

# Department of Planning and Community Development

90 Pond Street  
Braintree, MA 02184  
781 794-8230



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, SEPTEMBER 16, 2010

**APPROVED**

Members Present: Patrick Flynn, Chair  
Gail Feldman  
Diane Francis  
Matthew Hobin  
Daniel McMorrow, Jr.  
Alan Weinberg

Staff: Kelly Phelan

### Public Hearings

#### **8-578 Notice of Intent Oregon Ave./McGrath**

##### Documents or Exhibits:

- 1) Plan: Lot 6 Oregon Ave. Grading Plan  
Date: 9/10/10
- 2) Plan: Permanent Marker Plan  
Date: 9/16/10

David Mackwell from Kelly Engineering Group was present with Dan McGrath, developer of the Oregon Ave. subdivision. Mr. Mackwell briefly reviewed the background of this project. Fill was placed on Lot 4 and they proposed to compensate for this on Lot 6. The Commission did a site walk in June to look at it and did not support the removal of vegetation on Lot 6. Since that time, the applicant has been trying to find another solution.

Mr. Mackwell presented a redesigned plan for the compensatory flood storage which limited the area of disturbance to an 8 foot wide strip behind the retaining wall. The elevation within this area will be lowered by a foot to provide compensation for the 18 cubic yards of fill which was not able to be removed from Lot 4.

Mr. Mackwell also worked with staff to develop a boundary marker plan for the five lots covered under this Order (Lots 3-7). Boundary markers will be placed along the floodplain boundary to provide future owners notice that the area is restricted.

Staff said she supported the revised compensatory storage area because it limits disturbance of the existing vegetated areas and provides for the required flood storage. Staff also supports the boundary marker plan.

Ms. Feldman asked if the lot owners agreed to the plan. Mr. Mackwell said the Lot 6 owner signed off on the compensatory area plan and all of the lot owners are bound by the Order of Conditions requiring boundary markers.

Mr. Weinberg said he was very happy with the solution.

Staff said she had drafted conditions for discussion and wanted to amend the boundary marker condition to include that their location be verified by survey.

Mr. Flynn asked about permanence of the boundary markers. The plan is to use what the Hanover Conservation Commission uses a 4 inch square post inserted three feet into the ground with a foot above ground and language stating "protected wetlands – no activity beyond this point".

Motion by Mr. Weinberg, second by Ms. Feldman, to issue the modified Order of Conditions as drafted for 8-578. Vote: 6-0.

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

Staff said the applicant's attorney is still working to obtain approval from MA Department of Transportation because the work is within their drainage easement. They requested a continuation of the hearing to the November 4<sup>th</sup> meeting.

Motion by Mr. Weinberg, second by Mr. McMorrow, to continue to November 4<sup>th</sup>. Vote: 6-0.

#### **8-601 Notice of Intent 2 Garden Park/McGourty**

Patrick Roseingrave, PE was present representing the applicant, Brian McGourty. (Mr. McGourty was not present.) Mr. Roseingrave said that Mr. McGourty asked him to attend to tell the Commission that he will restore the site to the previous condition. Mr. Roseingrave said that Mr. McGourty has started this work and once it is done he will complete an as built survey and set up a site visit.

Staff recommended that a time frame for completing this restoration be given and suggested 30 days.

Mr. Weinberg asked about the fine. Mr. Roseingrave said Mr. McGourty would not pay the fine and has appealed it. Mr. Weinberg said Mr. McGourty should not do any work. Staff said the restoration work would be done under the enforcement order the Commission had issued. The Notice of Intent was to keep fill, and Mr. McGourty is no longer pursuing the request to keep some of the fill. Mr. Roseingrave said they would provide a letter of withdrawal of the Notice of Intent.

Mr. Weinberg said that Mr. McGourty should appear at the next meeting. Mr. McMorrow said that owners are often not present during permitting and that the purpose of the Commission's efforts would be accomplished with restoration.

Motion by Mr. Weinberg, second by Ms. Francis, to continue the hearing to October 7<sup>th</sup>. Vote: 4-2 with Ms. Feldman and Mr. McMorrow opposed.

### **8-603 Notice of Intent 79 Canavan Drive/Zechello**

Documents or Exhibits:

- 1) Plan: Notice of Intent Plan 79 Canavan Drive  
Revision Date: 9/16/10

Robert Hannigan, engineer for Kristen and Robert Zechello, presented the revised plan for the inground pool. Since the last meeting he included:

- 1) a recharge device at the end of the drain line,
- 2) elevations along the wall,
- 3) trees.

Kristen and Steven Zechello, the homeowners were present. Ms. Zechello said they had 11 trees flagged for removal by their arborist and they have very little space to replace trees on the property. They are adding six arborvitaes along the property line.

Joe D'Stasio, the Zechello's arborist, said four of the eleven trees are hemlocks that have wooly adelgid and the others are growing on ledge.

Staff said she saw the adelgid and the ledge and noted that their proposal to replace 6 of the 11 trees was reasonable for the site.

Motion by Mr. Weinberg, second by Ms. Feldman, to continue to October 7 for draft conditions. Vote: 6-0.

### **8- 604 Notice of Intent 39 Vinedale Road/Metropolitan Yacht Club**

Documents or Exhibits:

- 1) Plan: Proposed Work Plan- Bulkhead Replacement and Revetment Replacement Project  
Metropolitan Yacht Club Braintree Massachusetts  
Dated: 7/21/10

Christine Player from Vine Associate /GZA Environmental was present with Steve Green from the Yacht Club. Ms. Player reviewed the plan to replace the existing timber bulkhead with a stone revetment and repair the existing revetment. The area in front of the bulkhead is disturbed already with

broken pilings. The expansion of the footprint with the revetment will occur within the previously disturbed area.

Members of Commission visited the site on August 31<sup>st</sup> and comments from the Division of Marine Fisheries were received.

Ms. Feldman asked Ms. Player if they could comply with the recommendations from Marine Fisheries. Ms. Player said yes. They will cut the deteriorated pilings at mudline and they feel they are minimizing disturbance by staying within the footprint of the deteriorated pilings.

Staff asked how access to the revetment would be done if they construct from the water. Ms. Player said that the equipment would crawl done the existing revetment or be done by barge. They want to give the contractor that flexibility.

Motion by Mr. Weinberg, second by Mr. Hobin to continue to the October 7<sup>th</sup> meeting. Vote: 6-0.

**Request for Determination of Applicability  
Town of Braintree Engineering Division/Soil Borings - Matthew Lane to Liberty St.**

Documents or Exhibits:

- 1) Plan: Boring Location Plan Matthew Lane/Liberty Street Easement sheets 1 & 2  
Dated: 9/1/2010

Robert Letourneau from Fay, Spofford and Thorndike, the Town's consultant on this project, was present. Mr. Letourneau said this proposal is for exploratory work to replace a problematic sewer pump station. They need to do soil borings along the route. Mr. Letourneau showed the route on the plan and noted that they will be staying to the upland side except in a few locations where they need to cross the wetland.

Mr. Flynn asked about the impacts of construction. Mr. Letourneau said they are only asking to do soil borings at this time and will file an application for construction when the time comes.

Ms. Feldman asked about access to the boring locations and how many trees will be cut. Mr. Letourneau said the drill rig will be mounted on an ATV so they will minimize impact. They will travel in open areas and weave through the trees to the boring locations.

Mr. Weinberg asked if they will use swamp boards. Mr. Letourneau said the use of mats will be included when they go out to bid.

Motion by Mr. Weinberg, second by Ms. Francis, to issue a negative Determination of Applicability for the soil borings with two conditions (on mat use and equipment cleaning) as drafted by staff. Vote: 6-0.

## **Other Business**

### **Request for Extension Permit**

#### **8-408 Upper Reservoir/Tri Town Board**

Dwight Dunk from Camp, Dresser, McKee (CDM), the Tri Town Board's consultant on this project was present. Mr. Dunk said that dredging of the Upper Reservoir to increase capacity was permitted in 1995. The work began but the contractor went into default and the project stalled for several years. CDM has been securing the permits needed to begin the dredging again. They filed for several permits with agencies including the Randolph Conservation Commission, the Army Corps of Engineers, MA DEP, and MEPA. Mr. Dunk said that the Braintree Order of Conditions has been kept active, therefore they only need an extension of it.

Mr. Dunk said the reservoir was mapped as habitat for rare species so they also filed with the Natural Heritage and Endangered Species Program and hired a mussel biologist to take a closer look at the mussel population. The biologist found a good population in Great Pond but a small population in the Upper Reservoir (presumably due to the water fluctuations in the Upper Reservoir which are much greater than that in Great Pond).

Mr. Dunk said the proposal is to complete removal of the remaining 900,000 cubic yards of material (1.7 million cy were originally approved).

Staff said she visited the site with Mr. Dunk that morning and observed the dewatering area. Mr. Dunk pointed out the dewatering area on an aerial photo. Staff said she reviewed the NOI filed with Randolph and compared it to what was approved by Braintree in 1995 (and modified in 1997) and it is the same project. Staff recommended issuing a three year extension.

Motion by Ms. Feldman, second by Mr. McMorrow, to issue a three-year extension. Vote: 6-0.

### **Request for Certificate of Compliance & Release of Wetland Replication Bond**

#### **8-560 550 Liberty St./Lenox Farms**

Staff said the Lenox Farms project on Liberty St. is complete, the conditions have been satisfied and the replication area established. Staff recommended issuing the Certificate of Compliance with surviving conditions and releasing the wetland replication bond.

Motion by Mr. Weinberg, second by Mr. McMorrow, to grant the Certificate of Compliance for 8-560 550 Liberty St. with surviving conditions # 36, 37, 57, 58, 67 and release the wetland replication bond. Vote: 6-0.

### **Transfer of Funds**

Staff said that the Conservation Trust Fund is held in a bond and a vote to transfer money out of the bond is needed in order to spend money from the fund. Staff also provided a summary of how money

from this fund has been spent (weed treatment & permitting, the ranger's salary, kiosk materials, the wetland flyer, and appraisals).

Motion by Mr. Weinberg, second by Ms. Feldman, to move \$10,000 out of the bond. Vote: 6-0.

Mr. Flynn asked staff to prepare an evaluation of the ranger program for the next meeting.

### **Minutes**

Motion by Mr. McMorrow, second by Ms. Feldman, to approve the August 12, 2010 minutes. Vote: 6-0.

### **Executive Session**

Motion by Mr. Weinberg, second by Ms. Feldman, to discuss in enforcement at 2 Garden Park in executive session. Vote: 6-0.

### **Hunting**

Staff said she has been getting calls from people wondering if the Commission is going to develop a hunting policy this year.

Mr. Flynn said he wasn't going to push it but would happy to entertain it if others wished. Ms. Feldman said the areas aren't big enough.

### **50 Foot No Disturb Area**

Mr. Weinberg said he would like to see the Council take up the 50 foot no disturb buffer and suggested that the Commission request the Council act on this.

Staff said she has a concern with going to a 50 foot buffer and how it will affect situations like the Zechellos (an earlier public hearing for a pool in the buffer zone). In their case they would not be able to have a pool if there was a strict 50 foot no disturb buffer. Was the Commission going to be able to stick to a 50 foot buffer?

Mr. Weinberg said if people have hardships they can request a waiver.

### **Education**

Mr. Flynn said he feels that Commission needs to go beyond permitting and reach out to the owners of the developed property in Town which has out of date drainage, such as paved swales draining parking lots to the river. Ms. Feldman said an educational program was necessary. Mr. Flynn asked the Commission to think about this for the next meeting.

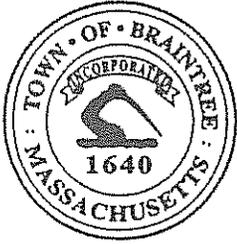
### **Motion to Adjourn**

Motion by Mr. Weinberg, second by Mr. Hobin, to adjourn the meeting at 8:39 PM. Vote: 6-0.

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**CONSERVATION COMMISSION**  
**EXECUTIVE SESSION MINUTES**  
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Gail Feldman  
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Alan Weinberg

Staff: Kelly Phelan

As noted in September 16, 2010 meeting minutes,

*Motion by Mr. Weinberg, second by Ms. Feldman, to discuss in enforcement at 2 Garden Park in executive session. Vote: 6-0.*

Mr. Weinberg said that it is important to treat everyone the same with regard to enforcement issues. He said that it was important to continue the public hearing because the enforcement action is still open and the fine has not been resolved.

Mr. Flynn said the violations at the site were egregious and it is a textbook example of why we have wetland laws.

*Motion by Mr. Weinberg, second by Mr. Hobin, to come out of executive session and note that no votes were taken. Vote: 6-0.*