



Robert F. Sullivan  
Mayor

# CITY OF BROCKTON

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

Planning Board

Historical Commission

Conservation Commission

Robert May, CECD  
Director

## BROCKTON CONSERVATION COMMISSION

**Wednesday, April 21, 2021 at 6 PM**

### MINUTES

Stephanie Danielson introduced herself and called the April 21, 2021 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 pages. All votes will be done via roll call to ensure account accuracy. As your name is called please indicate that you are present. Members present: Stephanie Danielson, Joanne Zygmunt, Bonnie Sparks, Joyce Voorhis, Laura Biechler and Drew Ambrose; also present were Conservation Agent Megan Shave and Admin Pamela Gurley.

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#### 1. Request for Certificate of Compliance

Property: 74 (Plot 13) Melrose Ave

Project: Single Family House

Applicant/Representative: Absolute Builders / Curley & Hansen Surveyors

Megan Shave updated the commission and said that the last outstanding item was that the limit of work markers had been installed but had not been capped; she said that the caps have been added and labeled. She recommended that a full COC could be issued at this time.

A motion was properly made (Sparks) seconded (Vhooris) and unanimously approved by a roll call vote to issue full COC.

#### 2. Request for Certificate of Compliance

Property: 86 (Lot 3) Melrose Ave

Project: Single Family House

Applicant/Representative: Absolute Builders / Curley & Hansen Surveyors

Megan Shave said this is a similar site; limit of work markers were also the along with the limit of work markers there is also the outstanding issue of the fence that extended into the flood plain & 25' no touch buffer. She said that the Commission had discussed previously that the portion in the floodplain can remain because it shouldn't impact wildlife, but she recommended that they relocate the portion within the 25' BZ; she said she has been in correspondence with the applicant and the current homeowners and said that the limit of work originally approved may not have been what was marked in the field during construction.

Bill Self said that the applicant spoke with the homeowners regarding relocating the fence and they have been unable to come to an agreement to date; he said hopefully there will be some final direction tonight. The chair asked if the location for the permanent LOW was located in the field. Bill Self said he did not stake where erosion control should be at time of construction; the contractor had already had the erosion control in because the site had been cleared. He said he was called to stake the foundation and located the hay bales at the time of the grading and there was no fence at that time; he said he was requested by the applicant to put the property line in between the two lots and he also recommended that there be no fence until a COC had been issued.

Carl Djustberg said as part of the approval the existing shed on foundation was demolished; he said if the hay bales were wrong in that area it was because they were working around the shed; after homeowners bought the house they wanted to install a fence; he said that the side property line was already marked and they followed the haybale line and met the existing fence on the neighboring property along the back.

Megan Shave said that the original suggestion was acceptable to leave portion of the fencing in the floodplain; she said that the SE corner of the fence could be moved out of the 25' BZ; she said if it was installed outside of the 25' BZ it would be squared off; this compromise would be to square it off.

The chair asked how much (fencing needed to be moved) in linear feet; the applicant said one corner would stay and the other would be 10'.

Homeowner Barry Smith said that the 6' white vinyl fencing was installed by Home Depot. The applicant asked if it would be possible to extend this request for one meeting to meet Megan out at the site with the homeowners. Megan said she is familiar with the site; she said that that the point he is trying to make is how much of a difference moving it will make as it was existing yard area; she said the issue is what is the commission willing to compromise: the approved plan had a final LOW at the 50' BZ; the Commission's policy is to maintain the 25' no touch BZ.

Bonnie Sparks said they need to stand by their 25' no touch; Joanne Zygmunt said they can not set a precedent allowing work within the 25' no touch and agreed that fence has to be moved

Homeowner Tyiesha Fuller said they did what they were supposed to do; she said they have small children; she said they did not put the fence up until September; it is going to cost money to move the fence and was told they could install the fence. The chair asked her who approved the fence in that location; she said she was told they could put the fence as long as they stayed along the hay bales.

Bonnie Sparks asked specifically who was it that approved the location and was told that they mentioned to their realtor they wanted a fence; they dealt with Carl Djustberg. The agent said that he had emailed her about a fence; she responded that a fence could be installed within the limit of work; unfortunately the fence was apparently installed within the erosion control barrier that may not have been at the limit of work approved by the plan; she said when she responded she was not aware there was confusion as to where the limit of work was.

Joyce Voohris asked who laid the haybales out; the applicant said they were installed by his workers; he said that the haybales may have been shifted because they needed to remove the shed and foundation.

Drew Ambrose said this is an issue between the homeowner and builder; he would agree to a continuance to give the builder an opportunity to move the fence.

A motion was properly made (Zygmunt) seconded (Sparks) and unanimously passed by a roll call vote to continue the request to the May meeting.

3. Request for Certificate of Compliance - **Continued to May 19, 2021**

Property: 2020 Main Street

Project: Commercial building addition

Applicant/Representative: Nathan Realty Trust / Strong Point Engineering

4. Request for Certificate of Compliance

Property: 1854 Main Street

Project: Commercial Redevelopment

Applicant/Representative: Mass Best Motors / JK Holmgren Engineering

The agent said that this request was withdrawn previously to allow the applicant to address outstanding issues; she said that boulders were added to keep trucks from overhanging the basin; the basin was loamed and seeded; the only area that is not stabilized is the top of the basin; she said that the erosion control is still up and needs to remain until stabilized; she can not recommend that the erosion control be removed at this time.

The chair said this is not a hearing and there is no notification; she said this can be continued until applicant has complied and be added back on a later agenda.

Scott Faria said they did the work last week; he said he will keep an eye on this and let the agent know when to come out and inspect and request to be put back on an agenda at a later date.

A motion was properly made (Zygmunt) seconded (Ambroise) and unanimously passed by a roll call vote to continue the request to a future meeting date.

5. Request for Partial Certificate of Compliance

Property: 500 N Cary Street (496 N Cary Lot A)

Project: Single-family house

Applicant/Representative: CLM Development / JK Holmgren Engineering

Megan Shave said these lots were created by a subdivision plan; she said that only parcel Lot B was within Commission jurisdiction; Lot A was outside the 100' BZ. She said that the Order of Conditions was recorded on #496 and covered both lots. She said the applicant would like to release Lot A from the encumbrance; she said the COC would have to be a specific release for Lot A only and does not release Lot B; Lot B is not ready to receive a COC.

The chair said she would be in favor of a vote to issue a partial COC for lot A in its entirety with the notation that this does not release lot B.

A motion was properly made (Sparks) seconded (Zygmunt) and unanimously passed by a roll call vote to issue a partial COC for lot A in its entirety with the notation that lot B has not been released.

6. Notice of Intent

Property: 1014 Pearl Street

Project: Commercial Site Improvements (JM Pet Resort)

Applicant/Representative: Jengeo, LLC / JK Holmgren Engineering

For the record the chair said that Laura Biechler and Drew Ambroise cannot vote on this application.

Scott Faria said the biggest issue was with potty area #2; he said they are proposing to plant sword ferns spaced out 25' along the bank; he said that they also submitted the stormwater checklist.

Megan Shave said she would also be recommending two additional conditions:

- 25 ferns shall be hand-planted in the specified area prior to Commission approval of the construction of Potty Area #2.
- Signage shall be installed at the southern edge of the parking lot identifying the Riverfront Area and directing customers to bring their pets to Potty Area #1.

Stephanie Danielson said that she searched the USDA database and did not find sword ferns as a native species; Bonnie Sparks said that they are native to the west coast and suggested them because of their ability to filter pollutants. The chair said she would rather see cinnamon ferns, which are native. Joanne Zygmunt said she would like to see some signage as to why they should avoid that potty area..a little bit of education on the Riverfront Area.

A motion was properly made (Zygmunt) seconded (Sparks) and unanimously passed by a roll call vote (by those members able to vote) to issue an OOC with standard conditions, special conditions as recommended by the agent and that there will be appropriate educational signage along the potty area.

**7. Notice of Intent - Continued to May 19, 2021**

Property: 940 Belmont Street (VA Hospital)

Project: Roadway improvements (McGauley Way / Cape Cod Road)

Applicant/Representative: Monument Construction / JK Holmgren Engineering

**8. Notice of Intent- Continued to May 19, 2021**

Property: 135 Elliot Street

Project: Multi-family residential development

Applicant/Representative: Fenton Associates, LLC / JK Holmgren Engineering

**9. Notice of Intent - Continued to June 16, 2021**

Property: Plot 2 Belgravia Ave

Project: Single Family Homes & Roadway

Applicant/Representative: Buskull Properties / Silva Engineering, Curley & Hansen

**10. Notice of Intent**

Property: 360 Pearl Street (Map 010-164)

Project: Single Family House

Applicant/Representative: James Victorine / ET Engineering

Azu Etoniru said he submitted a more detailed plan to include the loaming and seeding of the buffer zone and removal of unauthorized fill. He said he is recommending that environmental monitoring be performed by Ken Thompson who has done many restoration projects and feels he is very qualified.

Megan Shave said that the latest plan addressed her recommendations and is proposing additional special conditions; she said that the second erosion control barrier will be the permanent limit of work. She said that all the fill in the 25' no touch needs to be removed; she said that the fill in the 100' BZ needs to be removed as there is evidence of construction debris; she said unpermitted fill should not be relocated or retained in the 100' BZ; she said that any work between the two erosion control barriers is limited to removal of fill and restoration planting. She said there will be a special condition that all fill removal is completed before house construction can begin. She said there will be special conditions for monitoring the restoration area.

The chair said she would like to make sure that the OOC contains a three year monitoring period. She also noted that only three members were able to vote on this (Danielson, Sparks & Zygmunt).

A motion was properly made (Zygmunt) and seconded (Sparks) and unanimously passed by a roll call vote to issue an Order of Conditions with standard conditions, the additional special conditions recommended by the agent in her report, and the addition that there be a three year monitoring period.

#### 11. Notice of Intent

Property: 159 Torrey Street (Thorny Lea Golf Course)

Project: Solar power array

Applicant/Representative: Nextgrid, INC / Grady Consulting

Bonnie Sparks noted for the record that she was an abutter and would be abstaining from voting.

Daniel Seber, Nextgrid, said they received the received comments from BETA which were addressed and had a site visit with the agent.

Megan Shave said that since the last meeting there was some back and forth with plan revisions to address BETA's concerns; she said that all SW comments have been addressed; she said her previous comments were also addressed; the debris pile was moved and the missing flags were re-established; a decommissioning plan was submitted as requested by the Commission. She said that she had several additional special conditions that she was recommending.

The applicant said they would be happy to comply with all the conditions.

The chair said that the arrays will be placed over existing "landscape"; she said she would like a condition that all topsoil that is removed remains on-Site during decommission.

Joanne Zygmunt said she is interested in the decommissioning plan...wants to make sure that the area is loamed and seeded with something suitable; Daniel Serber said they use a native native pollinator mix under the panels. The chair asked what they would be doing with the topsoil.

Brendan King said there will be some top soil removal at the bases to prevent potential erosion; the chair asked what they would be doing with the removed topsoil and was told it would be used somewhere on the golf course...they will (golf course) use it somewhere else on site. She asked the agent to add a condition that the topsoil is to remain on site.

A motion was properly made (Zygmunt) seconded (Voorhis) and unanimously passed by a roll call vote (Danielson, Zygmunt & Voorhis) to issue a an order of conditions with standard conditions, the special conditions recommended by the agent in her report and conditions that they use native pollinator mix after installation of arrays and during decommission; also that any topsoil removed shall be stockpiled and remain on site.

#### 12. Notice of Intent - **Continued to May 19, 2021**

Property: 634/648 Summer Street

Project: Solar power-generating facility

Applicant/Representative: 648 Summer Street, LLC / SITEC

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

Request for Minor Change – 70 E Battles St (Mass Electric)

The agent said that the OOC was issued in December to install two new poles south of the substation; she said this proposed change moved the poles closer to the substation and less matting will be needed; she said everything else remains the same; there will be less temporary impact to the resource areas.

The chair said that she agrees that this change is not significant enough to need an amended OOC or new NOI; this is minor in nature and an improvement to the original proposal.

A motion was properly made (Zygmunt) seconded (Sparks) and unanimously passed by a roll call vote that the proposed change is minor in nature and does not require an amended order or new notice of intent.

### Chair's Report

The chair welcomed the new members; she asked that the staff get them copies of the wetlands protection act and suggested that they take the available training classes.

She said that she was contacted by Dep Ch Williams who is seeing a lot of dumping of trash etc in wetlands; she said that there is little enforcement available to them under state law and that they need a local ordinance. She said she would like to pursue that again and likes Norfolk's by law.

Joyce Voohris said she read the document in the google drive; Megan Shave said there is a working draft in the drive.

Joanne Zygmunt suggested that they look at MACC for model bylaw; the chair said that an ordinance will allow for the charging of fees.

955 Belmont - The agent said she was contacted by the applicant and there are two trees outside the 100' BZ they would like to remove; she said they feel the roots will be damaged by construction and they need to come down; she said they are proposing to replace the trees. She said they are preparing a plan and asked if the commission would consider this a minor change, if not she would just tell them to request to amend the OOC. The commission agreed that this could be considered a minor change.

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.**