



# CITY OF BROCKTON

## Department of Planning and Economic Development

Planning Board

Conservation Commission

MOISES M. RODRIGUES  
Mayor

### **BROCKTON CONSERVATION COMMISSION Thursday, October 10, 2019 – 7:00 PM GAR Room – City Hall MEETING MINUTES**

Members present: Stephanie Danielson, Bonnie Sparks, Joanne Zygmunt and Sam Ward. Also present were conservation agent Megan Shave and secretary Pamela Gurley.

With the resignation of all but one member and the appointment of three new members a new chair needs to be elected.

A motion was made (Sparks), seconded (Zygmunt) and unanimously passed to elect Stephanie Danielson as chairperson.

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#### **OLD BUSINESS**

##### 1. Extension Request

Property: 485 Pearl Street (Lot: 2)

Owner/Representative: Roy Andrade/Jacobs Driscoll

Applicant's statement: Greg Driscoll said they are looking for a two year extension; he said they intend to apply amended OOC for the next meeting, but that this OOC has expired. (OOO was requested within the required timeframe, but not heard due to a lack of quorum.) He said that the property owner is looking to begin work immediately.

Comments: M. Shave said that they have reflagged the wetlands, re-established the erosion control and cleared the site.

S. Danielson asked when the OOC was originally issued and was told four years ago and that they have already received a one year extension. She said she would suggest that they are granted a one year extension as they have already had four years to begin this project.

Action/Decision: Motion to issue a one year extension.

Motion: Ward

Second: Sparks

In favor: 4

Opposed: 0

2. Notice of Intent – Between DW Field Pkwy & 71 Elwood Ave.

Project: Ellis Brett Dam – Compliance Work

Applicant: Timothy Carpenter,

Representative: Fuss & O'Neill

**CONTINUED TO OCTOBER 30, 2019 by agreement of the parties.**

3. ANRAD – 166 East Ashland Street LLC

Property: 166 E. Ashland Street

Representative: MBL Land Development

Applicant's statement: Brian Dunn, MBL, said this ANRAD has been filed to determine the resource areas for future development; he said that there was an on the ground field survey and the wetlands were delineated by Dr. Wang and he said the flood zone elevation is 96.

Comments: M. Shave said she went out to the site and the BVW line and bank both fall within the break; she said she confirmed the line for bank and BVW; she said that she noted on the site that the "gravel area" was an isolated vegetated wetland; not protectable but should be noted in an ORAD; she said that there is currently fill and gravel piles stored on the site on the BVW side.

Comments: S. Danielson said it looks like this was filled since 2018; she asked if it was possibly ISLF; M. Shave said it was not large enough. S. Danielson said that the cart paths are not shown on the plan. She asked the agent if she had looked at what looks like a "boggy area"; M. Shave said that she believes the area is just rutted from tucks or ATV's; there was no indicator species.

S. Ward asked if the agent could go back and look at that area; M. Shave said that she can do soils if the commission wants. She said there is a 2005 plan by TRC (brownfields site in red); S. Danielson said it looks more like gravel now that it is blown up.

Action/Decision: Motion to issue an ORAD as shown with the notation that the IVW is not accurately presented on the site.

Motion: Ward

Second: Sparks

In favor: 4

Opposed: 0

4. Notice of Intent – Lot 1 (part of 738 N. Cary St.)

Project: Single Family Home

Applicant: James Morrissey

Representative: JK Holmgren Engineering

Applicant's statement: Scott Faria said per the request of the agent they went back out to the site and extended the wetland line and were able to address the agent's concerns. He said they are taking care of the Japanese Knotweed (already been treated with a herbicide).

Comments: M. Shave said the continued line on the revised plan is accurate; she said the BZ is transitional; plants.. no soils. She said she is recommending that the OOC can be issued with additional special conditions to include that the limit of clearing is to be staked in the field prior to clearing; Japanese Knotweed is to be treated and an environmental monitor be hired to monitor and maintain the erosion control barrier.

S. Danielson asked if a variance was granted and she was told this was an approved definitive subdivision with a variance for frontage. James Morrissey said they have already treated the knotweed. S. Danielson said she is not a fan of using herbicides and asked how was it applied and was told it was sprayed. J. Morrissey said the company wanted to apply it when it was leafy. M. Shave said that that area is not jurisdictional and said if it had been she would have looked for alternatives. B. Sparks said that is a second step of removal...removal of the root structure. J. Morrissey said that some of that area will be driveway and utility easement.

S. Ward asked the agent what she is suggesting for monitoring; she said a special condition that the commission receives a monitoring report from ECR and that monitoring can be an ongoing condition.

Action/Decision: Motion to close  
Motion: Ward  
Second: Zygmunt  
In favor: 4  
Opposed: 0

Motion to issue an OOC with standard conditions and the special conditions as contained in the agent's report.

Motion: Ward  
Second: Sparks  
In favor: 4  
Opposed: 0

5. Notice of Intent – Lot 3 (part of 738 N. Cary St.)  
Project: Single Family Home  
Applicant: James Morrissey  
Representative: JK Holmgren Engineering

Applicant's statement: Scott Faria said there is not as much BZ impact, not as much knotweed and they have pulled back the limit of work.

Comments: M. Shave said she is suggesting that same special conditions on this lot, but not suggesting any monitoring for knotweed; she is suggestion monitoring the limit of work.

J. Zygmunt asked if there was any concern that the earth work on the other lot would cause the knotweed to spread; M. Shave said that she doesn't expect it to spread since it has been treated.

J. Morrissey said that the earth work to be done first is closer to North Cary to include the demo of the barn.

Action/Decision: Motion to close

Motion: Ward

Second: Sparks

In favor: 4

Opposed: 0

Motion to issue an OOC with standard conditions and the special conditions as contained in the agent's report.

Motion: Sparks

Second: Ward

In favor: 4

Opposed: 0

6. Notice of Intent - 940 Belmont Street (118-742)

Project: Proposed Maintenance

Applicant: US Department of Veterans Affairs

Representative: JK Holmgren

**WITHDRAWN**

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## **NEW BUSINESS**

7. Request for Certificate of Compliance 118-748

Briarcliff Road – NOI lot 4 (ANRAD lot 1)

Representative: Attorney Michael O'Shaughnessy

Applicant's statement: Attorney O'Shaughnessy said that his client was issued an OOC in June and will not be going forward with the project.

Comments: M. Shave said that no work has been started on this site; she said she spoke with the circuit rider and was told the commission can issue a COC if a project wasn't started.

S. Danielson asked if they will be submitting a new project for this parcel and was told there are no plans at this time. She said the OOC contains a provision for ongoing conditions; she said that the conditions were recommended by the prior commission and she would like to presume that there was a good reason.

Ward 1 Councilor Timothy Cruise asked how the commission can issue a COC for work that hasn't happened...that it is valid for three years; he said that the applicant is playing the city boards against each other; those conditions were placed by the prior commission. He said if those conditions are removed what is the guarantee that nothing will happen in the future...he said he was here to protect the neighbors.

S. Danielson asked Attorney O'Shaughnessy why his client needed the COC and was told to clear the title to the property. She said that the commission has the option to issue the COC and leave conditions.

Attorney O'Shaughnessy said the commission does not have the right to keep the special conditions and he is asking that they be wiped out.

B. Sparks asked if the commission could issue the COC with the conditions continuing; M. Shave said that there is a box for ongoing conditions. J. Zygmunt asked Attorney O'Shaughnessy if the only reason for this request was to clear title and there is no new project being proposed; he said they just want to clear the title and there is no project being proposed by the owner.

Action/Decision: Issue a COC (project will not be done and no new project will be submitted)

Motion: Ward

No second - Motion does not move forward

Motion to deny request for a COC

Motion: Zygmunt

Second: Sparks

In favor: Zygmunt & Sparks

Opposed: Ward

Danielson: Abstained

Attorney O'Shaughnessy said he would like a determination as to why it was denied so he can go to DEP.

8. Request for Certificate of Compliance 118-639

127 Liberty St. (RJ Messina Inc.)

Representative: RJ Messina

Applicant's statement: Frank Gallagher said they were hoping for a full COC, but after reading the agent's report it looks like there are outstanding issues.

Comments: M. Shave said she reviewed the available materials; the manhole access is not on the as built; she was able to confirm the wildlife crossing was installed; the building is up; there is no documentation for the recommended vegetation maintenance; significant invasive species exists; no documentation of flood plain restoration; no evidence of required evergreen trees; noticed there is a 15x25' shed that

appears to contain road salt ( ongoing condition for no salt); the riprap plunge pool area need to be cleaned up and the OOC has expired so none of this work can be done. She said that outstanding issues will need to be addressed by new NOI or enforcement.

S. Danielson said she is hesitant to issue a partial and wants to make sure this work is completed; M. Shave said that issuing a partial will allow for the filing of a new NOI, but the cleaning of the outlet at the infiltration system and shed can be done now.

S. Danielson asked F. Gallagher if his client understands that the work needs to be completed and was told that he had not told him as he received the letter yesterday.

M. Shave said if not submitted in timely manner the commission should consider issuing and enforcement order.

Action/Decision: Motion to issue a partial COC with the condition that the applicant has two months to file a new NOI otherwise an enforcement issue is to issue.

Motion: Ward

Second: Sparks

In favor: 4

Opposed: 0

9. Request for Certificate of Compliance 118-729  
1205 Belmont & 820 Pearl St. (Cumberland Farms)  
Representative: Civil Design Group

M. Shave said that she is recommending complete COC with ongoing conditions can be issued; she said that all the disturbed areas were stabilized with approved seed mix; she said there is a non native weedy grass growing and verified that they did use the correct seed mix; she said she would suggest to additional conditions to the COC to allow for monitoring of the site until 75% coverage of native species is achieved and there is to be no hay mulch or other hay products used on the site. S. Danielson said that the site may need to be managed not just monitored.

Action/Decision: Motion to issue a full COC with the ongoing conditions containing in the OOC and the additional conditions for monitoring and no use of hay products.

Motion: Zygmunt

Second: Ward

In favor: 4

Opposed: 0

10. Notice of Intent – Plot 4-3 Oakland Street  
Project: Single Family Home  
Applicant: Cecile Cazeau  
Representative: ET Engineering

Applicant's statement: Azu Etoniru said that the owner of the property purchased it from the COB; he said that the wetlands were delineated by Kenneth Thompson; he said

there is an existing wetland depression that does not meet threshold for ILSF; he said he has received the comments from the agent and has identified an area for stockpiling; he said that the new building code calls for soils and he is proposing a roof drain re-charge system.

Comments: M. Shave said that this parcel and parcel next to it had a stream and sometime before the wetlands protection act was enacted it was filled in; she said sometime in the 70's the site was excavated and large mound of fill was placed along the lines of the property; she said the eastern part of site is BVW; there is another depression with wetland soils but it is too small to be ILSF; she said she has concerns about the site and the limit of work to the BVW and the distance of the proposed structures to the BVW; the limit of grading and the proposed house is less than 5 feet; she said her experience in monitoring similar sites that were larger resulted in enforcement orders issued; she said that the revised plan does proposed a stock pile area but there are still logistical issues maintaining erosions control; she said the mound will be an obstacle throughout the project.

S. Danielson said it is possible to adjust the home and make it smaller. A. Etoniru said he is respecting the 25' no touch and he can manage the project by digging the foundations one at a time. A. Etoniru said that the home proposed is within the property set back. S. Danielson said that the commission's responsibility is the wetlands.

J. Zygmunt said she is concerned about the limit of space. B. Sparks said asked how he can guarantee the limit of work will not be breached.

A. Etoniru said he will speak with his client to see if she is willing to look at changing the house.

Action/Decision: Continued at the request of the application to 10/30/19

Motion: Ward

Second: Zygmunt

In favor: 4

Opposed: 0

#### 11. Notice of Intent – Buskull Properties

Property: Plot 2 Belgravia Ave.

Project: Single Family Homes

Owner/Representative: Curley & Hansen

Applicant's statement: Joe Kulle said he received a zoning variance for four homes. Rebecca Baptiste said that the NOI was originally filed by Curley & Hanson and they have taken over the project. She said the revised plan shows less flow to existing pipes improving the existing situation; she said they have added a basin and proposed swales along each of the lots

Comments: S. Danielson said there are no lot lines on the plan; R. Baptiste said that their only focus was drainage.

M. Shave said that there is an existing intermittent stream off site; and there are impacts to wetland resource areas; she said the limit of work is just outside the property line and the area that is currently wooded will be cleared for the basin.

Phil Paradis, BETA, said that they walked the site and there are noticeable puddles within the roadway; he said the lots are currently wooded; a portion of the lawn for #41 encroaching on the applicant's property; he said that the stream looks like it gets significant flow. He said he walked to Herman St. and walked the easement and could not find the end of it; he said there are three 4" pipes crammed into the same 12" pipe... all in the same watershed. He said he would like additional information on this pipe; now it does not handle the flow directed to it and they are proposing to add more flow. R. Baptiste said that the pipe has been cameraed and seems to be plugged. S. Danielson asked what was causing puddling on the road; M. Shave said there are big depressions in the road; rutted; gravel road.

S. Danielson asked if this was before the planning board and was told it was filed and has been continued pending the outcome of conservation. P. Paradis said they misinterpreted the basin as infiltration not detention, however because of the clearing of woodland, the new homes, driveway and roadway he would suggest that they follow best management practices even though it is four lots. He said the outlet is at the bottom and if more water comes in than can go out it will overtop. S. Danielson asked what the length of time water will be held in the basin and what the separation to the groundwater was.

J. Zygmunt asked if the water held in detention basin will always flow out and was told yes. She was told that in heavy rain storms it will slow the flow of surface water. She said that she lives on Wellsford St. and is aware of the conditions in that area. She said the stream cannot contain the water flow now. She asked how long the basin will hold the water and wanted to see the mottling.

Will Kaknes, 194 Winter St., was able to give background to flooding and existing piping.

Charles Townsend, 8 Belgravia Ave., said most of street where he lives is paved about 16' wide; he said he already gets water and said if they are pushing more water his way he is worried; S. Danielson said that is also a concern of BETA.

Paul Maliawco, 35 Herman St., said he echo's Joanne's comments and has a video. The chair asked him to send it to the secretary and she would forward it to the consultant; P. Paradis asked that they include the date the video was taken so they so they can check rainfall.

Antonio XXX, 61 Belgravia Ave., said that the street needs to be fixed; he said that his home failed Title 5 and if this is built will be able to connect to sewer.

Action/Decision: Continued to December 11, 2019 at the request of the applicant.

Motion: Ward  
Second: Sparks  
In favor 4  
Opposed: 0

12. Notice of Intent – Plot 14 Dunbar Street  
Project: Maintenance/Mail Building  
Applicant: National Affordable Housing Corp.  
Representative: JK Holmgren Engineering  
**CONTINUED TO 10-30-19 by agreement of the parties.**

13. Notice of Intent – 196 Manley Street  
Project: Gravel Parking Lot w/Drainage  
Applicant: Equipment East  
Representative: JK Holmgren Engineering  
**CONTINUED TO 10-30-19 by agreement of the parties.**

14. Request for Determination – Route 24 Brockton  
Project: Tree Maintenance/Removal along Highway Layout  
Representative: Mass DOT

Applicant's statement: Andrea Coates said they are looking to conduct maintenance tree trimming from Raynham to Avon; she said that they are agreeing to mark area to stay within the 10' area suggested by the agent.

M. Shave said she relied on aerial imagery and most of the BVW is outside 20'; she said most of the work is exempt and would recommend a negative 5 determination; she said she would also recommend a negative 3 for the tree trimming work; the work along the Route 24 interchange should be limited to the 10' (the closet BVW is marsh); she also recommended positive 2b as there was no delineation of the wetlands.

Action/Decision: Motion to issue a negative 5 determination; negative 3 for the tree work as well as a positive 2b as there was no delineation.

Motion: Zygmunt  
Second: Ward  
In favor: 4  
Opposed: 0

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

Minutes 8-8-19 (new members need copies)

Update – Ken Mousette/Baker Street – Megan updated the new members on the issue with the site; she said that an abutter called Mass DEP about a house being built; she said there is a previous enforcement for same site that was not closed; she said that erosion control has been installed.

1330 Pleasant Street/Danielson Gomes – Megan updated the new members on this site; she said this is an example of what happens with limit of work close to 25'; said

that the site has been overfilled; she said she came to an agreement with the applicant that there is to be no certificate of occupancy without an as built and a certification of compliance issued by the commission.

Meeting adjourned.

**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.**

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