



# Conservation Commission

October 21, 2014 – 6:30 PM – **Minutes**  
Ashley Room, City Hall, 133 William Street

## Members Present

John R. Radcliffe, Chairman  
Craig Dixon, Vice Chairman  
Dennis Audette  
Paul Pacheco  
Jacob Gonsalves

## Members Absent

## Staff Present

Agent Sarah Porter  
Sandy Douglas, Administrative Specialist

## HEARINGS:

Chairman Radcliffe called the meeting to order at 6:30 p.m.

- 1. (Continued from 10/7/13, 10/22/13, 11/12/13, 11/26/13, 12/10/13, 1/7/14, 2/8/14, 2/19/14, 3/4/14, 3/19/14, 4/1/14, 4/25/14, 5/6/14, 5/20/14, 6/3/14, 6/17/14, 7/1/14, 7/15/14, 8/5/14, 8/19/14 & 9/2/14) - A Request for Determination of Applicability as filed by Ron Labelle, City of New Bedford Commissioner of Public Infrastructure for property identified as 1350, 1296, 1232, 1216, 1182 & 1174 Sassaquin Avenue, New Bedford (Map 138, Lots 445, 81, 67, 69, 60, 392, and 191) and the Swallow Street and Sassaquin Avenue Rights of Way. Applicant proposes to upgrade the storm water management system in the Buffer Zone. Representative is David Fredette of the Department of Public Infrastructure. CONTINUED UNTIL END OF MARCH, 2015 PER DPI'S REQUEST.**
- 2. SE49-0597 – (Continued from 1/7/14, 2/8/14, 3/4/14, 3/19/14, 4/1/14, 5/20/14, 6/3/14, 6/17/14, 7/1/14, 7/15/14, 8/5/14, 8/19/14 & 9/2/14) - A Request for Certificate of Compliance as filed by Ana M. Reis, Trustee of Bismark Meadows Realty Trust for property identified as Bismark Street (Bismark Meadows Road), (Map 136, Lot 131). Review as-built sketch from Nitsch. Discuss with City Planner.**

City Planner, Jill Maclean was present. Agent Porter advised the Commission that a letter from Nitsch Engineering has been received and that the detention pond was undersized by approximately 20%-30%. The Commission asked to run the watershed model that was done under the proposed conditions that was approved by the Conservation Commission and this was done by Nitsch Engineering and they responded that the as-built detention pond performs better and has lower flow rates when compared to the approved detention basin. It also has a higher flood elevation for each of the storms and the differences are negligible. Only talking a couple of inches which is very surprising given the difference in volume between the approved and the proposed basins. Nitsch recommended approving the basin as-built given the minor deviations. Agent Porter stated that a plan and calculations is now needed to support their model and at that time the Commission can issue a Certificate of Compliance.

City Planner Maclean stated that she concurs with Nitsch Engineering and the Solicitor's Office is working on the title exam. Once the Planning Board receives approval from the Conservation Commission, they will work on the approval of Bismark Street and DPI already has the actual plans for the street itself and those will go to City Council for approval.

Agent Porter advised that the Certificate of Compliance will be forthcoming after the November 4<sup>th</sup> meeting.

At the end of the Cardinal Place matter, Agent Porter updated Councilor Oliveira on Bismark Meadows concerning what had happened earlier this evening when City Planner Maclean was present.

Councilor Oliveira thanked the Commission for the efforts in this matter.

3. **A Notice of Intent as filed by Ronald Labelle, City of New Bedford Commissioner of Public Infrastructure for property identified as Turners Pond dam (Right of Way of New Plainville Rd and Polocz Blvd., Map 124-Lots 1, 21 and 62.).** Applicant proposes to conduct dam maintenance of the Turners Pond dam which involves clearing vegetation in Resource Areas and the Buffer Zone. Representative is Andrew Poyant of CDM-Smith. **CONTINUED UNTIL ALL ABUTTERS HAVE BEEN NOTIFIED.**

### **OTHER BUSINESS:**

1. **Agent Updates (Cardinal Place)**

Chairman Radcliffe advised that there was an on-site meeting on Friday and there were a few concerns after last week's storm. Chairman Radcliffe asked Mr. Rowlett to address his letter to this Commission.

Mr. Hugh Rowlett was present on behalf of the applicant. Mr. Rowlett stated that his letter was sent as a request once they looked at Special Condition #50 on the Order of Conditions. Condition #50 refers to the installation of the street including utilities and potentially to get the infrastructure and/or development started. But it does not address activities on the lots itself for housing and permitting. It does state that the Conservation Commission can review any activities outside of the Order of Conditions. Mr. Rowlett stated that as they have commenced developing this area they found it would be better for them and more efficient and safer if they were to remove trees from the lots that they plan on putting houses on. They would prefer to do this earlier rather than later. As stated in their letter, they do not know when they will actually request permits on each lot, it will depend on the real estate market. Mr. Rowlett stated that some of the trees are approximately 50'-75' high. If they go ahead and install their lights, utilities and curbing, they could possibly damage these items as they are put in place and then have to replace. Stumps will have to be removed after the trees are cut and that required heavy equipment and that would damage whatever is already in place. Mr. Rowlett feels that now would be an opportune time to go ahead and remove the trees so that everything could be done at once and will help speed the development along. Mr. Rowlett asked the Commission to consider this matter since there are other developments that clear their land in the early stages and don't do it in phases.

Chairman Radcliffe clarified that Mr. Rowlett is asking for a modification of the conditions. Mr. Rowlett replied that was correct.

Chairman Radcliffe stated that during the site meeting it was noted that silted run-off was getting to the pond as a result of the work that had been performed. It was discussed briefly on-site that the applicant would come up with a plan to address this issue to prevent it from re-occurring. Mr. Rowlett replied that they have a silt bag in the storm drain at the end of Swallow Street. Mr. Rowlett submitted pictures to the Commission, some of which were taken by Commissioner Audette. Mr. Rowlett stated that silt bag is doing the work it is supposed to do and you cannot prevent particulates going into the pond regardless of any drain with or without construction. Although there could be some silt coming from the site he doesn't believe it's in great quantities that is causing great harm to the pond.

Mr. Rowlett advised that they have placed gravel at the entrance of the site and there isn't any mud on the gravel and it's pretty clean. Mr. Rowlett stated that they want to do what is right and want to protect the pond and understand the sensitivity. Mr. Rowlett proposed to place bales of hay to protect the entrance to the development and is open to any suggestions the Conservation Commission may have to make this right. Mr. Rowlett stated that they want to complete a development that the City and homeowners would be proud of.

Commissioner Dixon stated that it's a standard Order of Conditions that was issued. Commissioner Dixon inquired as to how many trees are being proposed to be removed. Mr. Rowlett replied that he and Mr. Hopps would like to save as many trees as possible and only cut the trees that are necessary to place the house, driveway and utilities.

Mr. Rick Hopps was present and stated that his major concern is that there a ton of trees around the cul-de-sac that are on the edge of the road. Once those trees are cut down there will be a bunch of dirt into the trenches. If they place an asphalt base down it's going to wreck the road and will create a mess. Mr. Hopps stated that as far as the house lots itself, the only thing he would like to do is remove any trees that will be in the way. He would like to have it staked out first where the houses and driveways will go and then cut the trees. Mr. Hopps stated that the trees will have to be cut down anyway but it's just safer to do it now. Mr. Hopps said that the homeowners would then have a choice as to whether or not they wanted a wooded backyard.

Chairman Radcliffe stated that this condition was agreed to by the applicant at the original approval and why wasn't it made a point of discussion at the time of the issuance. Mr. Hopps replied that he didn't know there would have been trees in the way of developing. Mr. Rowlett replied that he didn't purchase the property until after the Order of Conditions was issued.

Commissioner Audette inquired as to when Mr. Rowlett purchased the property. Mr. Rowlett replied that he purchased the property in May. Commissioner Audette stated that the Registry of Deeds still shows that Tom Brennan is the owner. Mr. Rowlett replied that the Registry hasn't changed it yet and that he has already paid taxes on the property to the City and he has a copy of the Deed that he can submit to the Conservation Commission.

Commissioner Pacheco expressed his disappointment that the applicant didn't foresee this issue prior to issuing an Order of Conditions and is now requesting a modification when they should have know that the trees would have to be cut down.

Chairman Radcliffe stated that a concern of safety is a wonderful thing but it does not come under the purview of the Conservation Commission so that is not an argument that will not sway this Commission. Chairman Radcliffe advised that as a result of previous development projects, this Commission instituted a new set of standards and these were put in place to protect the resource area and the abutters.

Commissioner Audette stated that it took this Commission a year to go through this project and it went through 3-4 redevelopment designs. The roadway was discussed in many meetings and feels that the applicant had an opportunity to go to DPI and challenge this Commission and that was not done. On March 19<sup>th</sup>, this Commission finally issued an Order of Conditions and the applicant was content with said Order. Mr. Hopps replied that he needed a resolution to this project and he felt that he gave a little to get it done because when he ever asked for a change it took months to change it. Mr. Hopps continued to state that it was one of those things that they felt to just go with it and see how it works out and if it was to become unsafe or non-efficient they would ask for a change and that's what he is doing now. Commissioner Audette stated that there is an existing Order of Conditions that the applicant is to follow. They walked the site the other day and there is a 10' road limit work area, the trees that he is concerned about are 10' from the road. They have stockpiled the dirt up to

approximately 8' high so during the last storm there was run-off from that. Commissioner Audette continued to state that Mr. Hopps development isn't any different from any other development in the City of New Bedford. Commissioner Audette stated that Mr. Rowlett mentioned that when trucks come into the development it could ruin the blacktop but if the surface is put down right, it will not disturb it because trucks run up and down streets all day long when building homes so he doesn't buy if they put in a road it will get destroyed.

Commissioner Audette stated that Condition #51 states that prior to the Conservation Commission's endorsement of any building permit, application or issuance of any further Order of Conditions, the stormwater management system shall be substantially complete and functional. So he feels that this Condition prevents him from voting to change anything until Condition #51 is complete. Commissioner Audette stated that he feels that this Commission has been more than fair and worked out a deal and would like to see the original deal kept.

Chairman Radcliffe stated that whenever a project comes before this Commission one of the things they look for is what can the Commission get out of this and would like to hear what they are doing to the resource area that would convince him that a change needs to be made to the Order of Conditions.

Mr. Hopps stated that everyone wants the development to be done in a timely manner and that the trees are going to be cut down at some point and feels that he and the Commission are on different pages. Chairman Radcliffe replied that this is the Conservation Commission and not the neighborhood or safety commission and the Commission's job is to protect the resource and he has not heard anything to convince him that he needs to re-examine the current Order of Conditions.

Agent Porter stated that their proposal to install haybales at the end of Swallow Street is a good idea because of the slope. Agent Porter suggested extending the crushed stone gravel so that it covers the entrance way. Agent Porter also advised that she will need to know what their winter stabilization plan is for the site and it needs to be addressed and submitted in written form. Mr. Hopps replied that he will address that with Mr. Bob Cannessa and submit it in writing.

Agent Porter stated that as far as the issue about the Order that is up to the Commission as to whether or not they feel the issues are substantive in terms of changes to the Order of Conditions.

Chairman Radcliffe added that if some additional cooperation in terms of mitigating what this Commission's feels is a run-off issue it would be a long way to satisfy his original question which is "What are you going to do to improve the resource area that would compel this Commission to offer the applicant a change to the Order of Conditions?"

Commissioner Dixon stated that he would like to see the markers be placed back and they need to stabilize the stockpile.

Councilor Jim Oliveira was present and stated that one of the things that concerns him is developments in the far north end. Councilor Oliveira stated that he supports the existing Order of Conditions and that any remediation that needs to be done on this project as suggested this evening needs to occur. Councilor Oliveira stated that as a Councilor on behalf of the voters is seeking a responsible development and that folks want to come into Ward 1 and develop properties.

Chairman Radcliffe inquired if there was anyone present who wished to comment on this matter.

Mr. Jean Landreville of 1184 Sassaquin Avenue was present and wanted to ask a couple of questions. Mr. Landreville questioned why there is only one haybale at the drain on the right side of Swallow Street. Mr.

Landreville stated that he was under the assumption that when this project was commenced there wouldn't be any unloading of equipment on Sassaquin Avenue and inquired whether or not this is true because they leave behind dirt and junk on the ground. Mr. Hopps replied that he, himself swept all that up once they unloaded the equipment and they only unloaded it there because it was impossible for them to unload it up the street.

Mr. Anthony Arruda of 1446 Sassaquin Avenue was present and stated that he can't see the applicant going on and cutting trees on lots that may not be developed for another six months. He understands it's more efficient but those trees hold water and if the trees are not taking the water, the water will go to the pond.

Mr. Jeffrey Miller of 13 Tobey Lane was present and stated that he had been here week after week listening to the presentation of this development that does not belong in Sassaquin. Although they did not agree with it, they know that this body makes the rules and not them. They came to the understanding that this development was going to be developed as the rules were set by this Commission and other Commissions. Mr. Miller is not in favor of any changes and agrees with Mr. Arruda's comments and Councilor Oliveira.

Mr. Brian Gunnison of 1188 Sassaquin Avenue was present and questioned whether the applicant was having professional tree cutters cut down the trees. Mr. Hopps replied that he does have professional tree cutters doing the work. Mr. Gunnison added that the trees help keep dust down, noise down, and will keep silt out of the pond. Mr. Gunnison does not agree with any changes being made.

Mr. Mike Frey of 1479 Morton Avenue and 1214 Sassaquin Avenue was present and stated that he rather not see any modifications be made. He said that when you put a house on any wooded lot you have to get rid of the lot and trees have to be dropped and feels that the developer should have planned this a long time and this should come as no surprise.

Mr. Hopps stated that he will withdraw his request and thanked everyone for their comments.

## **2. General Correspondence**

Agent Porter advised the Commission that the Committee on Ordinance requested her presence at the public hearing tomorrow night at 7:00 to discuss the land on the north side of Shawmut Avenue. They are proposing to change it from mixed use business to residential B. It's basically residential now and there are two empty lots. Agent Porter visited the site and there are no wetlands.

## **3. Approval of Meeting Minutes of April 1, 2014, May 20, 2014, June 3, 2014 and July 15, 2014.**

There being no additions, corrections or deletions of substance, a motion to approve the Meeting Minutes of April 1, 2014 was made by Commissioner Audette. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

There being no additions, corrections or deletions of substance, a motion to approve the Meeting Minutes of May 20, 2014 was made by Commissioner Audette. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

There being no additions, corrections or deletions of substance, a motion to approve the Meeting Minutes of June 3, 2014 was made by Commissioner Audette. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

There being no additions, corrections or deletions of substance, a motion to approve the Meeting Minutes of July 15, 2014 was made by Commissioner Audette. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

A motion to adjourn was made by Commissioner Dixon at approximately 7:35 pm. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

Respectfully submitted,

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Sandy Douglas  
Administrative Specialist