



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, May 18, 2022 at 6 PM

Via ZOOM

MINUTES

Stephanie Danielson called the May 18, 2022 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.

The following members were confirmed to be in attendance by roll call: Stephanie Danielson, Chair, Joyce Voorhis, Joanne Zygmunt, and Peggy Curtis. Conservation Agent Megan Shave and Admin Pam Gurley were also in attendance. Fire Dept Deputy Chief E. Williams was also in attendance.

1. Commission Matter: Review & Approval of Meeting Minutes – 05-05-22

A motion was properly made by Joyce Voorhis, seconded by Joanne Zygmunt, and unanimously passed by a roll call vote to accept the minutes as presented.

2. Enforcement Matter: 58 Trout Street

Lucino Pina, property owner, was in attendance.

The Agent said this property comprises two parcels; the rear parcel is in the 100 yr floodplain; a portion of property contains BVW; work done has been done in the backyard, including new ground cover (astro turf), fencing, with piles of debris observed on the back side of the fencing. The Agent estimates that the work crossed into the 25-ft Buffer Zone of the wetland or into the wetland itself; a survey is needed; the wetlands will need to be flagged; debris on the other side of the fence needs to be removed; an NOI needs to be submitted showing compliance with the performance standards; may need a restoration plan for work that cannot be permitted.

Member Ruby Clay was now present.

Chair asked if Mr. Pina was aware that there were wetlands when he purchased the property. Mr. Pina said he has owned property for three years; the trees were already cut; he said all he did was put a fence in; he put fake grass in last year; he held a party last year without a license; he now knows he can not hold a party (business) in his house. The Chair said he needs to hire a wetland scientist; she explained the jurisdiction of the Commission.

Mr. Pino said he may want an inground pool in the future.

Joyce Voorhis asked if he purchased through a realtor or directly from the previous owner; Mr. Pina said the owner was a relative.

Mr. Pina said this was a misunderstanding; he just wants to know where his property is.

The Commission agreed to await an update by the owner at the June meeting next month.

3. Enforcement Matter: 53 Spark Street

The Agent said this is a matter of various vehicles, including boats, trucks, and trailers, stored on unpaved portion of the site adjacent to the waterway.

Trustee and partner come into office today asking for a continuance to the July meeting; their opinion is that activities are exempt from wetlands protection act, but they need time to do research.

Stephanie Danielson asked what makes it exempt; the Agent said her understanding is that they are pursuing the historical mill complex exemption for riverfront area, but there is a question of the footprint of the mill complex.

Stephanie Danielson said she thought there was a different standard for historic mill complexes but not an outright exemption. She said that if they were operating under that premise, then they should have the information already. She would prefer that they attend the next meeting.

Peggy Curtis asked how long have they owned the property; the Agent did not have the details of the ownership.

Peggy Curtis asked about the location of Trout Brook; the Agent said the waterway is the modified channel of the original brook; the remainder of Trout Brook is now culverted under Spark St.

Peggy Curtis asked what business is there; the Agent did not have that information.

Joanne Zygmunt asked if the question is whether this is a historic mill complex site; Stephanie Danielson said it is whether a portion of the riverfront area existed as part of a mill complex prior to 1946 and remained in place after 1946.

Joyce Voorhis noted that the area at the opposite end looked like there were items next to the riverfront; the Agent said there are two sections of daylighted waterway on the site.

Ruby Clay agreed with the Chair; if they know they have an exemption then they should be able to present documents.

A motion was properly made by Joanne Zygmunt, seconded by Peggy Curtis, and unanimously passed by a roll call vote to continue to the June meeting.

4. Project Update/Enforcement Matter: 93 Tilton Ave (SE 118-788)

Stephanie Danielson said the owners were asked to attend this meeting to give an update; the Agent sent a letter; she previously sent an email reminding them that the restoration was to be initiated by April 15th; no erosion controls have been installed; no pre construction meeting has been held; a new deck was constructed; new or relocated dumping has been observed on the site; the owner called in

response to the letter and said they were hiring someone to install the siltation and hold a pre-construction meeting. The Agent has not heard from anyone since that call.

Stephanie Danielson requested that a reminder letter be issued asking for a written response to the initial letter.

Joyce Voorhis noted that two deadlines have been overlooked; the Commission should issue a request for some sort of action.

The Agent had the Commission outline what they wanted included in the letter.

Peggy Curtis asked if there are any consequences for issuing the letter; the Agent said an Enforcement Order has not yet been issued.

5. Request for Minor Change

Property: Lot 84 Thatcher St (SE 118-0779)

Project: Single family house

Applicant: Ricky DaSilva

Ricky DaSilva was in attendance. He said he wanted to remove the retaining wall on the approved plan; he used a 5' foundation and 3' knee wall; he already graded the front of the site out and will need to excavate more to add the retaining wall; not adding the retaining wall will allow water to drain away from the property.

The Agent said the front has a gradual grade, but the slope on the side is still steep, so he will still need to install the interceptor trench as shown on the plan. Mr. DaSilva said he still intends to install the interceptor.

A motion was properly made by Joanne Zygmunt, seconded by Joyce Voorhis, and unanimously passed by a roll call vote to determine that the field change eliminating the retaining wall is minor in nature.

6. Notice of Intent

Property: Massasoit Boulevard / 290 Thatcher St

Project: Infrastructure for nine existing light poles

Applicant/Representative: Massachusetts Electric Company / TRC

Molly Lennon from TRC said they have received the DEP file number and sent an updated figure 2; the conduit box location was updated as well.

Stephanie Danielson asked if the impacts to BLSF could be considered negligible.

Molly Lennon said there is no BFE for the area; the transformer pad is 21 SF, so the assumption is that any floor storage loss would be pretty negligible.

Stephanie Danielson asked if 21 SF is the footprint; Molly Lennon said yes, and it is being raised 2'.

Joyce Voorhis asked to see the drawing of the transformer pad/box.

Stephanie Danielson asked if the pad height is designed to withstand flooding; Molly Lennon says they believe that the box will be protected; the area is 6-7' above the Brook water level already, and the additional two feet of the base will be added.

Joyce Voorhis asked what the actual displacement would be; Molly Lennon said 41 CF.

The Agent said the presumption to be overcome under the Regulations is whether the lost flood storage will contribute to a rise in flood stage; it is difficult to determine at this site because there is no

BFE to calculate incremental flood storage loss; but if the answer is yes, then they need to provide compensatory storage.

Stephanie Danielson asked if a civil engineer did any calculations and was told no.

Stephanie Danielson said it is hard for the Commission to make an informed decision; she thought that a civil engineer would make some sort of statement with info backing it up their assertion that the fill is negligible. Molly Lennon said she can go back to the engineer and ask them to provide something.

Peggy Curtis asked how many light poles does the transformer power; was told 9 total, with 7 in the jurisdiction of the Commission.

A motion was properly made by Peggy Curtis, seconded by Joanne Zygmunt, and unanimously passed by a roll call vote to continue to the June meeting.

7. Notice of Intent

Property: 82 Ames Street

Project: Commercial parking lot

Applicant/Representative: Robert Toukhmanian / River Hawk Environmental

The Agent said the hearing opened in March; the engineer requested a continuance to the April meeting (held May 5th) to address BETA Group's comments and her comments; she sent emails to the applicant and representative so that they were aware that they are on the agenda tonight. Stephanie Danielson asked if there was no continuance request; the Agent said she has received no communication since the first continuance request.

Stephanie Danielson said that there was an Enforcement Order; the Agent said an Enforcement Order was issued and a requirement was that an NOI be filed.

Stephanie Danielson said they can send a follow up letter.

Joyce Voorhis noted that the Enforcement Order was issued a year ago.

The Agent said that if there is to be another letter, then the Commission should be specific in what they are looking for: erosion controls that were installed are down; ongoing vehicle activity on the site.

Joyce Voorhis asked if pictures can be included with the letter.

Joanne Zygmunt asked if this is the site for which the owners were looking for an HCA for marijuana; the Agent said they have seen no formal plans.

Joanne Zygmunt asked if the Mayor is aware of the issues on the site; the Agent confirmed that the Mayor is aware.

Stephanie Danielson said that the Commission should issue a cease and desist of any earth activities on the site.

Peggy Curtis and Ruby Clay felt the Commission should issue a cease and desist letter for all work on the site.

Peggy Curtis asked what is the next level of enforcement; the Agent said the Commission can request that the Law Department pursue the issue in court.

A motion was properly made by Joyce Voorhis, seconded by Ruby Clay, and unanimously passed by a roll call vote to issue a cease and desist letter and recommend that the City Solicitor take action.

8. Notice of Intent June 15, 2022

Property: Map 003-049 Pleasant Street

Project: 40B apartment complex with stormwater infrastructure in Brockton

Applicant/Representative: Blackledge, LLC / Coneco

A motion was properly made by Joanne Zygmunt, seconded by Joyce Voorhis, and unanimously passed by a roll call vote to continue the hearing to the June 15th meeting to permit review of the legal correspondence received yesterday.

The Chair acknowledged an Enforcement issue as an unanticipated item. The Agent said she has drafted an Enforcement Order for a parcel on Howard St/Claremont Ave (Map 181-042) in response to recently-received information. The draft documents the facts: on May 7th 2021, a Site Plan Review application was filed for a sports complex; the plans showed an existing earthen berm and gravel and debris piles; the Agent requested in writing that the applicant have a wetland scientist flag any resource areas on all parcels and reiterated this request at Technical Review meetings on May 24th and July 26th; on May 11th 2022 a revised set of plans showed a wetland resource area boundary on Map 181-042 and existing debris piles within jurisdictional areas; the applicant said they would file an RDA for the sports complex, but no indication was made that the applicant would file for the gravel and debris piles.

The Agent recommended that the Enforcement Order include a cease and desist of all earth moving activities in jurisdictional areas, installation of erosion controls, a fill removal plan with soil sampling, and a restoration plan by June 15th.

Stephanie Danielson asked if this is the area that is being used for demolition and debris recycling; the Agent said she doesn't know the most technical definition for the activity, but at minimum there has been filling associated with activities involving an earthen berm and gravel piles. Stephanie Danielson said she agreed with all the measures outlined in the draft Enforcement Order.

A motion was properly made by Joanne Zygmunt, seconded by Peggy Curtis, and unanimously passed by a roll call vote to issue the Enforcement Order.

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.