second: Ward

In favor: 3

Opposed: 0

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

Applicant: Joe Savino

Representative: JK Holmgren Engineering

Applicant's statement: Scott Faria said they revised the plan to add a replication and restoration area and have since received the agent's report; he said the issue of the replication on city land needs to be re-looked at.

Comments: David Zaff noted that the recent amount of disturbance on this property was approximately 8,000 SF and asked if the replication area would fit on the Savino property if it was increased to that number. Scott Faria said they can do replication at front of property and make it contiguous with the existing wetland. He asked for a continuance to the July 17th meeting to address the comments.

Continue to July 17th meeting by agreement of the parties.

The chairman stated that he was flipping these agenda items to take them from least to most complicated; lot 4, than lot 3 and lot 2 last.

3. Notice of Intent – Proposed lot 4 Briarcliff Ave.

Project: Single Family Home

Applicant: Gar/Con Corp.

Representative: Eric Dias, Strong Point Engineers & Attorney Michael O'Shaughnessy

Applicant's statement: Eric Dias said that since the last meeting the applicant has made substantial concessions and revisions to the plan. He noted that Attorney O'Shaughnessy did reach out to the abutters, who did not want to meet. He said that all the work is of outside 25' to the BVW except for the removal of the tennis court. He said that particular area will be immediately be stabilized and seeded. He said that the garage backs up to the wetland; the location of the house is 19.5' from the erosion control area; the south and east wall be a walkout and they removed loop from all the driveways and made all the homes slab on grade.

Comments: David Zaff noted that the watershed calculations were based on a 90 acre site; Eric Dias said that the overland flow for entire neighborhood go to that BVW and said that is not a lot of record data. David Zaff said that the stream continues across Briarcliff Rd. and was concerned about added water and flooding; Eric Dias said that this project will have no impact on the stream and that the water is flowing in the other direction. Megan Shave confirmed that the stream flows west to east.

Phil Paradis from BETA Group said that there were several changes made to the design reducing the impact; he said he was a little concerned about the area that was analyzed (90 acre site); but the commission needs to determine what is practicable; do not believe there will be a need dewatering; roof recharge was added and there was a reduction in size of driveways/impervious area.

David Zaff asked if BETA was comfortable with the stormwater analysis; Phil Paradis said there is going to be some impact; with the proposed mitigation and reduction in impervious area; % of impact is quite small. They have submitted enough information – project meets the standard to maximum extent practicable.

Megan Shave said significant changes were made to the plan that reduce the possibility of enforcement; she said she believes there is now a significantly lower risk of enforcement; she said she is suggesting the same special conditions as presented at the last meeting, including the addition of an environmental monitor.

David Zaff said he wants to make sure that there is no hydrological connection to the BVW; Phil Paradis said they looked at all the information and the soils are suitable for infiltration.

David Zaff said he would like a special condition that the current engineer is kept on to monitor the site. Attorney O'Shaughnessy said although they would appreciate that, they cannot tell a contractor who to hire. It was agreed that there will be a special condition that the developer/contractor is to hire a registered professional engineer to serve as environmental monitor to oversee the entire project. David Zaff said he would like to make sure that the 50' area between this lot and the house at 45 Briarcliff Rd remains as a screening buffer.

Ray Henningson asked where the test pits were done and was shown the locations. Sam Ward asked and there was any retesting and was told not until they begin building. Phil Paradis suggested a special condition that there be someone onsite to observe the soils at the time of excavation.

Opposition: Attorney Chris Vale (representing several abutters and the Young's) said the abutters understand that something will be built there, but their main concern is that work is properly done. He said this is a beautiful area, a sensitive area. He said they do not believe that the stream is intermittent and believe it is perennial – the stream is actively moving.

Eric Dias said that the commission issued a valid ORAD and the intermittent stream was added to the plan at the request of the agent; he said the offsite problems (Demos property) are probably the result of a drainage problem.

David Zaff said that the commission may have made a mistake and should have hired BETA to review the wetlands line and stream area.

Simon Young asked if the two additional driveways sending water into Briarcliff would exacerbate the flooding of the roadway. He said that Mr. Demos has a gorge in his yard from the stream.

Attorney O'Shaughnessy said they are willing to stipulate area is sensitive.

Ulysses Varela, 40 Briarcliff, said that BETA said they had concerns about the watershed; Phil Paradis said typically an analysis it is done in close proximity of the property; he said this is a 7 acre project in a 90 acre watershed; but said that the differences would be small; he said that the standard is not numerical; stormwater management regs and the wetland protection act use the term "to the maximum extent practicable."

Ulysses Varela asked what the city will do to protect area; what is someone wants a pool etc. David Zaff explained that before anything happens on the site a pre construction meeting is held and the limit of work is clearly marked; he said that their agent is out looking at sites all the time to monitor them. He said they cannot control who the builder is. Eric Dias said that the monitor will provide a weekly report to the commission.

Carlos Varela, 40 Briarcliff, said the water from 24 Briarcliff/Demos property goes to the Campanelli property. He wondered why no one is addressing that. David Zaff said it is not the applicant's responsibility to fix a problem on another property; if Mr. Demos wants to address his problem he can file an NOI and appear before the commission.

Lawrence Weene said he has lived there 50 years and there is a 30-40' wooded buffer between his house and the proposed home; David Zaff said that area will be left as is.

Francesca Varela, 40 Briarcliff, asked if water affects a sink hole and was told it depends on what is causing the sink hole; she said her driveway has a sink hole.

Ray Henningson asked Attorney Vale what their factual basis was for assuming the stream was perennial; He said the Demos property is always wet and the stream is always moving; David Zaff said it is obvious that there is something that is happening offsite on the Demos property. Megan Shave said she double checked the designation during the review of the ANRAD; USGS classifies it as intermittent, and she said the watershed is too small to reclassify it as perennial under the Regulations of the Wetlands Protection Act.

Action/Decision: Motion to close

Motion: Henningson

Second: Ward

In favor: 3

Opposed: 0

Motion to issue a standard OOC with special conditions as recommended by Beta Group and the city agent.

Motion: Henningson

Second: Ward

In favor: 3

Opposed: 0

4. Notice of Intent – Proposed lot 3 Westwood Ave.

Project: Single Family Home

Applicant: Gar/Con Corp.

Representative: Strong Point Engineers

Applicant's statement: Eric Dias said that the front of this house faces Briarcliff and the driveway off is off Briarcliff. He said that the patio has been flipped to the other side; closest point of the house to the BVW is 45'; the closest point to limit of work is 18'; they eliminated the loop on the driveway; graded the driveway for overland flow to the grass; tightened up the grading; and the house is slab on grade.

Comments: David Zaff asked how far the corner of the home is to the 25' no touch and Megan Shave said 18'; he asked if there was any way to shift home the home to the north. Eric Dias said it would bring distance to the BVW to 40'. David Zaff said he would like to maintain a more natural buffer along Westwood Ave. Eric Dias said from street line to the edge of the garage is 33'; he said he can move the temporary stockpile area to the rear of the home which will allow them to leave a 20' buffer of vegetation as is.

Megan Shave said that the applicant has made substantial changes; she said she is in favor of any reduction of clearing on the site provided that the changes don't move the project back north closer towards the erosion control barrier and BVW; she said that the stockpile area can be rotated.

Eric Dias said he does not have a problem with this, but asked if the changes would affect lot 2. David Zaff said he would like to see the city retain control; he said the lots are separate issues. He said he would like to see a 20' natural buffer to the edge of the property; 13' from buffer area to side of garage.

Megan Shave said her conditions for approval would be the same.

Phil Paradis said his comments are similar to the last hearing; but he also does not recommend moving the home to the north. He said that the whole neighborhood drains onto this property and flooding is a long standing issue.

Jack Erickson said there is a lot of water in the area; water rushes through the Campanelli property coming from the west to the east; he asked if this disruption of the area cause more water for them. David Zaff said that the project cannot adversely affect the neighborhood; post-construction there can be no adverse effect; Phil Paradis said if the project stays within the limits there should be no issues. Eric Dias said he is confident with his design.

David Zaff said they appreciate the cooperation of the applicant.

Heated discussion between commission and the abutter at 40 Briarcliff regarding protecting their homes from water; the abutter wanted to make sure that before a home was sold they fix the water (on Demos property), and he was told that is not the responsibility of the applicant. David Zaff explained the appellate process of appeal.

Phil Paradis said they understand that there are existing issues and this project will not make it better, but it will not make it worse; he said he understands their concerns but said again that if it is built according to plans it will not adversely affect the neighborhood.

David Zaff asked if all of this was analyzed during a very wet season and was told it was analyzed to seasonal high ground water.

Action/Decision: Motion to close

Motion: Henningson

Second: Ward

In favor: 3

Opposed: 0

Motion to issue a standard OOC with special conditions as recommended by Beta Group and the city agent.

Motion: Henningson

Second: Ward

In favor: 3

Opposed: 0

3. Notice of Intent – Proposed lot 2 Westwood Ave.

Project: Single Family Home

Applicant: Gar/Con Corp.

Representative: Strong Point Engineers

Applicant's statement: Eric Dias said this is a ranch style home; slab on grade; garage on the side; they have reduced the impervious area; nothing from driveway shall flow to BVW; runoff will be directed to grass area onto the street; distance to BVW increased from 29.6' to 49.6'; erosion control barrier is at 25'; very little grading to be done; layout are all keeping in line with the last two that

were approved; he also added that they added permanent fencing with wetland markers to this lot to protect the 25' no touch area.

Comments: David Zaff said that the commission usually sets a 25' no touch to the BVW; he said that DEP regs clearly state that a buffer may be created and the limit of disturbance is at the discretion of the commission. He said the temporary stockpile is by the road; Eric Dias said he will move it. David Zaff said he is concerned that the work will impact the 25' no touch; he said there is no back yard being proposed and whoever buys the property will be limited in what they can do.

Megan Shave said that they made substantial changes to this lot as well; she said of the three houses, this house is now farthest from the BVW at its closest point (20' versus 18' & 19'); she said that the sticking point is that this house maintains a close distance along a longer length of the house compared to the other houses, and the limit of grading is less than 10' to the erosion control barrier for about 30' along it; she said the difference here is the configuration of the house and surrounding space; she said her other major concern would have been with the elevations; there is more of a gradual change in elevation between BVW and upland starting on this lot, but it is less of a concern now since there is no basement.

David Zaff said there was room to adequately design the other two lots; he does not believe the grading on this lot will work.

Phil Paradis said in regards to stormwater management his comments are similar; home is substantially smaller; they are proposing roof recharge; he is proposing the same mitigation as the other two.

David Zaff said he still does not believe this can be properly graded and cannot support this.

Ray Henningson said asked about the size of the home and was told it is 3360' in total (garage and two stories); he said that the house does not seem to fit the area; he asked where they would move the stockpile area to and was told to the back of the property.

Attorney O'Shaughnessy said they are asking for approval for home to be built in the box; he said he does not see why the home cannot be conditioned to be approved.

David Zaff said this is a sensitive area and said he believes there are hydrologic soils there; he said he knows the land because he grew up in the area. He asked the applicant if they wanted to close and was told yes.

Action/Decision: Motion to close

Motion: Henningson
Second: Ward
In favor: 3
Opposed: 0

Motion to issue a standard OOC with special conditions as recommended by Beta Group and the city agent.

Motion: Henningson
Second: Ward
In favor: Ward
Opposed: Henningson and Zaff

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

Motion (Henningson) to approve the minutes from 5-15-19 as submitted (second Zaff) was unanimously passed.

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.