



CITY OF BROCKTON

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

Planning Board

Historical Commission

Conservation Commission

Robert F. Sullivan
Mayor

Robert May, CEcD
Director

MINUTES

JULY 19, 2023 – 6:30 PM

Joyce Voorhis called the July 19, 2023 meeting of the Brockton Conservation Commission to order and read the following statement: “The meeting is being conducted remotely in accordance with the extension of the Governor’s Order suspending certain provisions of the Open Meeting Law M.G.L. c 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. If you wish to comment during a public input portion of the hearing, please use the ‘raise your hand’ function to be addressed at the appropriate time. For those of you joining by phone only, please press ‘*9’ to raise your hand. A copy of this recording will be on the City’s webpage. All votes will be done by a roll call to ensure count accuracy. Please note that discussion of agenda items should be limited to 15 minutes each to ensure timely progress through the agenda.”

The following members were confirmed to be in attendance by roll call: Laura Biechler, Peggy Curtis, Shareefah Mapp, Joyce Voorhis - Chair. Conservation Agent Kyle Holden; the Commission’s consultant from The BETA Group, Inc., Elyse Tripp; and Administrator Rhode Germain were also in attendance.

NOTE - Agenda Items Continued to August 16, 2023 Meeting:

- #12. 455 Oak Street – AOC and EO
- #19. 940 Belmont Street – NOI
- #21. 549 Copeland Street – ANRAD
- #22. 710 Oak Street – NOI

COMMISSION MATTER

1. *Acceptance of June 21, 2023 Minutes*

A motion was made (L.B.) and seconded (P.C.) to accept the June 21, 2023 minutes. Motion passed by unanimous vote.

VIOLATION DISCUSSIONS

2. *30 Oak Street Extension*

Agent Holden and Olga Leroy, representative of The Hamilton Company, updated the Commission on the remediation progress at the Site. The Agent clarifies that the Commission only requires the stabilization of the disturbed ground with an approved Northeast Native Wildlife/Wildflower mix. Ms. Leroy plans to get the disturbed area seeded and will contact the Agent once the area is stabilized.

3. 115 Goldfinch

The address of the Site in the minutes has been changed from the address posted on the Agenda to correctly reflect the location of the property.

Agent Holden provided the Commission with an update on the remediation progress for the Site. The Agent had been provided an updated Wetland Delineation, as requested by the Commission, and stated that the next step would be for the property owner to file an after-the-fact Notice of Intent and restoration plan by the August 16, 2023 meeting. The Chair clarified that the Commission planned to move forward with an Enforcement Order at the August meeting if there was no forward-movement on the Notice of Intent.

4. 155 Winthrop Drive

Agent Holden provided the Commission with information pertaining to Brockton's Zoning and Stormwater Ordinance and suggested it may be possible to bring the Site into compliance with the Wetlands Protection Act and Brockton City Ordinance with one remediation plan. The Commission discussed remediation recommendations and ultimately decided to require the Site to come into compliance with the Wetlands Protection Act by removing asphalt from the 25-foot no-touch zone adjacent to the southern side of the intermittent stream. The Commission decided to inform the property owners of their non-compliance with the Brockton Stormwater Ordinance, but left the responsibility of coming into Stormwater compliance up to the property owner.

A motion was made (P.C.) and seconded (L.B.) to issue an Enforcement Order with the approved remediation requirements, including an after-the-fact Notice of Intent to 155 Winthrop Drive. The motion passed by unanimous vote.

ENFORCEMENT ORDERS

5. 19 Otis Street

Following their June 21, 2023 meeting, the Commission expected a resource delineation and remediation plan to be submitted by the property owner by the July meeting.

The property owner, Jesuino Resende, and his representative spoke at the meeting asking for clarification on required next steps. Agent Holden reviewed the Commission's expectations as stated in the initial Enforcement Order (April 27, 2023), again during an in-person meeting with Mr. Resende along with a member of the Building Department to help translate (May 23, 2023), and reiterated in a follow-up letter (June 27, 2023). The Agent, once again, communicated the expectations of the Commission: the property owner must hire a professional wetlands scientist or environmental engineer to delineate the property line, assess the changes to the resource areas, and to develop a remediation plan to return the site to conditions prior to construction.

The Commission requests that the Agent follow-up with Mr. Resende and expects some sort of movement on a remediation plan to be submitted by the August 16, 2023 meeting.

6. 82 Ames Street

Agent Holden provides an update to the Commission concerning enforcement history on the Site. The Agent, property owner Robert Toukhmanian, and his representative Bob Rego of River Hawk Environmental, LLC agree that there are two discrete environmental concerns at the site: the construction of an unapproved parking area within floodplain and the jurisdictional status of the stone-lined channel that runs through the Site. All agree that before moving forward with an after-the-fact Notice of Intent, the jurisdictional status of the stone-lined channel should be established.

To that end, Mr. Toukhmanian and Mr. Rego plan to submit an RDA to clarify if the resource area is jurisdictional before the September 20, 2023 Conservation Commission meeting.

7. 803 Crescent Street

The property owner, Bruno Silva, appealed for a time extension from the Commission to allow him to research different remediation options.

The Commission agrees to grant Mr. Silva a 60-day extension but will require an update at the August 16, 2023 meeting.

8. 0 Lawton Avenue

Agent Holden provides background on the Site and Enforcement Order. Property owner, Edson Lopes, speaks to his intent to develop the Site but has stopped work following the issuance of the Enforcement Order. Following the remediation requirements outlined in the Enforcement Order, Mr. Lopes plans to employ an Environmental Engineer to identify the existing resource areas and to develop a remediation plan.

A motion was made (L.B) and seconded (P.C.) to ratify the issued Enforcement Order to 0 Lawton Avenue with the language to be amended to reflect the need to delineate the existing resource areas in addition to requiring a remediation plan. The motion passed by unanimous vote.

9. 1507 Main Street

Agent Holden provides background on the Site and Enforcement Order. Property owner, George Brewster, provides additional context to the development of the violation. Mr. Brewster expressed his willingness to work with the Commission to bring the Site back into compliance with the Wetlands Protection Act and will be working with his neighbor, John Simonelli of 1489 Main Street, to finance the remediation.

A motion was made (L.B.) and seconded (P.C.) to ratify the issued Enforcement Order to 1507 Main Street including the stipulations outlined by Agent Holden. The motion passed by unanimous vote.

10. 270 Howard Street

Agent Holden provides background on the Site and Enforcement Order. Robert Barrile, property owner, seeks clarification on next steps to bring the Site back into compliance with the Wetlands

Protection Act. Agent Holden reviews the language in the issued Enforcement Order. Mr. Barrile states he will contact an environmental scientist to develop a remediation plan and has already stabilized the Site with straw.

A motion was made (L.B.) and seconded (S.M.) to ratify the issued Enforcement Order to 270 Howard Street including the stipulations outlined by the Agent. The motion passed by unanimous vote.

11. 57 River Street

Agent Holden provides background on the Site and Enforcement Order. The Agent sent the Enforcement Order via Certified Mail, but had not received a green slip back. The Agent was also unable to solicit a response upon knocking at the door. No representative of the property appeared before the Commission as requested in the Enforcement Order cover letter. Agent Holden informs the Commission that the previous Conservation Agent had issued an Enforcement Order to the property on June 22, 2020 for the same type of unpermitted work. The Commission considers referring this case to the Brockton Law Department if the property owner does not engage with them by the August 16, 2023 meeting.

Peggy Curtis suggested that a language barrier may be the cause for the historical lack of response. The Commission requests the Agent send a follow-up letter in multiple languages.

A motion was made (L.B.) and seconded (P.C.) to ratify the issued Enforcement Order for 57 River Street. The motion passed by unanimous vote.

AMENDED ORDER OF CONDITIONS

13. 900 West Chestnut Street - AOOO

Christian A. Farland, Principle Engineer and President of Farland Corp., representing Parallel Products spoke with the Commission about amending the Order of Conditions for Lynch's Towing to allow for the construction of raised solar canopies over the parking portions of the lot. Agent Holden provides historical context for Site and current Order of Conditions. The Commission raised concerns that the canopies could negatively impact the restoration area within the 25-foot Bordering Vegetated Wetland Buffer-Zone and inquired about column drilling methods and dewatering concerns.

The Commission requests the applicant provide an updated Site Plan that includes erosion controls around the column drilling areas and provide a dewatering plan in case it is needed during the construction of the solar canopies. The Commission would also like the applicant to provide information on the impact that the solar canopies would have on the Wetland Resource Area and 25-foot Buffer-Zone.

A motion was made (L.B.) and seconded (P.C) to continue the Amended Order of Conditions request for 900 West Chestnut Street to the August 16, 2023 meeting. The motion passed by unanimous vote.

14. 0 Hammond Street – AOC and Extension Request

Attorney James Burke, JDE Civil, Inc. Engineer Josh White, and property owner Doug King present the proposed changes to the Order of Conditions (Originally issued in 2015 and has received multiple extensions) which will include modifying Phase 1A of the Site Plans to include a 4-foot retaining wall around the perimeter in order to raise the grade of the northern portion of the Site to ensure adequate burial depths. The AOC would call for an additional 4 to 6 feet of fill to be added within the retaining walls following their construction.

The Commission inquired about the source and type of fill proposed to be used at the Site. Mr. King states that a glacial till/clay material will be trucked-in to fill the site.

The Commission expressed concerns about the length of time this Order of Conditions has been open. If the current 3-year Extension Request was granted, the OOC would be open for 12 years. Attorney Burke reassures the Commission that Mr. King is ready to commence construction as soon as he is granted the Amended Order of Conditions.

The Commission also expresses concern about the age of the currently installed erosion controls and requests the Agent meet with Mr. King On-Site to gather additional information on the current state of the Site. The Commission also requests that BETA Group Inc. Peer Review the Amended Order of Conditions Site Plan to determine the effects that building the retaining walls and adding the additional fill would have on stormwater runoff and how that could impact the Wetland Resource Areas on Site.

A motion was made (L.B.) and seconded (P.C.) to continue the Amended Order of Conditions and Extension Request for 0 Hammond Street to the August 16, 2023 meeting. The motion passed by unanimous vote.

PRESENT FILINGS

15. 45 Chestnut Drive – RDA

Agent Holden summarizes that the applicant, Lisa Sheehan, would like to replace an existing damaged above ground pool that is within 50-feet of a Bordering Vegetated Wetland and thus not an exempt minor activity according to the Wetlands Protection Act. The new pool will be the same size and be constructed within the existing footprint of the damaged pool.

The Agent recommends issuing a Negative 3 Determination with the conditions outlined in the Agent Report.

A motion was made (P.C.) and seconded (L.B) to issue a Negative 3 Determination for the RDA at 45 Chestnut Drive with the stipulations outlined in the Agent Report. The motion passed by unanimous vote.

16. 180 Colonel Bell Drive – RDA

The applicant, Owen Grey – Stewardship Manager at Wildlands Trust, summarizes that Wildlands Trust, in partnership with Manomet, Inc., are working with the Manthala George Jr. Elementary School to construct an outdoor classroom and learning space at the Site. They would like to install a sitting circle in the woods nearby to the outdoor classroom. Currently, the area where they would like to

install the sitting circle is the location of an old asphalt dump. The asphalt dump is within 100-foot Buffer-Zone to Bordering Vegetated Wetland. The Brockton Department of Public Works has agreed to remove the old asphalt as part of the project.

The Agent recommends issuing a Negative 3 Determination with the conditions outlined in the Agent Report.

A motion was made (L.B.) and seconded (P.C.) to issue a Negative 3 Determination for the RDA at 180 Colonel Bell Drive with the stipulations outlined in the Agent Report. The motion passed by unanimous vote.

17. 153 Linwood Street – RDA

Agent Holden summarizes that the applicant, David McDonald – representing the homeowner, has submitted an RDA for the construction of an elevated single-room addition to be constructed in the existing footprint of an elevated deck (to be removed). The new construction will include new support beams within the footprint of the existing concrete slab below the deck. The deck is within the 100-foot Buffer-Zone to a Bordering Vegetated Wetland.

The Agent recommends issuing a Negative 3 Determination with the conditions outlined in the Agent Report.

A motion was made (L.B.) and seconded (P.C.) to issue a Negative 3 Determination for the RDA at 153 Linwood Street with the stipulations outlined in the Agent Report. The motion passed by unanimous vote.

18. 940 Belmont Street – RDA

Scott Faria of J.K. Holmgren Engineering, Inc. and representing the applicant summarized that the work outlined in the RDA application includes the pruning of multiple trees at the Veterans Affairs Hospital.

The Agent recommends issuing a Negative 3 Determination with the conditions outlined in the Agent Report along with a Positive 2b Determination stating that the Bordering Vegetated Wetland boundaries are not confirmed by this determination.

A motion was made (L.B.) and seconded (P.C.) to issue a Negative 3 Determination and Positive 2b Determination as outlined by the Agent for the 940 Belmont Street RDA. The motion passed by unanimous vote.

20. 0 Pleasant Street – NOI

Scott Faria, of J.K. Holmgren Engineering, Inc. and representing the applicant summarizes the Notice of Intent application as it has been before the Commission. As requested by the Commission, BETA Group, Inc. has reviewed the NOI for Stormwater and WPA compliance. After a few iterations and redesigns based on BETA's recommendations, Mr. Faria believes all of BETA's concerns have been addressed.

Agent Holden agreed that the applicant had provided all requested information and had satisfactorily modified their Site Plan to address all of BETA's recommendations. The Agent recommended issuing an Order of Conditions with Special Conditions outlined in the Agent Report.

A motion was made (L.B.) and seconded (P.C.) to close the public hearing on the 0 Pleasant Street Notice of Intent for the construction of a 2-family dwelling. The motion passed by unanimous vote.

A motion was made (L.B.) and seconded (P.C.) to issue an Order of Conditions with the outlined Special Conditions for the 0 Pleasant Street Notice of Intent. The motion passed by unanimous vote.

UTILITY NOTIFICATIONS

23. Eversource – ROW 6

Agent Holden informed the Commission that the previously approved Eversource Right of Way 6 Utility Notification had written to inform the Commission that they would need to remove a tree that is in danger of falling onto a power line. The proposed additional work is also exempt as part of a public utility.

24. National Grid – NEP Footer Repair

Agent Holden informed the Commission that BETA Group, Inc. had reviewed the National Grid – NEP Footer Repair Utility Notification, as requested. BETA received additional information from the Utility and was able to determine that the proposed work would be following best practices and would be exempt under the Wetlands Protection Act and that an RDA would not be required.

A MOTION WAS MADE (J.V) AND SECONDED (P.C.) TO ADJOURN THE MEETING AT 9:25 PM. THE MOTION PASSED BY UNANIMOUS VOTE.