

## **Conservation Commission Public Hearing – June 28, 2018**

**Time:** 7:30 PM – 8:30 PM

**Location:** Police Station, 2<sup>nd</sup> Floor

**Members Present:** Toni Bandrowicz, Vice Chair; Monica Lagerquist; Jonathan Grabowski; Randall Hughes (alternate)

**Members Absent:** Tom Ruskin, Chair; Monica Tamborini; Jennifer Simon; and Colleen Hitchcock

**Others Present:** Applicants and consultants for 4 Lodge Street RDA and 35 Little's Point Road NOI

The meeting was called to order at 7:30 pm.

**1. Request for Determination of Applicability - 2 LODGE ROAD** – Filed by CAMILE NICHOLS for a proposed 24' x 26' addition on the west of the home that's on land subject to coastal storm flowage. Map 24, Lot 32. Following presentation by the applicant's consultant, the Commission determined that, while the property in question was in a resource area (i.e., Land Subject to Coastal Storm Flowage), the proposed work would not alter the resource area. The Commission unanimously agreed and subsequently confirmed with a vote, that a Notice of Intent was not required for this reason and so issued a Negative Determination. The Commission noted to the applicant that the property was also covered under Swampscott's Coastal Flood Area Overlay District in the Swampscott Zoning By-laws which had specific requirements that would be required in the building permit.

**2. Notice of Intent - 35 LITTLE'S POINT ROAD (MassDEP File #71-TBD)** – Filed by CC WHITE COURT LLC for the proposed construction of a stone terrace and sitting wall, installation of drainage structures, construction of a stone dust walkway, and installation of a fence and landscape plantings within 100 feet of an inland and/or coastal wetland resource area. Map 36, Lot 61. Following presentation by the applicant's consultant, the Commission agreed and voted to issue an Order of Condition (OOC) that contained the Commission's additional standard conditions as well as certain specific conditions. The OOC will also contain a specific condition, at the applicant's request, that it remove invasive species on the site. These conditions are attached.

### **3. Approval of May 24, 2018 Minutes**

The Commission then approved the May 24, 2018 minutes by unanimous vote.

### **4. Ewing Woods Encroachment by 96 Kensington Lane**

Ms. Bandrowicz informed the Commission that she and Max Kasper, the Building Inspector, had met with David Ratner of 96 Kensington Lane, owner of the property in question, on June 21st. He had received a cease and desist order from the Commission concerning his encroachment onto Ewing Woods conservation land which

was discovered when the property was surveyed last year. Unlike the other property owners found to be encroaching, he had not taken action to abate the encroachment, and the town's legal counsel sent a letter to him and he asked to meet with town. According to the survey there are three areas where he is encroaching onto town land which Ms. Bandrowicz and Mr. Kasper observed when we visited the property with Mr. Ratner:

- a square of land with pea stone that abuts the back of his garage on which he has a trampoline (the square is edged by wooden railroad-like ties) (about 2/3 of this square is on town property;
- beyond that, entirely on town property, is a larger area of crushed stone that has some lawn furniture on it and a swing hanging from a tree; and
- part of a well-maintained lawn that abuts the back of his house (which is to the left of the stone area if facing the back of the house).

Photos taken during Ms. Bandrowicz and Mr. Kasper's visit to the property are attached.

As a next step, Commission will request the Town's new assistant DPW director, Jay Jarosz, who is qualified surveyor, to stake the property so the exact extent of the encroachment can be documented. It was suggested that when surveyed, a member of the Commission be present and photos be taken.

#### **4. Update on amending the Town's local by-laws**

Ms. Bandrowicz updated the Commission on her coordination efforts with the Planning Board on revisions to the Coastal Flood Area Overlay District in the Town's Zoning By-law to include climate resiliency requirements. What is currently proposed is to make the specific revisions to this By-law provision which had been recommended in a study conducted for the Town by Kleinfelder.

The meeting was adjourned at 8:30 pm.

Additional General Conditions to be included the Orders of Conditions for 35 Littles Point Road

1. This Order of Conditions (Order) shall apply to the applicant, his successors and/or assigns.
2. If not previously provided, the name(s) and telephone numbers(s) of all person(s) responsible for compliance with the Order shall be provided to the Commission.
3. Notice shall be given the Commission 48 hours prior to commencement of work.
4. The applicant and any person involved in the activity that is the subject of this Order shall notify the Commission immediately upon discovery of a matter related to this Order that may affect any areas within the jurisdiction of the Commission.
5. The Commission reserves the right to require additional conditions if deemed necessary to protect resource areas and interests as defined in MGL Chapter 131 Chap 40 (310 CMR 10.00).
6. Work shall be halted on the site if the Commission or Massachusetts Department of Environmental Protection determines that any of the work is not in compliance with this Order.
7. This Order shall be included in all construction contracts, subcontracts, and specifications dealing with the work proposed and shall supersede any conflicting contract requirements. The applicant shall assure that all contractors, subcontractors and other personnel performing the permitted work are fully aware of the Order's terms and conditions.
8. A copy of this Order and the construction plans, documents, and reports cited therein, shall be available on site while activities regulated by this Order are being performed.
9. This Order only applies only to the work permitted herein, any proposed change(s) to the project shall require the filing of a Request for Determination of Applicability or of a new Notice of Intent or an inquiry of the Commission as to whether the change is so substantial as to require a new filing. The applicant must receive written approval of any proposed change(s) from the Commission prior to the execution of the change in the field.
10. Erosion and sedimentation controls shall remain in proper functioning conditions until all disturbed areas have been stabilized.
11. Any landscaping shall not consist of any exotic invasive plant including, but not limited to, Euonymus alata (Burning Bush or winged euonymous, etc.), Berberis thunbergii (Japanese

Barberry) or any other plant listed in the Massachusetts Banned Plants List. The applicant and its consultant can take action to remove and properly dispose of invasive plants currently existing on the property.

12. The Request for Certificate of Compliance (WPA Form 8A) submitted upon completion of the project, shall be sent to the Commission by Certified Mail and shall be accompanied by, but not limited to, a written report, signed and stamped by a Massachusetts Registered Professional Engineer or Land Surveyor stating that the work was done in accordance with the approved plan(s) and Order.
13. In addition, the Request for Certificate of Compliance must also be accompanied by as-built plans for the project. These plans shall contain the following certification signed by Registered Professional Engineer or Land Surveyor: "I certify that these plans conform to the criteria and conditions as submitted and approved. I further certify that these plans represent an as-built condition."
14. If the completed work differs from that in the original plans and conditions, the report must specify how the work differs; at which time the applicant shall first request a modification to the Order. Only upon review and approval by the Commission, may the applicant request in writing a Certificate of Compliance as described above.
15. When issued by the Commission, the Certificate of Compliance must be recorded at the Essex County Registry of Deeds.
16. The applicant is hereby notified that failure to comply with all requirements herein may result in the issuance of enforcement actions by the Conservation Commission including, but not limited to, civil administrative penalties under M.G.L. Chapter 21A, section 16.

Specific Conditions to be included in the Order of Conditions for 35 Littles Point Road

Erosion Control

17. Appropriate erosion control devices shall be in place prior to the beginning of any phases of construction and shall be maintained during construction in the resource area and buffer zone. The erosion control specifications provided in the Notice of Intent and the erosion control provisions in this Order will be the minimum standards for this project. Additional or modified erosion control measures may be required by the Commission at any time before, during, and after construction. These will be maintained until the engineer has

determined that they are no longer needed, at which time they will be removed using appropriate removal procedures.

18. All debris, fill and excavated material shall be stockpiled far enough away from resource areas to prevent sediment from entering wetland resource areas.
19. All demolition debris shall be removed and disposed of properly off site prior to the construction of the building.
20. As necessary, all existing and proposed catch basins and oil traps on the site or on the streets adjacent to the project shall be protected by adequate erosion control to prevent sediment from entering the drainage system. Such erosion control shall be maintained and regularly cleans of sediments until all areas associated with the work permitted by this Order have been permanently stabilized.
21. Prior to the commencement of an earth moving activity, erosion barrier(s) shall be properly installed and maintained.

#### Fencing

22. Prior to any demolition on the property, temporary fencing or another method of screening the demolition site from the resource area shall be installed and maintained in order to prevent the spread of dust and debris from entering the resource area.

#### Preconstruction Meeting

23. Prior to the start of site work, the owner/applicant shall schedule a meeting with the contractor(s), relevant subcontractor(s), member(s) of the Commission, and any individual involved in managing site work, to review the Order and inspect the site and erosion controls.