

MEMBERS PRESENT – James Kilcoyne (JK) Chair, Bert O'Donnell (BO) Vice Chair, Rick Carberry (PC), Eric Goodwin (EG), Bill Grafton, Conservation Administrator (BG), Bob Galvin, Town Counsel (TC)

MEMBERS NOT PRESENT – Art Lage (AL), Frank Woodfall (FW)

CALL TO ORDER – JK motions to open the meeting at 7:00 pm. BO second. Approved 4-0-0.

CHAIRMAN'S ADDRESS

- JK announces that the Mounce's Meadow discussion will be moved up to the second business item (B2) given the large number of attendees interested in the matter.

BUSINESS

B1 New Commissioner Recruitment Discussion / Commissioners & Craig Hanafin

- Craig Hanafin, 1317 Union St., present to discuss her interest in joining the Commission. She has been a member of the Board of Directors of the NSRWA since 2007, and has served there as Vice President, President, and Chair of Development. NSRWA seeks to protect the North and South River watersheds through education and engagement. She also has previous experiencing volunteering for and ultimately chairing the Environmental Advisory Council in West Vincent Township, PA. This body advised town government on various conservation issues water quality, septic issues, stormwater management, wetland protection, open space and agricultural preservation. She would like to expand on her conservation work with NSRWA and would seek to apply the regulations in an equitable and objective manner.
- JK thanks CH for applying, comments favorably on her prior experience, and notes that the Commission will discuss the application later in the meeting.

B2 Mounce's Meadow Conservation Land / Commissioners

- JK notes that this discussion concerns anonymous letters posted on social media and left in resident mailboxes regarding supposed plans for use of the property. The Board of Selectmen, Town Administrator, and Chief of Police have been active in trying to find out who distributed the letter, as it contained significant inaccuracies.
- JK reads a public post from Town Administrator Mike Maresco, on behalf of the Board of Selectmen, into the record, stating that allegations that there are plans to use prison labor on the property are absolutely false and misleading, an investigation is underway to find who is posting such information, and asking the public for assistance in finding the individual.
- K adds that the Commission had likewise heard nothing about and has had no involvement with any such proposal. The first he heard of the issue was when the letters started appearing in resident mailboxes. JK reiterates that the information in the letters is not true, and what was described in the letters is simply not going to happen.
- BO comments further on the two activities that currently do take place at Mounce's Meadow. The Commission issues a license to a farmer annually to work the fields on the property, but the farmer who most recently had been using the fields has withdrawn her application. This farming activity has been taking place on the property for many years, and the CSA operation that previously farmed the fields provided funding for the well installed on the property at no expense to the town. BO also

notes that there is a pending CPC application for upgrades to the community garden at Mounce's and invites Lorrie Dahlen (LD), Agricultural Commission Chair, to discuss her proposal.

- LD notes that there has been a community garden at Mounce's Meadow for years; there are currently 38 plots used by approximately 20 different gardeners, each of whom pay a small fee each year. The open space plan tasks the Ag Comm with expanding community gardening opportunities, so they prepared a CPC funding application for improvements to the gardens at Mounce's Meadow; these would include the addition of topsoil, construction of a shed to protect the well site and a possible generator for the well. They would also like to change the layout of parking on the property, so that spaces are further away from abutters, and add some additional spaces, up to 20 total, so people do not park on the driveway or neighboring properties.
- JK reiterates that the information in the letter is incorrect, and the proposals therein were never envisaged or discussed. The Commission is looking for a new commercial farmer to work the fields on the property. JK asks that any public comments be brief and non-repetitive so that the hearings can be heard in a timely manner.
- Linda Nogueira (LN), 36 Chowdermarch Street, notes that the letter in her mailbox referenced Two Mile Farm, and asks if that is a different property from Mounce's. BG states that Two Mile Farm is owned by the Trustees of Reservations, and is about ¾ mile down the road. In response to a follow-up, BG and BO state there is no proposal to use prisoner labor at either property.
- Dave Gavaza (DG), 479 Union Street, asks for more information about the farmer working at Mounce's; JK states that the farmer who had been working the fields at Mounce's has withdrawn her application, so the Commission will be seeking a new farmer to work the property. Town Administrator Mike Maresco and the Board of Selectmen have asked the Commission to create some guidelines as to how to prioritize the utilization of conservation land. The Ag Comm has input but the Conservation Commission has ultimate decision-making authority as stewards of the property. Any farmers seeking to utilize the field must complete an application and be approved by the Commission and Selectmen prior to starting work.
- EG notes that concerned residents are encouraged to be involved with organizations such as the Recreation Trails Committee, which is looking for volunteers to help make improvements on the property.
- Scott Stephenson (SS), 481 Union, notes that the right of way into Mounce's utilizes his driveway, and he is concerned about traffic on the driveway, as bottlenecks occur if many gardeners are working at once. He would like to know how the Ag Comm arrived at the need for 20 spaces specifically. JK acknowledges Mr. Stephenson's concerns but feels the question is beyond the scope of the current discussion.
- Crystal Gould (CG), 995 Union St., notes that she was originally involved in conveying Mounce's Meadow to the Town, and would like to encourage all residents to continue to enjoy and utilize the property in all its present uses.

PUBLIC HEARINGS

- Prior to the start of the hearings, JK announces that the hearings for 2814 (Smith & Sons), 2816 (Holbrook), 2818 (Villandry), 2825 (Curtis), 2829 (Gomes), 2841 (613 Caswell St.), and 19-37 (Rec. Trails Committee) are being continued and will not be discussed at this meeting.

19-38 Messersmith, 47 Mallard Road (Shed).....NEW (Rick)

- JK reads the legal ad. Hearing Officer PC confirms administrative requirements are complete.
- Applicants Christina Messersmith (CM) and Mike Messersmith (MM) present. PC advises that the filing is a new RDA for a shed to go in back of the property. CM comments that their previous shed

got destroyed when they tried to move it, so they are proposing to replace it with a new 12' x 16' shed on the back left-hand side of the property.

- BG comments that the RDA was needed, as he was unable to identify an appropriate exemption for the work as proposed, and thanks applicants for their willingness to cooperate. In response to a query from BO, BG indicates that the associated resource areas are riverfront and 100 ft buffer to wetlands. BG feels this would be an ideal project for an administrative or minor activity permit if the bylaws could be amended to allow for them.
- PC asks for comments from the public; none.
- PC motions to issue a DOA, Pos. #5, Neg. # 3, with special conditions drafted by BG. BO second. Approved 4-0-0.

19-39 Berg, 173 S River (Remove Tree/Gazebo/Bridge/Rebuild Walkway/Gravel Driveway).....NEW (Eric)

- JK reads the legal ad. Hearing Officer EG confirms administrative requirements are complete.
- Jim Berg (JB) present, representing applications. The proposed activity concerns the removal of a gazebo and decorative bridge, between the house and garage; reconstruction of a walkway leading into the house; removal of an Elm tree to the left of the house, whose stump is scheduled to be ground down. Once the stump is removed, they would like to put in a gravel driveway in its place.
- EG comments that he visited the property earlier today, and asks for clarification regarding the location of the tree that was taken down; it was directly in front of the family room in the newer wing of the house. EG also notes there is a second wooden bridge on the other side of the house, in the wetlands, and confirms that no work is proposed for the second bridge.
- EG also notes that the erosion controls along the left-hand side of the property appear to have been indented or added after an indentation towards the wetland. JB comments that the controls were put in 2-3 weeks ago but there seems to be some drainage issues when it rains. EG is concerned about possible runoff from the parking area into the stream behind; JB believes about 8 cubic yards of gravel is going into the area, which will hopefully slow future runoff. BG comments that he did not observe the indentation referenced by EG but asks JB to make sure the erosion controls in this area are intact, and make any necessary repairs.
- EG asks if heavy equipment will be used to take down the bridge gazebo; JB indicates that all subsequent work, including spreading of the gravel driveway, will be done by hand.
- BO asks if a Title V inspection had been done for the property. JB was told one was done, but he did not witness it personally.
- EG asks for comments from the public; none. BG advises that the standard conditions of approval will apply, including special conditions that applicant ensure all erosion controls are intact, no heavy equipment in or within 5 ft of the wetlands, and that trash near the gazebo be removed by hand.
- EG motions to issue a DOA, Pos. #5, Neg. # 3, with special conditions drafted by BG. PC second. Approved 4-0-0.

19-40 Mill Pond R.T., 835 Plain St (Clearing Veg. & Covering w/ Loam & Seed Mix).....NEW (Bert)

- JK reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- Mark Casey (MC), South Shore Survey Consulting, present for applicant along with Brad Holmes (BH), ECR. The proposed activity involves clearing of vegetation, grading, loaming, and reseeding. Straw wattles are proposed for erosion control. The associated wetlands were flagged by BH.
- BH indicates that applicants have filed an RDA to confirm that the work proposed does not require the filing of a NOI, as there is just one area of wetlands on the site, and the work area is outside the jurisdictional boundaries of wetland resource areas. BH walked the site with BG.

- BG notes that the property is complicated, and he clarified the ownership situation of the various parcels. BG and BH walked the limit of work and verified all was upland, and walked the B flags. The A flags are offsite and permission is needed from the lot owner, Tim Conner. BG has no issues with the flagging he observed so far but recommends the placement of conservation markers along the line of the B flags within the property limits.
- BG suggests that the Commission approve the B flags, limit of work as set forth on the site plan, plus everything from the storage area back to Plain Street. He would like to receive a plan that eliminates the A flags until these flags can be confirmed and work is proposed for that area of the property.
- In response to a query from BO, MC confirms that the work area, as set forth on the site plan, is entirely outside of the 100 ft buffer. BO asks BG whether an ANRAD would have been the correct filing; BG indicates this would have required a filing at the Plymouth Registry of Deeds, plus a subsequent request for COC. BH adds that an ANRAD does not have the effect of confirming work is not jurisdictional.
- JK agrees with BG that conservation markers would help protect the nearby wetland given the amount of ongoing activity on the site.
- BO asks why BG is requesting the removal of the A flags from the site plan when in the previous hearing (19-39), the Commission just approved a site plan with no wetland lines at all. BG states that in the previous filing, there was no question that the proposed work activity was in the buffer zone to resource areas. JK suggests that the Commission issue the DOA at this hearing but that BG document that only the B flags, and not the A flags, are accepted. BG suggests that the DOA be issued with the condition that an updated site plan be received at the Conservation Office by 12 noon, Friday, November 29th. JK notes that the Commission typically does not allow this but feels it would be appropriate in this situation. The Commissioners concur, and MC agrees to provide an updated site plan.
- All parties discuss the placement of the proposed conservation markers. JK would like to see markers around the 50 ft buffer on applicant's property only, as this would provide some protection from development inside the buffer on adjacent parcels. MC is comfortable placing markers along the 50 where it intersects the property line, but wants to avoid placing a marker on adjacent property; JK and BO concur. After further discussion, all parties agree to the placement of 16 markers along the 50 ft buffer.
- BO asks for comments from the public; none.
- BO would like to know if the owner has any plans subsequent to this filing. MC indicates that he may want to do additional cleanup once the piggery operations on site have ceased in 14 months, but they will re-file when that happens.
- BG reads the conditions of approval into the record, including the receipt of an updated site plan at the Conservation Office by Tuesday, December 3, and posting of 16 conservation markers as depicted in the updated plan.
BO motions to issue a DOA, Pos. 2A approving the B series flags; Pos 2B denying the A series flags for lack of evidence; Pos #5, Neg. # 3, with special conditions drafted by BG. EG second. Approved 4-0-0.

19-41 Gilbert, 60 Corn Hill Lane (Septic).....NEW (Jim)

- JK reads the legal ad and, as Hearing Officer, confirms administrative requirements are complete.
- Rick Servant, Stenbeck & Taylor, presents for applicant. The proposed activity is a septic repair for an existing house. The system is located downhill from the house, allowing for it to be gravity-fed; this was also where the best soils were located. Some grading is within the 100 ft buffer, but the structures are outside the 75 ft buffer. The proposed system will be in existing lawn/yard area. Board of Health has not approved the project yet, but did not have any issues after their initial review.

- In response to a query from EG. RS confirms that the work area inside the buffer will be properly erosion-controlled, and notes this is shown on the site plan.
- JK asks for comments from the public; none. JK reads the proposed conditions of approval into the record.
- JK motions to close and issue a DOA, Pos. #5, Neg. #5 for the state exemption, Neg. # 3, with special conditions drafted by BG. EG second. Approved 4-0-0.

19-42 Hutchinson, 76 Olympia Road (Replace Deck on New Footings).....NEW (Eric)

- JK reads the legal ad. Hearing Officer EG confirms administrative requirements are complete.
- Applicant John Hutchinson (JH) states he is looking to replace an existing 12' by 10' deck with a 16' by 16' deck, with four new sonotubes. JH notes that the application incorrectly specifies three existing tubes plus one new as there will now be 4 new sonotubes. The new deck will have the same 4 ft elevation.
- EG advises that he visited the property today; the proposed expansion is well within previously disturbed garden area. Applicant is going to maintain the pervious surface underneath the deck. BO also drove by the property and had no issues.
- EG asks for comments from the public; none.
- EG motions to issue a DOA, Pos. #5, Neg. # 3, with special conditions drafted by BG. PC second. Approved 4-0-0.

19-43 Armstrong / Brewer Green Harbor Marina, 239 Dyke Rd (Cap Existing Catch Basin).....NEW (Rick)

- JK reads the legal ad. Hearing Officer PC confirms administrative requirements are complete.
- PC advises that the project is to remedy a parking area where flooding has caused access issues.
- Applicant Peter Armstrong (PA) notes that the matter was discussed at the previous meeting. These repairs involve ripping up asphalt around the basin up to Elevation 5, filling the area with stone, and covering it with recycled asphalt. This will make the area pervious, and is a temporary measure pending additional changes to the property. PA feels the original catch basin may have been installed incorrectly.
- BG has observed conditions at the property and agrees the repairs are necessary. He would like applicants to keep the Commission in the loop as the additional work takes shape, including a possible preliminary discussion before filing.
- JK asks PC how temporary the repairs will be; they are arranging funding and hope to start the permanent repairs by the fall of 2020. BO passed by the site today, observed extensive flooding, and feels the repairs should be made ASAP. BG would like a status update from Brewer Green Harbor Marina by next spring.
- PC asks for comments from the public; none.
- PC motions to issue a DOA, Pos. #5, Neg. # 3, with special conditions drafted by BG. BO second. Approved 4-0-0.

2122 Ahl (Previously O'Flaherty), 70 Carolyn Circle (Amended-Extended NOI SFH).....NEW (Eric)

- JK reads the legal ad. Hearing Officer EG confirms administrative requirements are complete.
- Bob Crawford (BC), EET, present along with applicant Matt Ahl (MA). The property is undeveloped. The amendment consists of building a slightly larger house in the same location. The house will be entirely outside the 75 ft buffer and the septic system will be outside the 100 ft buffer, with the tank about 80 ft from the wetland. Impervious area will be increased by about 2800 sq ft with construction of the house and driveway. The driveway is within the 75 ft buffer.

- BO asks if there is any plan to upgrade the bridge accessing the property, as it currently has no guard rail; BC is not aware of any plans. EG notes that the bridge is not located on applicant's property. EG asks about one item within the limit of work which appears to be within the 50 ft buffer. BC indicates that this would be grading associated with the driveway.
- EG notes that the house goes up to the 75 ft buffer, and asks about re-seeding of the area between the house and the 50 ft buffer. BG notes that the no-disturb area starts 50 ft from the wetland per the original OOC, which also provides for conservation markers along the 50. JK believes the area between the 50 and 75 will end up being lawn, but no structures can be erected in this area without a permit from the Commission.
- BG advises that he met with MA after he purchased the property. He has been cooperative and has agreed to place 12 markers along the 50 ft buffer. The standard conditions of approval will apply.
- 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. PC second. Approved 4-0-0.

2839 Town of Marshfield DPW, Winslow Avenue Ext (New Beach Access Boardwalk).....NEW (Rick)

- JK reads the legal ad. Hearing Officer PC confirms administrative requirements are complete.
- PC advises that the filing is a NOI for a boardwalk to provide public access to the beach.
- Greg Morse (GM), Morse Engineering, presents for Marshfield DPW; Charlie Swanson (CS) and Tom Reynolds (TR) present for DPW. The filing is a NOI for a wooden beach access boardwalk to be constructed off the end of Winslow Ave. Brad Holmes (BH), ECR, delineated the site and observed BVW, coastal dune, and LSCSF/VE17, on or near the site.
- All work is located on the coastal dune. The boardwalk is proposed to be 52 ft long and 5 ft wide; it will be constructed out of wood and will cross over a low area of an existing pathway. Its maximum height is 2.5 ft. The boardwalk will be built on 14 wooden posts. For mitigation, they are proposing to plant plugs of beach grass, 18 inches apart, on either side of the boardwalk; total planting area will be 64 sq ft to mitigate the anticipated 21 sq ft of disturbance.
- BG notes that the plantings were not detailed on the site plan. He spoke with BH, who suggested two bare culms every 18 inches on center, leading to 28 culms. To avoid the need for a revised site plan, BG will add a condition requiring the planting of 28 culms of beach, locations to be determined in coordination with BG in the field; he also recommends a condition requiring 75% success, with monitoring, for two growing seasons.
- BG notes that DEP provided comments suggesting $\frac{3}{4}$ inch spacing between boards, and construction as high as possible to allow sunlight penetration. BG feels that the standard condition requiring best management practices adequately addresses the suggestions. EG wants to make sure the spacing is not larger than $\frac{3}{4}$ inch so handicapped access is not impeded; GM confirms that $\frac{3}{4}$ inch will be the maximum spacing.
- BG adds that recording the orders, as required in the conditions of approval, may become an issue given some ambiguity as to ownership of the land. DPW suggested attaching the OOC to the deed for one of the nearby town-owned properties, but Town Counsel Bob Galvin (TC) may need to examine.
- BO asks if any additional permits are required; CS with DPW, indicates the Building Commissioner has reviewed the project. TC gives a brief overview of the history of ownership of the property and access roadway. The roadway is owned by the County, and county-owned roadways within a town are under the care and custody of that town, which has the right to make improvements.
- BG asks TC about attaching the OOC to the deed for one of the town-own properties; TC will research how past layout changes to the road were recorded and advise how to record this OOC.

- Bob Shaughnessy (BS), Board of Public Works, notes that the boardwalk will be in a velocity zone and asks for more information about the foundation component of the posts, as well as the DEP comment. BG advises there were no comments from DEP other than the spacing of the boards and height. The posts will be augured in, meeting most of the criteria for a coastal dune. Given TC's comments regarding the recordability of the OOC plus the proposed mitigation plantings, BG feels the project is approvable by the Commission.
- PC motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. JK second. Approved 4-0-0.

2840 Capuano, 27 Porter Street (Demo Existing Garage & Rebuild New Garage).....NEW (Bert)

- JK reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- Rick Servant (RS), Stenbeck & Taylor, presents for applicant Paul Capuano (PC), who is also present. The proposed activity is the demolition of an existing 12' by 20' garage, replacing it with a 16' by 20' garage. There is an intermittent stream in the back of the property. They are proposing to move the new garage about three ft further away from the stream bank. The new garage will be built in existing disturbed area; silt sock erosion control is proposed during construction. They are willing to remove an old wood bridge over the stream and place three conservation markers across the back of the lot.
- BG notes that mowing and green waste dumping in the area behind the property was brought to his attention by Stenbeck & Taylor in a hearing for another property. He thinks the placement of conservation markers on this property will help to bring this activity to a stop.
- In response to a query from applicant, BO indicates that the three markers would be placed on his property line, behind the garage. JK explains that the markers are intended in part to prevent future owners/applicants from encroaching into resource areas.
- Applicant PC comments that the stream in back tends to get clogged with green waste, causing flooding, and the town has asked all abutters to remove debris from the stream. He would like to be able to continue to do so. JK asks applicant to provide a letter from DPW or other town agency asking or permitting him to perform such maintenance.
- BO has no issue with the new garage, as it is replacement of an existing building.
- BG advises that the standard conditions of approval will apply, plus a special condition requiring the placement of three conservation markers and submission of an updated site plan showing the conservation markers.
- John Cusick (JC) comments that he used to live on Porter Street and states that the stream does overflow if not maintained.
- Bob Parisi (BP), 28 Porter, agrees there are flooding issues during storms, and the bottom of the street floods if the stream gets backed up. BO agrees that there seems to be a flooding issue but feels it to be beyond the scope of the hearing.
- BO motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. EG second. Approved 4-0-0.

2841 613 Careswell Street Realty Trust, 613 Careswell Street (ATF Fence & Veg Removal).....NEW (Bert)

- JK reads the legal ad and then advises that the matter is being continued to December 17, 2019.
- JK motions to continue the hearing until December 17, 2019. PC second. Approved 4-0-0.

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

- The hearing is continued until the next public meeting of the Marshfield Conservation Commission on December 3, 2019
- JK motions to continue the hearing until December 17, 2019. BO second. Approved 4-0-0.

2835 Waterman Avenue Private Road Assoc., 49 & 54 Waterman Ave (Fence)....cont from 11/5/19 (Jim)

- JK advises that an RDA was filed and approved by the Commission in April 2019, which was appealed to DEP, which issued a Superseding Determination of Applicability (SDOA) on August 21, 2019, requiring the filing of a NOI, on grounds that the proposed fence is not a minor activity due to its location within a velocity flood zone, and should be constructed so as not to become a projectile during a storm event. The NOI was filed in a timely fashion, and DEP provided comments dated 10/24/19 requested details regarding fence material and spacing, and stated the fence should be designed so as to minimize impacts to the dune. The NOI application calls for removal of the existing fence, and placing the new fence just outside the 25 ft setback with the exception of two posts.
- Applicant has requested a variance with respect to disturbance within the 25 ft setback, and are proposing 36 plantings and invasive species control as mitigation. Attorney Kimberly Kroha (KK), representing John Cusick (JC) and other objectors, has submitted a narrative in opposition to the fence installation stating in part that applicant fails to provide an analysis with respect to all the applicable interests, including public safety, prevention of storm damage, and erosion control, and the Commission does not have the discretion to grant a variance in the absence of such analysis.
- John Zimmer (JZ), South River Environmental, representing applicant. He has prepared a response to questions raised at the November 5, 2019 public hearing, and did provide an alternatives analysis looking at several different fencing configurations. JZ feels the current proposal minimizes the work in the 25 ft setback while still meeting the objective of the project. To relocate the fence fully outside of the setback would not allow it to tie back in to existing fencing and other structures that would prevent the public from walking over the dune to reach the beach.
- JZ notes that the proposal reduces the work in the 25 ft setback in exchange for additional work in the 25-100 ft buffer zone; the alternative is to increase work in the 25 ft setback in exchange for less work in the 75 to 100 buffer. Applicants are amenable to either option the Commission prefers. JZ also notes they are proposing about 300 sq ft of mitigation plantings with either option. JZ notes that their variance request does not address all 18 interests set forth in the Town Bylaw, but he is happy to go through all 18 of them if the Commission prefers. The written request addresses the interests associated with coastal dune. JZ feels that the public safety and storm damage interests referenced by the opposition are more relevant to LSCSF than coastal dune, but notes that he does address prevention of storm damage. He feels that the project as proposed addresses DEP concerns and meets the performance standards applicable to coastal dune.
- BG states that the primary state interests applicable to coastal dune are storm damage prevention and flood control. Many of the 18 town interests, such as agriculture, would not apply; recreation possibly does, but BG feels that requiring applicant to address all 18 would set a precedent that would apply to all future applicants. JK agrees that not all applicants should have to address all 18 issues only those that apply.
- EG asks JZ for his reasoning as to why public safety would not be an applicable interest to coastal dune. JZ states the dune itself doesn't present any public safety issue, and public safety issues associated with a dune would have to do with flood water coming from or going around the dune.
- PC asks JZ how many feet of the proposed fence are inside the 25 ft setback; JZ indicates 16 ft (two 8 ft sections) and two posts.
- Bob Shaughnessy (BS), 49 Waterman Avenue, gives additional detail regarding the path of the north side of the fence; the south portion will tie into the already existing fence.
- EG asks if there was a list provided of all members of the Waterman Avenue Private Road Association (WAPRA), which is the listed applicant. BS indicates they provided the list of everyone on the road, and states that 9 of the 10 owners voted to install the fence. JK comments that this topic is beyond the scope of the hearing. In response to a query from EG, BS states that the applicant is the two

owners of the property: BS, representing his family, and Jack Manning. EG notes that the application references the Association and therefore wants to know if an OOC would be enforceable upon these two owners. Bob Galvin (TC) states it is likely that the ownership is with the two abutting property owners, and the OOC would be enforced against the two abutting property owners. EG asks TC to confirm that BG would have the legal option to enforce against the two if needed? TC states BG could go after whoever the Town determined was the property owner, and in his view this would be the two abutting property owners. JZ adds that the Orders of Conditions (OOC) would get attached to both owners' deeds.

- EG asks why the Association is listed on the application? BS states that the 2015 court case held that each of the property owners owned to the middle of the street, so he wanted to make sure that everybody on the street had a say in the project.
- PC asks whether the existing fence will be staying if the project is approved? JK notes that this fence would replace the existing one. JZ states that if the "winged" design is approved, minimizing disturbance in the 25 ft setback, the existing fence would be removed and that would be part of the restoration planting area. If the original design is approved, then the fence would be removed and replaced with a sturdier foundation.
- PC would like to know what the rare and unusual circumstance justify the granting of a variance? JZ replies that from their perspective what's rare and unusual is that there is an existing private way being accessed without authorization, resulting in damage to the resource area. Applicant is looking to put the fence in to eliminate the unauthorized access; this is rare and unusual because there are few instances in town of such issues causing damage to resource areas.
- JK notes that controlling access to private property is beyond the scope of the Commission's authority, and this should not be in the Commission's purview of justifying a variance with respect to a structure within the 25 ft setback. However, he also sees no reason why applicant can't have a fence and the question is where the fence can be, and can applicant's objectives be achieved with a fence that is not in the 25 ft setback. JK does not personally feel the granting of a variance is warranted, and the preferable solution would be to replace the two wings with vegetation, or move the fence further up.
- BO feels that, given there is an existing wooden fence and stone wall in position for years, plus maintained lawn to the landward side, the proposed replacement fence is a permissible activity. BG concurs as to the presence of pre-existing lawn. EG believes the area was not pre-existing lawn, and vegetation was removed to put in the fence; he agrees with JK that there shouldn't be a fence within the 25 ft setback, and would like to see the fence relocated landward, even if it requires owners installation of an entry gate for the two owners closest to the dune. BO notes that the coastal dune delineation is outside the fence area, and the fence, as proposed is in the buffer zone as opposed to the actual resource area/coastal dune. BG notes that it is unknown when the lawn by the fence was put in, and whether it pre-dated the WPA and Bylaws. PC asks if removing the two proposed wings would put the entire fence out of the 25 ft setback; JZ confirms. PC is concerned about the precedent if the Commission allows a structure in the setback.
- BS states that no vegetation was removed to put in the original fence, and the area had been disturbed by the Town when it put in boulders and other structures to try to keep people out of the dune area.
- Dan Rigney (DR), 13 Harlow Rd, also owns property on Waterman and observed residents bringing clippers to trim vegetation and access the dune and beach.
- KK representing abutters objecting to the fence, speaks to address a comment by JZ that the 25 ft setback was not raised at the DPW hearing earlier in this meeting; KK was not at that hearing but notes that evaluation of work in the setback is Commission jurisdiction and not DPW. KK characterizes the Commission's charge is protecting natural resources and making sure the public can enjoy such resources; to that end, KK states the regulations that put into place the 25 ft setback have a specific

exception for boardwalks and established walking paths, as it furthers the goal of allowing for public enjoyment. With respect to this, BG replies that the Town Wetlands Regulation exemption specifically applies to the buffer zone, and the previous DPW project was directly in the resource area and roadway, as described in the Commission's conversation with TC.

- KK states that, although the Commission need not look at all 18 interests identified by the Bylaw, the ones that matter should be looked at; KK believes that applicant has not provided clear and convincing evidence that there is no adverse effect on all applicable interests. Even if applicant were to produce sufficient evidence, KK does not believe this to be a rare and unusual circumstance justifying a variance, and believes the original fence caused damage to the dune by causing people to stray from the established path. KK asks that the Commission vote to deny the OOC.
- Charles Pesko (CP), 41 Kent Avenue, comments that the objective of the fence is to preserve the dunes, and every path into the dune widens every year, destroying the seed grass they have planted to try and protect the dune, and without the seed grass, the dune will be lost. CP adds there is a public road two blocks away, with an existing public path and future boardwalk.
- Phil Antoine (PA), 49 Vincent Drive, states that the Waterman Ave access point to the beach has been there for over 100 years, and putting in the fence has caused people to venture further into the dune. PA also questions the placement of footings in the sand; JK notes that this issue had been addressed by the engineer who drafted the site plan.
- Jeanne Rufo (JR), 55 Vincent, would like to know if the Commissioners had observed damage to the dune from people using the footpath? JK feels that all dunes in town are being damaged for multiple reasons. JR concurs but believes storms have caused more damage to the Waterman Ave dune than people using the footpath, and that the fence is causing more of a problem to the dune by driving people off the path. JR also feels that putting the fence 25 ft west would cause a public safety problem in that it would prevent emergency vehicle access to the two residences.
- John Cusick (JC), Waterman Ave, comments that a fence would also limit emergency vehicle access to people on the beach. JC adds that he had corresponded with TC about protecting the dune, and TC had replied that he didn't think the town needs any assistance protecting the dunes.
- TC advises the Commission that a judge needs to decide the legal rights issues associated with the property, but he thinks the proposed project is approvable under the WPA but requires a variance under the Bylaw, and it is up to the Commission to decide whether applicant has shown by clear and convincing evidence that there is no adverse effect on all applicable interests.
- PC would like to see the entire fence be moved outside the 25 ft setback, and vegetation be used inside the 25 to impede access to the dune.
- BO believes the variance is possible and approvable. EG does not believe a variance is warranted, or that the fence is approvable; he would like to hear more about alternative solutions, including vegetation or moving the fence. JZ comments that if the Commission is not inclined to grant the variance then the applicant would prefer a continuance to a denial; based on Commissioner comments, he requests a continuance.
- JK motions to continue the hearing to January 21, 2020. EG second. Approved 4-0-0.

19-37 Recreation Trails Committee, Ocean to Station St (Bridle Path-Rail Trail Improvement)...NEW (Jim)

- JK reads the legal ad and then advises that the matter is being continued to December 17, 2019.
- JK motions to continue the hearing until December 17, 2019. BO second. Approved 4-0-0.

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 December 3, 2019.
- JK motions to continue the hearing until December 3, 2019. BO second. Approved 4-0-0.

2829 Gomes, 76 Carolyn Circle (Pier, Dock & Float).....cont from 10/15/19 (Rick)

- The hearing is continued until the next public meeting of the Marshfield Conservation Commission on December 3, 2019.
- JK motions to continue the hearing until December 3, 2019. BO second. Approved 4-0-0.

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 December 3, 2019.
- JK motions to continue the hearing until December 3, 2019. EG second. Approved 4-0-0.

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

- JK advises that the matter is being continued to December 3, 2019.
- JK motions to continue the hearing until December 3, 2019. EG second. Approved 4-0-0.

REQUESTS FOR CERTIFICATES OF COMPLIANCE [COC] & EXTENSIONS [EXT]

0083 Roht, 2 Trouant's Island [COC]

- BG visited the property on 11/25/19, and recommended issuance of the COC with ongoing condition that the vegetated cover remain intact as per the as-built plan from Morse Engineering dated 11/1/19.
- JK motions to issue a COC for the property with On-going Conditions. EG second. Approved 4-0-0.

2693 Banks, 89 Bourne Park Avenue [COC]

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

1318 Sullivan (Chestnut Hill Trust) 695 Holly [Partial COC]

- BG visited the site on 11/22/19 and noted that the three required conservation markers were not installed as part of prior sfh Orders of Conditions before the Sullivans took ownership of the property. BG recommended issuance of a Partial COC releasing 695 Holly Road from the subdivision recorded Orders of Conditions. The new owners have agreed to voluntarily install the three conservation posts.
- JK motions to issue a Partial COC releasing 695 Holly Road from the subdivision recorded OOC SE42-1318. PC second. Approved 4-0-0.

2749 McGowan, 18 Paddock Way [COC]

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

2579 Dalton, 1735 Main Street [COC]

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

2590 MacKinnon, 658 South River Street [COC]

- BG visited the site on 11/22/19 and recommended issuance of the COC.
- JK motions to issue a Completion COC for the property. EG second. Approved 4-0-0.

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

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

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

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

2637 Green, 19 Telephone Street [COC]

- BG visited the property on 10/25/19 and recommended issuance of the COC with the ongoing condition that the footprint of the subsurface remain open or pervious.
- JK motions to issue a COC with On-going Conditions for the property. PC second. Approved 4-0-0.

ENFORCEMENT ORDERS

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

Tamara Macuch, 237 Webster Avenue

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)

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

Bednarz/ Nouza, 65 Ireland Road (Unpermitted Cutting <= 50 ft)

BUSINESS (Continued)

B3 192 Webster/ Land Donation-update and ratification / Commissioners/Town Counsel/Bill Grafton

- BG notes that the Commission approved but did not ratify this land donation. An ANR subdividing the property has been approved by Planning Board. There is a home equity loan associated with the property that is in the process of being remedied with TC's assistance.
- BG indicates that the Commission can ratify now or wait for the loan to be remedied. After a brief discussion, the Commissioners ratify the donation on the conditions that clear title is shown, all legal requirements are met, and the donation is approved by the Board of Selectmen and Town Counsel.
- JK moves that the Commission ratify and approve the land donation with conditions as noted. PC second. Approved 4-0-0.

B4 70 Little's Lane/SE42-2494 Planting Plan-Enforcement-SFH / Brad White & Buyers

- Realtor Brad White (BW) present for Conservation Realty Trust, which manages the property, along with Attorney Nathan Sloan (NS). An Order of Conditions (OOC) had been issued for a blueberry farm on the property that was never constructed; this OOC has since expired. He would like to know if the Commission would have jurisdiction if a house were built on the property that was outside the 100 ft buffer zone to all resource areas.
- BW also notes that there was an enforcement order requiring restoration plantings; Brooke Monroe (BM), Pinebrook Consulting, prepared a planting plan that was never received at the Conservation Office. NS would like to know how to clear the OOC off the title, given that the applicant is deceased.
- BG indicates that the restoration plantings were originally asked for by previous agent Wennemer. The minutes from the original enforcement hearing indicate that the previous owner had represented to the Commission that 200 high brush blueberry plants were on order, but these were never planted. BG feels the way to extinguish the OOC is to make the 200 plantings or enforcement.
- JK asks what the extent of the clearing was that triggered the enforcement action. BW indicates that previous owner Haufler cleared an overgrown cart path when he put the property on sale. They would like to resolve the matter so the property can be sold.
- BO and EG would like to know what the land looks like now, and what has come back naturally; BW indicates that the area has become overgrown again; he is happy to provide pictures of the area.

Some trees on the property have fallen over in storms, but there has not been any deliberate cutting, as the late owner was sick for several years before passing away. BG cites the delay in getting the restoration going, and is concerned that applicants now don't want to do the restoration work.

- JK comments that 36-200 blueberry plants is a very large planting for a restoration order. BO notes that Haufler a prospective buyer had proposed to establish a hydroponic blueberry farm on the property. BG states that he spoke to Agent Wennemer, who indicated he agreed blueberry plantings were agreed to by Agent Wennemer in lieu of issuance of a formal enforcement order.
- JK notes that no Enforcement Order was actually issued, and the previous owner who cleared the cart path is deceased. He would like to know more about current conditions in the cart path area so the Commission can decide what is appropriate as to restoration. BG notes that previous owner had agreed to 200 blueberry plants, and 36 plants would not cover the extensive area originally cleared.
- BO notes that restoration planting plans aren't usually all the same species, and the original proposal has more to do with farming than an actual restoration. BG agrees that the planting plan should have some diversity of species, and notes that he hasn't seen the planting plan prepared by BM; BW indicates that the planting plan seems to have been lost when she moved her office, and he hasn't been able to locate it in the estate papers.
- BW indicates they are willing to do some sort of planting to resolve the OOC. JK recommends that BG provide the Commission additional information to review, so it can decide on an appropriate resolution at the next meeting. BW will continue to try to locate the Monroe planting plan; Bob Crawford (BC), EET, Inc., who prepared a site plan for the property, might have the planting plan. BG would like a plan agreed to and initiated before further permitting on the property is contemplated.
- In response to a query from JK, BW indicates he is not the owner, but he has a beneficial interest in the property that was willed to him and his wife by the seller. NS states that the property is owned by Conservation Realty Trust, held by the Estate of Christian Haufler. JK notes that any agreements would have to be made by a property owner or legal representative of the entity having ownership. After some further discussion, the matter is continued to December 17, 2019 for all parties to gather additional information.

B5 New Commissioner Recruitment Discussion / Commissioners & Bill Grafton

- The Commissioners note Ms. Hanafin's strong qualifications and, after further discussion, agree to forward her name to the Board of Selectmen as a nominee for appointment as a Conservation Commissioner. BG will initiate the process so she can be appointed as soon as possible.
- JK moves to recommend Ms. Hanafin to the Board of Selectmen as a nominee for appointment as a Conservation Commissioner. EG second. Approved 4-0-0.

B6 830 Plain Street CR Written Request / Steve Guard / Rick Servant

- Attorney Steve Guard (SG) present for the Quirk Dealership at 830 Plain Street. SG notes that after the CR was set up legally, the facilities manager expressed interest in removing dead trees along the edge of the CR; SG would like written permission from the Commission to do so. BG has discussed the site with Rick Servant (RS), Stenbeck & Taylor, and identified the dead trees. They are willing to leave approximately 8-12 foot stump and the dead fall on the canopy floor so they can become effective wildlife habitat.
- BG indicates he has no issue provided some wildlife habitat value is left as proposed. He agrees the trees are dead, and would like to tag them with Quirk's people. The Commission agrees to the request with the condition that the trees to be removed be identified in the field by BG. SG will advise the project manager to coordinate with BG.
- JK moves to allow the proposed tree removal with condition as noted. BO second. Approved 4-0-0.

B7 251 Damon's Point Drive/Sign Enforcement Order 19-07

- The completed enforcement order is circulated for Commissioners signatures. BG notes that its issuance was ratified by vote of the Commission on November 5, 2019.

ADJOURNMENT – JK makes a motion to close the hearing at 10:27 PM. BO second. Approved 4-0-0.

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