

# Conservation Commission Public Meeting – JULY 20, 2017 Minutes

TIME: 7:30PM

LOCATION: Swampscott Police Headquarters

Members Present: T. Ruskin, T. Bandrowicz, M. Lagerquist, M. Tamborini

Absent: M. Andler, J. Simon-Lento, C. Hitchcock

Others Present: Peter Ogren (Hayes Engineering), Paul Cohen (Resident), Andrew Levin (Assistant Town Planner)

T. Ruskin Called the meeting to order at 7:31PM, and began by explaining the mission statement of the Commission to those present, and verified that there were four members present for a quorum.

## 51 LINCOLN HOUSE AVE – REQUEST FOR AN AMENDED ORDERS OF CONDITIONS – MASS DEP #71-307

T. Ruskin moved to the first item on the agenda, a request to amend the Orders of Conditions for a project occurring at 51 Lincoln House Ave (MassDEP File # 71-307).

Peter Ogren of Hayes Engineering was present and representing the owners. Mr. Ogren explained that there was a landscape plan previously filed that called for connecting two existing walls and to repoint and repair the walls after the permit was received. Mr. Ogren explained that one of the walls is currently Pennsylvania fieldstone, and to make the wall more uniform with the other on the property, the owners are requesting to make the wall New England fieldstone. Mr. Ogren used pictures of the site to show the walls, and mentioned that there is no permit to replace the wall, and now they wish for an amended orders to to repair it in-kind.

Mr. Ogren handed the Commission the hearing advertisement and the abutters mailing affidavit.

T. Ruskin asked if the new wall will have more concrete, Mr. Ogren replied that the wall being changed will have more mortar than the other. T. Ruskin asked how deep the supports for the wall will go, Mr. Ogren responded that they only wish to repair the wall in-kind. T. Ruskin asked for clarification on the work, Mr. Ogren explained that it would be aesthetic work. T. Ruskin asked if work would stop where the “seen” bottom is on the wall, Mr. Ogren responded that if the wall’s bottom is sound, then they will not replace it. For clarification, T. Ruskin asked if the plan of work is to get rid of the existing fieldstone to the point of where it is not seen, and then replace it with matching fieldstone, Mr. Ogren agreed.

M. Lagerquist asked if there was demolition done at the property, Mr. Ogren explained that it was a complete demolition. M. Lagerquist asked if the wall in question was part of the house that was demolished, Mr. Ogren responded that the wall was a part of an old patio, and mentioned that Pennsylvania fieldstone (the walls current material) was popular in the past.

T. Ruskin (looking at a picture of the property) asked if the property owners also own a chain-link fence shown. Mr. Ogren mentioned that it is "fair to say" it is on their property. T. Ruskin asked if the fence will be worked on at all, Mr. Ogren explained that they would probably fix the part that it is knocked over. T. Ruskin asked Mr. Ogren if they were to repair the fence completely, would they have to go into the ground, Mr. Ogren responded that he was unsure. T. Ruskin mentioned that the fence abuts the area where the work will be taking place, and stated that the work could affect the fence, and added that he is curious as to whose responsibility the fence is. Mr. Ogren responded that if the fence is on his client's property, and if the Commission wanted the fence repaired, then they would do it.

Paul Cohen, an abutter of 51 Lincoln House Point, spoke up and stated that the fence is part of a right-of-way, and mentioned that kids go drinking in the area of the fence. Mr. Cohen stated that if they do not fix the fence then the area is open and could be a hazard to the owner. T. Ruskin asked Mr. Cohen if he believed it is up to multiple property owners to replace the fence, and then asked how long Mr. Cohen had lived at his property for. Mr. Cohen explained that he had been there for 35 years, and was unsure if the fence had been there that long as well, but mentioned that the fence had been there for a while. T. Ruskin asked if the neighbors had banded together before to fix the fence, Mr. Cohen mentioned that a neighbor to the property had once maintained it.

Mr. Cohen and T. Ruskin briefly discussed the easement and the fence, in regards to whose obligation it is to maintain the fence. Mr. Cohen mentioned that in the past it had been the people who lived at 51 Lincoln House Point, and reiterated his statement from earlier regarding illegal activities taking place in the area near the fence.

T. Ruskin asked why Mr. Cohen was present, Mr. Cohen responded that he wants the owners to replace the wall, because aesthetically it is unfair, and mentioned that he is in favor. T. Ruskin asked Mr. Cohen if he is concerned about the fence, Mr. Cohen stated that this was not his issue, and added that if the property owners fix the fence, then they will take out a lot of liability. T. Ruskin reiterated that it would be up to the property owners, to which Mr. Cohen agreed and added that the property owners can do what they want, and that the Commission can only approve it.

T. Ruskin mentioned that he was unsure if the Commission had jurisdiction on the fence, but added that the fence is near the back wall, and wondered if they should approve the fence at the current meeting, so the property owners would not have to come back. Mr. Ogren mentioned that the owners will probably repair the fence. Mr. Ogren and the Commission briefly discussed the location of the fence.

T. Ruskin asked if there will be an issue with excavating next to the fence, and asked if the fence goes into the ground, will the property owners fix it or leave it alone. Mr. Ogren mentioned that the Commission should allow the property owners to fix the fence in-kind, and added that they have previously spent a large amount of money on the property, and that he believes the property owners would want it to look nice.

T. Ruskin asked if the Commission should require the fence be repaired, as well as if it should be put in the approval that the fence can be replaced or repaired.

T. Bandrowicz mentioned that special condition 21 (now special condition number 41) in the Orders of Conditions, regarding the seawall repairs, should have chain-link fence repairs added

in as well, so that the owners would not have to come back. T. Ruskin added that this will cover the issue.

T. Bandrowicz mentioned that the wall being replaced needs to be properly disposed of, and discussed other conditions to add as well.

M. Tamborini asked if the allowance of replacing or repairing the fence that was previously discussed, will be added into the amended Orders of Conditions, and also asked if a post maker machine would be used. T. Bandrowicz mentioned that there is already a condition that states no equipment allowed on the beach, M. Tamborini responded that she is fine with that then. The man in the audience asked if the owners will be required to fix the fence, T. Ruskin responded that they would not be required to, but the special conditions would allow them to address the fence.

MOTION : by M. Tamborini to accept the amendment to remove Pennsylvania fieldstone and replace with New England fieldstone, and repair or replace a fence as mentioned per the attachment, also the addition of a special condition, that they dispose of the fieldstone properly, T. Bandrowicz seconded, unanimously approved.

## DISCUSSION - NORTHSTONE ROAD STAIRS

The next item on the agenda was discussion of stairs off of Northstone Road, T. Ruskin mentioned that the Board would not be discussing the item at this meeting and holding off to a later date.

## PHILLIPS BEACH – NOTICE OF INTENT – MASS DEP #71-308

The Commission moved to the Notice of Intent filed by the Swampscott Board of Selectmen regarding the allowance of cooking fires on Phillips Beach.

T. Bandrowicz explained that she had received an email from Selectman Patrick Jones requesting an “indefinite postponement” earlier that afternoon. T. Bandrowicz mentioned that she emailed back asking for clarification, but had not received a response. T. Bandrowicz mentioned that if the Selectmen wish to continue, and no date is agreed upon, then they would have 21 days to decide. T. Bandrowicz added that if the Selectmen withdrew and then at a later date wished to refile, they would have to go through the whole process over again. T. Bandrowicz mentioned if the Selectmen are to do nothing, then the Commission would have to deny or accept the application and order conditions. M. Tamborini mentioned that the “cleanest” way would be for the Selectmen to withdraw, to which other Commission members agreed with as well. M. Tamborini mentioned that due to the current circumstances (no one from the Selectmen was present at the meeting, and the last-minute email) that the Commission should not do anything. M. Tamborini stated that if the Selectmen wish to keep continuing then they should withdraw, T. Ruskin added that there is no such thing as an “indefinite postponement”.

## EWING WOODS SURVEY

The Commission then moved onto the discussion regarding Ewing Woods and the encroachment issues. T. Bandrowicz mentioned that the Commission had previously decided to send a letter to encroaching abutters, but that Director of Community Development, Peter Kane, stated that the Commission needed to specify what it was going to write.

MOTION : by T. Bandrowicz stating the Town send a letter on behalf of the Conservation Commission to those abutters shown to be encroaching on conservation land shown on the survey. The letter to be sent pending review by Town Counsel, and a 90-day timeline, unless extension requested, seconded by M. Tamborini, the Commission unanimously approved.

T. Ruskin explained that he wanted a liberal timeline, and wanted encroaching abutters to have a “humane” amount of time to take action. The Commission briefly discussed the timeline.

M. Tamborini asked for clarification on the encroachment, T. Bandrowicz mentioned that there was a survey completed, but mentioned that she wished to walk the land to see the encroachment first-hand. The Commission briefly discussed a similar situation that the Commission had dealt with in the past, as well as the suggested timeline. M. Tamborini added that if there is no timeline, then there is no impetus, but mentioned that the summer could be hard time for encroachers to act, so a lengthy timeline would be helpful. The Commission agreed upon 90-days.

M. Lagerquist asked if there would be penalties if the abutters do not remove their encroachment, T. Ruskin explained that he did not believe the Commission to have penalizing authority, T. Bandrowicz mentioned that the Towns Counsel will review the letter and see how the Town can take action.

M. Tamborini asked if the letter would be sent via certified mail, T. Bandrowicz mentioned she would check with P. Kane.

T. Bandrowicz added that because the land is town owned, then there could potentially be penalties. The Commission then briefly discussed potential penalties.

The Commission then moved to the Blytheswood agenda item.

## OTHER BUSINESS TO PROPERLY COME BEFORE THE COMISSION

T. Bandrowicz mentioned that the Open Space Committee had drafted a maintenance plan for the Towns easement at the Blytheswood property. T. Bandrowicz clarified for other Commissioners where the easement is on the property. T. Bandrowicz explained that the conservation restriction easement allows the Town to build a path and put signs up, but needed a management plan first. T. Bandrowicz mentioned that the Open Space Committee drafted a plan and had sent it to the owners of the Blytheswood property and their lawyers. The property owner and their lawyers have since agreed to move forward, and now are going to work together on the path and materials that will work with the owners.

T. Bandrowicz mentioned that P. Kane had asked the Commission if they wished to approve the plan (at the current meeting), or send it around to different departments for comment first. T. Ruskin mentioned that it could be a good idea to send it for review, especially the Department of Public Work (DPW), because they would be the ones required to pick up trash and take care of many things. T. Bandrowicz added that sending the plan to the Police and Fire Departments would also be helpful. T. Bandrowicz mentioned that the plan would finally come back to the Commission with comments and then the Commission could decide. T. Bandrowicz mentioned

that once the plan is approved, DPW could begin on the path. The Commission briefly discussed the possibility of Aggregate donating stone.

T. Bandrowicz mentioned that the next step is to send the plan to all the departments.

## COMPREHENSIVE PERMIT REVIEW/COMMENTS – SENIOR RESIDENCES AT THE MACHON

T. Bandrowicz mentioned that the Commission does not have jurisdiction regarding the permit, but that the developers had invited comments by August 16<sup>th</sup>. T. Bandrowicz mentioned that she had some comments regarding plantings and regarding invasive species.

T. Ruskin reiterated that the Commission has no jurisdiction on this project, and that he did not want to set the precedent that the Commission goes beyond their purview. T. Ruskin added that he wants to make sure if comments are submitted that they align with the Commission's purview. T. Ruskin continued that he would like the comments to be worded in a way so that they are a recommendation. T. Bandrowicz mentioned that she could draft the comments, and asked if any other Commissioners had comments. T. Bandrowicz added that she wants to look at the developer's storm-water plans, M. Lagerquist stated that this is important. T. Bandrowicz mentioned that she had asked P. Kane if there would be rain gardens, and that P. Kane explained that there would be partial ones.

## REVIEW AND APPROVE MINUTES FROM PREVIOUS MEETINGS

MOTION: by M. Tamborini to approve the drafted minutes from June 22<sup>nd</sup>, 2017 with minor grammatical edits to be sent, seconded by T. Bandrowicz, unanimously approved.

MOTION: by T. Ruskin to adjourn, seconded by T. Bandrowicz, unanimously approved, the meeting ended at 8:15PM.

Andrew Levin

Assistant Town Planner