

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

CALL TO ORDER JK motions to open the meeting at 7:00 pm. EG second. Approved 6-0-0.

CHAIRMAN'S ADDRESS

- JK welcomes back Commissioner FW after an absence of several months.
- JK advises all present that the Commission has made some procedural changes to ensure that meetings run more structured and efficiently. With respect to hearings and meetings, applicants or their representative(s) will have 5 minutes uninterrupted to present their project. This will be followed by BG's comments (1 minute), Commissioner comments/questions (10 minutes, with extensions by motion and vote), public comment, and vote.
- JK also notes that he has been working with Vice Chair O'Donnell to identify the basic responsibilities for the Commissioners, with input from Town Administrator Mike Maresco. The Commission administers and enforces the Massachusetts Wetlands Protection Act and the Town's Wetland Protection Bylaw. The Commission also manages over 2500 acres of conservation land for wildlife and passive recreation. Meetings are normally held at 7 pm on the first and third Tuesdays of each month.
- Basic Commissioner responsibilities are to (1) Pass a state Ethics class and be sworn in prior to any official duties. (2) Conduct oneself professionally and ethically. (3) Obtain a "Marshfield Conservation" badge within 30 days of start. (4) Wear a Conservation badge at all times when interfacing with the public and in Town Hall. (5) Attend a minimum of 75% of all public hearings, not including those missed due to family and medical emergencies, and notify the Administrator in one day of any absences. (6) Follow the Mullin law regarding missed hearings. (7) Complete required MACC training within two years. (8) Develop a working knowledge of the Massachusetts Conservation laws and Wetlands Protection Act. (9) Prepare for meetings, including site visits and review of applicant submissions. (10) Complete two hours of continuing education per year by certified administrator and (11) Share in the workload.
- JK notes that the Board of Selectmen had recommended a "four maximum missed meetings" rule for Town bodies, but since the Commission meets 24-26 times per year, they are using 75% of meetings as the attendance benchmark instead.

MINUTES

- The minutes for the October 1, 2019 meeting were presented for approval. No comments or suggested changes were received, and none were made on the floor.
- BO motions to accept the 10/1/19 minutes as written. EG second. Approved 5-0-1, FW having abstained.

BUSINESS

B1 Foster Avenue/Conservation Land (Parcel Id No: L09-23-03) Joint Project / Cindy Castro & Bill Grafton

- BG notes that the subject property is a Town-owned lot located between 128 and 148 Foster. A volleyball net was installed on the property over the summer, which was subsequently removed. BG and Cindy Castro (CC) would like to post signage indicating that the lot is Town-owned land. CC adds they would also like to add some beach grass and other native plantings, and this is the optimal time

of year to do the plantings. BG notes that currently there is just sand on the lot, and feels there is a possibility that something else will be placed there without the signage and plantings. DPW will be using part of the lot as a staging area for another project.

- JK feels the addition of beach grass to this open-sandy lot would be a great addition. FW asks whether the DPW staging would interfere with the plantings. BG will coordinate with Town Engineer Rod Procaccino so that this doesn't happen. FW agrees with JK that the plantings are a very good idea.
- PC moves to accept the planting/signage plan as proposed by BG and CC. BO second. Approved 6-0-0.

PUBLIC HEARINGS

- Prior to the start of the hearings, JK advises that the hearings for filings 2814 (Smith & Sons), 2816 (Holbrook), 2818 (Villandry), and 2825 (Curtis) are being continued. Also, discussion regarding Business item 4 (B), 74B/76A Marginal is being tabled.

On / After

19-34 Crowley, 667 Ocean Street (Repave Driveway).....NEW (Eric)

- JK reads the legal ad. Hearing Officer EG confirms administrative requirements are complete.
- EG advises that the filing is a new RDA. The property is in LSCSF, barrier beach, and coastal dune in a densely populated neighborhood. He visited the site recently; the driveway has clearly been there a long time, and applicant is looking to resurface the existing driveway. There is no room on the property to extend the driveway any further.
- Applicant not present; BG affirms that applicants are looking to resurface the existing driveway, and notes that applicants recently received a permit for a deck project. BG feels the project is eligible for state exemption 310 CMR 10.02(2)(B2Q), as they are repairing an existing, lawfully located driveway. BG appreciates applicant's willingness to come forward, as many residents embark on such projects without first seeking permits.
- EG asks for comments from the public; none.
- BG suggests the standard conditions of approval will apply.
- EG motions to close and issue a DOA, Pos. #5 for the Bylaw, Neg. #5 for the state exemption, and Neg. # 3, with special conditions drafted by BG. JK second. Approved 6-0-0.

2826 Town of Marshfield DPW, Foster Ave / Between 2nd & 7th Rds (Revetment).....NEW (Bert)

- JK reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- Town Engineer Rod Procaccino (RP) present for DPW along with Anders Bjarngard (AB), GZA. BG notes for the record that this is a Town project, but the area in question has mixed ownership; this will be noted in the permit.
- AP advises that the project applies to the stretch of Foster Ave between 2nd and 7th Street on the seaward side of the seawall; the proposed activity involves riprap maintenance from 2nd to 5th, which has an existing revetment, and the installation of additional riprap between 5th to 7th, where currently the footing of the seawall is getting exposed. In the stretch from 2nd to 5th, they propose to peel back the existing stone, reduce the footprint of the stone revetment, and slope it down to provide protection for the toed seawall. Between 5th and 7th, there is currently no revetment and they propose to install revetment stones at the toe of the seawall. At this area, they will dig down, install the revetment, and cover the stones with the sand. Access will be through Old Beach Road or Brook Street.
- BG notes that the project is below mean high water for at least part of the stretch, and therefore a Division of Marine Fisheries comment letter will be needed to the file. BG also advises that Mass DEP

has commented that Chapter 91 and 401 WQC filings are likely required; RP affirms. Additionally, a signed illicit discharge statement will be needed for the file.

- BG also notes that normally the Commission has the Town Engineer review stormwater reports, but the report in this case is very straightforward and BG is not sure that such review is required. FW reviews the stormwater report and agrees that outside third party is not needed given the limited scope of the work.
- BG asks AB about their plans to use grout, noting that the Commission typically does not allow its use on small revetments. AB states they are proposing to use a small amount of grout to solidify the revetment in two transition areas near stairs. RP adds that the intent is to try to prevent rocks from covering the stairs and maintain public access to the beach. BG asks AB about the total amount of grout to be used; AB feels about 50 sq ft total.
- BO asks about the age of the seawalls; RP indicates they are almost brand new; the purpose of the revetment is to keep the seawall from being undermined. JK asks RP about ideas for beach nourishment. RP is working with Woods Hole Group to create beach profiles in town as part of a grant DPW received to expand the beach nourishment permitting; this would allow them to act quickly to re-nourish when the opportunity (such as low sand prices) arises, but they don't want any new sand purchased and brought in to be quickly swept away in a storm.
- Peter Howard (PH), 9th Road, notes that in 2015, a friend of his working for DEP forwarded him an e-mail from a woman named Holly Johnston saying the Town has re-filed their ENF for the Foster Avenue seawall, revising the project to include only the seawall and no revetment. PH adds that the rebar of the stairwell at 5th Road, which is only two years old, has been exposed to the elements for a year. PH also notes that in the 1976, a large amount of round beach stones were removed from the beach, which he said lowered the beach by four feet; he thinks some cobbles will need to be restored to the beach in order to hold the sand and structures. RP notes that DPW is continuing to look for solutions to protect the stairway.
- BG asks if there will be a beach re-nourishment component to the project. RP indicates they will consider it if there is extra money and it is allowed under the permit. DPW has been working with Mass. Coastal Zone Management for three years on beach re-nourishment solutions and funding. RP thinks any material brought in would be reflective of what is already on the beach. BO notes that rocks were removed from the beach in '76 because people were complaining about them. RP thinks a combination of sand and round stones will be optimal.
- Nancy Mahoney (NM), 96 Foster, would like to know why the work only encompasses 2nd to 7th instead of Brook to 7th, as the revetment in the area between Brook and 2nd is not well maintained. The wall in her area is the older wall from 1993 that also doesn't get maintained. She would like DPW to be more proactive as to maintenance.
- BG feels the Commission should get the DMF comment letter and signed illicit discharge statement before the matter is closed. Unless specific issues are raised by DMF, the OOC can be issued at the next meeting. BG suggests the addition of a special condition allowing for ongoing periodic maintenance to allow DPW to re-nourish with cobble or sand if funds and materials are available.
- FW would prefer to issue the Order now with a special condition requiring them to obtain any other permits and submit any additional documentation. BG does not want to issue the Orders before hearing from DMF, as their comments may impact what is in Orders. FW feels that language allowing for this can be worked into the Orders now. After confirming that the DMF letter and illicit discharge statement are the only remaining documentation, BO moves to continue to the next meeting, noting that applicant need not reappear.
- BO motions to continue the hearing until the next public meeting of the Marshfield Conservation Commission on November 5, 2019. EG second. Approved 6-0-0.

2828 Chute, 1087 Union Street (Septic).....NEW (Eric)

- JK reads the legal ad. Hearing Officer EG confirms administrative requirements are complete.
- Greg Morse (GM), Morse Engineering, presents for applicant. The proposed activity is a septic system upgrade project. Wetland flagging was done by John Zimmer (JZ), South River Environmental.
- The house is currently for sale and failed a Title V septic inspection. The existing system is located just inside the 50 ft buffer. The new septic tank is 68 ft from the wetland at its closest point, and the new leaching field will extend into existing lawn area 86 ft away from the wetland. GM notes that Mass DEP presumes that septic systems greater than 50 ft away from resource areas protect all of the interests of the MA WPA. The project is considered to be a septic upgrade and not new construction, as no new flow capacity is being added. GM feels that the system is located in the best location on the property, as it will allow the system to flow by gravity. In response to a query from EG, GM indicates that Zimmer's delineation was done last month, September 25.
- BG believes there is a potential IVW, as defined by the Town Bylaw, on the property that is not marked on the site plan. On his visit to the site, he observed the cut stems of probable wetland plants and sapling trees, including cinnamon fern and red maple, and noted that storm runoff from the house seemed to create potential conditions for hydric soils in the area. GM notes that they did a soils analysis in the vicinity of the area BG references that revealed non-hydric, upland soils in that location. BG asks if JZ took soils from the area the house runoff was channeled? GM indicates that JZ looked at the area around the left side of the entrance to the driveway.
- BG comments that the Commission will need to consider whether it wants the new system to be sited close to a potential IVW, but also notes it is possible that the area ultimately may not meet the Town Bylaw's criteria for an IVW. GM clarifies for EG the areas around the driveway that JZ inspected.
- JK asks GM if there are other viable locations for the system on the property. GM states that the current location is the only one where the new system could flow by gravity. BG suggests the addition of conservation markers along the 50 ft buffer lines to the wetlands as protection against cutting or incursions by the new owners. EG notes that the areas inside the buffer seem to have been maintained over time. GM adds that the current owners (now selling) have been at the property since 1994.
- EG asks for comments from the public; none.
- After further discussion, all parties agree to placement of 6 conservation markers between the 25 and 50 ft buffers (about 35 ft) depicted on a revised site plan submitted by 12 noon, 10/18/19. GM will submit an updated plan showing the 6 conservation markers.
- EG motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. FW second. Approved 6-0-0.

2831 Tallarico, 1 Earl Avenue (Waterline & New Barn).....NEW (Bert)

- JK reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- BG notes that the NHESP comment letter is not yet in the file, and recommends that the hearing be continued in case their comments need to be incorporated into the OOC. JK notes that the Commission has repeatedly stressed the need for all paperwork to be submitted to the Conservation Office by noon the Friday prior to the public hearing.
- BO motions to continue the hearing until the next public meeting of the Marshfield Conservation Commission on November 5, 2019. EG second. Approved 6-0-0.

2830 Brandon, 4 Bay Street (Raze & Rebuild SFH).....NEW (Art)

- JK reads the legal ad. Hearing Officer AL confirms administrative requirements are complete.

- Rick Servant (RS), Stenbeck & Taylor, presents for applicant. The proposed activity is to raze and rebuild an existing cottage on the property. The new house will be elevated on driven wooden piles. Resource areas include barrier beach and a FEMA AE16 flood zone. First floor elevation is proposed at 17.1 ft. The area underneath the house will remain open.
- In response to a question from AL, RS indicates that the footprint will be similar to the existing structure but will be enlarged by about six feet in front of the house; the width will remain the same. AL also asks if there will be an elevation rise with fill underneath the house. RS believes the area will remain level and pervious.
- BG notes that since the entire lot is in a resource area, the question of moving closer is not applicable; in these cases, elevation and pervious surface are the primary considerations. JK asks RS about the change in pervious surface on the lot? RS does not have the exact figure but notes that the existing house is sitting on the ground, while the new one will be elevated on piers, so the total pervious surface will certainly increase.
- BG thinks the Commission needs the elevation contour figures, both current and proposed, in order to evaluate the project. He would also like specific details as to current versus proposed pervious surface, taking into account possible driveways and other add-ons. RS notes that the site plan indicates there is a gravel driveway that will remain.
- The Commission discusses whether to request additional elevations and pervious surface figures. FW notes that the site includes a gravel driveway with loam/seed around it, and any roof runoff from the house will go into the ground adjacent to the house. BO notes that they have requested tables setting forth the impervious surface calculations in other site plans, and thinks this would clarify the issue.
- Rudy Langer (RL), who will be building the home, states that the lot will be 100% pervious upon completion, as the property owners have no intent to pave anything. The site plan has fewer elevations than usual because the lot is 100% flat. JK agrees that the lot will likely become more pervious when the work is completed but would like to capture this in the file.
- AL has no issues with the project, but would like to know if this is a case where an applicant does not have to stay exactly in the previous structure's footprint. JK does not feel the Commission has received a clear answer as to this question, and would like to research the regulations further so the Commission can set a policy applicable to all applicants. JK also requests that RS provide additional elevation lines and provide a pervious surface table.
- Bill Kelly (BK), 5 Bay Ave, would like to thank the applicants for taking on this project; as the existing structure is uninhabitable and dilapidated. If they have to keep the structure within the existing footprint, they should do so in order to comply with the regulations.
- AL motions to continue the hearing until the next public meeting of the Marshfield Conservation Commission on November 5, 2019. PC second. Approved 6-0-0.

2825 Curtis, 3 Cove Creek Lane (Dock Repair).....cont from 10/1/19 (Rick)

- The hearing is continued until the next public meeting of the Marshfield Conservation Commission on November 5, 2019. BG briefly notes that a written request for continuation was received from the applicant's representative.
- PC motions to continue the hearing to November 5, 2019. EG second. Approved 6-0-0.

2829 Gomes, 76 Carolyn Circle (Pier, Dock & Float).....NEW (Rick)

- JK reads the legal ad. Hearing Officer PC confirms administrative requirements are complete.
- PC comments that this filing is a new NOI for a proposed dock and float.

- Rick Servant (RS), Stenbeck & Taylor, presents for applicant. RS advises that his client is requesting the hearing to be continued to the next meeting, as he is waiting on more information from the harbormaster and client. Terry McGovern or RS will request additional continuations as needed.
- PC motions to continue the hearing until the next public meeting of the Marshfield Conservation Commission on November 5, 2019. BO second. Approved 5-0-0, FW having been absent from the vote.

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 November 5, 2019. BG briefly notes that a written request for continuation was received from the applicant's representative.
- PC motions to continue the hearing to November 5, 2019. EG second. Approved 6-0-0.

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 November 5, 2019. BG comments that the filing deadline for this meeting was not met.
- PC motions to continue the hearing to November 5, 2019. EG second. Approved 6-0-0.

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 November 5, 2019. BG comments that a written request for continuation was received from the applicant's representative.
- PC motions to continue the hearing to November 5, 2019. EG second. Approved 6-0-0.

REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS

2579 Dalton, 1735 Main Street [COC]

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

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

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

2657 Flashner, 206 Carolyn Circle (Amended) [COC]

- BO motions to issue a COC for the property and filing referenced. EG second. Approved 5-0-1, FW having abstained.

2678 O'Donnell, 52 Island Street [COC]

- BG advises that he needs to perform a site visit and recommended that the request be tabled.

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

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

2705 Messersmith, 47 Mallard Road [COC]

- BO motions to issue a COC for the property. EG second. Approved 5-0-1, FW having abstained.

2715 Rogan, 165 Ridge Road [COC]

- BO motions to issue a COC for the property. EG second. Approved 5-0-1, FW having abstained.

2749 McGowen, 18 Paddock Way [COC]

- BG advises that he needs to perform a site visit and recommended that the request be tabled.

2763 Flashner, 206 Carolyn Circle [COC]

- BO motions to issue a COC for the property and filing referenced. EG second. Approved 5-0-1, FW having abstained.

2774 Aubut, 33 Old Ferry Street [COC]

- BO motions to issue a COC for the property. EG second. Approved 5-0-1, FW having abstained.

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 After-The-Fact NOI Discussion/613 Careswell / Brian Taylor, Commissioners & Bill Grafton

- Rick Servant (RS), Stenbeck & Taylor, present for applicants. The matter concerns a fence extending into the wetlands, cutting inside the 25 ft buffer and expired Orders. The Commission is requesting an after-the-fact NOI. RS notes that the wetlands were recently flagged by Brooke Monroe, Pinebrook Consulting. JK visited the property recently with BG.
- RS would like to know the Commission's wishes with regard to the fence. Rather than be prescriptive, JK would like to receive and review a proposal from RS to resolve the violations. JK also comments that he is disappointed that the NOI was not filed by July 30th as originally agreed to, and the Commission had to ask RS to reappear on the matter.
- RS indicates that the after-the-fact NOI can be turned around quickly. BG asks if the plan can be submitted by October 22 so it can be heard at the November 5 meeting. RS feels that timeframe is a little tight and asks for a little more time.
- JK polls the Commission as to whether to allow applicants to present their restoration plan at the November 19 meeting. JK yes; FW yes; AL yes; PC yes; BO yes; EG yes. BG notes that the filing due date for this meeting is November 5; RS assents. JK asks that RS also review the old OOCs for the property.

B3 Farm Management & Enforcement Order Discussion / 1327 Union Street / Brad Holmes & Commissioners

- Brad Holmes (BH), ECR, present for property owners. JK asks BH to discuss his response letter concerning (1) restoration plantings, (2) drainage pipes in the 100 ft buffer, and (3) lawn encroaching

the 100 ft buffer. BH briefly notes that the North River Commission marker posts previously discussed have been pulled above the ground; they have replacement markers that haven't been installed yet.

- JK comments that during the discussion, he will be entertaining motions to (1) allow the drainage pipes to stay in their current position; (2) accept the restoration plan as planted, accepting all caliber size plants at their current locations; and (3) accept the lawn within the 100 ft buffer with or without mulch. The Commissioners have the ability not to accept this motion; if no Commissioner accepts the motion or there isn't a second, the motion fails without a vote. If the motion is accepted or seconded, a vote will be taken and the motion will either pass or fail.
- If a motion fails, a 10 minute discussion will ensue to the issue in question, ending with a motion, second, and ratification vote. During each discussion, JK would like to know if the Commissioners feel a peer review is needed to (1) gain greater understanding of the situation, (2) determine whether there was a failure to meet previously ordered restoration plans, or (3) determine whether applicant failed to provide an adequate response. JK adds that the Commission has options to issue enforcement orders with timelines for completion and citations of up to \$300 per day, from the date of this meeting, if such timelines are not met.
- BH notes that homeowners responded to the Commission's original enforcement order with the restoration planting of trees. He does not believe they have received anything in writing from the Commission regarding the lawn and pipes.
- BG briefly steps out. JK motions to recess the meeting until BG returns. PC second. Approved 5-0-0, EG having been absent from the vote. The meeting reopens at 8:38 PM.
- BH comments that homeowners did receive an e-mail from BG 7-10 days ago asking them to attend this meeting to discuss the restoration plan, but there was no mention that the pipes would also be discussed. He is prepared tonight to discuss the restoration plan and the general conditions in the back yard.
- BH has done some research with respect to existing versus previous conditions in the backyard, and located a 2017 site plan used in the North River Commission filing, showing the existing conditions of the site before homeowners' house construction project. BH reviews the plan with all present, pointing out the proposed additions; he adds that the plan was submitted to the Building Department and was also forwarded to BG for signoff, which he did, as the proposed work was outside the 100 ft buffer. BH notes that the edge of lawn is set forth on the plan, which he feels establishes the pre-existing limit of the lawn prior to the start of work.
- BH recently visited the site to determine whether there was any lawn or landscaping beyond the edge of lawn given on the old plan, and states his measurements are in line with what was existing on the site prior to the start of work. Therefore, BH believes there has not been any encroachment beyond what was depicted on the 2017 site plan. BH also distributes photos of the property from when it was listed for sale in 2016, showing lawn and landscaped areas in the back yard; he believes there is slightly less lawn now than there was then.
- With respect to the pipes, BH states the pipes were put in when the house was built and currently don't function. As removal of the pipes would cause significant damage to the lawn, they are proposing to cap and cover them over with loam. Town Counsel Bob Galvin (TC) asks if the pipes were a foundation drain for a sump pump; BH indicates this is possible, but he didn't observe any water staining or rivulets extending from the pipes. He doesn't know if there is a sump pump in the basement. BG notes he observed skunk cabbage extending up the hill and thinks there must be water coming down the hill in some manner to support these obligate wetland species.
- With respect to the mowed area in the 100 ft buffer, BH proposes to cover the area with natural wood chips, which would forestall future mowing or encroachment. Concerning the tree restoration, he did hear the Commission's feedback that it wasn't pleased with the 12 trees as planted. Therefore, they

have planted four additional trees in the area where the Commission was looking for additional plantings, making 16 planted trees in total; average trunk size is 1.57 inches.

- JK shows the Commission aerial photos of the back lawn from 2007, 2015, and 2018 provided by TC during a prior public meeting that he states show that the size of the lawn has clearly changed. BH notes that the 2007 and 2015 photos were taken during the growing season and the 2018 photo was taken outside of the growing season, which makes the look bigger in 2018.
- JK asks for comments from the public; none.
- TC asks BH if it appeared to him that the mowing in the 100 ft buffer had occurred recently or had historically been there? BH believes that in 2017 the survey crew described the area as landscape area; weeds have since grown up in the old mulch and the homeowners are now mowing the weeds. BH believes this area should be considered as maintained lawn/landscape area. BG provides additional photos that he states show alteration within the 100 ft buffer. JK comments that the Commission had hired its own consultant, who created an overlay of where they thought the lawn had encroached in the 100 ft buffer. BH states there is no dispute that there is some mowed area in the 100 ft buffer, but he believes that this area has been maintained historically and is therefore not an encroachment.
- BH thinks the current dispute arose from when he and the Commissioners discovered two North River Commission posts, marking the 100 ft setback to the natural bank of the river, with lawn extending beyond the posts. However, BH states that these are not Marshfield Conservation posts, did not mark out a no-disturbance area, and thus are not by themselves proof of encroachment. JK would like Marshfield Conservation posts to be added to the property.
- All parties discuss whether any buffer zone applies to the North River. BH notes that the ORAD the Commission asked for establishes the BVW with buffer zone on the property. There is no Riverfront area under the regulations because of the North River protective border, but under the Riverfront regulations, maintenance of existing landscaping in the outer buffer zone is exempt. BH feels what is pertinent is that the mowed area is in the 100 ft buffer zone to the BVW, and again proposes to cover this area over with mulch comprised of natural wood chips.
- BG comments that the 100 foot setback depicted on previously submitted plans for the Building Department and Board of Health permits, which were surveyed, appear to be in disagreement with BH's latest ANRAD plans. BH comments that the measurements in his plans were tape measured and not determined by GPS.
- At this point, PC moves to (1) accept Brad Holmes' proposal to cap and cover over the pipes in the 100 ft setback and not require their relocation, (2) accept the restoration plan, including all size-caliber trees, in their current locations as currently planted, and (3) accept Mr. Holmes' proposal to leave the lawn as shown on the sketch plan and allow a one-time application of natural wood chips in the brown area set forth on said plan. The motion fails for lack of a second.
- The Commission then discusses BH's proposal with respect to the pipes. BO feels that BH's proposal to cap and cover is satisfactory, as affidavits the Commission received state they were long-existing features on the property. BO feels they were probably perimeter drains, which is not an unusual practice. JK thinks the pipes shouldn't have been put in the 100 ft buffer in the first place and should be removed. He is also concerned the pipes could be uncapped subsequently. AL agrees with JK. BH notes that removing the pipe would require a significant amount of disturbance. EG feels capping and covering over the pipes is satisfactory; PC agrees. TC notes that only a couple feet of the pipes extend out from the lawn area, and feels that cutting the pipes and plugging them as proposed may be the less invasive alternative. After further discussion, all parties agree to removing the pipes from the brown landscape area shown on the sketch plan and capping them there. BH feels this can be done in two weeks.

- *EG moves that the Commission require the pipes be cut back to the green lawn area shown on BHs' sketch plan, capped below grade, and covered as necessary. AL second. Approved 5-0-1, FW having abstained.*
- The Commission then discusses whether to accept the existing planting plan or require changes. BO asks BH how many additional plantings were made since the Commissioners' site visit; BH added four trees in the mowed area the Commission had referenced; their trunk sizes range between 1" and 1.5". BH notes that the original enforcement order was issued for tree cutting within the 50 ft no-disturb zone; with the new plantings, there are now four replacement trees for every tree originally removed.
- BG notes that the current plantings have been sited by GPS only and not surveyed, and suggests that the Commissioners verify that an adequate number of trees have been planted in the restoration area originally envisaged by the Commission. BH states that the trees that were planted were not for the restoration plan originally submitted, as certain trees were relocated in response to forester Phil Benjamin's (PB) comments over the summer, and a revised planting plan was not submitted after that meeting. He also feels that GPS is sufficient for the purposes of depicting the planted tree locations.
- TC suggests that if the Commission accept the trees as planted in the ground today, it should specify that the owners apply natural wood chips to the mowed area one time only so that the area eventually reverts to its previous state. BG notes that the area is already returning to a more natural state and suggests that no chips be applied.
- BG reads the terms of the enforcement order into the record, noting that it included reporting requirements for three (3) monitoring years including reports and 75% plant survival for two successive growing seasons. All parties discuss whether the terms of the enforcement order changed as a result of the summer meetings. JK notes it was not his intent for PB's forestry management plan to supplant BHs' planting plan. TC believes the Commission approved an alternate plan with modifications recommended by PB. BO notes that any such changes would only have been approved with BH's endorsement. TC agrees that the plan does not specifically comply with the Commission's original specifications, but feels it should consider whether the plan as implemented is substantially compliant and sufficient to meet the original purposes of the order.
- AL asks what happens to the enforcement order if the Commission accepts the restoration plan. TC indicates that this would be accepting one of three elements of the original enforcement order. AL expresses concern that accepting the plan would effectively negate the enforcement order. JK states that an affirmative vote would mean the Commission agrees they have substantially met the criteria of the enforcement order. TC notes that the Commission can accept what BH has proposed but add conditions. JK would like the addition of markers to be a condition.
- BG notes that the enforcement order text also references construction activity and feels this is fair game for the Commission to address. BH disagrees, stating the enforcement order was for removal of the trees and noting that BG signed off on the building permit for the construction activity. BG reiterates he signed off with conditions discussed previously. JK agrees the issue is beyond the scope of the discussion and the question at hand is whether the Commission wishes to accept BH's proposal with conditions.
- EG comments that the point of the enforcement order was to receive a restoration plan; BH notes that he submitted a planting plan report showing the location of the replacement trees as determined by GPS. TC feels that any discrepancies in the GPS as opposed to surveyed tree locations is inconsequential; JK concurs. However, BG feels that the surveyed 100 ft buffer line is critical, as it goes right up to the house which defines the bounds of the enforcement.
- JK polls the voting commissioners as to whether they would like to add any conditions prior to voting on the restoration plan: AL no; PC no; BO no; EG no.

- BG suggests that the following conditions apply: annual monitoring and reporting to the Commission for a period of three years and two growing seasons, demonstrating 75% success rate of plantings established as per 310 CMR 10.53. No work within the 100 ft setback is allowed until the restoration is implemented and all applicable permits are obtained.
- BG also recommends the placement of conservation markers at the 75 ft buffer. After a brief discussion, JK suggests that the markers be placed where BH says applicant wants their lawn to stop, so as to establish the boundary of the lawn and prevent further encroachment. BG suggests that the condition apply in perpetuity, but TC advises the Commission can't tell applicant they can't apply for a variance, and suggests that the condition be that conservation markers go at the edge of the lawn as shown on the plan. After further discussion, the Commissioners agree to four markers, to be placed in two weeks.
- BG notes that Stand 2 is near town-owned property and was part of the cutting; he would like to see green and white conservation markers in this location. BH notes there is already a stone wall in the area and doesn't know why markers would be needed in addition; he would like to consult with his clients on this. JK polls the Commissioners as to whether to require additional green and white markers as discussed: BO no, outside the scope; EG no; PC no; AL no.
- *BO moves that the Commission accept the trees that have been planted as being substantially compliant with the restoration plan, subject to the conditions that (1) 75% of the plantings have to survive three years, two growing seasons, as per standard language, (2) four conservation markers be placed at the edge of the lawn, as shown on the sketch plan submitted October 15, by November 1, and (3) the Conservation Administrator has the ability to inspect the completed work provided one day's advance notice is given. EG second. Approved 4-1-1, AL having voted no and FW having abstained.*
- All parties then discuss BHs' proposal with respect to the lawn. TC suggests motion language for the Commission to consider. BG would like a restriction on landscaping and application of chemicals in this area, noting that he had received a report that goatscaping had been done in the area. TC suggests that the Commission focus on resolving the enforcement order for the time being, and address other issues in the future. JK shares BG's concerns about the goatscaping report but agrees with TC that this can be addressed at a future meeting.
- *BO moves to accept the edge of the lawn as shown in green on the sketch plan submitted October 15, with the mowed weeds area, shown in brown on the plan, receiving natural lawn chips one time only. PC second. Approved 5-0-1, FW having abstained.*
- JK advises BH that BG and the Commissioners will be visiting the property to verify compliance and plant survival. JK requests that the markers be posted high enough not to be mowed over. BH will place the markers on cedar logs with a birdhouse on top.

B4 74B/76A Marginal/ Unpermitted Fill / Commissioners & Paul Armstrong

- Tabled.

B5 18 Cove Street/Unpermitted Structures-LSCSF, BB, CD Discuss Corrective Action / Commissioners & Bill Grafton

- BG advises the Commission that he has been in communication with the property owner, Ron Ciobiotti (RC), over the past year, to advise him about pending projects and permitting requirements. Last October, BG disapproved a building permit sign-off for the rebuild of an open porch with roof and siding, advising that a NOI would be required. RC has since done the work without a NOI filing, and put in additional structures. RC has also talked about adding a revetment wall, with BG who advised that this would not be permissible under the regulations.

- BO asks BG about the Building Department's involvement? BG advises that the Building Department has been advising RC to get in touch with BG. BG also notes that RC has been advised multiple times about the need for a NOI.
- BG would like to know how the Commission wishes to address the unpermitted work; options include requiring an after-the-fact NOI, issuing an enforcement order, or requiring straight removal of the structures. BG is also open to issuing a citation, as it would be quicker than writing up an enforcement order; JK is OK with BG issuing a citation and then requiring the filing of an after-the-fact NOI. JK and BG discuss the timeline and history of issues at the property, with BG noting that the back and forth has been going on for about a year. BG would like to issue two (2) \$300 citations, one for each bylaw violation (294.1 and 294.5).
- *EG moves to issue a one-time citation to 18 Cove Street for the two bylaw violations cited by BG, and require the filing of an after-the-fact NOI. PC second. Approved 5-0-1, FW having abstained.*
- After the vote, JK comments on the tendency of enforcement orders to be issued and not followed up on; this can create issues when a property gets sold and the new owner has to clear it up. JK would like to see quicker follow-up on EOs, as well as consistency in their issuance. AL agrees that Commission EOs require follow-up in order to be meaningful. BG feels that clearer regulations and procedures will allow for quicker processing of enforcement actions.

ADJOURNMENT – EG makes a motion to close the hearing at 10:02 PM. AL second. Approved 6-0-0.

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

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