

BROCKTON CONSERVATION COMMISSION

WEDNESDAY, August 19, 2020 at 6 PM

RESCHEDULED TO WEDNESDAY, AUGUST 26, 2020 AT 6 PM

This public meeting will be held remotely over ZOOM in accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20.

A link and instructions to participate in the meeting will also be posted to the Calendar on the City website and to the Conservation Commission Public Documents folder, available from the Commission page:

<https://brockton.ma.us/city-departments/planning/conservation-commission/>

MINUTES¹

Stephanie Danielson introduced herself and called the August 26, 2020 meeting rescheduled from August 19, 2020 of the Brockton Conservation Commission to order and read the following statement: This meeting is being recorded in accordance with the government order suspending certain provisions of the Open Meeting Law General Law chapter 38 section 20. Real time public participation and comment can be addressed to the conservation commission utilizing the zoom virtual meeting software for remote access; this application will allow users to view the meeting and send a comment or question to the chair via the question and answer function submitted text comments will be read into the record. For those of you joining by phone press star nine. If you want to ask a question please raise your hand. A copy of this recording will be on the city's web page. All votes will be done via roll call to ensure account accuracy.

There were three voting members of the commission in attendance constituting a quorum (Danielson, Zygmunt & Sparks). Lucia Cerci was not in attendance. Also in attendance were agent Megan Shave and secretary Pamela Gurley.

Minutes: 6-17-20, 6-24-20 & 7-15-20

The chair said that she had some corrections/additions to the minutes and asked that if published to the website they be marked as draft.

1. Request for Certificate of Compliance

Property: 1854 Main Street

Project: Automotive Repair Shop (Mass Best Motors)

Representative: JK Holmgren Engineering

At the request of the applicant this was postponed to the September 16, 2020 meeting by agreement of the parties.

2. Request for Certificate of Compliance

Property: 738 N Cary Street, Lot 1

Project: Single-Family House

Representative: Scott Faria, JK Holmgren Engineering

Megan Shave said she went out to the site and reviewed the as built; she said that the as built generally matches the approved plan; the deck is slightly longer and there is one deviation, two roof top infiltrations chambers (no documentation submitted) and also the shrub layer has been cleared up to 25' and she is recommending that it is replanted.

¹ A video recording of this meeting is available for viewing on the Department of Planning & Economic Development website.

Scott Faria said that the infiltration was not shown on the plan, he said it should have been shown as it was on the subdivision and ZBA plans; he said there are two separate systems; he said ground water is at elevation 217; he said he witnessed the excavation; he said that the bottom of the chambers is at 218.5; he said that the applicant did remove some downed trees and in doing so removed all the shrub layer; he said they had a meeting on the site with wetland consultant and said that the shrub layer has started to revegetate; he said if they leave it alone it will be back to its original state; he said at this time they are only asking for a partial COC which will allow for a closing.

The chair asked the secretary about the process for occupancy permit and was told that they are out of the process unless there is an issue and let the building department know. She said she is hesitant to issue a partial COC; work was not permitted and needs to be rectified; she also noted they are proposing only a year of monitoring; she said this is actually a violation of the OOC and agrees with the agent that the area should be replanted. Scott Faria said that Brad Holmes did submit a memo relative to the re-vegetation.

Bonnie Sparks said that she supports a three year monitoring period; she noted that spice bush will not regenerate within a year. Joanne Zygmunt asked if the commission was given the documentation on the ground water levels; Scott Faria said just what he has told them tonight; she said she would like to see documentation and said it is hard to believe that the shrub layer will regenerate within a year. Scott Faria said they were not claiming that it will be re-generated in one year.

Stephanie Danielson said that unless something is held back in escrow; what would be the builder's motivation to complete the work once the new owner has moved in?

Jim Morrissey said he is not opposed to an escrow or a bond; the chair said that the city can't do anything with a bond if the work is not done; he said he has a one year warranty period on the home.

Stephanie Danielson said there is also glossy buckthorn on the site which is invasive and needs to be monitored; Megan Shave said that the shrub layer is starting to revegetate; she said that when you remove a vegetated layer the invasives are more apt to take over and that is the reason to suggest replanting as the revegetation will take a longer time.

Stephanie Danielson said she is still not inclined to issue a partial COC; she said that escrow is done on a regular basis; she said that mid September through October is the better time to plant and said the plantings will sit dormant and there will be re-growth in the spring.

Jim Morrissey said they removed the japanese knotweed and asked if he should do the same with the existing invasives and was told that would be preferable; Megan Shave said that the buckthorn is already in the shrub layer but should not be allowed to become more dominant. Bonnie Sparks said that they need to prevent the invasives from coming back; they should overseed with native species. Joanne Zygmunt said that a simpler solution would be to re-plant the area with native species.

Stephanie Danielson said that at this time she would not recommend issuing a partial COC and would like to see the area replanted with native species with a three year report for monitoring; if the monitoring report comes back showing vegetation is strong a COC can be issued; she also stated that the back up documents for the infiltration system need to be submitted.

A motion was properly made (Zygmunt), seconded (Sparks) and unanimously approved by a roll call vote to deny the request for a COC; the commission also requested that the documentation for the groundwater level of the infiltration area be submitted; that the area

discussed be replanted with native species; and there be a three year monitoring period with reports to the commission.

3. Notice of Intent

Property: Plot 1 Leach Ave.

Project: Two-Family Home

Representative: Scott Faria, JK Holmgren Engineering

Scott Faria said the applicant added the erosion control and silt sack to the inlet control the next day.

Megan Shave said that she went out to inspect the erosion control and she said the inlet is either being maintained or no silt is getting in. She said she checked with the city engineer again and he stated that once the site is properly graded there should be no water impact to the abutters. She suggested several additional special conditions be added to the OOC:

No inactive fill piles or backfill shall be stored on the Site for more than 24 hrs or during heavy precipitation events.

Sediment and debris shall be removed from the pavement in the right-of-way and from around the catch basin on a weekly basis.

The project manager / site contractor shall sign a Certificate of Understanding acknowledging these conditions prior to Commission approval of a building permit.

Prior to the issuance of a Certificate of Occupancy, the Applicant shall request and receive a Certificate of Compliance. The request shall be accompanied by an As-Built Plan showing the final Site grading and confirming compliance with the Plan of Record.

There were no public comments.

A motion was properly made (Zygmunt), seconded (Sparks) and unanimously passed by a roll call vote to close the hearing.

A motion was properly made (Zygmunt), seconded (Sparks) and unanimously passed by a roll call vote to issue an OOC with standard conditions and the special conditions recommended by the agent.

4. Notice of Intent – Buskull Properties

Property: Plot 2 Belgravia Ave.

Project: Single Family Homes & Roadway

Representative: Rebecca Baptista, Silva Engineering

Stephanie Danielson said that additional information was provided and report was issued by the agent on the 17th. Megan Shave said that Silva provided the calcs for stormwater. She said that BETA feels that it meets SW standards, but still feels that the proposed increase would add to capacity of the stream; she said they are proposing improvements along 425' of stream, 852 linear feet of stream; 4' channel bottom; 1700' is a conservative impact and said she believes that they need to meet the performance standards to bank under water; they need to address the physical stability of bank, ground and surface water quality, wildlife habitat, quantify vegetative loss; she said that the stream is not a consistent width and will need to be widened in some places. She said that Silva has provided a general followup. She said there is also a concern that if an OOC is issued with a special condition that a plan is to be reviewed and approved by the agent that MassDEP may appeal; she said that MassDEP recently denied issuing a file number for stream work as it was not specific enough.

Rebecca Baptista said that she was hoping that the letter would give some comfort to the commission and does not want an issue with DEP; she said she will try to find a compromise.

Stephanie Danielson said there is still a lack of specificity on what the work to be done is; she asked if we know the depth of the stream; Megan Shave said it is variable and the goal is 4' width of stream bed; depth is 2-3' and would like it consistently to be 3' deep. Rebecca Baptista said they had a contractor go out; she said that the stream is full of sediment and trash; she said that their letter did not detail how the work will be done. Stephanie Danielson said the commission has said they want a proposal to include where is dredging material to be stored...how many days work....how will the stream be protected...what happens during a storm event.

Joanne Zygmunt said this is a hard project; she said she is struggling to identify how this can be conditioned to meet performance standards and said the lack of a plan is an issue. She asked who did the long term maintenance fall on...she asked if the city committed to this? She asked if they had permission from the property owner at 41 Hermon to discharge water onto their property? Bonnie Sparks said that hopefully the engineer will be able to address these issues to the commissions satisfaction.

Megan Shave said they need to keep in mind that this OOC will extend onto abutters properties; Stephanie Danielson said that they may need to be co applicants. Megan Shave said they can not issue an OOC unless the abutters have signed on as applicants.

Stephanie Danielson said that this cannot be accepted as presented and asked if they would like another continuance. She also noted that Paul Maliawco (abutter) had been on the meeting but was gone.

A motion was properly made (Zygmunt), seconded (Sparks) and unanimously passed by a roll call vote to continue the hearing to September 16th.

5. Notice of Intent - Continued to September 16, 2020

Property: 166 E. Ashland St.

Project: Commercial Units

Representative: MBL Land Development

At the request of the applicant this was postponed to the September 16, 2020 meeting by agreement of the parties.

6. Notice of Intent - Continued to September 16, 2020

Property: Map 142 Plot 383 Quincy Street

Project: Apartment Building

Representative: ET Engineering

At the request of the applicant this was postponed to the September 16, 2020 meeting by agreement of the parties.

7. Request to Amend Order of Conditions (SE 118-0749)

Property: West Elm Street Bridge & Culvert

Project: Culvert Replacement & Repair (Brockton DPW)

Representative: Jason Fliestra, CDM Smith

Jason Fliestra said that the West Elm St. bridge is currently being replaced and during this time the COB had a dump truck fall through the culvert in the parking lot of Goddard St. high rise apartments.

Megan Shave said they are asking to amend the OOC for the additional repair work; she said there will be 220' of temporary impact to bank; they are removing the culvert abutment; leaving the footings.

She said there will be temporary impacts to land under water and they are proposing to use a sandbag cofferdam to divert the brook, as was proposed in the NOI for the bridge work. She said she believes that it is appropriate to amend the OOC to add the additional temporary impacts, add this plan set to the OOC plans of record, and add the proposed mitigation measures from Section 3.0 of the Request to Special Conditions Section D.

The chair asked if the road is open to travel and was told the road is closed and all work will be done by September and that this work will be done before repair work.

A motion was properly made (Zygmunt), seconded (Sparks) and unanimously passed by a roll call vote to close the hearing.

A motion was properly made (Zygmunt), seconded (Sparks) and unanimously passed by a roll call vote to issue an OOC with standard conditions and any special conditions recommended by the agent.

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

8. 536 N Quincy St - Correspondence Update

Bill Serra

Megan Shave said that the office has received number of complaints of equipment and fill being brought onto the property; she said she has been out several times to the site and met with the owner who told him he has an acquaintance that brings trees onto the site to be cut and they are then removed; she said she saw no evidence of any new fill piles; she said the fill slope looks rocky and asked Mr. Serra about it and was told it was four year old; she said she has also sent a follow up letter to Mr. Serra.

Stephanie Danielson said that the agent provided an aerial photograph; she said it looks like there has been some clearing done since 2013; she asked what has been going on on the property ; Bill Serra said he has been cutting, chipping, shredding logs; she asked if any clearing was done to facilitate logging operation and was told he has been doing this for a while; she asked the agent what the distance to the wetland was.

The chair asked the owner if he was aware that any work within 100' of a wetland resource area requires permission from the commission; he said he was aware now. She asked if there was any fill material brought in and was told he pushes stuff around to be able to work. She said that the commission needs to give him some guidance on what he can and can not do. She asked the agent to arrange another site visit with Mr.Serra; commission members asked to be notified of the date and time so they could attend if available.

9. 57 River St - Enforcement Update

Megan Shave said that she sent a follow up letter to the enforcement issued in June. She said it was actually issued to the past owner and re-sent to the property owner now listed in the Assessors Database.

Bruce Cardoso said this is his (father's property) Roberto; he said his father mentioned that he was cutting some trees. He said his father understands the order and says he will comply.

Stephanie Danielson asked if the cutting of vegetation stopped and was told it had. She asked that they get in touch with the agent to see what needs to be done to the property to come into compliance; the agent said she would follow up in the coming week and asked for their phone numbers.

The commission had a discussion on associate member positions: It was agreed that it is a good way to groom people to take over when there are openings; the chair said she has spoken with the mayor and he is agreeable and asked for a formal vote to allow associate members. Joanne Zygmunt said that associate members are a nice entry point and Bonnie Sparks said it is a good way to learn; stepping into a roll will be an easier transition. Stephanie Danielson reminded the members that they will not have voting rights and don't count towards quorum. There was a discussion on how many members and two were agreed upon each with a two year term.

A motion was properly made (Zygmunt), seconded (Sparks) and unanimously passed by a roll call vote to allow for two associate members each to serve a term of two years.

The chair said that the final item on the agenda was to go into executive session.

10. The Conservation Commission will motion to enter Executive Session to discuss a response to an Open Meeting Law complaint that has been filed against the Commission. Once discussion is completed, the meeting is to be adjourned while in Executive Session.

She asked for a motion to go into executive session and to adjourn the meeting and not to return to open session when done.

A motion was properly made (Sparks), seconded (Zygmunt) and unanimously passed by a roll call vote to enter into executive session and to adjourn the meeting while in executive session and not return to open session.