



**Minutes of
Danvers Conservation Commission
Thursday, August 13, 2015
Danvers Town Hall**

The Danvers Conservation Commission held a public meeting on Thursday, August 13, 2015, at the Danvers Town Hall, Daniel J. Toomey Hearing Room, located at One Sylvan Street, Danvers, MA 01923.

Members present: Jeffrey Cary, Chairman
Bill Glynn, Member
Neal Waldman, Member
Michael Splaine, Vice Chairman

Members absent: Matthew Lallier, Member

Staff present: Kristan Farr, Planner

Mr. Cary opened the Conservation Commission meeting at 7:00 p.m. with a reading of the “Commission Statement.”

Request for a Certificate of Compliance

- **9 Endicott Street (Lot 1); DEP File No. 14-1204**

Kevin Murdock, builder and developer, was present. Mr. Cary discussed the recent site visit, and described the retaining wall, patio, earth moving/grading/fill up to the wetlands line. The work performed does not conform to the Notice of Intent. The Notice of Intent was issued with a waiver for a small amount of work to be done within the no disturb area. Mr. Murdock informed the Commission of his conversations with the building inspector and engineers for approval, and the elevation issues which caused hazardous walking conditions. The work performed was inside both the “no build” and “no disturb” areas. The Commission discussed ideas to resolve the issue and the long term negative impact, and it was suggested to hire a third-party wetland scientist to analyze the situation.

Ms. Farr described the other lots within the project, and felt that since one lot was not disturbed for a long distance, that it might balance out overall. Mr. Cary does not feel that it balances out, and discussed the site visits and waiver with explicit knowledge of the project. The work done within the 25 foot no disturb area is completely unacceptable. Mr. Splaine asked Ms. Farr if she gave approval for the patio; Ms. Farr does not remember giving approval for the patio. Mr. Splaine suggested going back to review the minutes. Mr. Cary stated that he has the approved plan, which does not show a retaining wall on the wetland line. Mr. Glynn would like pursue a third-party wetland scientist to review this project.

Mr. Murdock compared the patios to rain gardens, and described that the rain runs through the crushed stone. Mr. Murdock informed the Commission that the building inspector looked at the project. Mr. Cary discussed the wetland by-law and that no work is to be done within the 25 foot no disturb area. There was discussion regarding if the patios and wall have a negative impact on the wetlands. There was also discussion as to whether Mr.



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Murdock can come back for an amendment to the plan or to obtain another waiver; which may require another public hearing.

MOTION: Mr. Waldman made a motion to continue the Request for a Certificate of Compliance on 9 Endicott Street (Lot 1); DEP File No. 14-1204 to July 27, 2015; with the understanding that Mr. Manuell be present to explain the impact of the current site and if mitigation could offset patio/wall; and the Commission will find out if additional waivers are allowed to be granted at this stage; Mr. Splaine seconded; motion passed unanimously.

Public Hearing – Request for Determination of Applicability

- **161 Elliott Street; DCC File No. 2015-2**

David Smith, Project Manager with GZA, was present representing Danversport Yacht Club at 161 Elliott Street, along with Paul and Dan DeLorenzo. Mr. Smith explained that this filing is for a Request for Determination of Applicability for a reconfiguration of proposed licensing of existing floats, piles and establishment of the reconfiguration zone. There is no work being proposed as part of this filing. It is strictly an administrative filing. Mr. Smith continued to explain that the licensing of structures falls under Massachusetts Chapter 91, and the majority of structures at Danversport Yacht Club are fully licensed. It recently came to their attention that there are a few floats that do not fall under the current licenses. Mr. Smith pointed out to the Commission the floats which are not licensed, which total 1,580 square feet of 10' wide floats, a 4' x 59' bridge, two guide piles that anchor them in place. Mr. Smith reviewed the process for a Chapter 91 license; part of the process being approval from the Conservation Commission. The structures which are not licensed have been in place since the mid 1980's; however, it just came to light that they are not licensed. The Danversport Yacht Club has submitted an application for licensing to DEP. Mr. Smith discussed that Chapter 91 allows marinas to establish a reconfiguration zone, which allows marinas to do minor work within that zone once it is established. The following areas were discussed:

- the Commission's jurisdiction;
- the mean high water elevation;
- condition of the floats which are in use;
- the floats float on the water and do not sit on the mud because there has been dredging in those areas;

The Commission welcomed comments from the audience.

Jane Fuller, 30 Congress Avenue, distributed the original abutters list from 1984 and the history of this application. Ms. Fuller informed the Commission that a pile was driven/repared in April without a permit. Ms. Fuller also showed a photo of the bridge. Ms. Fuller stated that the applicant did not follow through with the license in 1984. Ms. Fuller also stated that Chapter 91 is the access to the waterways and people cannot block your access to a navigable waterway, which this does. The Commission reviewed that this portion was not properly permitted.

Robert Fuller, 30 Congress Avenue, addressed the Commission that he doesn't want a rubber stamp on this request.



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Elaine Cidzik, 7 Loring Street, is an abutter but was left off the abutters list. Her family owns another piece of property and was also left off the list. Mr. Smith responded that the certified abutters list is included in the packet which the Commission has. Ms. Farr noted that when 7 Loring Street was entered into the GIS system for 300 feet, it did not hit her property. There was additional discussion regarding the abutters list which is certified by the Assessor. Mr. Smith stated that the waterway opening will remain 13 feet by 5.8 feet high off the water. Ms. Cidzik asked the Commission about the statement “no new wetlands impact on the site for this project” and asked if there were any studies done in 1984. Mr. Smith reiterated that there is no work being done; therefore, no new wetland impact. The Commission stated that these structures were built without a permit, and it’s unknown if there has been a detrimental impact to the wetlands over the past 30 years.

Dan DeLorenzo, from Danversport Yacht Club, reported that the temporary footbridge was permitted by an Act to the Legislature in 1984, which superseded the DEP at the time. It was never part of the Chapter 91 license, however, Chapter 91 has now asked for it to be part of the Chapter 91 license. There was a question regarding the definition of “temporary” and the Commission reviewed the language in the Act to the Legislature which discussed an application for permit. Mr. DeLorenzo discussed the proposal from 1980 to build a permanent bridge, which was going to be a causeway for cars to drive across. The permanent bridge was never built. The temporary bridge is removed every winter because of ice. The permanent bridge was very expensive and financially unfeasible. There are no current plans for a permanent bridge or permanent footbridge.

The Commission discussed whether or not the floats float at low tide. There was also discussion regarding dredging. There was discussion again regarding the abutters list and the possibility of an appeal process. Mr. Waldman and Mr. Splaine will perform a site visit at low tide on Monday, August 17th at 7:30 a.m.

MOTION: Mr. Splaine made a motion to continue the public hearing and continue the Request for RDA for 161 Elliott Street; DCC File No. 2015-2 until August 27, 2015; Mr. Waldman seconded; and the motion passed unanimously.

New Business

• **11 Bridle Spur Road, Plan Change**

Todd Cormier, 11 Bridle Spur Road, discussed the plans for his lot and landscaping. He is interested in continuing the rip rap along corner of driveway instead of grass. Mr. Cormier explained that it would be a difficult area to mow. Mr. Cormier talked to John Morin about it. There is an open order of conditions. There was discussion about drainage and water run-off.

The Commission would like to see a mark-up of the existing plan showing that the rip rap will not be in the 25 foot no disturb area. The mark-up should include dimensions, and the Commission would like to see photos of area. These changes will also be put on the “as built” plan. The Commission will review this project on August 27th to amend the open Order of Conditions.



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Staff Updates - none

Violations/Enforcement Orders - none

Minutes - none

Adjournment

MOTION: Mr. Splaine made a motion to adjourn at 8:25 PM; Mr. Waldman seconded; motion passed unanimously.

Respectfully submitted,

Christine Marshall
Conservation Commission Secretary