

**MINUTES – CONSERVATION COMMISSION
TUESDAY, OCTOBER 21, 2014 7:00 P.M.
TOWN HALL, HEARING ROOM, 2ND FLOOR
870 MORAIN ST., MARSHFIELD, MA**

Approved 11-10-15 4-0-0

Members present: Robert Conlon (RC), William Levin (WL), Frank Woodfall (FW), Chad Haitsma (CH), and Jay Wennemer, Conservation Agent. Alison Cochrane (AC) was not in attendance.

RC motion to open the meeting, WL second, motion passed 4-0-0.

MINUTES March 4, 2014 through June 17, 2014. RC motion to approve, WL second, passed 4-0-0.

BUSINESS

1. Vote & sign Orders of Conditions for closed hearings (if projects are voted closed and/or the Commission is prepared to vote on Conditions).
 - Zarella, Grandview Ave.
 - Kilcoyne, 51 North River Drive – “h” – add ‘bottom of the stringers’ and ‘no lights’.
 - Smith, 63 Gilbert Street
 - Murphy/Wertheimer, 1213 Ferry Street – “h” – add ‘bottom of the stringers’ and ‘no lights’.
 - Lucchetti, 30 Moritz Road
 - Varley, 769 Moraine Street
 - Picard, 861 Summer StreetRC motion to accept all orders as drafted and revised, WL second, passed 4-0-0.

2. Scheduled Meetings: Wednesday, Nov. 5th, Tuesday, Nov. 18th
3. Evans Land donation offer – Norwich St., 1/8 acre next to ConCom land (G12-02-04)
4. Trails Committee Update
5. **Chandler Pond Discussion** - 7:15 p.m. Several residents of the area were present: Bill Earley, Tom Shields, Laura Oot-Sheridan, Ann Szulak, Ron Montgomery, Peter Appleby and Kerry Richardson. Sara Grady and Samantha Woods of the North River Commission were also present to bring to the attention of the Commission their concerns of the operation of the fish ladder. Operation and Maintenance Plan has been issued by Division of Marine Fisheries. There are boards that have to be placed in appropriate positions to control the water flow to allow the passage of river herring. The North River Commission is concerned that that’s not happening, and are trying to figure how they can manage that to benefit the fish situation. JW stated it’s an on-going problem, which is part of a bigger problem. Veterans Park water levels are not being managed for fish and flooding concerns on Cross Street; boards are put in and taken out without consideration for purely esthetic reasons. DPW is ultimately responsible for management of Veteran’s Park – but they have ceded their control to a Veterans group. It’s fair to say there’s a slight difference of opinion of how things are to be managed. The town should consider management of Chandler Pond and the water flow in and out of it. Nick Wildman from a Restoration group with the State has stated this is a priority project – can spend some time and money on a resolution. Mr. Wildman discovered a number of sediment issues that are slowing and blocking water flow – makes a flooding situation for Tom Shields on Cross Street, which Tom brought to the Town Administrator’s attention. Did hear from DPW Superintendent Tom Reynolds that they’ve contacted a contractor to take out the vegetation and sediment that has built up. Looking for a quote for the work. There is quite a large culvert under Rt. 139 approximately 15’ wide x 5’ high. Stream is pinched off by sediment buildup, obstructions to the flow that need to be dealt with. DPW not sure of how to go about it – calling in some experts.

RC asked if the boards are not being removed at the proper times; JW said that is correct. Ms. Grady stated that in the spring, when fish are migrating in, the boards should be out at the fish ladder and the culvert should be open. From June 1 to July 1 the boards should be in at the dam and the ladder and the culvert kept open. During the summer through to November 15th, the

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boards should be out at the fish ladder and culvert should be closed. JW noted the problem is that the culvert and fish ladder have nowhere near enough capacity to handle flows from the river. Final time period, Nov. 15 to March 15, the boards should be in at the dam and the ladder.

WL asked if there is a controlling authority; JW said it's the DPW. CH asked if DPW is aware of the schedule. Ms. Woods said they are, that they've been copied on memos and emails many times. JW – DMF letter describing how we should manage the flows at Veteran's Park came about 8 or 9 years ago. JW – doesn't feel Conservation should be in charge of the board removal but not much attention given to the management of flows.

Peter Appleby, 258 Pudding Hill Lane, stated that Dave Carrier, former DPW Superintendent, used to help with the Boards – he was right on top of it.

JW – DPW has ceded control to Peter Dowd, Veterans Group. RC – what about putting it in writing. The residents should all call the DPW about the boards and keep after them. RC suggested FW write to the Selectmen about this issue. JW said Conservation could require a NOI or a water management plan. RC asked if Conservation could make it part of the dredging project. JW said they could; comprehensive approach is what we should come up with.

Two components – spillway has greater capacity. Main dam can't handle all the water that comes through the system. Tom Shields lives downstream and gets flooded out, in part, because of the obstructions to flow in the stream. During large rain events, water has to be allowed through the spillway. There are a lot of issues that need to be carefully thought through.

Tom Shields, 60 Cross Street – currently water is being managed by Bill Earley and Kerry Richardson through a management plan that was put together on the assumption that the dam was fully functional, but it is not. Mr. Shields said Bill Earley is letting all the water flow through the dam into his (Mr. Shield's) property, and he is here tonight to ask the Commission to issue a new Order of Conditions until the Feasibility Study is finished. He is requesting an Order of Conditions be put in place directing both Bill Earley and Kerry Richardson to manage the dam together, contrary to original orders that allowed a maximum water level; Bill now saying water level is at the top of the culvert; Kerry is operating the spillway – all the water coming into the pond is flooding his property.

JW stated one issue is when Bill Earley tries to lower water to a safe level based on the Engineer's reports and recommendations; the spillway does not pass water until the pond fills. If all the boards were out of the spillway the bypass flow through the spillway would occur at a lower pond level that it does now.

Kerry Richardson, 115 Cross Street – no water would have gone over that spillway. Since June of 2013 the issue has been that the pond is too low and water is not able to go through the spillway and floods Tom's house. The way to correct it is to keep the pond level up and the water can be managed at the spillway. If it's managed property, Tom will not be flooded. Pond level has to be up.

JW said he was there this morning and the water level was not going through the spillway; water would have to raise a foot to go over the spillway. If you try to manage the pond water level for safety concerns, the spillway cannot have boards in it but boards are in. Spillway does not flow until the pond is at least a foot higher than it was this morning. Spillway doesn't function to drain pond until water level reaches the top of the control boards.

RC asked if this would all go away if the dredging was done. JW & FW said no. Mr. Richardson asked if any of the Commissioners have seen a report from an engineer saying if the water level is above the culvert the dam will fail.

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Ron Montgomery, 122 Cross Street, said he has never seen the pond so mismanaged since Mr. Earley moved in. Never had overflow before; boards should be put back in the dam, restored. Nothing wrong with that dam. Never had trouble in over 30 years.

Ann Szulak, 261 R Old Ocean Street – the flow from the South River goes into the pond at my property. There are many acres of land and wildlife that have been destroyed. Now it is just many acres of mud.

Mr. Shields asked why the Commission can't just amend the Enforcement Order to Bill Earley.

Mr. Appleby said the Orders of Conditions were issued in 2009; Bill Earley, on his own, lowered the water and put it outside the scope of the Conditions. JW stated the purpose of the Conditions was to control low flow, not high flow, to keep water going into the South River. JW – much more appropriate to have a new NOI with all the parties involved. We have to come up with a safe level that's not going to jeopardize Mr. Earley's dam.

Mr. Richardson said, 'coincidentally, wells have failed. Structures on my property being affected because the level has been decreased'.

Steve Pineault, 282 Pudding Hill Lane, asked how that elevation relates to the bottom of the spillway – the top of the culvert.

Mr. Shields asked what the Commission envisions doing in this situation. JW said we need to try to come up with a solution that will minimize flooding on the Shields' property. Need to take in Mr. Earley's desire not to overtax the dam, and Mr. Richardson's spillway invert elevation. There's a lot of information at hand right now – probably need to hire an expert to look into it. We should require various players in this system to file the NOI collectively.

6. **Christine Ryan – Discussion** 7:30 p.m. – Ms. Ryan was present to review her care of the small piece of land in front of Veteran's Park that she was given permission to garden by the Partners in Conservation in 2002. She stated she was disappointed that the Veteran's had taken over care of the parcel because they felt she wasn't doing a good enough job. Ms. Ryan said she had spent a lot of time and money on plants and flowers, and was very disappointed that this Commission let the Veteran's take over the care and custody of the parcel. She also left some zinnias for the Commissioners.

ENFORCEMENT ORDERS

Michellini – 34R Marginal Street – lot of clearing. Opened up marsh to create lawn. Sent out EO and heard from realtor that the person listed has passed away, has executrix. Commissioners signed.

Whooley – 890 Webster Street – mucked out whole section of BVW and stream. Commissioners signed.

REQUESTS FOR CERTIFICATES OF COMPLIANCE

Backburner:

1. 1658 Heaney, 29 Farragut Road
2. 2324 Wallace, 110 Damon's Point Road
3. 1090 Peterson, 219 Ridge Road
4. 1827 L. L. Smith, 60 Macomber's Ridge
5. REQPC-1925, Cushing Construction (Parsonage St.) Garden Gate
6. 2381 NSTAR, Pine Street
7. SE42-2363 Hannah Brook LLC, Off Summer Street

Current:

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1. SE42-2486 Grey, 7 Tupelo Road
2. SE42-2488 Webb, 20 Bay Street

JW recommends both Certificates be issued. RC motion to approve both, WL second, passed 4-0-0.

REQUESTS FOR DEVIATION

-2500 Martin, 70 Preston Terrace . JW recommends approve screw anchors instead of posts. RC motion to accept the request, FW second, passed 4-0-0.

REQUESTS FOR EXTENSION

NEW BUSINESS

This time is reserved for topics that the chair did not reasonably anticipate would be discussed.

PUBLIC HEARINGS

7:30 2520 Vu, 12 Howes Brook Road - Applicant has requested a continuance to the last meeting in November. RC motion to continue to 11/18/14 at 7:30 p.m., WL second, motion passed 5-0-0.

7:30 2527 Igo, 209 Bay Ave. – hearing had been continued from 10/7/14 for new plan. CH hearing officer. Rick Servant, Stenbeck & Taylor, presented. Wood piles decided – plans delivered today. Driven wood pile foundation; house size exactly the same. Height of structure different because of piles. Elevation 9, proposed finished floor at elev. 12.

Marnie Barrett, 207 & 205 Bay Ave, asked to see the plan. Concerned with the project infringing upon her property, too close to do any work. She was concerned about how the equipment will get in there.

CH motioned to continue to 11/5 at 7:30, RC second, motion passed 4-0-0.

7:40 2525 Pfaff, 1173 Ferry Street – hearing had been continued from 10/7 – applicant waiting for new plan to be approved by Board of Health. Bob Crawford, EET, presented. Septic failure – tight tank proposed moved in front of house. Tight tank will be waterproof. AE flood zone. Small lot – no other place to put tank. FW asked if the covers on the tight tank are tight; Mr. Crawford said they are. CH motion to close, RC second, passed 4-0-0.

7:45 25__ Abelli, 2 Porter Street

7:45 25__ Daichman, 1 East Street

7:45 25__ Seaberg, 3 East Street

RC read notices of public hearings for the above three hearings. Bob Crawford, EET, presented. Proposing rip rap revetment in front of these three lots totaling 227 feet. Revetment in VE zone elev. 15. There was rip rap armoring in this area previously, Mr. Crawford had photographs. WL asked what the effects of building this are – JW said the beach narrows eventually, based on wave reflection, and holds materials back so sediment isn't being replaced. Since there was a pre-existing revetment, they can replace it. If there wasn't any previous revetment, they wouldn't be allowed to do it.

Linda Abelli was present and stated the beach is changing; she has been there 57 years. Wall has been revealed; needs protection.

FW motion to continue for DEP numbers from the State to 11/5/14 at 7:20, RC second, motion passed 4-0-0.

7:50 25__ Maksy, 215 Ocean Street – RC read notice of public hearing. Rick Servant, Stenbeck & Taylor, presented. Proposing to elevate structure onto new poured concrete foundation at elev. 18.5; presently at elev. 10. . Foundation that's existing isn't sufficient, mess of rubble. New Height proposed based on FEMA maps. 10' opening for water flow and garage.

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JW said will need flood vent openings on all sides. Derek Maksy, owner, was present. Will put openings wherever Commission wants them; was concerned about the neighbor behind him getting the full force of the water. FW would like to have one flood vent opening on each side; JW said at least two on every wall are needed.

Faith Jean, next door neighbor, stated there is no land there, just the structure – east side is the ocean. Existing house is different from plan being shown. House has been empty 30 years. Existing house is 4 bedroom. If you approve a foundation that doubles the size of the house, boundary to boundary, it will be a whole new house. It's a coastal neighborhood. Would require approval from Zoning RC said. Mr. Servant said the applicant is here first, will be filing with Zoning. RC stated the applicant should apply for a building permit before coming to Conservation. Faith Jean said there are safety concerns which may not be a Conservation issue. Paul Kaufman, owner of 221 Ocean Street, said this project needs pilings, not concrete foundation. Ocean has washed through that premises more times than he can count, and that property takes a direct hit. Has to be careful consideration of the water washing through. Does create extreme water conditions around it. JW – curious about the grade changes between Mr. Kaufman's property and Mr. Maksy's.

JW asked the applicant if he would consider concrete piers instead of a concrete foundation. Mr. Maksy, said probably not because he likes the idea of a strip foundation. RC asked JW to check with the Building Department re: a by right project. RC motion to continue to 11/5 at 7:40 p.m., FW second, passed 4-0-0.

RC motion to adjourn 10:25 p.m., WL second, motion passed 4-0-0.

Respectfully submitted,
Lois Keenlside
Marshfield Conservation Commission

Jay Wennemer, Conservation Agent
William Levin
Robert Conlon
Frank Woodfall
Chad Haitsma
Alison Cochrane