

**CITY OF
GLOUCESTER
CONSERVATION COMMISSION
MINUTES**

**WEDNESDAY, October 5, 2016 – 6:30 PM
City Hall, 2nd Floor, Kyrouz
Auditorium Robert Gulla Chair**

**Members Present: Robert Gulla, Chair, Ann Jo Jackson, Co-Chair, Linda Charpentier, Helen Kwasié, Bill Cook, Barry Gradwohl, John Feener
Staff: Ken Whittaker**

Ms. Jackson brought the meeting to order.

I. ADMINISTRATIVE BRIEFING

1-5 minutes, review of amended, updated or final information, status reviews, modifications, signing decisions, etc.

A. Extension Permit – Niles Pond Causeway #28-1897

David Roman, representative of Association of Eastern Point Residents

Mr. Roman highlighted Association's request for routine maintenance. He said they have followed up with the state and were told that extensions to Orders of Conditions for 3 years are allowed as long as permit has not expired. In response to Commission requests from the last meeting, they have submitted letter about maintenance that was done. There were no visible markings on site at the time, so operator wasn't aware of the limitations on excavation activity. Mr. Roman stated that the Association would like to ensure that future activities were completed properly and has outlined future standards:

1. Delineation essentially verified every two years by wetland flags in presence of Commission representative.
2. if maintenance is to be done, Commission will be notified 72 hours prior.
3. Pre-construction meeting will be held.
4. Once work done, summary report submitted.
5. Have Board read through OOC maintenance plan to know what is required.

He suggested that since their maintenance is only done every 3 years, they are requesting 3 year extensions.

Mr. Whittaker confirmed state regulations of no limit on extensions, which removes that impediment, and he had no problem with a rolling 3 year extension in this case. He suggested adding to the plan by including a mechanism to do replanting on the causeway, since currently invasives can

take over and suggested perhaps using a wetland seed mix to get causeway stabilized.

Mr. Roman confirmed that the site had been seeded with upland and wetlands mix.

Mr. Feener expressed appreciation for the Association's efforts and suggested that instead of a line of demarcation verified every two years that it be verified 72 hours prior to any work, and also requested that the extent of the site work be verified by before and after photos sent to agent.

Mr. Roman agreed.

Mr. Gulla arrived.

Mr. Gulla expressed concern about 3 years, and stated this Commission has historically been rigid with one year extensions.

Ms. Jackson felt that this large project should be an exception, since it is ongoing with maintenance plans in place – should be left to Commission's discretion. **Mr. Whittaker** agreed.

Mr. Gulla suggested conditioning this to explain why we are doing 3 years – not setting a precedent.

Ms. Jackson wanted to set up criteria for longer extensions, but with an option to remove 3 year choice if necessary – keep smaller projects limited to one year. She suggested the Commission go ahead with this one.

Mr. Whittaker agreed to provide criteria for next meeting.

Karen Gorcyka, 28 St. Louis Avenue was concerned about expiration of extension – was assured it was filed in time and the existing permit would not be terminated for failure to be extended.

Mr. Feener suggested they submit a yearly operational plan, and **Mr. Whittaker** agreed to include this in criteria and it was agreed that the proposals would be put forth in writing or email.

Ms. Jackson put forward a motion to include this matter in the administrative discussion October 19.

B. Discussion of Regulations Concerning Extension Orders

Mr. Whittaker agreed to draft conditions for 3 year extensions.

II. PUBLIC COMMENT

Richard Cella, 12 Samuel Riggs Circle, Gloucester

Mr. Cella stated that he lives on Mill River rocky shore and this area is frequently

clammed and wanted to know if this is allowed, and were there any rules about preserving conditions of the beach. Since it is rocky shore, when digging occurs, craters and large sand piles are left behind.

Ms. Jackson –stated she is on shellfish advisory committee- they will be having a meeting shortly and will address this question

Closed public comment period

III. MINUTES REVIEW AND APPROVAL - August 17, 2016 and September 7, 2016

Motion to approve the minutes of August 17, 2016 was made by Mr. Cook, seconded by Ms. Carpentier and unanimously approved.

Mr. Cook questioned statistics (i.e. stated estimates of areas within jurisdiction) on September 7, 2016 minutes regarding 337 Concord Street.

Ms. Jackson continued the September 7, 2016 minutes to October 5, 2016. She also noted that she was not present at the September 7 meeting and asked for revisions regarding same.

Rob returns as co-chair.

IV. Block 1: Continued Projects

A. NOI: 337 Concord Street #28-2446 (Map 240, Lot 1) - Submitted by Jeffrey Roberts to construct playing field, driveway, septic system and plantings in ACEC buffer zone – presentation/discussion of proposed Order of Conditions.

Mr. Whittaker stated he had drafted conditions, had received comments from Commission members, and it was agreed to issue this permit with conditions. There will be no public comment, since the public hearing has been closed. He quoted these conditions included in the permit to be issued and asked that they be voted on and included as conditions in the Order of Conditions:

“The tasks imposed herein on Minogue as necessary conditions for issuance of the Order of Conditions are as follows. The GCC is prepared to postpone financial penalties if these conditions are completed within two years of issuance of this Order. These conditions are being issued pursuant to the referenced GWO and WPA statutes and regulations.

1. Owner to post a performance bond, determined by the Conservation Commission (based on written estimates from licensed professionals) to be of sufficient size/value to ensure that all proposed work is carried out in compliance with this Order (authorized pursuant to GWO Sec. 12-21);
2. All retaining walls and/or portions thereof on the property associated with recent construction and filling activity are to be relocated to a point where they are no closer to the

ACEC than the current northern terminus of that wall. Such relocation will move the retaining walls out of the RFA area;

3. The area between the current and required new location of the wall or portions thereof will be returned to a vegetated forested condition, consistent with widespread forest conditions originally present on that portion of the property. A replanting plan is to be prepared by a qualified and certified arborist, who will submit it to the Conservation Commission for review and approval and who will oversee and monitor the replanting effort;
4. Previous activity on the site which appears to have been carried out in part in wetland resource areas or buffer zones on the site is not permitted by this Order and may be subject to further enforcement action. Given the Minogue's history of non-compliance to date, this past work and any future work will not be permitted, if at all, by the Commission until such time that a comprehensive mapping of wetland resource areas on the entire site is prepared by an experienced and qualified wetlands scientist and submitted to the Commission.
5. Any parking area proposed within WPA or GWO jurisdictional areas must be built to ensure effective drainage, either by installing appropriate infiltration structures around the periphery, underlayment with suitable depth of permeable materials, or permeable pavement with a maintenance plan to ensure continued proper function and permeability. Final design is to be reviewed and approved by the Conservation Commission. Gravel driveways on raw soil are not an acceptable option;
6. The proposed barn structure must be relocated to be completely outside the RF areas with drainage directed away from the ACEC boundary;
7. Use of agricultural (e.g., fertilizers, herbicides, pesticides, etc.,) and walkway/roadway chemicals (e.g. salt) is banned in any area within GWO or WPA jurisdictional areas.
8. Replanting of trees and shrubs in the buffer zone to the BVW on the north side of the athletic fields.
9. Completion of the proposed re-planting/mitigation planting included on the proposed final site plan (including but not limited to that in isolated wetland areas) contributes to the protection of interests as herein defined and is an approved and necessary component of this Order of Conditions."

Mr. Feener stated he would like to adjust order to include: 1. certified arborist or equivalent, and 2. no pesticide use unless a special permit is issued through Mass. Dept. of Agriculture.

Motion to approve conditions for NOI: 337 Concord Street #282446 (Map 240, Lot 1) was made by Ms. Jackson, seconded by Ms. Kwasié and was approved. Mr. Cook abstained.

B. ANRAD: 30, 48 and 50 Atlantic Avenue #28-2413 (Map 257, Lots 167, 202 and 201) - Submitted by Francis Goodhue for Abbreviated Notice of Resource Area, coastal wetland – has been continued to October 19, 2016.

Mr. Whittaker stated he was going out next Wednesday on site visit to observe test pit installation. It was agreed that a Commission member should also attend the site visit if possible.

C. Request to Amend NOI: 124 Wheeler Street #28-2441 (Map 99, Lot 43) -

Submitted by Stephen Arena request to raise approved single family home in Riverfront area – **Applicant requests continuance to October 19, 2016**

Motion to continue request to Amend NOI 124 Wheeler Street #28-2441 (Map 99, Lot 43) to October 19, 2016 was made by Ms. Kwasié, seconded Mr. Cook and unanimously approved.

D. RDA 1495: 246 Western Avenue Map 204, Lot 26) – Submitted by Mark Dobson for invasive species removal and replanting in buffer zone. This project has been re-submitted as a NOI.

Motion to withdraw without prejudice RDA 1495 - 246 Western Avenue (Map 204, Lot 26) was made by Ms. Carpentier, seconded by Ms. Kwasié and unanimously approved.

E. NOI: 29 Marble Road #28-2486 (Map 75, Lot 42) – Submitted by Barry Lichtenstein to widen existing roadway on property in buffer zone.

Dan Ottenheimer, Mill River Consulting, representative for applicant

Mr. Ottenheimer revisited the September meeting, describing necessity of widening Marble Road for visibility and traffic safety concerns – applicant is looking to create 3000 s.f. of impervious area to widen the road. He noted that resource area has been marked by engineer with all work to be in buffer zone only – they are proposing planting 900 s.f. of native species on downhill side for mitigation.

He addressed other items previously required by Commission. He had illustrated cross sections on plan, added information about existing trees on site, and had identified location of catch basin outfalls. He also mentioned hand dug test pits in extremely dense soil in which was discovered imported fill material, not organic. In addressing snow management, they propose a wall on the east side where snow will be plowed up against that wall. To address water management, they will provide a water pass-through every 3 feet along the base of the wall area and will also install additional pipe to bring water from catch basin into new stone-lined infiltration area which will provide energy dissipation at end of that pipe.

Mr. Cook inquired about drainage pipes along wall and wanted to know if anything would be done on side draining into resource area to reduce velocity.

Mr. Ottenheimer stated there will be a block wall with rough face enabling water to spread over all along base, also will have planting area to absorb water.

Discussion ensued of the location of Marble Road conservation area and City wetlands jurisdiction.

Mr. Gulla inquired about the size of the trench.

Mr. Ottenheimer responded that it was 4-1/2 feet wide trench.

Mr. Gulla cautioned that it was tight area and recommended that video or photos be taken during walking along the length of project prior to and after installation of silt fence, then after project finished.

Mr. Feener pointed out that the plowing area was on wrong side of road and suggested that they will need to clean snow away from wall within 48 hours of a storm - he also suggested yearly cleaning of top in infiltration area for drainage.

No public comment.

Mr. Feener —stated he was happy with this project, since the mitigation measures proposed will improve the bank.

The **Commission** proposed three conditions:

1. Snow moved from wall within 48 hours.
2. Video or photos walking the length of project prior to and after silt fence installed and again after project completed.
3. Yearly cleaning of top of infiltration area to promote drainage.

Motion to approve NOI: 29 Marble Road #28-2486 (Map 75, Lot 42) with above referenced conditions was made by Ms. Charpentier, seconded by Mr. Cook and unanimously approved.

A. NOI: 12 Samuel Riggs Circle #28-2483 (Map 219, Lot 104) – Submitted by Richard Cella to replace wall/construct boulder and concrete block wall in Riverfront Area.

Mr. Whittaker stated he went to site with shellfish constable and suggested it would be helpful for Commission to view site after tonight's presentation

Richard Cella, applicant

Mr. Cella described the project. He noted that wall on northern side of pier was in severe distress, and because of the steep nature of property getting to wall to repair it is a challenge. The only access to this portion of the wall is from the southern side, and he noted significant deterioration of shore with tree roots holding soil in place. He plans to remove most of vegetation, create rock roadway, bring equipment in, remove shed, close off stairs - finish with vegetation, boulders and stone wall to prevent further erosion. There was discussion about terracing and discussion of ownership and work on neighbor's land. The Commission stated that it would only approve work on applicant's land.

Mr. Cella— stated that the owner of adjoining land will give approval to access his property for repairs.

Commission required written approval from neighbor for access.

Mr. Feener cautioned that since the wall was eroding, salt water above rocks could be undermining root systems and to prevent erosion will need to find and interrupt source of water infiltration. He expressed concern that boulders may not be enough to halt salt water based erosion and was concerned with long term stability of site. He stated he would like to do a site walk to make judgment.

Mr. Gradwohl didn't see filter fabric behind the proposed rebuilt seawall on the plan.

Matthew Araneo, 17 Kondelin Road, Gloucester, landscaper

Mr. Araneo described block wall, filter fabric, crushed stone. He stated that boulder wall will be built similar to existing block wall with crushed stone and fabric behind - above will be native planting and additional boulders for retaining soil. He provided examples of similar jobs.

Mr. Feener expressed concern about protecting the wooded entrance area on the top and side of the slope.

Mr. Araneo stated they will build a temporary stone ramp, and blocks will hold earth while equipment accesses the site.

Mr. Gulla expressed concern with left side of slope and possible soft edge.

Mr. Araneo clarified that the wall will be above mean high water, and there would be no interference with natural tides - it will be a more natural slope to retain the bank.

Mr. Gulla agreed that a site visit was important and stated a need for replacement of the natural environment and reinforced Mr. Feener's preference of planting vegetation that handles brackish water.

Mr. Feener had issue with language "thick and invasive vegetation" and considered it inaccurate, hence his need to view and diagnose area.

Mr. Araneo stated that the majority of plantings will higher up slope.

Mr. Feener would like to see areas marked in the field for vegetation removal areas prior to site visit.

No public comment.

Mr. Whittaker suggested that some pruning of vegetation on the slope be allowed to see site better and he agreed to schedule Commission site visits for low tide.

Mr. Gulla – reiterated that applicant will need letter from neighbor and stake out site.

Motion to continue NOI: 12 Samuel Riggs Circle #28-2483 (Map 219, Lot 104) to October 19, 2016 was made by Ms. Charpentier, seconded by Ms. Jackson and unanimously approved.

V. Block II: New Projects

A. NOI: 246 Western Avenue #28-2489 (Map 204, Lot 26) – Submitted by Mark Dobson for invasive species removal and replanting in buffer zone.

Jack Montgomery, Montgomery Tree

Mr. Montgomery stated that a site visit was done. Invasive species had been removed, and they would like to replant to retain soil in steep area. He described suggested plants for the area: outer edge viburnum, sweet pepper bush – would like to lower canopy of trees for view. He stated that Mr. Feener had visited the site and noted diseased elms and suggested removing them and replanting with ornamental trees such as dogwoods, redbuds, i.e. species that wouldn't need pruning. In the steep area they plan to add a single course block wall to lessen incline which will let much vegetation regrow naturally and inhibit erosion. He acknowledged that some roots had been removed, and this area will be left to grow naturally.

Mr. Feener stated that there were 2 resource areas - riverfront and coastal bank, and the site is heavily planted in riverfront, so focus should be on that zone. He noted mitigation options for removed vegetation. He would like to see a management plan and would also like ¾ inch stone leaching area approximately 2 feet wide to prevent water channeling of the edge of the wall to neighbor's property over the existing steep drop areas in areas previously cleared of invasive vegetation. He also would like sketch of stone area.

Mr. Montgomery agreed to will provide a consent letter from neighbor to allow planting.

Mr. Feener proposed conditions:

1. Management plan with photos of invasives removed as record for future ownership.
2. Address water flow.
3. Delineate resource areas on plan.

No public comment.

Motion to approve NOI: 246 Western Avenue #28-2489 (Map 204, Lot 26) with aforementioned conditions was made by Ms. Charpentier, seconded by Ms. Kwasié and unanimously approved.

B. NOI: 33 & 35 Nashua Avenue #28-2488 (Map 187, Lots 34 & 19) – Submitted by Kerry McKenna to install gravel parking area/adjust gravel roadway.

Dan Ottenheimer, Mill River Consulting, representative for applicant

Mr. Ottenheimer described the property with Ms. McKenna owning #35 and her children owning #33. He explained that Ms. McKenna must find an alternate location for parking and some of the work is proposed on #33. He stated that the applicant only wishes to propose

the parking part of the application, and is withdrawing the request to adjust the roadway at this time.

He explained the proposed work to be done on both properties – Rimmer Environmental has delineated wetlands and identified an area where landscaper is depositing debris in wetlands. They propose removing 5 diseased and one healthy tree. There is an existing mulched area that will be left untouched except for possible diseased tree removal.

He stated that because of ledge and elevation this is only suitable area for parking. There will be gravel parking, a stone retaining wall, parking bumpers and erosion control. At completion they will plant a native plant buffer strip on downhill side of parking area.

He stated that this property is in flood zone, but this small gravel parking area should not affect the area.

He stated that the 165 s.f. of debris in the wetlands will be removed by hand and if project approved, at a later date the lot line will be moved so that the entire parking area will be on #35. He noted several diseased and dying trees.

Mr. Gulla asked about extent of mitigation, especially removal of 30" maple.

Mr. Ottenheimer stated that the landscaper will not commit further violations by dumping debris in wetland.

Mr. Feener suggested the Commission should determine species of maple trees – would like more justification for cutting of trees. Agent subsequently confirmed the large shade tree to be a Norway Maple.

Mr. Ottenheimer cited rot at base of cherry trees in photos provided.

Mr. Gulla suggested that applicant come up with a mitigation plan to address canopy loss.

Mr. Feener expressed concern, and discussion ensued about current habitat and assurance that the site will be kept as natural as possible.

Mr. Ottenheimer agreed to recommendations.

Public comment

Michael Faherty, represents abutters Gail Horowitz and Robert Stern

Mr. Faherty stated that the abutters are in favor. He did note that the area marked wetlands resource area was inaccurate. He stated the area is isolated land subject to flooding, not resource area.

Mr. Gulla noted the large alleged Norway Maple and would like to see 2:1 mitigation.

Mr. Feener suggested mitigation should match tree size currently there – mid-story/large story and would like to see eventual replacement of canopy loss through removal of the Norway Maple.

Closed public comment.

Commission proposed conditions:

- 1. Area approximate wetland resource location on plan be changed to wetland area in lieu of resource area.**
- 2. Supply small mitigation plan to replace removed trees – preserve trees where possible.**
- 3. No removal of debris from wetlands, let it naturally degrade.**

Motion to approve NOI: 33 & 35 Nashua Avenue #28-2488 (Map 187, Lots 34 & 19) with aforementioned conditions was made by Ms. Charpentier, seconded by Ms. Kwasi and unanimously approved.

C. NOI: 6 Pirate’s Lane #28-2487 (Map 63, Lot 46) – Submitted by Reeds Wharf Marina Corp to repair existing coastal revetment .

Michael Faherty, 11 Main Street, Gloucester – owner

Mr. Faherty described the site and proposed repair to embankment wall which dates back as early as 1885. He stated that a number of rocks have been dislodged, possibly by Knotweed invasion. The base stones or keystones almost all are on site. They would be working from upland area only. The goal is to reset stone line along the non-sediment bearing coastal bank, and will take displaced rocks, reset major stones, replace stones in same location. They are not planning to bring in any extra stone. They would like to restore fence at top for safety, since they plan to build house on lot at some point. There are no shellfish resources at this location and comments from shellfish constable regarding same were provided.

Mr. Whittaker assured that this would not be considered armoring of the coastal bank.

Mr. Feener was concerned with removal of any larger vegetation and cautioned that if machinery travels over root system, there must be protection in place. He also stated that it was necessary to remove Knotweed responsibly.

Mr. Faherty noted only one spindly sapling and Knotweed. He said he may try to keep the sapling if feasible.

Motion to approve NOI: 6 Pirate’s Lane #28-2487 (Map 63, Lot 46) – unanimously approved.

Approved with condition that Knotweed taken off site and disposed of properly.

VI. OTHER COMMISSION BUSINESS

Requests for Letter Permits, Minor Modifications, Extensions, etc.

Ms. Kwasi made a motion to approve the Extension Permits for 1 Stanwood Point -28-2300 and 5 Stanwood Point -28-2299, seconded by Ms. Charpentier and unanimously approved.

Letter Permit – Clark Cemetery

Mr. Whittaker – explained Knotweed infestation issue.

Mr. Feener– mentioned need for Knotweed control. He would like to assist with a comprehensive 5 year management plan. He also stressed the need to identify entry point of invasive species at infestation locations.

VII. AGENT’S REPORT ON VIOLATIONS

VIII. CERTIFICATES OF COMPLIANCE

28-1165 – 64 Holly Street (awaiting further information)
28-2206 – 2 Norrock Road (awaiting further information)

Ms. Jackson made a motion to approve the Certificates of Compliance for 28-2475 – 74 Woodward Avenue, seconded by Ms. Charpentier and unanimously approved.

IX. OTHER

ADJOURNMENT