



**Minutes of  
Danvers Conservation Commission  
Thursday, August 27, 2015  
Danvers Town Hall**

The Danvers Conservation Commission held a public meeting on Thursday, August 27, 2015, at the Danvers Town Hall, Daniel J. Toomey Hearing Room, located at One Sylvan Street, Danvers, MA 01923.

**Members present:** Jeffrey Cary, Chairman  
Matthew Lallier, Member  
Neal Waldman, Member  
Michael Splaine, Vice Chairman

**Members absent:** None

**Staff present:** Kristan Farr, Planner  
Christine Marshall, Secretary

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**

- 135 Hobart Street; DEP File No. 14-1064 – not present – no action taken

**Request for a Certificate of Compliance**

- 9 Endicott Street (Lot 1); DEP File No. 14-1204 – not present

Ms. Farr reported to the Commission that Bill Manuell was unable to attend tonight’s meeting, and recommended continuing until September 10, 2015.

**MOTION:** Mr. Splaine made a motion to continue the Request for a Certificate of Compliance on 9 Endicott Street (Lot 1); DEP File No. 14-1204 to September 10, 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. Waldman seconded; motion passed unanimously.

Prior members of the Conservation Commission were recognized for their years of service and presented with a plaque:

- Tom Manuel received a plaque for his dedication and appreciation for his years of service on the Conservation Commission from 1999 until 2014.
- Bill Glynn received a plaque to commemorate his years of service and dedication to the Conservation Commission.



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**Continued Public Hearing – Request for Determination of Applicability**

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

Paul DeLorenzo, General Manager of Danversport Yacht Club, explained that at the meeting two weeks ago David Smith from GZA proposed an RDA to permit the bridge and establish a reconfiguration zone. Mr. DeLorenzo did some research from the 1970's, and explained his father's vision for building a bridge during that time. During this process, the Yacht Club received permission to build a temporary footbridge, which was supposed to be taken down three months after the permanent bridge was constructed. Mr. DeLorenzo continued to explain that the temporary footbridge was permitted to be built and was built; the permanent bridge was not built. DEP sent the yacht club an administrative consent order with 26 items to be completed; two of which are a letter from the Harbormaster and notice to the Conservation Commission that they were made aware of the project.

Mr. DeLorenzo informed the Commission that his brother, Dan, is on the River Committee, and that the Town is in the process of doing a reconfiguration zone as well because the Town has docks that are not permitted by DEP. Mr. DeLorenzo described the reconfiguration zone, which would allow minor changes to be made in that zone. Any changes proposed with regards to wetlands would still need to go through the proper channels. Mr. DeLorenzo believes that it is not uncommon to have unpermitted docks. Mr. DeLorenzo believes that the Yacht Club only needs a letter from the Conservation Commission stating that the Commission is aware of the application for the Chapter 91 license through DEP. At the request of the Commission, Jane Fuller, 30 Congress Avenue, presented photos at low tide of the floats.

David Smith, from GZA, explained that the whole facility is fully licensed except timber floats that connect the two properties, and footbridge. These structures have been there since the mid 1980's and dredging has been done with permits. Mr. Cary was concerned that when it was put in place it was not approved by the Conservation Commission, and the only approval was for the temporary bridge. There was discussion about the special legislation and the definition of temporary. There was discussion about the process involving DEP and what would happen if the Conservation Commission did not act on this request. Mr. Waldman attended the site visit on August 17<sup>th</sup> and the floats were sitting on the mud flats.

The Commission opened the discussion to the abutters, and the following topics were discussed:

- Pete Clement, 9 Jersey Lane, discussed the boulders in the river, and the slips that were granted to abutters and then taken away.
- Bill Nicholson, 209 Centre Street, discussed that in 1984 the ZBA was the permitting authority for all variances and uses including water. In 1984 the ZBA granted approval for the temporary footbridge. He feels that the bridge has been there illegally since 1984.
- Andrea Daley, 36 North Shore Avenue, also spoke regarding the ZBA and distributed the following material to the Commission:
  - 1) June 26, 1989 decision through ZBA, outlining 330 boats allowed, parking lot for 250 cars, hours of operation, one acre park, swimming pool, etc.



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- 2) ZBA's inquiry about the footbridge, with David Mills as a representative. She stated that the agreement was that it would be removed if the Chapter 91 license was not granted. She discussed Millet Creek access to the Porter River, and the abutters who were granted slips to have access to the water. Ms. Daley discussed a judgement letter from Land Court stating if the Chapter 91 license was not granted then the bridge would need to be removed.

The Commission feels that they need a ruling from DEP and communication with DEP.

David Smith, from GZA, wanted to clarify a question from Ms. Daley regarding existing Chapter 91 licenses. Mr. Smith has copies of all the other Chapter 91 licenses on all other structures. Mr. Smith offered to provide to the Commission copies of all the other licenses. Mr. Smith also addressed Ms. Daley's email correspondence with DEP, and DEP's response is the same response that the Yacht Club is receiving, and is why they are here to license the bridge. In the early 1990's there was an amnesty program, and for whatever reason the Yacht Club did not participate in it. The Consent Order was received in July of 2015 and the purpose of it is to license these structures. During this process with DEP, the Chapter 91 license will make the footbridge permanent, license the two floats and guide piles.

Mr. Lallier asked about the process at DEP/Chapter 91 and if there would be a hearing. Mr. Smith responded that there is not a hearing; however, an application has been submitted, a public notice will appear in the newspaper and abutters and the Town will be notified. That process is currently underway.

Mr. Cary reviewed the options for the Commission:

- 1) Issue a Positive Determination to the RDA would require the applicant to file for a Notice of Intent.
- 2) Issue a Negative #2 Determination to the RDA would determine that the work described in the request is within an area subject to protection under the act but will not remove, fill, dredge, or alter that area; therefore, said work does not require filing a Notice of Intent. Ms. Farr stated that the Commission can issue conditions with this action.
- 3) No Action

The Commission re-opened the discussion to the abutters, and the following topics were discussed:

- Jane Fuller, 30 Congress Avenue, stated that the Consent Order came out on June 22, 2015 and they had 60 days to apply for the Chapter 91 license. She distributed a handout from the Town's website for best practices for designing docks, stating that 18 inches of water flow under the bridge is required at all times. She discussed the impact, silt coming from the parking lots, and the flow of water.
- Michael Little, 151 Elliott Street, credited the DeLorenzos for their work in the river for the past 50 years.

Mr. Cary discussed the improvements that could be made to the resource if this project were permitted today using current by-laws; improving the floats and bridge and reducing the impact on the wetlands. The Commission will do an official site visit. Mr. Waldman discussed dredging.



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Other comments from the public:

- Jane Fuller, 30 Congress Avenue, discussed the house boat that is next to the floats and sits in the mud through low tide. She has counted three pilings that have been driven without permits on the Parker Island side. One piling is 4-5 feet higher which was driven in without a permit in April, 2015.
- Andrea Daley, 36 North Shore Avenue, also spoke about the WPA form and project description asking for the license to accept the bridge, but also the reconfiguration zone. Her concern is if the reconfiguration will affect the wetlands.

The Commission discussed whether this is the correct venue to handle this issue. There was discussion regarding enforcement/authority of dredging. Mr. Lallier believes this is a DEP issue since there is no work proposed. A positive determination would require the Yacht Club to file an NOI which would allow improvements to the bridge and floats. The Commission believes it would be beneficial to continue to allow time for communication with DEP and Chapter 91. Questions to the DEP and Chapter 91 will be related to allowing conditions with the RDA regarding best practices for docks, dredging, spaces in docks, keeping the water flowing under the bridge. Site visits will be conducted by the Commission separately on their own time.

The following comments were made during the Commission's vote:

- Elaine Cidzik, 7 Loring Street, was present at the site visit and asked Mr. Waldman to reiterate why they went to the site visit. Mr. Waldman responded that they went to see if the floats sat on the mud, and could potentially affect the wetlands.
- Pete Clement, 9 Jersey Lane, questioned if there is permission to leave the boulders in the mud bank.
- Andrea Daley, 36 North Shore Avenue, stated that there is an official document from another board that says if the bridge was not permitted that it is to be removed.

Mr. DeLorenzo discussed the maintenance dredging, silt, no eel grass is growing, no clams are in there. The Consent Order has 26 points, the DEP is tough on the Yacht Club, and the application was filed within the 60 days which was one of Ms. Fuller's points. Mr. DeLorenzo would like to see a decision here tonight.

**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 September 10, 2015; Mr. Waldman seconded; and the motion passed by a vote of 3-1.

**Continued Public Hearing – Notice of Intent**

- **17 Florence Street; DEP File No. 14-1258**

Renee McDonough, Goddard Consulting, presented revisions to the plan, including the following:

- 1) Mean annual high water elevation level was changed to 4.65, as requested.
- 2) Topography added to plan.
- 3) Addition of expansion of cul-de-sac to meet frontage requirements.



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Robert Scarano discussed the expansion of cul-de-sac. Mr. Scarano informed the Commission that the application before the Planning Board for an ANR was withdrawn. The applicant will re-apply as a subdivision with the Planning Board. Mr. Scarano pointed out the area hatched on Hardy Street, which meets the current rules of a subdivision, as suggested by planning board. The cul-de-sac area will be shown as improvement; however, the applicant will be seeking a waiver of construction.

Ms. McDonough reviewed the packet of information, including the letter from Frederick Geisel on the last page. There was discussion regarding the elevation of the gully. Ms. McDonough inspected the gully and reported that there is vegetation and soils upland. There are also chunks of asphalt underneath, where the street was underneath the soil or because of maintenance asphalt was pushed in that area. Mr. Scarano informed the Commission that the road was accepted in 1885 and according to the Town Clerk it previously extended to the river. Mr. Scarano stated that the wetland line was reviewed and does not meet the criteria of a protected interest under the Act. Ms. McDonough concluded with a statement that they have tried to make sure all design was in accordance with regulations; Riverfront regulations A – G; and the mitigation area is approximately 4,905 square feet, which is a 3:1 ratio; the required mitigation ratio is 2:1.

Mr. Cary asked about the 100 foot inter-riparian for undeveloped property. Ms. McDonough is still proposing redevelopment because this property has both lawn and pavement. Ms. McDonough read the definition of redevelopment. There was discussion about undeveloped vs. developed property. Undeveloped properties would be forests or salt marshes. Ms. McDonough stated that if the proposed work in the Riverfront area is more than 10% then items F and G must be met, which they are in this project. Ms. McDonough's interpretation is that lawn qualifies as previously developed property. There was a discussion regarding the gully, and Ms. McDonough discussed the species upland from the gully and soil samples. Mr. Cary did not see any spot elevations of the gully on the plan, and he feels that there is a lack of detail. Mr. Scarano discussed the 9.0 – 9.2 elevations on the plan, which is stamped by the engineer; and he will ask the engineer to add the elevation of the gully to the revised plan.

Mr. Lallier asked if anything has changed with the exception of the cul-de-sac. Mr. Scarano discussed the Planning Board's suggestion to go through subdivision control, which is why the cul-de-sac was added. They will ask the Planning Board to waive the construction of the cul-de-sac because it is a sensitive area.

Mr. Cary asked for units to be added to the revised plan as well as the spot elevation in the gully. A site visit was scheduled for Wednesday, September 2, 2015 at 6:00 p.m., and Mr. Scarano and Mr. Geisel will be in attendance.

The Commission opened the discussion to the abutters, and the following topics were discussed:

- Jim Morose, 20 Hardy Street, discussed his concerns regarding the gully, photos of water table, zoning by-laws definition of development, improved or unimproved.
- Janet Morose, 20 Hardy Street, discussed her concerns regarding the FEMA 100 year flood zone. Mr. Cary explained that it is defined from an elevation instead of a map.



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Mr. Scarano requested that Ms. Farr contact Mr. Geisel with updates to the plan. Mr. Scarano invited the public to attend the site visit on September 2, 2015 at 6:00 PM.

**MOTION:** Mr. Splaine made a motion to continue the public hearing and continue the request for a Notice of Intent for 17 Florence Street; DEP File No. 14-1258 until September 10, 2015; with a site visit on September 2, 2015 at 6:00 PM; Mr. Waldman seconded; and the motion passed unanimously.

**Minutes – July 9, 2015, July 23, 2015, August 13, 2015**

**MOTION:** Mr. Waldman made a motion to approve the minutes of July 9, 2015, July 23, 2015, and August 13, 2015; Mr. Splaine 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 sent plans and pictures (marked up by the landscaper with the proposed changes) to Ms. Farr. The Commission requested before/after pictures and would like the changes included on the “as built” plan. Ms. Farr will issue a letter authorizing the continuance of rip rap as proposed. The Commission was in agreement to move forward with the proposed rip rap changes.

**Staff Updates - none**

**Violations/Enforcement Orders - none**

**Adjournment**

**MOTION:** Mr. Splaine made a motion to adjourn at 9:15 PM; Mr. Lallier seconded; motion passed unanimously.

Respectfully submitted,

Christine Marshall  
Conservation Commission Secretary