

Department of Planning and Community Development

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Mayor Joseph C. Sullivan

Braintree Conservation Commission

Patrick Flynn, Chair
Donald Murphy, Vice-Chair
Diane Francis
Matthew Hobin
Daniel J. McMorrow, Jr.
Gail Poliner-Feldman
Alan Weinberg

Staff Kelly Phelan

CONSERVATION COMMISSION MEETING MINUTES THURSDAY, JULY 15, 2010

APPROVED

Members Present: Alan Weinberg *Chair of meeting*
Gail Poliner Feldman
Diane Francis
Matthew Hobin

Staff: Kelly Phelan

Public Hearings

8-600 Notice of Intent 75 Granite St./Herb Chambers

Documents or exhibits: None

Attorney Frank Marinelli was present on behalf of Chambers of Braintree. Chambers purchased the filed a Notice of Intent to enclose a swale which ran through the parking lot. The work was done but it was not in accordance with the Order of Conditions. Therefore, Chambers filed a new Notice of Intent. The new NOI seeks approval of the use of the two 24 inch pipes which were installed and construction of leaching chambers to provide required compensatory flood storage.

Attorney Marinelli said they had been before the Commission in March, at which time Kelly Engineering presented the project. However, they need approval from MA Highway (now MA Department of Transportation) since the work is within a MA Highway easement. They had asked for a continuance to the May meeting and subsequently to this meeting. Attorney Marinelli said they had sent the project plan and materials to MA DOT and met on site with them. They expect to hear back from DOT within by late August or early September and requested a continuance to the September 16 meeting.

Ms. Feldman asked if the site is within a floodplain, staff said it was. Attorney Marinelli said Kelly Engineering looked at the site during the March flooding events and the site performed well.

Mr. Weinberg asked if any members of the public had comments. There were no comments. Motion by Ms. Feldman, second by Mr. Hobin, to continue 8-600 to the September 16, 2010 meeting. Vote: 4-0.

8-578 Notice of Intent Oregon Ave./McGrath

Documents or Exhibits:

- 1) Plan: Plan to Accompany Notice of Intent Application - Lot 6 Oregon Ave. Extension
Dated: 5/7/10

Staff summarized the situation. Fill was placed within the floodplain on Lot 4 of this subdivision. The developers (Dan and Jamie McGrath) propose compensating for this fill by lowering elevations on Lot 6. Based on their site visit in late May, the Commission does not support the tree removal necessary to accomplish this and at the June 3 meeting, the directive was for the developer to revisit removing the fill from Lot 4. Since then, the McGrath's met with staff to discuss shifting the location of the compensatory flood storage from the vegetated area of Lot 6 to the area of this lot which has already been cleared. Staff said that the project engineer will need to provide the plan on this but that it appears to be a realistic solution.

Jamie and Dan McGrath were present to discuss and said they would have their engineer provide the revised plan.

Mr. Weinberg said the Commission would need a notarized letter from the owner of Lot 6 stating that he approves this work being done on his lot.

Mr. Weinberg also said the plan needs to be followed and that the Commission will issue fines if unapproved alteration happens again.

Motion by Mr. Hobin, second by Ms. Francis, to continue the hearing to August 12 and, pending receipt of a satisfactory plan and the letter from the Lot 6 owner a week prior, proceed to draft conditions for that hearing. Vote: 4-0.

8-601 2 Garden Park/McGourty

Mr. McGourty was not present. Motion by Ms. Feldman, second by Mr. Hobin to lay the matter on the table to see if he arrives. Vote: 4-0.

8-602 Elmlawn Rd. (Almquist Estates)/Elmlawn LLC

Documents or Exhibits:

- 1) Plan: Notice of Intent Topographic Plan "Almquist Estates"
Dated: May 13, 2010, Revised July 7, 2010

Paul Brodmerkle, project engineer, and Al Endrunias were present. Mr. Weinberg asked if Mr. Almquist was notified of the meeting because he would like him to be present. Mr. Endrunias said he was notified.

Mr. Brodmerkle presented the revised plan for a patio within the 25 foot buffer on lot 6. It is a pervious paver patio which will allow for recharge to groundwater and it will not slope toward the wetland. It will be 10 feet within the 25 foot buffer (leaving a 15 foot buffer). The plan also includes a barrier fence so that the future owners don't encroach into the buffer zone. He noted that staff recommended continuing the fence along the entire 25 foot no-disturb buffer (down to 15 feet on lot 6) and said they agree with that. He also addressed their proposal for "selective cutting" of vegetation within the drainage ditch and defined that as removing invasive species and trees which partially block the ditch.

Ms. Feldman asked how the ditch would be maintained. Mr. Brodmerkle said it will be seeded with New England Wetland Seed Mix and that the homeowners association will have maintenance responsibility, which will be outlined in their agreement.

Ms. Feldman clarified that there would be no equipment or disturbance of the rest of the buffer during construction of the patio. Mr. Brodmerkle said the fence would be installed first and the patio constructed from outside the fence. He added that the Commission can view the fence to confirm before the start of work.

Ms. Feldman said maintenance is very important. Mr. Brodmerkle agreed and said the Homeowner's Association responsibilities for maintenance will be tied to the deeds.

Mr. Weinberg suggested that native trees and shrubs on either side of the ditch be preserved or planted to enhance wetland functions. Mr. Weinberg also said that he had asked Mr. Almquist if the homeowner's association can have a greenhouse and Mr. Almquist was supportive. Mr. Weinberg said he would like to hear from Mr. Almquist on this.

Mr. Endrunias said Mr. Almquist will still have greenhouses on the Quincy side of the line and might work something out with the homeowners to use a portion of one but that he didn't see a community greenhouse going on one of the lots.

Ms. Feldman asked where the fence would be placed in the location where the compost pile is. That area was not flagged as wetland and shows no 25 foot buffer. She said the fence should not be on top of the ditch. Mr. Endrunias and Mr. Brodmerkle agreed to move the fence

Mr. Weinberg said the Commission had voted a 50 foot no disturb buffer and were awaiting adoption by the Town Council. Mr. Weinberg said he would like to see Mr. Almquist.

Mr. Endrunias said he does not believe the Commission can make Mr. Almquist provide a greenhouse or that a greenhouse can be conditioned. Mr. Weinberg said he was not trying to force the greenhouse.

Mr. Weinberg asked for public comment. There were no comments.

Ms. Feldman said her concern is drinking water and flooding. She wants to know that the ditch is going to work and that it will be maintained.

Staff said she had talked to the Town Engineer about the drainage system and his only concern was ensuring that the recharge units on each lot actually get installed. Mr. Brodmerkle said the developer would be building and selling constructed homes, not lots, so there was assurance that the plan would be followed.

Ms. Feldman raised the issue of the buffer. Staff said that she does not have a problem in reducing the 25 foot buffer to a 15 foot buffer behind one lot because this is not a typical wetland, it's a drainage ditch and not jurisdictional under the state Act.

Motion by Ms. Feldman, second by Mr. Hobin, to continue 8-602 to the August 12 meeting for draft conditions pending receipt of the revised plan (depicting fence location along 25 foot buffer with exception of patio area on lot 6). Vote: 4-0.

8-__ 79 Canavan Drive/Zechello

Documents or Exhibits:

- 1) Public Hearing Notice
- 2) Plan: Notice of Intent Plan 79 Canavan Drive
Dated: July 2, 2010

Mr. Weinberg read the public hearing notice for this new hearing.

Robert Hannigan, project engineer was present with Kristen and Robert Zechello. Mr. Hannigan said the wetlands were delineated by Chris Wagner, who was also present.

The proposal is to raise the yard from elevation 206 to 214 (closer to the surrounding grades) to place an inground pool in the yard. A boulder retaining wall is proposed to contain the fill. A pool house, concrete apron and 18" drain pipe under the file are also proposed. The drain pipe is to ensure that runoff does not collect between the lots because of the fill.

Mr. Hannigan said they would like to use boulders which are within the 25 foot buffer to construct a portion of the retaining wall. The boulders would be plucked out of the buffer by a piece of equipment operating outside the 25 foot area.

Mr. Hannigan also said the area is designated Area of Critical Environment Concern and borders on mapped habitat for rare species. They filed with the Division of Fish and Wildlife (Natural Heritage and Endangered Species Program) but have not heard back yet.

Mr. Hannigan also provided a letter of support from neighbors Frank and Mary Fasoli. He also said staff advised them of the need for a grading permit from the Planning Board so they will be filing with the Planning Board.

Ms. Francis asked how a truck would access the pool. Mr. Hannigan said it would run a hose from the driveway in front of the house.

Mr. Hobin asked where the pool water would be drained. Mr. Zechello said that with this type of inground pool you want to keep it full all winter to counteract the force of ground water on it.

Mr. Weinberg asked for public comment. There was none. Mr. Weinberg suggested the check for ledge ahead of time because it could complicate construction and make it expensive. Mr. Weinberg also suggested they consider an above ground pool.

Ms. Feldman suggested continuing to August 12th in order to hear back about the rare species and for the applicant to file with the Planning Board.

Motion by Ms. Feldman, second by Ms. Francis, to continue to August 12th. Vote: 4-0.

8- 601 Notice of Intent 2 Garden Park/McGourty

Documents or Exhibits:

1) Plan: Wetland Protection Plan 2 Garden Park

Dated: April 26, 2010, Revised June 15, 2010, Revised July 13, 2010

Mr. McGourty arrived and the matter taken off the table. Mr. Weinberg noted that Michael McGourty, Building Inspector, was also present.

Mr. Weinberg said that this has been going on for months and the Commission is just looking for compliance and asked Mr. McGourty if he had paid the \$300 fine issued by the Commission. Mr. McGourty said he had not received a fine, that staff had told him on the phone but that it had not come in the mail.

Staff said that she had sent a letter to Mr. McGourty and his engineer summarizing the discussion of the June 17th meeting about what needs to be shown on the plan and that the plan would need to be provided by July 12th. She did not receive the plan until the afternoon of July 14th and had not had time to review it in advance of this meeting.

Mr. Weinberg asked Mr. McGourty where his engineer was. Mr. McGourty said he was on vacation. Mr. Weinberg said he should have his engineer present to discuss the plan and help represent him.

In regard to the fine, Mr. McGourty said that at the site visit Mr. Flynn told him to go back to his engineer and he told Mr. Flynn that it might take some time. Mr. McGourty said he does not agree with the fine. Mr. Weinberg said he has the right to appeal the fine.

Mr. McGourty presented his plan. He said the block wall is moved out the 25 foot buffer to keep him out of the wetlands.

Ms. Feldman asked what else needed to be shown. Staff said the area behind the building needs to be shown. Mr. McGourty said no one said anything about that area during the site visit. Staff she has been asking for the area since the beginning of this process. Mr. Weinberg said he saw equipment up against the embankment during the site visit. Ms. Feldman said Mr. McGourty received approval for that previously. Staff said he exceeded what was approved by going beyond the berm and that she is not asking him to change anything which was previously approved. Mr. McGourty said the berm is broken.

Discussion ensued about the need for fire access around the building, however that is not a conservation issue. Staff said the issue is that the berm is gone and mulch and fill and equipment are all right up to the stream.

Ms. Feldman said we should help Mr. McGourty comply. Staff said she was trying, she gave a list of information to be shown on the plan and has offered to meet with the engineer several times.

Ms. Feldman said he is proposing a compensatory area and adding plants to be able to use this area. Ms. Feldman also said that based on the discussion at the site visit she thought it was clear what he needed to do. Staff said that the concept is fine, but that it needs to be accurately shown on a plan.

Mr. McGourty said he has shown what the Commission asked for on the plan and now staff wants him to go back and reengineer behind the building. Staff said she has asked for that area to be shown from the very beginning.

Ms. Francis said there is fill back there. Mr. McGourty said there is mulch back there and he has pulled vehicles in to be half on the asphalt and half on the mulch. Ms. Feldman said he has to stay within the asphalt.

Ms. Feldman said the engineer needs to be involved because there seems to be a miscommunication.

Mr. Weinberg told Mr. McGourty he has a right to appeal the fine and he should pick up a copy of the violation in the office on Friday.

Ms. Feldman asked Mr. McGourty to bring his engineer the next time and also to call staff if for some reason he can not attend the meeting.

Motion by Mr. Hobin, second by Ms. Feldman, to continue the public hearing to August 12th. Vote: 4-0.

Other Business

Request for Certificate of Compliance

8-584 South Shore Plaza Expansion/Simon Property Group

Staff said this was the Nordstrom's expansion project and that she had reviewed the As Built plans and conditions and did a site visit and that all conditions have been addressed. Staff also reviewed the

Stormwater System Operation and Maintenance Plan. Staff recommended issuing the Certificate of Compliance with surviving conditions relative to stormwater system maintenance.

Attorney Carl Johnson was present on behalf of the Plaza with Brian Dundon, the project engineer. Attorney Johnson said they had received As Built Approval from the Planning Board on Tuesday night.

Ms. Feldman asked about maintenance of the stormwater system. Attorney Johnson said it is they are obligated by the surviving conditions to do the maintenance. Mr. Dundon said that DEP requires records to be kept on site and made available to the Commission.

Attorney Johnson also requested that the Commission vote on release of two bonds for the project. One \$10,000 bond for riverfront restoration and one \$10,000 to guarantee the submission of As Built plans. Staff explained that the riverfront restoration work involved removing pavement and an old foundation and seeding the area to revegetate it, which was completed.

Motion by Ms. Feldman, second by Mr. Hobin, to release the \$10,000 bond for restoration based on staff's recommendation. Vote: 4-0.

Motion by Ms. Francis, second by Ms. Feldman, to release the \$10,000 bond for the As Built plans. Vote: 4-0.

Motion by Mr. Hobin, second by Ms. Francis, to issue the Certificate of Compliance for 8-584 with surviving conditions 18 (e-k), 36 and 37. Vote: 4-0.

Request for Certificate of Compliance

12.20.3 (bylaw only) Archbishop Williams Field on Storrs Ave./Edwards

Staff reviewed the As Built plans and conditions and did a site visit and recommended issuing the Certificate of Compliance.

Motion by Mr. Hobin, second by Ms. Francis, to issue the Certificate of Compliance for 12.20.3 with surviving condition # 37. Vote: 4-0.

Request for Certificate of Compliance

12.20.4 (bylaw only) Detention Basin/Campbell

Staff reviewed the As Built plans and conditions and did a site visit and recommended issuing the Certificate of Compliance.

Motion by Ms. Feldman, second by Mr. Hobin, to issue the Certificate of Compliance for 12.20.4 with surviving condition # 36. Vote: 4-0.

Request for Certificate of Compliance

8-564 14 Columbus Ave./Schneider

Staff reviewed the As Built plans and conditions and did a site visit and recommended issuing the Certificate of Compliance.

Motion by Mr. Hobin, second by Ms. Francis, to issue the Certificate of Compliance for 5-564. Vote: 4-0.

Minutes

Motion by Ms. Feldman, second by Mr. Hobin, to accept the minutes of June 17, 2010. Vote: 4-0.

Tree Maintenance

Staff said the Great Oak on Gilbert Bean Drive by the library has a large dead limb. The Commission has paid for maintenance of this tree out of its tree account in the past. Staff got a quote from Bartlett Tree to remove the dead limb and fertilizer the tree for a total cost of \$595.

Motion by Mr. Hobin, second by Ms. Feldman, to pay for this maintenance from the Commission's tree account. Vote: 4-0.

Motion to Adjourn

Motion by Mr. Hobin to adjourn the meeting at 9:20PM, second by Ms. Feldman. Vote: 4-0.