



Robert F. Sullivan
Mayor

CITY OF BROCKTON

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

Planning Board

Historical Commission

Conservation Commission

Robert May, CEcD
Director

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BROCKTON CONSERVATION COMMISSION

September 16, 2020 at 6 PM¹

Stephanie Danielson introduced herself and called the September 16, 2020 meeting 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 four voting members of the commission in attendance constituting a quorum (Danielson, Zygmunt Cerci & Sparks). Also in attendance were conservation agent Megan Shave and administrative assistant Pamela Gurley.

1. Request for Certificate of Compliance

Property: 1854 Main Street

Project: Automotive Repair Shop (Mass Best Motors)

Representative: JK Holmgren Engineering

Scott Faria said that everything is done except for stabilization of property; he said that they have not yet addressed the agent's concerns and rather than continue he is withdrawing this request and will re-submit it when the work is completed.

2. Request for Certificate of Compliance

Property: 738 N Cary Street, Lot 3

Project: Single-Family House

Representative: JK Holmgren Engineering

Scott Faria said this is the lot next to the one the commission discussed last month; he said the agent has been out to the site several times since that meeting and met with Mr. Morrissey. He said he has submitted the letter requested by the commission relative to the roof drain infiltration not on the original plan. He said the silt sock is upgradient of the 25' no touch; there is a large area on lot 3 where clearing was done but a majority is outside the 25' BZ.

Megan Shave said she has been out to lot 3 two times this week; she said that the rear deck is longer; the driveway swale is not on the as built; the infiltration systems were not on the NOI

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

submittal (but the commission has now received the necessary information from JKH); she said the LOW markers are installed and the disturbed soils are stabilizing; she agreed that the majority of clearing was between the 100' BZ and 25' area. She said that Brad Holmes has prepared a BZ replanting plan to include monitoring; the applicant submitted his warranty agreement that includes language addressing the BZ restoration area and that the applicants performance bond will continue to be held by the COB through the three year monitoring plan. She said she recommends that the woody plantings be put into the 25' BZ and would recommend the partial COC could be issued making the planting plan and monitoring plans conditions.

Stephanie Danielson said that the plan should be updated to show the swale that was properly constructed; she asked about the bond and said that she does not believe that bond can be transferred or that we have right to go onto private property; she said normally when a COC has not been issued the seller holds money back in escrow.

Bonnie Sparks asked why for the second time in two meetings this issue has happened again. Scot Faria said it is one job....one project....two homes.

Jim Morrissey said he is the only person that can request the return of the performance bond from the city and it cannot be returned without a letter from the planning department to the treasurer/collector. He said he does not plan on asking for return of this money and has opted that it run in concurrence with OOC; he said he has extended his warranty with the prospective homeowners to three years instead of only one...he said he is showing good faith.

The chair said she appreciated the explanation. She said that she is pleased that he has agreed to extend the period of the bond and will not be seeking its return until a full COC is issued. She said she is impressed with the proposal and believes that this proposal will suffice; she asked that if this time he would like to request a partial COC on both lots. Jim Morrissey said he would like to have a partial for both lots.

Joanne Zygmunt said she is impressed by steps taken to address the issues and is confident in issuing the COC. She said she would like to discuss the issuance of partial COC's at a future time. Bonnie Sparks agreed that the commission should have that discussion and said she was very appreciative of the steps taken by the applicant.

Stephanie Danielson said that the commission will need an agreement stating the terms of how the performance bond is to be released and she said she would like the law department to review it.

The agent suggested that they resubmit the request for lot 1. Jim Morrissey said he will have his attorney draft a document.

A motion was properly made (Cerci) seconded (Zygmunt) and unanimously passed by a roll call voted to continue to the October meeting.

3. Notice of Intent

Property: Plots 118-6 and 118-7, Lot A Wilbur Ave.

Project: Single Family Home

Representative: JK Holmgren Engineering

Scott Faria said that they received ZBA and planning approval for the parcels; he said there is a BVW to the rear of the property; he said the new house has been placed as close to the street as possible and they are honoring the 25' no touch; he said they are fine with conditions in agents letter.

Stephanie Danielson asked the agent if she received proof of abutter notification (yes). Megan Shave said that the BVW starts just past the lawn and that the LOW will be at the 25' no touch; she said there is less than 10' being provided at the corner of the house and there could be an encroachment; she said that possible encroachment can be minimised with the conditions in her memo. She said she is recommending the standard conditions as well as the following special conditions:

- An environmental monitor shall be employed by the Owner or Applicant and approved by the Commission to maintain the erosion control barrier/limit of work. The name, contact information, and confirmation of service for the environmental monitor shall be provided prior to Commission approval of a building permit.
- The environmental monitor shall inspect slopes and erosion controls daily during foundation excavation. Following foundation installation, the environmental monitor shall inspect on a weekly basis, as well as after any significant storm events, until final grading is complete. The environmental monitor shall have the authority to modify existing erosion controls or require additional controls if deemed necessary. The environmental monitor shall supervise the immediate control of any erosion problems that occur on the Site and shall immediately notify the Commission if any discharges to a wetland resource area occur.
- The environmental monitor shall inform the Commission of the start date for foundation excavation and shall report in writing to the Commission once per month while earth-moving activities are underway within the 100-ft Buffer Zone to BVW.
- The 12-in silt sock erosion control barrier shall be reinforced with silt fence. The erosion control barrier shall be installed prior to Commission approval of a building permit.
- No backfill from excavation or introduced fill shall be stored for more than 24 hrs or during storm events within the 50-ft Buffer Zone to BVW.

And the following continuing conditions:

- No herbicides or pesticides are to be used at this site. This condition shall be made part of all subsequent deeds conveying the subject parcel.
- Permanent "Brockton Conservation Commission – Limit of Work – Do Not Remove" markers shall be installed every 25 ft along the approved Limit of Work (boundary of 25-ft Buffer Zone to BVW) as shown on the Plan of Record.

The chair asked what was variance for and was told the lots are non conforming.

No questions from the public.

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

A motion was properly made (Zygmunt) seconded (Sparks) and unanimously passed by a roll call voted to continue to issue an order of conditions to include standard conditions and special conditions in the agent's report.

4. Notice of Intent

Property: Plots 41-4 and 41, Lot B - 496 N Cary St

Project: Single Family Home

Representative: JK Holmgren Engineering

Scott Faria said the applicant intends to demo the existing home and build two new homes. He said that there is a BVW off the site but within 100' BZ of the property. He said the site has a lot

of cleanup that needs to be done including japanese knotweed. He said Brad Holmes will be working on that plan.

The chair asked the agent if she received proof of abutter notification (yes). Megan Shave said that the BVW extension is off a larger system with a vernal pool on the Rocky Mountain Spring site. She said that the knotweed is substantial and there needs to be a removal and disposal plan; she said that total eradication may not be possible; she said they will need to condition how it will be removed and disposed of to make sure it is not spread. She said she would like to see the topo for the site...there are no elevations or grading info...existing or proposed. She said the existing structures are on elevated concrete foundations and there is a substantial drop; she said she can't recommend issuing an OOC until we see the topography.

The chair asked if there was a variance needed and was told yes for two non conforming lots. She asked the agent if she looked at the VP to see if the knotweed invaded the pool and was told she was able to get into the vicinity of it. Scott Faria said that he will have Brad Holmes look at the VP and take some pictures.

A motion was properly made (Cerce) seconded (Sparks) and unanimously passed by a roll call voted to continue to the October meeting.

5. Notice of Intent – Continued to November 18, 2020
Property: Plot 2 Belgravia Ave.
Project: Single Family Homes & Roadway
Representative: Silva Engineering

Continued to the November 18, 2020 meeting by agreement of the parties.

6. Notice of Intent - Continued to October 21, 2020
Property: 166 E. Ashland St.
Project: Commercial Units
Representative: MBL Land Development

The chair asked if this hearing had been opened as of yet and was it had not. The agent said that the ANRAD had been filed in the fall and the NOI the first of the year. She said taxes are in arrears and to date there had not received a check for peer review. The chair said if they are not ready to proceed at the next meeting she would entertain a vote to table. The secretary said they were told the applicant would be in that week with payment.

Bonnie Sparks asked how much time we allow an applicant to open a hearing and make their presentation....she said she would like to see abutters re-notified because of the amount of time. Joanne Zygmunt asked the secretary if she had been previously told that payment would be coming and was told every month. The members were in agreement that this should be tabled until the financial matters are satisfied. Tabeling will make sure abutters are renotified.

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

7. Notice of Intent - Continued to October 21, 2020
Property: Map 142 Plot 383 Quincy Street
Project: Apartment Building
Representative: ET Engineering

Continued to the October meeting by agreement of the parties.

8. Notice of Intent - Continued to October 21, 2020

Property: 53 Baker Street

Project: Single Family House

Representative: ET Engineering

Continued to the October meeting by agreement of the parties.

9. Request for Amended Order of Conditions - SE 118-0693

Property: Plot 16 & 23 Hammond Street

Project: Hammond Street Cemetery and Crematory

Representative: Jacobs Driscoll Engineering

Greg Driscoll said they are requesting an amendment to the OOC which will rearrange the phasing of the project; he said they are proposing to revise the sequence as it shows on the new plan (phase 2 becomes part of phase 1) and the crematory now becomes phase 2. He said this would require state approval and site plan approval and may be several years down the road. He said they have applied for their SWIPP and at this time are looking to bring in the tree company and clear the area and begin work on the road.

Megan Shave said she was able to identify most of the flags and they are generally accurate; she said she was unable to locate flag A 56 and is concerned about the limit of work; # 51 to 54 appear to be a few feet off. Wetland system C is a wet meadow and flags are mounted on stakes but said she located almost all the flags; she said any amendment must include that there be a pre construction inspection of the LOW before there is any cutting or clearing. She said that the overall scope has not changed; an amendment is the proper way of proceeding; they are requesting to move phase two to phase one which creates a substantial amount of clearing....mostly upland. She said the access road to phase three should still be constructed as part of phase 1; their amendment asked to move that out of phase 1 and she said she would not recommend moving that condition. She said condition D4 should remain in the order and if approved this would become the plan of record.

Stephanie Danielson said she was on the commission when the project was approved; she said that the OOC states that each phase must be completed before another phase is cleared; she said it sounds like for convenience that developer wants to clear cut the site; she also said that the OOC also states that care will be taken to save trees.

Greg Driscoll said that since the original approval the applicant was able to come to agreements with the Sisters and the Lovells to relocate the Lovell entrance, Hammond St. has been discontinued and there is no direct access out to the street. He said that the purpose of the phasing was to have an area prepared for burriels and then move onto another area; at this time the applicant wants to move forward with the majority of the project.

Attorney James Burke said from a construction perspective the phasing was inconsistent; most of the construction is on the northern side of the property; the applicant wants to move forward with the cemetery in a timely way; he said it is totally impractical to use the old phase.

Joanne Zygmunt asked if Hammond exists and if you can drive from E to W; Greg Driscoll said it was a paper street with a small portion that was built by the Sisters; he said from a

construction standpoint it makes sense to clear it all; she asked which part will be used first and was told they are not sure; she said if the NE part of the cemetery will be filled first how long will it take to move to the other side; if it takes 3 years to fill a section then why clear everything? She also noted that the roundabout is close to the 25' no touch.

Attorney Burke said they would be happy to return at the next meeting with the developer and answer some of these questions. Joanne Zygmunt asked how many burial plots could be accommodated; she said she is also interested in the condition requiring the retaining of trees and shrub layer. Stephanie Danielson said that this plan does not show proposed grading; she said there was a conversation during site walk with developer work with the existing topography and save some large trees. She asked if the permit was valid; she was told they received an extension until January 2021; they were reminded to seek another extension.

Bonnie Sparks said she needs a better idea of the layout of the land...maybe we can make a better decision and make this a better project...knowing where the plots are and the major vegetation.

Attorney Burke said the applicant wants to try to make this the best project possible.

A motion was properly made (Zygmunt) seconded (Sparks) and unanimously passed by a roll call voted to continue the hearing to the October meeting.

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

Enforcement Correspondence - 19 Wallace St

The agent said she received a call from Councillor Nicastro about tree moving and a bobcat doing work at this address. She said that the property did have an OOC and there is a limit of work at the 25' BZ. She said she has issued a letter to the homeowner. She said she has also spoken with him and she said she told him what he needed to do to come into compliance; she said she sent him the approved plan; he stated he was not aware of the LOW or the OOC. The chair asked if this was a fairly newly constructed home and was told 2005. The chair said it looks like there are piles of sand; maybe some sort of encroachment and asked what the cleared area was and if there were any permanent markers required; the agent said it looks like LOW may have an encroachment; the agent said that it did receive a COC but the as built does not show any markers.

Acceptance of Meeting Minutes: 6-17-2020, 6-24-2020, 7-15-2020, 8-26-2020

A motion was properly made (Danielson) seconded (Zygmunt) and unanimously passed by a roll call voted to accept the minutes from 8-26-2020.

A motion was properly made (Zygmunt) seconded (Cerco) and unanimously passed by a roll call voted to accept the minutes from 6-17-2020 and 6-25-2020.

The chair said she wanted to re look at the July minutes before accepting them.

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.