

**APPROVED MINUTES - CONSERVATION COMMISSION  
TUESDAY, OCTOBER 1, 2019 7:00 p.m., HEARING ROOM 3  
TOWN HALL, 870 MORaine ST., MARSHFIELD, MA**

**APPROVED 10/15/2019 5-0-1**

**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. BO second. Approved 5-0-0.

**MINUTES**

- The minutes for the 9/10/19 and 9/17/19 meeting were presented for approval. No comments or suggested changes were received for September 10; BG did receive suggested changes from BO for September 17.
- JK motions to accept the 9/10/19 minutes as written and the 9/17/19 minutes as edited. PC second. Approved 5-0-0.

**CHAIRMAN'S ADDRESS**

**Commission Reorganization / Procedures**

- JK advises all present that the Commission has made 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. He would like all continuances to be ratified by a vote setting forth a specific date.
- With respect to meetings and hearings, applicants or their representative(s) will have 5 minutes to present their project. This will be followed by BG's comments (1 minute), Commissioner comments/questions (with extensions by motion and vote), public comment, and vote.
- JK comments that in other commissions or committees, Chairs normally entertain motions rather than making them directly; going forward, he would like to entertain motions that another Commissioner would then move.

**BUSINESS**

**B1 830 Plain Street / CR Review & Document Execution – Steve Guard & Commission**

- Attorney Steve Guard (SG) present for property owner Dan Quirk along with Town Counsel Bob Galvin (TC). SG notes that as a condition of approval of Quirk's plan to expand vehicle storage on the property, they agreed to provide a conservation restriction on 5.2 acres of uplands to the rear of the property, located within the residential zone of the lot. Since then, they have gotten the CR approved by the state and delivered the stewardship funds to the Conservation Office. The property has been instrument surveyed, and location markers and monumentation has been installed. BG and wetland scientist Brook Monroe, Pinebrook Consulting, have walked the site and drafted a baseline report.
- SG states that TC has approved the CR instrument, and he would like the Commission to execute the CR instrument pending TC's final approval of the baseline report. The document can be held in the Conservation Office pending such approval. Once the CR instrument is signed and the baseline report accepted, they will present the final documents to the Board of Selectmen for signatures; the docs will then be forwarded to the state level to be signed, and recorded at the Plymouth Registry of Deeds.
- TC indicates that he is okay with the Commission's conditionally signing the CR instrument subject to BG's final approval of the baseline documentation report, but suggests that the instrument be

endorsed but not dated until after the final revision date of the baseline documentation report, and that the instrument be held by BG until the report is finalized. JK asks TC if the instrument will have to be re-signed if there are changes to it as a result of revisions to the baseline documentation report. TC indicates this would not be necessary as the baseline documentation report is an exhibit. JK notes that the Commission has tried to avoid signing documents conditionally, but he is okay with doing so in this case given TC's comments.

- AL motions that the Commission sign the CR instrument undated pending TC's final acceptance of the baseline report. PC second. Approved 5-0-0.

#### **CHAIRMAN'S ADDRESS:**

- Prior to the start of the hearings, JK advises that the hearings for filings 2814 (Smith & Sons), 2816 (Holbrook, 26 Cove), and 2818 (Villandry) are being continued. He requests a motion to continue all three public hearings to October 15, 2019. See Public Hearings for ratification.

#### **19-32 Ethier, 165 Winslow Cemetery Road (ATF Deck).....NEW (Eric)**

- JK reads the legal ad. Hearing Officer EG confirms administrative requirements are complete.
- EG notes that this filing concerns a deck that was approved under previous Orders of Conditions but built larger than originally permitted. The new builder approached BG for guidance on expanding the deck and adding the necessary stairs; BG advised them to keep the new deck out of the 50 ft setback. EG visited the site today.
- Applicant Gwen Ethier (GE) comments that their first builder built the deck larger than it was on the original plans. The new builder realized what happened and approached BG for guidance. They have stayed outside the 50 ft setback and would like to add a set of steps and finish the deck. EG clarifies with applicant that by "finishing the deck" they mean adding the railing around the outside; there is no further expansion to the current deck surface.
- BG notes that typically a project of this nature could be eligible for an exemption, but since the filing was After-The-Fact, he feels the exemption is not applicable. The standard conditions of approval will apply, including the submission of an As-Built plan including the deck in the request for COC under the previous Orders of Conditions (SE42-2724).
- EG asks for comments from the public; none.
- EG motions to close and issue a DOA, Pos. #5, Neg. # 3, with special conditions drafted by BG. BO second. Approved 5-0-0.

#### **2822 Ross, 2 Cranberry Cove (In-ground pool).....cont from 9/17/2019 (Bert)**

- Continued Hearing.
- Bob Crawford (BC), EET, presents for applicant. BC notes that at the previous meeting the Commission asked that the fence be removed from within the 75 ft no-structure zone. The owner has agreed and the plan has been updated.
- BO notes that the plans specify a wildlife-compliant fence, but thinks in the case of pools that safety takes precedence over wildlife mobility, and applicants can use whatever fence is required by the Building Department for a pool. BG concurs and suggests that applicant follow Building Department guidelines concerning the fence.
- BO asks for comments from the public; none.
- BO motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. EG second. Approved 5-0-0.

**19-33 Neel & Baccari, 47 North River Drive (Septic System).....NEW (Art)**

- JK recuses from voting as an abutter and leaves the room temporarily turning chair responsibility for the current RDA Public Meeting over to Vice Chair, Bert O'Donnell.
- BO as acting Chair reads the legal ad. Hearing Officer AL confirms administrative requirements are complete.
- Greg Morse (GM), Morse Engineering, presents for applicant. The filing is for a septic repair project. There is a wetland to the north of the lot that was delineated by Brad Holmes, ECR. They are proposing to install a new septic tank, pump chamber, and leaching field facility. At the closest point, the septic is 80 ft from the wetland and the grading (disturbance) is 70 ft from the wetland; both features are entirely within existing lawn area and will be restored as lawn when the project is completed. Erosion control barriers are proposed around the limit of work inside the 100 ft buffer. GM notes that under the state WPA carries a presumption that septic upgrades outside of the 50 ft buffer are presumed to protect all of the interests of the WPA. He acknowledges that the local Bylaw has additional protected interests, but does not believe any such additional interests exist at this site.
- BG notes that the wetland was re-flagged using the state delineation criteria; he evaluated the flagging using the local Bylaw criteria and found no issues. BG agrees that the project is outside the 50 ft buffer and therefore would meet the state exemption, but notes that under the existing Town Bylaws, any project within the 100 ft buffer requires the filing of a Notice of Intent. Therefore, the Commission should determine whether to approve the project as an RDA or require a NOI. If approved as an RDA, BG suggests that the Commission consider a Pos 5 determination under the Bylaw, Neg 5 confirming the state exemption but not the town exemption, and Neg 3 with special conditions.
- AL is fine with approving the project as an RDA; all voting Commissioners concur.
- AL asks for comments from the public; none.
- AL motions to close and issue a DOA, Pos. #5, Neg. #5 as to the state exemption but not the town exemption and Neg. # 3, with special conditions drafted by BG. PC second. Approved 4-0-0, JK having recused.

JK returns to the Public Meeting and resumes Chair responsibilities.

**2825 Curtis, 3 Cove Creek Lane (Dock Repair).....NEW (Rick)**

- JK reads the legal ad. Hearing Officer PC confirms administrative requirements are complete.
- PC advises that the filing is a Notice of Intent for repairs to an existing dock.
- Terry McGovern (TM), Stenbeck & Taylor, presents for applicants, who are also present. The dock is on Cove Creek, which is tributary to the North River. TM notes that this filing is a first step in the process, as other agencies have jurisdiction, including MassDEP waterways, MassDMF, and the North River Commission. He anticipates a continuance and then returning to the Commission after receiving comments from the other agencies involved. TM comments that the existing dock goes back at least to the late 1960s/early 70s based on his research, and has remained in the same place and configuration. The dock is currently in poor condition, especially the posts. It is between 6.5 and 7 ft wide. The replacement structure will be in conformance with the current regulations, with a 4.5 ft distance between posts and 4 ft walkway. Average height above the marsh will be 4.5 ft, meeting the minimum requirement for a 1:1 width to height ratio. The new dock will be slightly shortened and straighter, and will stay out of the channel. Length over the marsh will be about 260 ft and total disturbance will be about 6 sq ft. Posts will be driven in by air hammer that can be wheeled out onto the marsh; they would like to do this work over the winter or early spring. Two new posts could potentially be driven into a BVW. There is no work proposed to the existing gangway and floats; these

will continue to be stored on an upland area as has been done in the past. Wetlands, including the BVW line and North River bank, were delineated by Brad Holmes, ECR, last spring.

- BG comments that at a recent site visit, he found 60% of the wetland delineation flags. He did not see any riverfront flags on the site and would like these to be added. BG also notes that the NOI application did not include the riverfront calculations requested on page 6; also, that the bylaw rate per linear foot is \$4.50 and not \$4.00 as provided on the application. Applicants may not need to notify MassDMF if a valid Chapter 91 permit is in place. Given issues with previous owners cutting into the buffer zone, BG would like conservation markers to be posted along the existing vegetation line and added to the As-Built plan. In response to a query from JK, BG states he does not think the change will affect this project but it may impact others in the area; he observed about 15 flags, four of which he thinks should be moved. JK feels it will be up to the Commission to determine whether there are enough flags on the site currently to allow for approval of the project, but that it is best practice for all flags to be visible on the site; AL concurs. TM is willing to have BH meet with BG to resolve the issue between hearings.
- PC comments that he visited the site today, and the dock is unstable and needs to be repaired. The new dock will reduce shadowing of the marsh by about 640 sq feet, and the construction as proposed in the offseason does not appear to be damaging the marsh. The existing floats and gangways are in good shape.
- JK comments to TM that the North River Commission may ask for a narrower dock. BO asks TM what they intend to do with the old posts; TM indicates they will probably be chopped off. JK comments that in a recent project, the Army Corps of Engineers wanted the old posts cut off flush to the ground and not pulled.
- JK asks if the existing floats need shoes, or if there are any issues with the Harbormaster concerning shellfish?
- PC is unsure if the floats touch bottom at low tide, but believes applicants will have to check in with the Harbormaster as part of the Chapter 91 permitting; TM confirms that they intend to seek a Chapter 91 permit.
- With respect to the previous unpermitted cutting on the property, JK notes that since this was done by the previous owners, he feels the matter could be resolved with the posting of conservation markers; PC concurs and comments that it doesn't seem fair to penalize the new owner for a previous owner's violation. BG comments that such violations carry over to the new owner. AL comments that since no enforcement order was formally issued before the previous owners moved, he is okay with taking no further action beyond posting of the markers. JK clarifies for the record that the violation was on the enforcement list but never enforced on prior to the property being sold. EG agrees in principle with BG that a purchaser of a property buys its associated problems, and ideally would like to see some mitigation in addition to the markers. BO suggests that, since the matter is being continued, the applicant take the time to consider options for mitigation.
- Property owner Rick Curtis (RC) comments that he wants to permit repair the existing dock the right way so the property could be sold to new owners without any problems. He was not made aware of the violation in his negotiations with the previous owner. BG feels that clearing up the violation will ultimately be to RC's benefit, and suggests that PC and BG work with RC to come up with a solution.
- JK asks that TM add the mean low tide to the updated site plan; they need at least 2.5 ft of water at mean low tide in order to dock a propeller-driven boat.
- PC asks for comments from the public; none.
- PC motions to continue the hearing to October 15, 2029. BO second. Approved 5-0-0.

**2827 Kennedy, 737 Ocean Street (Deck on Rear of Home).....NEW (Eric)**

- JK reads the legal ad. Hearing Officer EG comments that the filing is a new NOI for a deck; the property is surrounded by other homes on all sides; associated resource areas include LSCSF, Barrier Beach, Coastal Dune, and Buffer Zone to a BVW.
- Bob Crawford (BC) EET, presents for applicant. The subject property is a 3164 sq ft lot on the southerly side of Ocean Street, with an existing SFH. They would like to remove the existing 4 by 3.5 ft landing and stairs and replace it with a deck on four eight-inch concrete posts. Nearby wetlands were flagged by John Zimmer, South River Environmental, and a small portion of the deck is within the 100 ft buffer, with the closest point being 97 ft away from the BVW. FEMA flood elevation is 14'.
- EG confirms that taxes have been paid and a DEP number has issued, but notes that the green cards proving abutter notification appear to be missing from the file. JK proposes that the hearing be paused so BG can check for the notifications.
- EG motions to adjourn until BG returns. PC second. Approved 5-0-0.
- EG motions to reopen the hearing. PC second. Approved 5-0-0.
- BG advises that he found the abutter notifications. At this point, EG confirms that all administrative requirements are complete.
- BG feels the project is fairly straightforward and has no concerns. The standard conditions of approval will apply, including removal of erosion control upon completion of the project.
- EG asks for comments from the public; none.
- EG motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. AL second. Approved 5-0-0.

**2802 Ryan, 212 Foster Avenue (Deck-Amended NOI).....NEW (Rick)**

- JK reads the legal ad. Hearing Officer PC confirms administrative requirements are complete.
- PC advises that the filing is an amended NOI for a deck.
- Terry McGovern (TM), Stenbeck & Taylor, presents for applicant. TM notes that in the original NOI, applicant proposed a cantilevered deck off the rear of the house. After the Orders of Conditions were issued, the project's structural engineer formed the opinion that the deck could not be built as designed in a velocity zone. They are now proposing to build the deck on three helical piles, resulting in less than 1 sq ft of disturbance in an already disturbed area. They would also like to expand the deck out from 7 ft to 14 ft, and install stairs that will extend to but not connect to the seawall.
- BG comments that an amended NOI was needed in this case, as the proposed activity is in a natural resource area.
- PC comments that he visited the site when the original permit was issued; the original cantilevered deck was proposed to be 7 ft. The new deck is 14 ft in size, 12.8 ft back from the seawall. BO notes that the entire lot is in the resource area.
- All parties briefly discuss whether such a larger deck is permissible on a lot entirely within a resource area. TM comments that the sole impacts of the project would be ground disturbance, in this case the three helical screws for less than 1 sq ft disturbance. BG comments that LSCSF has no setbacks. For Barrier Beach/Coastal Dune, a setback applies only to lots outside of the resource area; this particular lot is entirely within Barrier Beach/Coastal Dune, and in the case of decks, the Commission typically considers subsurface disturbance not the coverage.
- JK asks TM about elevation of the deck and impact on the ability of the Coastal Dune underneath to move. TM comments that the deck is up one story, about 6-7 ft above the dune, and therefore no sand or other material will be blocked from moving. BO feels the deck as proposed is consistent with

other construction in the area, and has no issues. BG notes for the Commission's consideration that diamond piers are a possible less intrusive alternative to helical piles.

- PC asks for comments from the public; none.
- BG notes that the standard conditions of approval will apply, including ensuring the area beneath the deck remains pervious. The expiration date of the original Order of Conditions will apply.
- AL motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. EG second. Approved 5-0-0.

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

- The hearing is continued until the next public meeting of the Marshfield Conservation Commission on October 15, 2019.
- AL motions to continue the hearing to October 15, 2019. PC second. Approved 5-0-0.

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

- The hearing is continued until the next public meeting of the Marshfield Conservation Commission on October 15, 2019.
- AL motions to continue the hearing to October 15, 2019. PC second. Approved 5-0-0.

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

- The hearing is continued until the next public meeting of the Marshfield Conservation Commission on October 15, 2019.
- AL motions to continue the hearing to October 15, 2019. PC second. Approved 5-0-0.

**REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS**

**2530 Abelli, 2 Porter Street [COC]**

- BG comments that the required plantings have not been planted.

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

- BG advises that additional corrective action is needed and underway.

**2623 Junior (Now Dans), 0 Cohasset Ave (Now 91 Cohasset Ave) [COC]**

- BG advises that erosion control has not been removed; applicant is using rain barrels, not downspouts into drywells as specified, and is discharging some of the water down a steep hill via garden hose. BG observed shredded tree limbs in a large area just outside the 100 ft buffer. Also, property owner has planted phragmites on the left side of the house, which is not permitted under state or town regulations.

**2678 O'Donnell, 52 Island Street [COC]**

- BG will visit in advance of the 10/15 meeting. BG notified applicant.

**2683 Devinentis Trust (Not Milton Corp. / Solimando), 1180 Ferry Street [COC]**

- BG advised that this request was for the installation of a tight tank septic system and recommended issuance.
- EG motions to issue a COC for 1180 Ferry Street, SE42-2683. BO second. Approved 5-0-0.
- BG notes that Commissioner PC is a neighbor to this property owner. TC suggests that the vote be retaken and PC recuse.

- EG motions to issue a COC for 1180 Ferry Street, SE42-2683. BO second. Approved 4-0-0, PC having recused.

**2685 Devinentis Trust (Not Milton Corp. / Solimando), 1180 Ferry Street [COC]**

- BG notes that the OOC required mitigation plantings. BG visited the property, and the plant species and locations differ from what was specified in the original approved plan. BG will contact applicant.

**2705 Messersmith, 47 Mallard Road [COC]**

- BG visited the site and observed that the house as built may be bigger than what was originally approved. As the As-Built plan does not provide the house dimensions, BG needs additional time to review.

**2749 McGowen, 18 Paddock Way [COC]**

- BG will visit in advance of the 10/15 meeting. BG notified applicant.

**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 <= 50 ft)

Tamara Macuch, 237 Webster Avenue

Levangie, 3 Cove Creek (Communication in Progress)

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

**BUSINESS (continued)**

**B2 190 Foster Avenue/SE42-2140 Special Condition D Discussion – Ray Ethier**

- Property owner Ray Ethier (RE) present. He purchased the house in December 2017, and discovered that Special Condition D of filing SE42-2140, requiring the lower beam of the deck to be two feet above ground level, was not met. A second issue regarding the stairs has been addressed. He met with BG about possible solutions including raising the deck; this is not feasible, as this would block two doorways going onto the deck. As mitigation, he would like to replace some of the stone pavers surrounding the deck with a permeable base and put in some native plantings.
- EG notes that the lowest beam of the deck is probably 8-10 inches above the ground; the floor is two feet off the ground. The deck is 30 by 15 ft. In response to a query from BO, RE indicates that the Building Department had no issue with the deck as constructed.
- BG comments that he advised RE to add pervious material to the yard, which he feels would count as a betterment to the site and could be considered a minor deviation that could be captured on the As-Built plans. TC does not feel a minor deviation can be used in this instance, but feels it is within the Commission's discretion to issue a COC despite this one condition not being met.
- BO asks RE if he has consulted with a builder about substituting a different beam that would meet the condition? He has not.
- JK asks TC if the Commission can change the conditions on this OOC where it has been closed out. TC indicates that the Commission can accept the deck as is, with the existing deviations, by issuing a COC.

- JK comments that the options appear to be to close and issue the COC accepting the deck as is, or require the filing of a NOI and restoration/mitigation; he then polls the Commission as to their preference: BO close; PC close; AL request NOI; EG request NOI; JK request NOI.
- AL is concerned about the precedent that would be set by issuing a COC where a condition has clearly not been met. JK feels that ultimately it is part of a home buyer's diligence to ensure that outstanding issues related to orders of conditions are met.
- AL moves that the Commission require property owner file a NOI with mitigation. EG second. Approved 3-2-0; BO and PC having voted no.
- RE will research options for modifying the beam or prepare the NOI.

### **B3 74B & 76A Marginal/ SE42-2791 & 2796) – Paul Armstrong**

- Builder Paul Armstrong (PA) advises that while driving piles at this location, they encountered a lot of natural stone on the site, which they dug out and replaced with sand so the piles could be placed. The stones were then stacked on top of an existing stone wall, raising the wall about 12-14 inches. PA provides pictures of the site for the Commissioners.
- BG advises that the addition of the sand and stones is considered to be adding fill to a salt marsh and buffer to salt marsh from a regulatory standpoint, and building up the stone wall could possibly act as a revetment wall, deflecting flood water to neighbors.
- PA is present to seek Commission guidance. As minor deviations no longer seem to be an option, BG thinks an amended NOI may be necessary.
- JK asks PA whether any additional fill was brought in? The only material brought in was the sand put inside the pile holes. About 27 pieces of stone in total were added to the wall.
- JK understands why the stones removed were added to the wall but feels technically it counts as revetment.
- BG agrees that the action would make sense from a construction perspective but according to the regulations it appears to constitute adding fill to a salt marsh buffer zone.
- In response to a query from BG, PA indicates he could remove the stones, but feels the built up wall as is could set off and protect the salt marsh. BG feels the simplest resolution may be for PA to remove the stones. PA is willing to add conservation markers to the wall.
- After further discussion, the Commissioners decide to visit the site and discuss the matter further at the next meeting.

### **B4 Title V Exemption/Septic Systems/RDAs – Greg Morse**

- Tabled at the request of Mr. Morse.

### **B5 560 Spring Street/ SE42-2690 Relocate Stairs – Rick Verni**

- Property owner Rick Verni (RV) advises that the footings for the egress from the deck were not added to the site plan. The stairs are inside the 100 ft buffer but not the 50 ft, and do not move closer to the wetland. BG feels that the footings can be captured on the As-Built plans without an additional filing, and the Commissioners concur after a brief discussion.

### **B6 1327 Union Street / EO-18-04 / Tree Replacement Report & Forestry Management Plan– Commissioners**

- The Commission discusses the Tree Restoration Report and Forestry Management Plan at the property with Town Counsel Bob Galvin (TC).



- TC comments that his perception is property owners wanted to rebuild their house, got carried away, and did more than they were allowed to do. They were able to use storm damage as an excuse for what he believes, based on photographs, is tree cutting in a jurisdictional area without permission. TC has read through the information in the file and is familiar with the forestry exemptions and North River Commission regulations in play. TC feels the enforcement order was rightfully issued for the unauthorized work in the Buffer Zone, as the pictures indicate to him that the trees were not storm-damaged, but rather were cut for vista pruning. Applicants then prepared a restoration plan which the Commission approved but then was not satisfactorily implemented. TC's understanding is that the Commission then approved an Amended Tree Restoration Plan with a September 30 deadline to implement. TC notes that the trees suggested by the Forester, Phil Benjamin, appear to have the incidental benefit of improving the property owner's view of the river.
- PC comments that currently there is not a single re-planted plant between the house and the river.
- EG adds that the plantings in the field did not conform to the locations provided on the revised planting plan.
- TC feels that the Commission needs to decide (1) whether property owners complied with the approved restoration plan, and (2) whether they have satisfied the Commission's enforcement action. TC notes that he has read through the Forestry Management Plan proposed for this property; it creates four forest stands that ring the house as well as others. He thinks the Commission should review the plan and prepare its own comments.
- JK asks TC whether it would be beneficial for a forestry expert to advise the Commission on this matter.
- TC thinks it may be helpful, and notes that the plan calls for an "improvement thin" in the fall of 2024 that can in theory improve conditions for other plants, but has the incidental benefit to property owners of improving their view.
- AL notes that most applicants make an effort to comply with Commission regulations and orders, but these property owners seem to have done the opposite at every stage of the process.
- TC agrees that property owners seem to take every opportunity to delay, and suggests that they be asked to reappear to explain why they didn't follow the approved plan.
- TC contacted the North River Commission today with respect to this property. The owners did receive a special permit from NRC where they built it; and then went in after the fact and got permission to take down some storm-damaged trees. JK notes that BG and he attended the NRC meeting where the ATF RDA permit was discussed. TC advised NRC that this Commission has an enforcement action against property owners requiring them to do restoration plantings. NRC responded that they were aware of the enforcement action but requested additional information. JK and BG comment that NRC currently seems to be taking applicant's word that the trees were cut strictly due to storm damage despite the pictures they were provided.
- TC notes that Forestry Management Plans are legal, and approved plans create a loophole over which the Commission can't enforce, but the plan hasn't been approved yet. TC suggests that the Commission hire a forestry expert to review the plan and then comment to DCR, but cautions that applicant could not be billed for this as it is technically not a peer review of a pending application. All parties discuss funding sources to pay a forester. BG and TC think the Commission's Wetlands Protection Fund may be an option.
- JK asks about stormwater management issues on the site, including pipes that appear to drain into the Buffer Zone. TC reads an excerpt of correspondence from Attorney Guimond stating that these pipes date back to when the dwelling was constructed; they are not connected to any roof runoff system, and could probably be plugged or removed. TC thinks the pipes may have been associated with a basement sump pump; JK feels the Commission should ask that the pipes be removed from the Buffer.

- All parties review Google Earth photos of the site from July of 2007 through April of 2018 provided by TC. TC suggests that these be provided to NRC. BG will provide to NRC.
- BG notes that the property owners themselves never appear before the Commission, and their consultants have been effective at presenting and roadblocking. The only time he has had direct dealings with the property owners is on the property. BG thinks the consultants may be insulating the owners to some extent, and they may improve their behavior if they receive direct feedback from the Commission. TC feels the actions of property owners may be part of an overall strategy to improve their vista using legal/regulatory means; however, he feels the Forestry Management Plan cannot proceed until the Commission's Enforcement Order is satisfactorily resolved, and if their mitigation plan as implemented is not satisfactory, the Commission doesn't need to accept it.
- In response to a query from BG, TC reiterates that the Commission cannot stop implementation of the Forestry Management Plan but can comment on it to DCR. A forester's commentary as to whether the trees were cut due to storm damage or to establish a scenic view may be helpful. EG feels that in addition to forester comments, the Commission could comment directly to DCR regarding the history of issues on the property.
- EG also asks why the Commission is inviting them back if it previously voted to enforce if the restoration plan was not satisfactory.
- TC suggests that the Commission can take further action, including issuing fines, if owners do not have satisfactory explanations.
- All parties agree that property owners and their representatives should be asked to reappear for further explanations, but TC comments that the owners can't be compelled to appear directly. BG feels that time is of the essence in hiring the forester. In response to a query from JK, TC does not think a vote is necessary to authorize this action so based on this discussion. TC will work with BG with respect to engaging a forester to review the Forestry Management Plan.

**ADJOURNMENT** – EG makes a motion to close the hearing at 9:36 PM. PC 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