

**MEMBERS PRESENT** – James Kilcoyne (JK) Chair, Bert O'Donnell (BO) Vice Chair, Art Lage (AL), Rick Carberry (PC), Eric Goodwin (EG), Bill Grafton, Conservation Administrator (BG)

**MEMBERS NOT PRESENT** – Frank Woodfall (FW)

**CALL TO ORDER** JK motions to open the meeting at 7:00 pm. PC second. Approved 5-0-0.

### **MINUTES**

- The minutes for the 7/30/19, 7/10/18, 3/20/18 meeting were presented for approval. No comments or suggested changes were received.
- JK motions to accept the 7/30/19, 7/10/18 and 3/20/18 minutes as written. EG second. Approved 5-0-0.

### **Chairman Address Commission Reorganization / Procedures**

- JK advises all present that the Commission is making some procedural changes to ensure that meetings run more structured and efficiently. He would like attendees to silence cell phones and not carry on side conversations. All questions from the floor should be directed to the Hearing Officer or the Chair.
- With respect to meetings or hearings, applicants or their representative(s) will have five minutes to present their project. This will be followed by BG's comments (1 minute), Commissioner comments/questions, and public comment. He would like all continuances to be ratified by a vote setting forth a specific date.

### **BUSINESS**

#### **B1 DPW Facility Pre-Filing Discussion – Weston & Sampson**

- Jeff Alberti (JA), VP, Weston & Sampson present along with David Steeves (DS), Project Architect to provide a high-level overview of a project to construct new DPW and Police facilities at Ocean/Parsonage Street, and receive Commissioner feedback. The site is about 37 acres overall, and its suitability for the new facilities was assessed. A small portion of the site is in NHESP habitat, and they have identified some potential vernal pools as well as isolated wetlands surrounding the site perimeter. They have also identified the 100 year flood plain, 100 ft buffer based on their delineation, and BVW.
- JA advises that they have identified a general development area within the two lots, which is already disturbed area. Based on their initial research, they believe this zone is outside the majority of the resource areas. The site is located in an AE 14 flood zone, and is LSCSF from the Green Harbor River. As a result, they propose to fill a portion of the site after confirming that such filling will not result in any detrimental impacts to abutters from channelization or creation of excessive velocities.
- JA feels they have identified sufficient developable area to construct the new DPW and Police facilities on the site; they are proposing to reduce untreated stormwater sheet flow from the site, and will provide cover for many DPW vehicles and machines. JA indicates that the proposed stormwater treatment system will treat to an 80% TSS removal and will represent a significant improvement over

existing conditions. They are still working on stormwater calculations, which will dictate the final design of the system, and will be back before the Commission as they flesh out their proposal.

- JK asks JA about their next steps? These include confirming the wetland flagging and designing the stormwater treatment system to meet all the necessary standards; a formal filing will then be forthcoming. They still need Town Meeting approval for the next phase of the project. In response to a query from BO, JA indicates both facilities are proposed to be essentially in the same location; this will involve some filling of low-lying areas to bring them up to elevation 14 so that flooding would not hinder emergency response. PC notes that the area has not flooded recently, even without fill.
- PC asks about the timeline to complete the entire project. A two-thirds approval vote at Town Meeting is the first step, followed by a simple majority vote at a special election on November 23; at that point, the project can move forward. They would like to have shovels in the ground by next May.
- BG comments that he is satisfied with the process and with applicant's communication so far. JK asks for comments from the public; none.

## **B2 DPW Couch Cemetery Pre-Filing Discussion – Merrill Engineers & Land Surveyors**

- Dana Altobello (DA), Merrill Engineers, present to seek Commission guidance regarding design criteria for DPW work at Couch Cemetery. They have come up with a number of alternate layouts with different access driveways. The objective of the redesign is to produce additional much-needed grave sights as well as better capture some of the views from the site.
- DA would like Commission feedback regarding possible grading within the 25-50 ft buffer, as this would free up additional grave sites; the actual sites would remain outside the 50 ft. DA feels this would constitute primarily a temporary alteration, as the graded areas would be replanted in such a way as to restore the buffer.
- DA adds that there is an approved ANRAD for the site from October 2018, confirming the wetland delineations on the site plan.
- In response to a query from BO, DA indicates that the size of the grave sites will vary. BO suggests that the sites closest to the wetland areas be for cremations. DA is willing to pass any guidance along to the landscape architects.
- EG comments that the area sees more than just visiting families, and would like to know how big the proposed parking area servicing the camper/hiker site will be. DA indicates they are thinking 6-8 spots but he would like to take a site visit, as he knows there is a nice beach and campground nearby and maybe 8-10 spots is more appropriate. EG notes he has seen upwards of 20 vehicles parked in the area, spilling out of the existing parking area. A larger-capacity parking lot would keep the campers/hikers separate from the cemetery. DA indicates that one of their objectives is to improve the hiking/camping access.
- JK would like to see trash receptacles incorporated into the plan, especially for the hiking/camping area. DA indicates that DPW currently maintains trash barrels on the site. BG would like to see domed barrels to keep rainwater/snow out.
- PC asks about possible improvements to the access road to Couch Beach; DA indicates that the focus of the project is the cemetery. JK feels this would be beyond the scope of the current project.
- JK asks for comments from the public; none.
- JK polls the Commission as to the acceptability of grading in the 25-50 ft buffer as proposed: AL yes, PC yes, BO yes, EG yes assuming wetlands will be protected during construction; JK yes. JK notes for the record that the poll was a unanimous yes.
- DA indicates that they are working with MEPA and NHESP regarding turtle protection measures; once these issues are resolved, they will proceed to design and filing. They hope to have the filing ready later this fall or in the winter. Work on the upland will be starting shortly.

### **B3 Columbia Gas Cove Street Gas Line Relocation – Merrill Engineers & Land Surveyors**

- Dana Altobello (DA), Merrill Engineers, present to advise regarding a change in the location of part of the Columbia Gas main in Blackman's Point, as the owner of the campground is not allowing the main to run through the campground as originally approved at the Conservation Commission public meeting. Although Columbia could compel placement of the line where approved, they would prefer not to do so. They are proposing an alternate location for the section of the gas main using the existing water/sewer easement under Cove Street. All other aspects of the project would remain unchanged.
- DA would like to know if they can proceed with installation in the new location with the existing approval, or if another filing is required. BG notes that the original filing was an RDA which resulted in issuance of a Determination of Applicability (DOA), which does not rise to the standard of an Order of Conditions, as there is no recording with the Plymouth Registry of Deeds and no lien. BG is not aware of any avenues available to him to make an alteration to a DOA, as he has been unsuccessful trying to do so in the past. BG feels that allowing applicants to proceed under the existing DOA but provide the Commission an As-Built plan may be an option to requiring a new RDA.
- AL comments that the alternative site seems to cut across the marsh. DA states that the actual location is the gravel roadway between the marsh and the campground; BG confirms that the new location would fit into the footprint of the existing roadway. AL feels there has been encroachment on the marsh with recent activity in the area, and would like the marsh location to be staked out so that the leftover berm at the completion of work does not get pushed into the marsh, which he cites as a recurring issue. BG agrees that this has been a problem, but feels it should be addressed by the Commission working with DPW and the Town Administrator, rather than imposing any requirement on Columbia Gas.
- DA comments that in sensitive areas, they are putting in a silt sock along the road, which would protect the marsh. Once construction is completed and the sock removed, any remaining material will be feathered out into the road. AL wants to ensure that any materials remain in the actual road footprint and not the footprint as pushed out into the marsh.
- JK asks DA if Columbia Gas would be willing to address AL's concern?; DA indicates they would be fine with placing silt sock along the road/marsh boundary and having BG inspect its location before the start of construction.
- JK asks for comments from the public; none.
- AL questions why the project wouldn't be a NOI so that abutters would have an opportunity to comment. BG indicates that the Commission had previously decided that such projects would be hybrid filings following RDA/NOI procedures, and is confident that the area can be adequately protected with an RDA. AL would still prefer a NOI so that abutters could be notified. DA reiterates that the new pipe will be going into the existing utility easement, which is in the original roadway footprint.
- DA indicates he is willing to provide an updated drawing and paperwork to specify the location of the gas line in relation to the roadway footprint; AL agrees that this would be helpful. DA will provide the updated drawings.

### **B4 830 Plain Street / CR Review & Document Execution – Steve Guard & Commission**

- Cancelled pending additional information and Town Counsel (TC) advice.

## **B5 Old Rexhame Dune Health Study – Bob Shaughnessy**

- Cancelled

## **PUBLIC HEARINGS**

### **19-29 Marshfield Harbormaster, Dyke Rd from Marshall Ave to Careswell St (sidewalks).....NEW (Art)**

- JK reads the legal ad. Hearing Officer AL confirms administrative requirements are complete.
- Pat Brennan (PB), Amory Engineering, presents for applicant. The filing concerns Phase 2 of the Harborwalk project, which is to construct a walkway from Green Harbor Village, by the Coffee Shack, to Peter Igo Park, connecting to the existing Harborwalk. Wetlands were flagged by Jason Zimmer, and are set forth on the site plan. PB initially met with BG in January to discuss the project.
- The proposed walkway is almost entirely in existing pavement; the work will involve the installation of a concrete walkway and curbing. A concrete curb on the outboard side will hold in the underlying gravel and reduce likelihood of erosion. Silt sock erosion control will be installed along the limit of work, starting at Green Harbor Marina. Drainage fixtures along the road will be bridged with ADA-compatible grading, and no drainage patterns will be changed. The walkway will have a minimum 6-inch vertical curb.
- In response to a query from AL, BG indicates he has visited the work area, and the majority of the project is in existing pavement. The standard conditions of approval will apply.
- BO is familiar with the funding aspects of the project from his work with the CPC; he has no concerns about adverse impacts and feels it is a popular project.
- AL asks for comments from the public; none.
- AL motions to close and issue a DOA, Pos. #5 and Neg. # 3, with special conditions drafted by BG. EG second. Approved 5-0-0.

### **19-30 Ahlstedt, 15 Parsons Walk (Replace Porch w/ Deck shed roof on existing footprint).....NEW (Rick)**

- JK reads the legal ad. Hearing Officer PC confirms administrative requirements are complete.
- PC advises that the filing is an RDA to rebuild a deck and take down a large tree limb for safety. Applicant Laurence Ahlstedt (LA) states that the existing porch in back of the house within the 50 ft buffer is rotting away and needs to be replaced; the new deck will be smaller, and all construction will be in the existing footprint with no disturbance expected. Additionally, he would like to remove a large limb of an oak tree that fell in the buffer zone.
- PC comments that the project seems to be the replacement of an existing structure in the same footprint, with no encroachment on the wetlands, so the request appears to conform to the regulations. BG comments that applicant was proactive in contacting him before undertaking the work; applicant will also need to apply for a building permit.
- EG asks if applicant intends to put in new footings or use the existing ones. He will have to check the condition of the existing footings; they are cement but he is unsure how far they go into the ground. BG asks how the Commission would like to proceed given this uncertainty. BO and PC have no issue with issuing the DOA now; BG concurs, as the location of the footings is not changing. The standard conditions of approval will apply, including that applicant contact BG if there are any changes to the project.
- PC asks for comments from the public; none.
- PC motions to close and issue a DOA, Pos. #5 and Neg. # 3, with special conditions drafted by BG. BO second. Approved 5-0-0.

**19-31 O'Donnell, 145 Meadowview (ATF Vegetative Management).....NEW (Rick)**

- JK reads the legal ad. Hearing Officer PC confirms administrative requirements are complete.
- PC advises that the filing is an after-the-fact RDA for a vegetative management plan. Applicant Kevin O'Donnell (KO) advises that he reached out to BG about a month ago; he abuts the marsh, and has a revetment slope that had been overgrown. The overgrown vegetation has been removed and the slope needs to be replanted to be stabilized. BG provided suggestions as to plantings, and KO is now ready to replant.
- PC visited the site, and the slope needs new plantings in order to prevent erosion. BG notes that he suggested that KO consult a qualified wetland scientist.
- JK asks for additional information on what applicant would like to do. KO indicates he has already removed the dead plants and invasive species from the slope and now would like to replant the slope with choke berries, little blue stem grasses, high bush blueberry, etc.
- BG appreciates applicant working with him and feels the proposed plantings will restabilize the slope. The standard conditions of approval will apply, including 75% successful growth within two growing seasons.
- PC asks for comments from the public; none.
- PC motions to close and issue a DOA, Pos. # and Neg. # 3, with special conditions drafted by BG. AL second. Approved 5-0-0.

**2822 Ross, 2 Cranberry Cove (in-ground pool).....NEW (Bert)**

- JK reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- Bob Crawford (BC), EET, presents for applicant. The subject lot is on the northerly side of Cranberry Cove, about 1700 sq ft with an existing house. Applicants would like to install a 16 ft x 32 ft in-ground pool partially within the 100 ft buffer to a wetland, along with a 4-ft concrete patio around the pool; about 168 sq ft of the patio and 133 sq ft of the pool would be in the 100 ft buffer. Some fill will be needed to level out the work area, and erosion control will be installed at the limit of work. Applicants would like to put in a vinyl fence on the east and west sides, and a chain-link fence along the northerly side. They are proposing to post three conservation markers on the fencing.
- BG comments that the lot is part of a subdivision and the work area is existing lawn. He believes that the project qualifies for the "accessory use" exemption from the state WPA. BO visited the site today; the work area was clearly staked out with Planning Board conservation markers, and he had no issues with the project as proposed.
- JK notes that the proposed chain link fence would count as a new structure in the 100 ft buffer, and would like it to be pulled back to be outside the buffer. BG notes that safety regulations regarding pool fencing also apply, which may conflict with conservation regulations. PC asks BC if it would be problematic to run the fence along the 75 ft buffer. BC feels this would mean a steeper slope in one corner, but it could be done. JK comments that this change would not impact the pool, and there would still be sufficient area around the pool; PC concurs. BO notes the proposed fence is inside of maintained lawn area, this property already has a "no touch" area delineated by Planning Department conservation markers, to place the fence along this line would have no adverse effect
- JK feels that the Commission is compelled to enforce the bylaws prohibiting structures in the 75 to 100 ft buffer, particularly when it can be done without affecting a project, as in this case.
- AL would like to know if anyone who has a lawn can replace it with a pool by right. JK's understanding is that a pool is a permitted use in previously disturbed area, but pools and fences are structures that can't be built inside the 75 to 100 ft buffer without a compelling reason for doing so. AL would like to know if this exemption would apply to property owners who have lawns where they shouldn't be,

such as on coastal dunes. BG notes that in the case AL mentions, the lawn is directly in a resource area as opposed to a buffer zone to the resource area.

- BO polls the Commission as to the fence location: JK outside the buffer; EG outside the buffer; BO as proposed; PC outside the buffer; AL outside the buffer. 4-1-0 in favor of relocating the fence outside the buffer.
- BO asks if the matter needs to be continued for an updated site plan, or if it can be closed pending receipt of one. JK suggests that the matter be continued for receipt of an updated site plan on the understanding that the project will be closed and approved at the next meeting, without requiring a second appearance by applicant or BC. BG concurs that a continuation is appropriate.
- After a brief additional discussion regarding fence height, the Commissioners agree that safety regulations, as opposed to conservation, should control.
- BO motions to continue the hearing to October 1, 2019. EG second. Approved 5-0-0.

**2823 Citron, 407 Holly Road (septic).....NEW (Rick)**

- JK reads the legal ad. Hearing Officer PC confirms administrative requirements are complete.
- Bob Crawford (BC), EET, presents for applicant. The subject lot is about 1.5 acres on the easterly side of Holly Road. The filing is for a septic upgrade due to a failed leaching facility. The new system will include 405 sq ft of leaching chambers; the closest point is about 65 ft to a vegetated wetland flagged by John Zimmer (JZ), South River Environmental, on July 11, 2019. The existing tank will remain if still usable; if not, it will be replaced with a new 1500-gallon tank. A portion of the water service may have to be relocated.
- PC comments that he visited the site; there is a pool and patio in the backyard, and the proposed system seems to be located in the only viable location on the lot.
- BG reviewed the wetland line with JZ noting a line of gray birch trees along the driveway, but ultimately agreed with JZ's delineation, noting it is consistent with a previous flagging by Warren Harrington in 1978-82 that was slightly upgradient of JZ's delineation.
- PC asks BC if the current system is failed; it's currently functioning but is in violation of Title V due to being in the water table. The system has to be upgraded and there is no alternative location for the new system on the lot. BO comments that he visited the site and has no issues.
- PC asks for comments from the public; none.
- BG advises that the standard conditions of approval will apply, including revegetation of the site upon completion of the project.
- PC motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. AL second. Approved 5-0-0.

**2793 Sullivan, 176 Beach Street (Veg Restoration & Other Activities).....cont from 5/21/19 (Bert)**

- Continued Hearing. Hearing Officer BO confirms administrative requirements are complete. Commissioner EG recuses from voting.
- Dana Altobello (DA), Merrill Engineers, presents for applicant along with Brad Holmes (BH) and Stan Humphries (SH), ECR. DA reminds the Commission that the subject lot is at the intersection of Bay Avenue and Beach Street. Since the last hearing, they have met with BG, reviewed the outstanding information required, and revised the plan. Revisions from previous iterations include replacement of the proposed walkway to the beach with an elevated wooden boardwalk connecting to the existing public boardwalk. The locations of the proposed conservation posts have been shifted to outer limit of the open sand mitigation area. The cabana will be elevated two feet above the existing grade to allow for movement of the dune and barrier beach. They have also provided additional details regarding the mitigation plan, as well as the nourishment sand for the proposed dune nourishment to

the rear of the property. They are also proposing to remove invasive trees/shrubs on the property and replace them with native species; they are open to suggestions as to what to plant. Construction sequencing details have also been added, from the removal of the existing deck, planting of the restoration and mitigation areas, on through construction.

- BO asks if the deck leading out to the gazebo is all the same height of two feet; DA indicates it will match the existing deck, so it will be slightly higher than two feet height. The markers will be placed along the limit of the natural sand.
- PC asks why the coastal dune restoration occurs after some of the other work proposed. DA indicates they wanted to remove the existing deck first and work on the gazebo before getting to the coastal dune nourishment. They have sequenced so they start at one point in the lot and work their way out. In response to a follow-up from BO, the pool installation and gravel driveway would come last.
- AL reads comments from BG noting that the proposed sequencing puts the pool (6) before the coastal beach mitigation (10) and coastal dune mitigation (11). BG suggests that the sequencing be revamped so that all mitigation ahead of the pool and driveway construction; AL and JK agree that the mitigation should take place first.
- JK asks about the location of a proposed area resembling a saucer; it is part of the dune restoration. SH notes that a nearby lot has similar features.
- BO asks whether the sequencing as modified makes sense from a seasonal standpoint. BH indicates that it may be that the planting may have to occur later than the placement of the sand; he would like to coordinate with the Conservation Administrator in terms of the timing. If the dune restoration happens in mid-winter, they would notify the Commission and do the planting in the Spring. BG comments that he and DA have had some conversation about the sequencing to keep the heavy construction from damaging the plantings. BG feels that the Fall is a good time for plantings; BH agrees but is not sure they will be ready to get started and plant; bringing in the sand and dune fencing, which will set the stage for the plantings, will be the challenge.
- JK asks if it would compromise the project if they were not able to plant immediately after bringing the sand in, subjecting the restoration area to erosion. BH is not concerned about erosion or stability issues; it only becomes an issue if there were a large storm over the winter.
- BO asks if new drawings are needed as a result of the new proposed sequencing. BO feels the sequencing proposed in the plan is adequate; JK concurs, noting that applicant has come to multiple public hearings and is proposing a strong restoration/mitigation plan.
- BO asks for comments from the public; none.
- BG comments that the standard conditions of approval will apply, including 75% plant survival after two growing seasons.
- BO motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. PC second. Approved 4-0-0, EG having recused.

**2824 Digan, 1327 Union St (ANRAD).....NEW (Jim)**

- Continued Hearing. JK reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- Brad Holmes (BH), ECR, presents for applicant along with Attorney Gene Guimond (GG). BH notes that this ANRAD is being filed at the request of the Commission; they are looking to confirm the location of BVW located at the site. BH notes he met with several Commissioners on the site yesterday to review the wetland lines and has prepared a delineation for the Commission to review. Wetland areas on the lot include the section near the North River, as well as additional wetlands along the eastern portion of the lot, along the easement leading into the property. BH notes that he delineated the site in accordance with the state regulations, requiring the analysis of soils, vegetation, and hydrology. BH

notes that the filing will establish a firm wetland line for the property and will be useful for applicants in implementing their forest management plan.

- JK suggests the Commission discuss to address the ANRAD as well as comments from the site visit, as there is an enforcement order with restoration plan that was initially late but is complete now. BH notes that the restoration is largely finished except for the preparation of a report for the Conservation Office. The extended deadline for the restoration is September 30, 2019; BH will submit the final report before the deadline.
- JK asks BH about modifications as a result of yesterday's site walk. BH indicates that two flags were moved further out into the landward side: B1 and C5; the plan was updated accordingly.
- EG notes that in the planting plan from the Spring, the Commission directed that 2.5 inch caliper trees be put in, and it was noted that it was difficult to get them down the slope to the planting area. After visiting the site, EG is confident that 2.5 caliper trees could have gotten down there by hand. He also comments that several of the trees fell under the 1.5 inch caliper, but notes that the Commission will get a chance to see the trees in the coming years. EG is also concerned with the location of the plantings, noting he had previously been told the trees would be planted within 5-7 feet of where shown on the plan. When they went out yesterday, he noted this was not always the case; in some cases trees were planted significantly downslope, and the area where the trees were supposed to be planted were machine-mowed. EG feels that the planting plan was not followed through in the way agreed on at the last meeting.
- PC concurs with EG's comments and was disturbed to see several stumps right in the front of the property in the area that was supposed to be replanted. On the sides of the property, he also noted that the trees were of a smaller caliper than mandated, all of which were outside of the line of sight of the house. PC feels the plantings as made aren't what the Commission envisioned and agreed to in the Spring. BO concurs with PC and EG, and would like to hear the reasoning behind why the plantings were made where they were.
- BH states that in the meeting in the Summer with forester Phil Benjamin, they "somewhat abandoned" the plan from the Spring in the sense that the locations discussed with the Commission wouldn't work because it would not be possible to put 12 trees together in a small area. Therefore, the location of the trees changed as per the discussion with the Commission during the Summer. With respect to the tree sizes, BH concurs that some are bigger and smaller but states this is a result of what was available from the nursery for the species ordered. BH comments that some of the trees are bigger than originally indicated, and is willing to obtain some more specific measurements.
- AL comments that these new issues add to what has been a long track record of problems at this property, including the original restoration plan seemingly being circumvented by a forestry plan. BH notes that the Enforcement Order was for cutting of trees in the no-disturb zone, resulting in trees being required to be planted in the lower buffer zone. BH states there was never a proposal to plant trees in the outer buffer zone.
- JK recalls EG's question regarding tree locations, and the answer that they would be accurate to within 5-7 feet. As this didn't happen, JK feels the trees are planted in the wrong place. JK also agrees that the forestry plan seems to have circumvented BH's original planting plan, as a result of which smaller trees were planted in different locations from where the original trees were taken down.
- With respect to BH's comment about it not being possible to plant 12 trees in a small area, EG notes that the original restoration plan called for about five trees in this area, but now there appear to be zero plants. BH believes there are at least four trees in the area, two tupelo and two red maples. He can GPS-locate the trees and add them to the aerial plan. EG clarifies he is specifically referring to the area 5-7 feet from the stumps; he does not believe there is a single tree that distance from the stumps



but is willing to stand corrected. BH will obtain the locations and submit them with his report and notes that the plantings were just completed on Friday.

- BH comments that the planting locations were specifically to coincide with the location of large trees that were cut that were 100% healthy. He adds that his plan from the Spring really wasn't a restoration plan in the sense that he only picked the species, the location of which were specified by the Commission.
- JK feels it is clear that what the Commission wanted to see from the plantings is different from what they saw, specifically as to wanting to see new trees close to the large healthy trees in the buffer that were cut. However, he would be happy to review BH's forthcoming report and any additional information he can provide.
- AL comments that there always seems to be one problem or another with the activity on the property, and asks BH and property owners to try to comply with what they've been asking for repeatedly.
- JK adds that there is also a requirement that North River Commission conservation markers be placed at the 100 ft buffer on six-inch-high posts for perpetuity, but the markers he observed are level with the ground and have been run over with lawn mowers and mangled. JK feels this is indicative of applicant's general attitude towards compliance with the requirements of the various agencies which have jurisdiction over areas of the property. AL concurs and comments that applicants put their effort into trying to get around Commission requirements rather than complying with them. BH points out that applicants filed an ANRAD and planted the 12 trees as requested by the Commission.
- BO also comments that he observed manicured turf grass towards the river, within the 100-ft buffer. BH is unsure what the North River Commission's planting requirements are, and if grass is not in fact allowed on the inside of the NRC markers; he feels this is a matter for the NRC to address, but will check what their requirements are. BG notes that mowing after the trees are cut is a common tactic to create lawn.
- JK also states he observed multiple drainage pipes extending past the North River Commission markers, discharging into the buffer zone. JK notes that one of the reasons cited for the delay in implementing the planting plan was excessive rainfall last spring destabilizing the planting area; he feels the discharged stormwater may have the same effect on the restoration area, and the pipes should not extend beyond the markers. BG feels this may constitute alteration of soil within the 100-ft conservation buffer without a permit. BH saw the pipe yesterday but isn't sure what it is. He can investigate and get back to the Commission.
- JK comments that the Commission was not looped in initially on work activity on the property because property owners used an exemption under the Scenic Rivers Act, and therefore the Commission never received information as to what existing conditions on the property were. JK reads an excerpt from the Scenic River Act, Section 4, subsection 6I, requiring "all permits, variances, and approvals required by the local bylaw with respect to the proposed activity," and asks GG whether this means homeowners should have sought Commission permitting first. GG declines to comment on the excerpt as it is not in front of him. He was not involved with the homeowners when work started, but states that when the project went in front of the North River Commission and Building Commission, there was a signoff by the Conservation Agent for the project to go forward. BG replies that these permits/signoffs contained special conditions stating not to encroach inside the 100 ft buffer, and to seek guidance about conservation permits if performing work within the 100-ft buffer. BG feels many of the current issues with the property could have been avoided if homeowners had filed an NOI with the Commission at the outset.
- JK also reads another subsection of the Scenic River Act, which he describes as "Section 8.1.A, design standards," stating that "each allowed principal structure on the lot shall have a height of 35 feet above grade or less, and a length of 60 feet or less, measured parallel to the river and (1) shall have

minimum frontage of the natural bank of 100 feet; ii.1.1, minimum setback to the natural bank of 100 feet; 3, combined natural frontage not less than 300 feet; B, for every additional 10 feet of length beyond a house being 60 feet, measured parallel to the river, the minimum frontage shall be increased by 20 feet. The minimum setback shall be increased by 20 feet, the sum of the setback attribute to the frontage shall be increased by 40.” JK would like to see what the North River Commission permit says, as this excerpt seems to imply the proper setback for this house would be 140 feet.

- AL comments that applicant seems to be playing games with the Commission in a way that no other applicant has done in his time as a Commissioner. PC comments that he often sees property owners make extra efforts to comply with what the Commission asks, and it stands in marked contrast to what appear to be this applicant’s maneuverings.
- Craig Hannafin (CH), 1317 Union Street, identifies herself as the direct southern abutter and a director of the North and South Rivers Watershed Association. She came in because she was concerned regarding the D-flagged areas along the lane, and believes applicant is anxious to alter the wetland vegetation there. She is deeply disturbed to hear the Commissioner observation regarding drainage pipes in the 100 ft buffer and possible setback violations.
- JK comments in closing that the Commission will await BH’s restoration report.
- JK makes a motion that the Commission accept the ANRAD as changed yesterday and submitted today. EG second. Approved 5-0-0.

#### **2819 DPW, Bryants Ln, Middle St, South St (Brant Rock Seawall Stab. Phase II)...cont from 9/10/19 (Jim)**

- Continued Hearing. Hearing Officer JK reads the legal ad and confirms administrative requirements are complete.
- Town Engineer Rod Procaccino (RP) present along with designer Blake Peters (BP), GEI Consultants. RP advises that the filing concerns Phase II of the Brant Rock seawall stabilization project; the first phase is completed securing of the concrete seawall.
- BP comments that the filing represents a continuation of the seawall project, from North Street, just beyond Dike Street. The project consists of replacing the existing deteriorating concrete seawall. The new seawall will have the same footprint but will be 3.5 ft higher, to elevation 24 at mean low water, which would match the FEMA flood velocity zone in the area. They need a 30-35 foot area along the beach for construction access and placement of excavated material; a portion of the impact will be below the high tide line, so there will be temporary impacts to the coastal beach. The new wall will have a deeper footing and, for 350 feet, steel sheeting at the front toe to help with erosion and overtopping. RP comments that the existing seawall does not have any footing but all the new seawalls in town do.
- BG comments that unlike in Bay Avenue, this will be a 100% replacement of the wall; beach renourishment may not be appropriate in this area, as high turbulence will likely wash away anything introduced. RP notes that they are permitting for beach nourishment on all town beaches and hope to proceed once the next round of grant funding arrives.
- JK visited the section of North Street where work has already been completed, and notes that many properties to the north seemed to have completely impermeable surfaces as well as structures attached to the seawall. He would like to make sure the bylaw prohibiting attachment of structures is respected as the new seawall is constructed. RP would like some guidance from the Commission in this area in terms of concrete pads directly abutting seawalls, but they are clearly against decks being attached to the seawall, as this could interfere with maintenance after storms.
- JK notes that applicants frequently ask to erect structures between their houses and the seawall; he would like to know how far RP thinks these should be from the seawall; RP feels it depends on the

area they are in. He would like to get three to five feet distance generally, as this would allow them to do maintenance on the wall, and he would like there to be a flexible material between homeowners' concrete pads and the seawall.

- Shirley Smith (SS), 19 South Street, asks if she would be able to build a deck if the height of the seawall is increased such that they need a deck to see over it. JK notes that a hypothetical question is difficult to answer; the Commission would consider requests on a case-by-case basis, but he understands SS's concerns. It seems like a deck 3-5 feet from the seawall would be acceptable. BG adds that it would depend on whether a lot is on coastal dune or coastal bank.
- BG notes that the standard conditions of approval will apply; special conditions include a construction access plan and pre-start of work meeting with BG including contractors performing the work.
- JK motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. PC second. Approved 5-0-0.

**2818 Villandry, 23 Third Road (Addition).....cont from 9/10/19 (Art)**

- Continued Hearing. The hearing is continued due to lapsed deadline for submittal of additional requested information until the next public meeting of the Marshfield Conservation Commission on October 1, 2019.

**2821 Marathas, 328 Ocean Street (SFH).....cont from 9/10/19 (Jim)**

- Hearing Officer JK reads the legal ad and confirms administrative requirements are complete.
- Applicant James Marathas (JM) present. BG asks if JM has an alias. JM responds TAJ Realty Trust. The subject property was purchased after the home on the lot was destroyed by the storm. After purchase, he received notice from the Building Commissioner that the house needed to be taken down; this was done, and Stenbeck & Taylor prepared an as-built showing the footprint of the old house which was approved by the Building Commissioner. They also received an emergency authorization from BG for the demolition. The site plan for the new house was also prepared by Stenbeck & Taylor, and the new house is proposed to be within the footprint of the old house. The property lies within barrier beach and VE and AE zones, elevations 16 and 19 respectively. Bottom of the structure is proposed to be at 21.5 ft. The plan is for a five-bedroom, three bath home, 33 by 38.5, with decks 9 by 33 ft. The previous property had 2200 sq impervious surface; they are proposing a reduction to 1166 sq ft impervious. JM notes that because the house was demolished and deemed a total loss by FEMA, they are under a time constraint to pull a building permit to rebuild the structure.
- JK asks if the slabs that were underneath the old building would be removed; JM states they have already been removed. They are proposing to put a paved driveway underneath the new house.
- BG notes for the record that applicant sent out notifications to all abutters; not all abutters have replied but applicant is only required to send out the notice.
- JK asks for comments from the public; none.
- BG reads the conditions of approval into the record; the standard conditions apply, including compliance with Town Bylaws 217 and 305, submission of an elevation certificate, and ensuring that the footprint of the subsurface remains open or use pervious coverage only.
- JK motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. EG second. Approved 5-0-0.

**2820 Follett, 300 Ridge Rd (SFH on existing found & garage addition & deck).....cont from 9/10/19 (Rick)**

- Continued Hearing. Hearing Officer PC confirms administrative requirements are complete.

- PC advises that the filing is for the construction of a single-family home on an existing foundation and septic system originally permitted in 1999. They are looking to expand the house outward from the foundation in several areas, and add a one-car garage and deck.
- Applicants present along with Bob Crawford (BC), EET. BC advises that the deck in the back proposed at the previous hearing has been removed. They have also moved the garage about 1.5 feet further away from the wetland. The deck on the front has been shortened by 7 ft. One of the piers on this deck may have to be moved so it is not bearing on the septic tank, or the tank may have to be moved; they will try to cantilever the deck so the tank can stay where it is.
- PC asks if the septic system, constructed in 1999, will still be operational after sitting dormant. Applicant Don Follett (DF) states that it was recently certified; it was installed but never used.
- BG thinks applicants have done a good job responding to Commissioner feedback, and has no issues with the project as proposed.
- PC asks for comments from the public; none.
- BG advises that the standard conditions of approval will apply; no planting plan will be required as applicants are not moving forward with the deck in the back. Applicants must provide an elevation certificate.
- PC motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. BO second. Approved 5-0-0.

**2816 Holbrook, 26 Cove Street (Revetment Repair).....cont from 7/30/19 (Jim)**

- Continued Hearing. The hearing is continued due to lapsed deadline for submittal of additional requested information until the next public meeting of the Marshfield Conservation Commission on October 1, 2019.

**2814 Smith & Sons, 795 & 887 Plain Street (Sawmill & Access Crossing Road.....cont from 7/9/19 (Bert)**

- Continued Hearing. The hearing is continued due to lapsed deadline for submittal of additional requested information until the next public meeting of the Marshfield Conservation Commission on October 1, 2019.

**REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS**

**2156 Ransom, 349 Ocean Street [COC]**

- BG advises that OOC special conditions E and H are no longer applicable by virtue of the lot's flood zone designation having changed. The applicant's representative requested in writing that the Commission allow relief from Special Conditions E and H which are now obsolete.
- JK motions to issue a COC for the property, waiving special conditions E and H. PC second. Approved 5-0-0.

**2601 Richardson (Now Seoane), 84 Bartlett's Island [COC]**

- JK motions to issue a COC for the property. AL second. Approved 5-0-0.

**1642 Worden, 605 Pine Street [COC]**

- JK motions to issue a COC for the property. EG second. Approved 5-0-0.

**2579 Dalton, 1735 Main Street [COC]**

- BG advises that he observed incomplete special conditions and recommended that the request be tabled.

### **ENFORCEMENT ORDERS**

Smith, 38 Liberty Street **(11/19/18 KS will set early Dec visit)**

Drosopoulos, 7 Lady Slipper Lane **(08/15/18 TC Final Notice)**

New Owner, Winslow Avenue Ext.

Mahaney, 46 Preston Terrace **(12/12/18 BG met with TC)**

White, 180 Atwell Circle (Escalation letter in Process)

Bednarz/ Nouza, 65 Ireland Road (Unpermitted Cutting  $\leq$  50 ft)

Tamara Macuch, 237 Webster Avenue

Levangie, 3 Cove Creek (Communication in Progress)

Stifter, 102 Bartlett's Island (unpermitted revetment wall)

### **BUSINESS (continued)**

#### **B6 1165 Ferry Street / Enforcement Order discussion – Jean Coppenrath**

- BG advises that there are ongoing conditions attached to the property requiring the posting of three conservation markers on posts. The previous owners did not post all three markers as required, and BG asked the new owners, Jean Coppenrath (JC) to put the markers in. In following up on this matter, BG discovered that the Coppenraths had put in a retaining wall without a permit. BG spoke to JC and gave her the option of filing an after-the-fact NOI for the wall or receiving an Enforcement Order requiring removal of the wall; JC opted to receive the Enforcement Order, but has since changed her mind.
- Ethan Coppenrath (EC) advises that the wall was put in to prevent further erosion and contamination of the salt marsh behind, as well as to build steps for his special-needs sister. EC attributes the oversight to a lack of communication on their part. He would like to get the wall permitted after the fact. With respect to the markers, he found the other conservation two markers in back, obscured by phragmites.
- BG states that property owners have stated they don't have the money for the engineered plans required for the NOI. The retaining wall is located on a pad, about 18 feet from the phragmites line. In this particular area of the marsh, BG feels the Spring tide line may be further back from the limit of the phragmites. BG notes that the septic system is not far from the wall and could be considered an interest protected by the wall; the wall also provides some sedimentation and erosion control. He would like to know if the Commission would consider this an after-the-fact RDA, after-the-fact NOI, or enforcement.
- BO asks BG if there is a plan for the septic system that would show the wetland line? BG responds that the plan exists but BG does not have it with him at the meeting. BO would also like to know if the wall was installed in existing yard or maintained area.
- JK suggests that applicant file an after-the-fact RDA so the Commission can try to resolve the matter at that level; PC and BO concur. BG will work with EC to prepare an application.
- JK makes a motion to require an after-the-fact RDA for the retaining wall at 1165 Ferry Street. BO second. Approved 5-0-0.

**B7 100 Marginal Street / pool discussion – Mark & Jan Tedeschi**

- Mark and Jan Tedeschi present (MT) and (JT). They would like to put in a 12 ft x 26 ft molded pool located within an AE flood zone and 100 ft setback to the salt marsh, and would like to do so as a minor modification to the NOI that was approved on July 30, 2019 so they could put the pool in before the foundation for the new house.
- BG notes that the performance standards state that projects on land within 100 ft of salt marsh “shall not destroy any portion of the salt marsh and shall not have an adverse effect on the productivity of the salt marsh.” In response to a query from JK, MT indicates there will be no decking around the pool; just lawn and a 14-inch concrete edge around the pool, plus a 4 ft fence around the pool. There is an already existing fence in the yard that will partly surround the pool.
- BG points out that there were abutters who had concerns at the July 30 hearing, and thinks the public should be notified of any changes to the project. BG points out to MT that the proposed pool site is within 100 ft of the salt marsh, and Commissioner consensus is that the pool addition should be filed as a NOI.
- MT asks about the likelihood of an NOI for the pool receiving approval? JK declines to speculate because they do not have a filing in hand, but feels it would be a difficult project to approve as proposed, given the location of the lot.

**B8 Mounce's Meadow and Coast Guard Hill - Ag. Commission Improvement Plans – Lorrie Dahlen**

- Lorrie Dahlen (LD) present for the Marshfield Agricultural Commission. The Ag. Commission, per the Open Space Plan, is tasked with working on community gardens and help manage town-owned lands being used for agriculture. Last night, they discussed a proposal to improve community gardens at Mounce's Meadow and Coast Guard Hill.
- LD would like Commission input on the proposal as it relates to Mounce's Meadow, which is a Conservation property. They are looking at improvements to the signage and parking area to reduce incursions onto an abutter's driveway and property. They are also proposing to do a wetlands delineation, and to install seasonal deer/small animal electric fencing to protect the garden plots; the fencing would come down every fall and go back up in the spring. They would also like to bring in about 1 inch of organic compost for each bed to improve output, and add an 8 ft x 8 ft shed to protect the pump and well, which were donated to the Town and are currently open to the elements.
- LD notes that the community garden has 30 gardeners and 40 plots but parking for only 8-12 cars, which becomes a problem on work days. They would like to add some parking further away from the abutting properties.
- JK comments that the parking improvements sound like a good idea. He would like to know the status of the farming operation on the property. LD is working with the farmer to try to get her farm plan so it can be reviewed for licensing. BG would like to address that matter in a separate discussion.
- BO notes that he has worked with LD on this matter and feels the delineation should be the priority, as it will guide the Commission's review of the other proposals. BG concurs that the delineation is needed, even if an agricultural exemption applies.
- Dave Gavaza (DG), 479 Union, comments that he and other neighbors are interested in seeing the plans for the property; LD has abutter e-mails and will send out the plans. DG is primarily interested in the status of the farming operation in the back field. BG notes that this will be discussed as a future, separate agenda item.
- BO notes that the Ag. Commission is seeking CPC funds for the project; they will make their presentation to CPC, who will then vote on whether to fund; if it passes the vote, the request will go on to Town Meeting for final approval.

- JK encourages LD to move forward with the delineation and thanks for her keeping the Commission informed. EG thanks the abutters for coming in, as their support will be vital to any plans.

**ADJOURNMENT** – BO makes a motion to close the hearing at 10:10 pm. JK second. Approved 5-0-0.

Respectfully submitted,  
Liz Anoja, Conservation Administrative Clerk  
Marshfield Conservation Commission

Bill Grafton, Conservation Administrator	
James Kilcoyne, Chair	Bert O'Donnell, Vice Chair
Art Lage	Frank Woodfall
Eric Goodwin	Rick Carberry