



**Minutes of
Danvers Conservation Commission
Thursday, September 10, 2015
Danvers Town Hall**

The Danvers Conservation Commission held a public meeting on Thursday, September 10, 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
Susan Fletcher, Assistant Director of Planning and Human Services
Christine Marshall, Secretary

Mr. Cary opened the Conservation Commission meeting at 7:05 p.m. with a reading of the "Commission Statement."

Request for a Certificate of Compliance

- **135 Hobart Street; DEP File No. 14-1064**

Gregory Kubany, 135 Hobart Street, was present, and reported to the Commission that the barn was never built. He has sold his home and is looking for a Certificate of Compliance.

MOTION: Mr. Splaine made a motion to issue the Certificate of Compliance on 135 Hobart Street, DEP File No. 14-1064; Mr. Waldman seconded; motion passed unanimously.

Request for a Certificate of Compliance – not present – no action taken

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

Continued Public Hearing – Request for Determination of Applicability

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

David Smith, GZA, was present, as well as Dan DeLorenzo and Paul DeLorenzo. Mr. Cary explained the continuation from the last meeting to allow time for Ms. Farr to contact DEP to determine what type of conditions can be made on an RDA. The Commission was concerned with keeping the floats off the mud flats. Ms. Farr reported that Chapter 91 suggested putting stops on the pilings so the floats do not sit on the mud. Ms. Farr also reported that conditions can be placed on the RDA. Best practice is keeping the floats 18 inches off the mud. Mr.



**Minutes of
Danvers Conservation Commission
Thursday, September 10, 2015
Danvers Town Hall**

Cary feels that this project could be considered in violation because it was not permitted, and if it were a new project going through the permitting process would it be done differently and in a better manner.

Ms. Fletcher, Assistant Director of the Planning and Human Services Department, spoke about the history of this project. Ms. Fletcher stated that the Conservation Commission was aware of the bridge going up when it was built, and permission was granted on the local level. Ms. Fletcher attended the meetings in 1986, and members of the Commission attended site visits bi-monthly because of the Parker's Island project. All members of the Commission saw the bridge at that time.

The Commission reviewed the options for voting on this project. Mr. Splaine discussed the Consent Order, and would like to see conditions on the RDA to improve the site and keep the floats off the mud flats. He also feels that there are many projects done without proper approval, which come before the Commission; and feels that is the opportunity to work with the applicants to make improvements. Mr. Lallier discussed maintenance dredging and would like to see this area dredged, but also feels that this is a Chapter 91 issue. Mr. Waldman agrees with Mr. Splaine in regards to improving the site by getting the floats 18 inches off the mud flats.

Ms. Fletcher asked the Commission about dredging as a condition, and feels that it is in the applicant's best interest to dredge. Dan DeLorenzo addressed the dredging question and stated that they can dredge about every 15 – 20 years. The project needs to be considerable to make dredging financially feasible – similar to the Town dredging the river. The area under the footbridge was dredged about five years ago, which was the same time they dredged the entire marina, and was one year after the Town dredged the entire channel. The bridge area is the first area to become silted in, and the floats are sitting on silt and not a typical mud flat or clam bed. Mr. DeLorenzo discussed the permit process, costs of testing, and costs of setting up for dredging. He also feels that installing stops on floats which sit on silt would sink into the silt. Normally stops are installed on floats that sit on low tide mud. Dan DeLorenzo discussed that they dredge six feet below mean low water, and it takes three to four years to obtain a dredging permit. The last time the Yacht Club dredged they joined with three other marinas to split some of the set up costs. This was one year after the Town dredged. The Town dredges every 20 years. There are no other options for removing silt.

Mr. Cary opened the discussion to the abutters, and the following issues were raised:

- Jim Morose, 20 Hardy Street, questioned if the pier was floating, would that minimize the accumulation of silt, and if the boulders causing the silt to concentrate in that area? He also suggested monitoring the flow of water if stops are used.

Mr. Cary feels that if they are discussing the floats and stops in detail then the project should be a Notice of Intent. There was discussion about the silt, boats sitting in silt, and conditioning dredging on a set schedule.

- Jane Fuller, 30 Congress Avenue, quoted the definition of siltation from Wikipedia. She also calculated 3-4 inches of silt per year, based on the Yacht Club being dredged 5 years ago. She distributed to the Commission the permit for the floats, which mentions the temporary rock fill. She discussed paving, rain, taking the floats out, and details of the permitting letters.



**Minutes of
Danvers Conservation Commission
Thursday, September 10, 2015
Danvers Town Hall**

- Pete Clement, 9 Jersey Lane, questioned what the footbridge is for and suggested taking the footbridge out and using a ferry instead. He also discussed the boulders that dam up the creek.
- Andrea Daley, 36 North Shore Avenue, distributed material to the Commission and expressed her concerns with the following:
 - She questioned why Ms. Fletcher was here. Ms. Fletcher was asked by Ms. Farr to attend because of her historic knowledge of the Yacht Club.
 - Town files missing documents.
 - Town counsel's opinion of a covenant that the Board of Selectmen entered into years ago.
 - Millett Creek being dammed up to create boat slips.
 - Who has authority – discussed Zoning Board from years ago having authority, and now it's the Conservation Commission.
 - Letter from Dave Deluca stating MGL Ch. 91 Par. 14 discussing licensure of structures over and under tide waters in the Commonwealth.
 - Chapter 91 license
 - 1975 amnesty program offered by the Commonwealth
 - Size of the structure – 1,584 square feet – compared to the size of the Toomey Room

Ms. Daley's second package of information included the following concerns:

- Existing stone in Millet Creek
- Zoning Board's decision in 1989 – rocks were temporary and to be removed.
- Plans for causeway permanent bridge were taken off the table, which was verified by Paul DeLorenzo.
- Conservation Commission's job to protect the wetlands.
- Steps for Chapter 91 license
- 21 day challenge period

There was discussion of the Yacht Club's Chapter 91 licenses. Ms. Fletcher sent an email to the Commission which includes a list of the valid Chapter 91 licenses. Ms. Farr clarified when Ms. Daley spoke about "Department" that it refers to "DEP" Department of Environmental Protection and not the Conservation Commission. Mr. Cary reviewed the Commission's duty to issue the decision for the applicant to include with adequate documentation that the project complies with the wetland protection act. The Commission cannot make the Yacht Club remove the bridge or docks. Mr. Splaine discussed the email from Ms. Fletcher regarding some of the members concerns with the structures sitting on the silt at low tide. Mr. Splaine feels that this concern can be addressed with the condition of installing stops on the floats. Dan DeLorenzo explained that the silt is soft silt and it may not be practical because the stops could sink. Dredging was discussed, but it is difficult to put a specific date on dredging because of other marinas dredging, when the Town dredges the channel, and the application process. Mr. Splaine suggested the stops as a condition, and Dan DeLorenzo agreed that it would be a possibility if larger stops are available that won't sink. David Smith, GZA, described several types of stops that could minimize the impact on the mud.



**Minutes of
Danvers Conservation Commission
Thursday, September 10, 2015
Danvers Town Hall**

- Pete Clement, 9 Jersey Lane, feels that the major thing is when you look to your right walking over footbridge and see a massive wall of mud being held back that dammed up the river, which took away the residents rights to bring a boat to their houses. This situation effected the fish in the river, and feels that the Commission is not protecting this.

Mr. Splaine discussed the feasibility of raising the footbridge, and improving the site. Mr. Lallier expressed that he is grateful for the public comments, and feels that this is a jurisdictional question and most of the abutters' issues could be handled at the next level. He agrees that this is an opportunity to improve the site with the use of stops. Mr. Waldman is in agreement with improving the site, and thinks it is unfortunate that things have happened to the abutters. Mr. Cary feels that the Commission cannot enforce water rights or dredging. Ms. Fletcher stated that it is not uncommon to include conditions on an RDA. Ms. Fletcher discussed Town dredging, and that the Town is facing the same issues with regards to the expense and approval process at Town Meeting.

MOTION: Mr. Splaine made a motion to close the public hearing and issue a Negative Determination of Applicability in connection with 161 Elliott Street; DCC File No. 2015-2; with the condition that the applicant will submit a plan by December 10, 2015 for the installation of stops on the floats/bridge to prevent the floats from sitting on the mud; Mr. Lallier seconded; motion passed with a vote of 3-1.

Continued Public Hearing – Notice of Intent

- **17 Florence Street; DEP File No. 14-1258 – Request to continue until September 24, 2015**

Minutes – none

New Business

- **19 Harvard Avenue – vote**

Ms. Farr and Ms. Fletcher presented the opportunity to acquire 19 Harvard Avenue as Open Space. The owner would like to donate this piece of land, which is located between two pieces that the Town owns, and is coastal salt marsh undeveloped land. This piece of land is on the Open Space Plan to acquire.

MOTION: Mr. Splaine made a motion to recommend to the Board of Selectmen that the Conservation Commission approves the acquisition of 19 Harvard Avenue donated by the owner, Mr. Lallier seconded; motion passed unanimously.

Staff Updates- none



**Minutes of
Danvers Conservation Commission
Thursday, September 10, 2015
Danvers Town Hall**

Violations/Enforcement Orders - none

Adjournment

MOTION: Mr. Lallier made a motion to adjourn at 8:35 PM; Mr. Splaine seconded; motion passed unanimously.

Respectfully submitted,

Christine Marshall
Conservation Commission Secretary