

**APPROVED MINUTES - CONSERVATION COMMISSION
TUESDAY, NOVEMBER 5, 2019 7:00 p.m., HEARING ROOM 3
TOWN HALL, 870 MORaine ST., MARSHFIELD, MA**

APPROVED 1/7/2020 4-0-1

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

MEMBERS NOT PRESENT – Art Lage (AL)

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

MINUTES

- The minutes for the October 15, 2019 meeting were presented for approval. No comments or suggested changes were received, and none were made on the floor.
- PC motions to accept the 10/15/19 minutes as written. BO second. Approved 5-0-0.

CHAIRMAN'S ADDRESS

- Prior to the start of the hearings, JK advises that the hearings for filings SE42-2825 (Curtis), 2829 (Gomes), 2818 (Villandry), 2816 (Holbrook), and 2814 (Smith & Sons) were being continued.
- 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 reiterates that all should be attentive to timeliness and be mindful to contribute new information and refrain from repeating comments previously introduced.

PUBLIC HEARINGS

On / After

19-35 Walzer, 864 South River Street (Walkway & Shed).....NEW (Frank)

- JK reads the legal ad. Hearing Officer FW confirms administrative requirements are complete.
- Applicant Jonathan Walzer (JW) presents the proposed work. Kelley Walzer (KW) is also present. The filing concerns the construction of a shed, paths, and piping on existing lawn in the 75-100 ft setback to a wetland. The wetlands on the site were delineated by a professional wetland scientist on 10/18/2019 and depicted on an aerial image sent to BG on 10/28/2019.
- BG characterized the work as minor in nature, and a candidate for the state regulation exemption under 310 CMR 10.02(2)(b)2e, and suggested approval with the standard conditions.
- FW asks for comments from the public; none.
- FW motions to close and issue a DOA, Pos #2A, Pos. #5 for the Bylaw, Neg #5 for the state exemption and Neg. # 3 with special conditions drafted by BG. PC second. Approved 5-0-0.

19-36 McGuire, 26 Park Street (Shed).....NEW (Eric)

- JK reads the legal ad. Hearing Officer EG confirms administrative requirements are complete.
- Applicant Arthur McGuire (AM) present. The filing concerns the installation of a shed and vegetative management within the 100 ft setback to a previously delineated wetland under SE42-2126/ 17 West Street as well as SE42-2182/21 West Street. Applicant is offering to place two conservation markers

on the fence along the 25 ft setback, plant three native wetland trees or shrubs, and cease mowing in the no-disturb area. This will provide buffer zone protection to the adjacent wetlands.

- BG recommends approval with the mitigation proposed by the applicant as well as the standard conditions of approval.
- EG asks for comments from the public; none.
- EG motions to close and issue a DOA, Pos. #5, Neg. #5 for the Bylaw, Neg. # 3 with special conditions drafted by BG. FW second. Approved 5-0-0.

2826 Marshfield DPW, Foster Ave / Between 2nd & 7th Rds (Revetment).....cont from 10/15/19 (Bert)

- Continued Hearing. Hearing Officer BO confirms administrative requirements are complete.
- The matter was discussed at the October 15, 2019 meeting and continued pending receipt of a comment letter from the Division of Marine Fisheries and a signed illicit discharge statement. The DMF letter, dated October 29, 2019, suggests additional shellfish measures may be required under state and federal reviews. Based on review by Commissioner Woodfall and BG, there is no need for a SWPPP so no illicit discharge statement is required. There is a need for spill prevention, refueling, and storage of fuels to minimize incidents; this is addressed in the special conditions within the Orders of Conditions.
- BO asks for comments from the public; none.
- BG reads the proposed conditions of approval into the record, including that applicant provide an access plan for heavy equipment, obtain right of entry of equivalent from property owners, notify BG two weeks in advance of the start of work, and coordinate a pre-construction site meeting with BG to include contractors hired by the Town.
- BO motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. EG second. Approved 5-0-0.

2831 Tallarico, 1 Earl Avenue (Waterline & New Barn).....cont from 10/15/19 (Bert)

- Continued Hearing. Hearing Officer BO confirms administrative requirements are complete.
- Rick Servant (RS), Stenbeck & Taylor, presents for applicant. The filing concerns the construction of a new barn; associated resource areas include riverfront, buffer zone to two BVWs, LSCSF. The matter was continued at the October 15th meeting pending receipt of the NHESP comment letter. The NHESP letter was received on October 17th with comments to the effect that no adverse impacts to NHESP estimated and priority habitat, and the filing appears to be exempt from MESA. BG walked the property on 10/14/19 and agrees with the delineation depicted on the site plan.
- FW suggested that the shed be located outside the 100 foot buffer zone.
- BO asks for comments from the public; none.
- BG reads the conditions of approval into the record, including that the footprint of the barn subsurface remains pervious, and that the shed be relocated outside the 100 ft buffer.
- BO motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. EG second. Approved 5-0-0.

2834 McDonough, 65 Macker Terrace (Inground Pool).....NEW (Frank)

- JK reads the legal ad. Hearing Officer FW confirms administrative requirements are complete.
- Steve Kotowski (SK), Webby Engineering and Applicants Kevin McDonough (KM) and Linda McDonough (LM) present. The filing is a Notice of Intent for the installation of an in-ground pool; associated resource areas include land subject to coastal storm flowage. BG became aware of the

project through a building permit review, and notes that details concerning stockpiles, erosion control, and proposed pathways or patios were not provided on the site plan.

- FW asks for comments from the public; none.
- BG reads the proposed conditions of approval into the record, including a pre-construction site meeting with BG prior to the start of work.
- FW motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. PC second. Approved 5-0-0.

2782 Ricciarelli, 1203 Ferry Street (Amended Raze & Rebuild).....NEW (Bert)

- JK reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- Commissioner Rick Carberry announces he will recuse on this submittal as he received an abutter notification. PC leaves the public meeting.
- Terry McGovern (TM), Stenbeck & Taylor, presents for applicant. They are proposing to raze an existing single-family home and construct a new house on the lot. After additional discussions with the Conservation Administrator about modifications to the original project, the applicant is filing an Amended Notice of Intent. Recent changes to the proposal include the addition of a shed and planting plan.
- 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. FW second. Approved 4-0-0, PC having recused.

PC returns to the public meeting.

2830 Brandon, 4 Bay Street (Raze & Rebuild SFH).....cont from 10/15/19 (Art)

- Continued Hearing. Hearing Officer JK confirms administrative requirements are complete. JK reassigns Hearing Officer role to himself.
- Rick Servant (RS), Stenbeck & Taylor, presents for applicant. The proposed activity is to raze and rebuild of an existing cottage on the property. The new house will be elevated on driven wood piles. Resource areas include barrier beach, coastal dune, and a FEMA AE16 flood zone. First floor elevation is proposed at 17.1 ft. The area underneath the house will remain open. The hearing was continued to allow for receipt of an impervious table as well as additional elevation contours on the site plan; these have been provided.
- BG walked the site on October 14 and feels some level of revegetation is appropriate for the lot. He would also like additional details as to any paths, driveways, or patios under consideration.
- JK asks for comments from the public; none.
- BG advises that the standard conditions of approval will apply, including that the footprint of the new house's subsurface remain pervious, and that an elevation certificate be provided to the Conservation Office.
- JK motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. BO second. Approved 5-0-0.

2837 Herlihy, 675 Ocean Street (Addition with Porch).....NEW (Eric)

- JK reads the legal ad. Hearing Officer EG confirms administrative requirements are complete.
- Rick Servant (RS), Stenbeck & Taylor, presents for applicant, Robert Herlily (RH) who is also present. The proposed activity is the construction of a porch and addition to the existing single-family home. Associated resource areas include LSCSF AE14, barrier beach, and previously disturbed coastal dune.

- BG advises that he had received a revised site plan including the impervious table. A discussion about whether the proposed work is considered substantial or not. Dick Rockwood (DR) indicated to BG that the house is undergoing a new appraisal and he does not believe that the proposed work will be considered substantial. BG advised RH and RS that if work later turns out to be substantial then an Amended NOI will be required. RH acknowledged.
- EG asks for comments from the public; none.
- BG reads the proposed conditions of approval into the record.
- EG motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. BO second. Approved 5-0-0.

2832 Kessler, 56 Foster Avenue (Addition & Deck).....NEW (Bert)

- JK reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- Brad Holmes (BH), ECR and Doug Freisen (DF), Duxborough Designs, presents for applicant. The proposed activity is the construction of a porch and addition to the existing single-family home. Associated resource areas on the property include LSCSF VE18; the limit of work is within an X flood zone and buffer zone to coastal bank. BG inquires about whether or not the project is considered substantial and if the fact the home but not the proposed work is partially within the VE flood zone affects the FEMA building requirements. DF states for the record that applicant got a new appraisal so the proposed project is not substantial, and he had spoken to Building Commissioner Jim Folkard regarding the project and was not advised that the project was substantial. BG indicates if the proposed work is altered due to FEMA building requirements or found to be substantial then an Amended NOI is required.
- BO asks for comments from the public; none.
- BG advises that the standard conditions of approval will apply, including that the footprint of the new subsurface remain pervious, and that an elevation certificate be provided to the Conservation Office.
- BO motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. EG second. Approved 5-0-0.

2833 Russell, 92 Marginal Street (Addition).....NEW (Rick)

- JK reads the legal ad. Hearing Officer PC confirms administrative requirements are complete.
- Bob Crawford (BC), EET, presents for applicant, Fred Russel (FR) who is also present. The proposed activity is the construction of a porch and brick patio. The patio would be located on the former site of a garage that was recently demolished on the lot. BG visited the property and agrees with the wetland flags he observed. The proposed work will take place in a previously disturbed environment.
- PC asks for comments from the public. Richard Spillane, 94 Marginal comments good luck to FR.
- BG advises that the standard conditions of approval will apply, including that the footprint of any new subsurface remain pervious, and that an elevation certificate be provided to the Conservation Office.
- PC motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. FW second. Approved 5-0-0.

2836 Amand, 36 Jayna Way (Garage, Patio Ext, Pave Driveway & Install Paver Walkway).....NEW (Rick)

- JK reads the legal ad. Hearing Officer PC confirms administrative requirements are complete.
- Rick Servant (RS), Stenbeck & Taylor, presents for applicant, Rick Amand (RA) who is also present. The proposed activity includes construction of a garage, patio extension, paver walkway, and paved driveway. The work area is in the buffer zone to a BVW which has been flagged onsite. BG notes that some minor clearing seems to have been done over time, which expanded the lawn. BG suggests

conservation markers with an updated site plan by 12 noon, Friday the 8th of November. FW suggests locations for the 4 conservation markers.

- PC asks for comments from the public; none.
- BG reads the proposed conditions of approval into the record. Special conditions, after discussion, include the installation of four conservation markers and the submission of a revised site plan by 12 noon, Friday the 8th of November.
- PC motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. BO second. Approved 5-0-0.

2838 Boisvert, 44 Forge Lane (Pool House).....NEW (Jim)

- JK reads the legal ad and, as Hearing Officer, confirms administrative requirements are complete.
- Rick Servant, Stenbeck & Taylor, presents for applicant, Daniel Boisvert (DB) who is also present. The filing is an after-the-fact NOI mitigation plantings. BG became aware of the unpermitted cutting activity during a building permit review for a proposed pool house and observed that the original pool and additions might within the 100 foot setback to a wetland. Associated resource areas include a BVW and intermittent stream; wetland delineation by Brooke Monroe revealed that trees had been cut between the 25-75 foot setback to the wetlands. The revised site plan dated 10/31 shows the planting plan. BG became aware of the project through a building permit sign-off in October, and feels that applicant has been responsive to his requests. After the NOI was filed, he signed off on the pool house building permit, as it is outside the setback to the BVW.
- BO notes that some of the tree cutting is off the subject site. He recommends that this part of the planting plan be removed and only the trees cut on the property be replaced.
- JK asks for comments from the public. DB comments that he was unaware that the tree cutting required a permit and that a wetland was near his home. He asked the Commission to provide education to expand awareness about wetlands and the associated permits. EG and PC stated that BG puts in a lot of effort educating the public.
- BG reads the proposed conditions of approval into the record, including that the plantings be made either in fall of 2019 or spring of 2020, that all plantings achieve at least 75% successful growth within two growing seasons, and that a final written report from a wetland scientist be provided to the conservation office. BG will add language that applicant is not required to plant beyond the subject site property limits.
- JK motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. EG second. Approved 5-0-0.

2835 Waterman Avenue Private Road Association, 49 & 54 Waterman Ave (Fence)..NEW (Jim)

- JK reads the legal ad and, as Hearing Officer, confirms administrative requirements are complete. JK reminds the audience to be mindful to contribute new information and refrain from repeating comments previously introduced.
- BG advises that he became aware of activities on the site based on a written complaint he received in November of 2018. BG met with Bob Shaughnessy (BS) in the field at the time of the fence installation. BS advised that the Town had been notified. BG advised that other town entities may have been advised but not the Conservation Commission. The activity concerns installation of a fence in the setback to a coastal dune and LSCSF. An RDA was filed and approved by the Commission in April, 2019, which was appealed to DEP, who issued a Superseding Determination of Applicability on April 21, requiring the filing of a NOI on grounds that the proposed fence is located in a VE flood zone, and should be constructed so as not to become a projectile during a storm. Subsequent comments

from DEP requested details regarding fence material and spacing, and stated the fence should be designed so as to minimize impacts to the dune.

- John Zimmer (JZ), South River Environmental presents for applicants, Waterman Avenue Private Road Association (WAPRA). Bob Shaughnessy (BS) and Joe MacDonald (JM) are present. JZ presents the proposed work involving the removal of the existing fence and installation of a new fence details addressing MassDEP comments are included in the Notice of Intent submittal and discussed.
- JK asks for comments from the public.
- Attorney Kimberly Kroha (KK), representing John Cusick (JC) and other objectors, has submitted a five-page narrative in opposition to the fence installation. KK paraphrased the points of her letter for the record. John Cusick, 12 Waterman Avenue spoke against the proposed work three times. Phil Antoine, 49 Vincent and Peter Smith, 24 Waterman each spoke against the project.
- Bob Shaughnessy spoke three times in favor of the project. Joe MacDonald spoke two times in favor of the project.
- The Commission reviews the merits of the notice of intent and considers the public testimony. As the Commission has not reached the point where the public hearing would be ready to close, JZ asks for a poll of whether enough information has been presented. JK takes a poll of the Commission to determine if enough information has been provided. EG believes a variance is necessary and has other questions about whether the road is public or private. BO states that Town Counsel advised that the road is private. BG agrees with BO. BO identifies the Conservation values as the key. PC Agrees with BO. PC would like to see less structure and holes. Needs to revisit the site. BO further points out that there is a wooden fence in place already. FW a variance is required since the fence is within the 0-25 no touch zone.
- JK states that the poll indicates that additional information including a variance request is required so the public hearing will need to continue. BG to provide a request for additional information.
- EG motions to continue the hearing until the next public meeting of the Marshfield Conservation Commission pending receipt of a variance request. PC second. Approved 5-0-0.
- BG advises that the continuation needs to be to a date certain and suggests a new motion to continue.
- JK motions to continue the hearing until the 11/19/2019 public meeting of the Marshfield Conservation Commission pending receipt of a variance request. EG second. Approved 5-0-0.

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

- The hearing is continued until the meeting of the Marshfield Conservation Commission on December 3, 2019 as the deadline for the request for additional information lapsed.
- BO motions to continue the hearing until December 3, 2019. EG 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 November 19, 2019 as the deadline for the request for additional information lapsed and as per the applicant's representative verbal request
- BO motions to continue the hearing until November 19, 2019. EG second. Approved 5-0-0.

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

- The hearing is continued until the meeting of the Marshfield Conservation Commission on December 3, 2019 as the deadline for the request for additional information lapsed.
- BO motions to continue the hearing until December 3, 2019. EG second. Approved 5-0-0.

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

- At the request of the applicant as the deadline for the request for additional information lapsed, the hearing is continued until the meeting of the Marshfield Conservation Commission on December 3, 2019.
- BO motions to continue the hearing until December 3, 2019. EG second. Approved 5-0-0.

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

- At the request of the applicant, the hearing is continued until the meeting of the Marshfield Conservation Commission on November 19, 2019.
- BO motions to continue the hearing until November 19, 2019. EG second. Approved 5-0-0.

REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS

2470 Madden (now Haddad), 76 Everson Road [COC]

- BG states that the fees have not been received.
- EG motions to issue a Completion COC for the property and hold the issuance until the filing fees are received. BO second. Approved 5-0-0.

2568 Taggart, 47 Central Street [COC]

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

2579 Dalton, 1735 Main Street [COC]

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

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.

2678 O'Donnell, 52 Island Street [COC]

- BG spoke to builder. He will remove erosion control barrier this week.
- EG motions to issue a Completion COC for the property. BO second. Approved 5-0-0.

2682 Dashner (now Cushing), 76 Bay Point Path [COC]

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

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

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

2749 McGowen, 18 Paddock Way [COC]

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

2757 Estate of Daniel W. Campbell, 44 Bayberry Road [COC]

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

ENFORCEMENT ORDERS

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

White, 180 Atwell Circle **(Escalation letter in Process)**

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)**

Tamara Macuch, 237 Webster Avenue

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

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

BUSINESS

B1 Chute 1087 Union Street - New Location for septic infrastructure / Morse Eng or Current Owner

- James Garfield (JG), Morse Engineering, presents for property owner. The Orders of Conditions have been approved and issued. BG has been approached by current owner Chute and potential owner Campbell regarding changes to subsurface infrastructure that would add two new retaining walls. As an OOC for the septic repair has already been issued, applicant would like to know whether the proposed changes require an amended NOI, or whether the changes can be captured as a minor change not requiring an Amended NOI filing.
- After a brief discussion and poll, the Commissioners unanimously approved the submittal of the minor changes under the As-Built.

B2 Brewer Green Harbor Marina – Parking Lot Repair / Peter Armstrong

- Peter Armstrong (PA), representing Brewer Green Harbor Marina (BGHM), present along with Jason Heywood (JH), BGHM General Manager and Kevin Feyler (KF), MPD Safety Officer to discuss flooding and safety issues associated with the marina parking lot, as well as the proper filings and procedure for repairs. Marshfield Police Safety Officer Kevin Feyler also present to discuss several recent safety incidents caused by the current flooding conditions. PA further discussed the proposed temporary solution. PA and JH stated that a larger scope of work involving the entire parking lot not just the current limit of work will be presented to the Commission as a Notice of Intent submittal. PA requests the Commission accept the temporary proposed work as a Request For Determination of Applicability (RDA) pending a Notice of Intent filing to be submitted subsequently.
- JK takes a poll of the Commission. All in favor of the RDA.
- PA asks for extension on the 11/05/2019 12 noon deadline to 12 noon 11/06/2019 as they just got their answer this evening. No objections from the Commission.

B3 Brewton 0 Parsonage (H06-04-04) – Land Donation / Nancy Brewton

- Nancy Brewton (NB) present to discuss her proposed donation of a parcel of land adjacent to three other Conservation lands in the area. BG has been communicating with NB since roughly 10/16/2019 and notes that the title is clear and taxes are paid through 2/1/2020. Warren Harrington wetland delineations 81-4 and 85-30 that showed extensive wetlands on the property.
- JK asks about the associated site plan for the property. NB will provide to the Conservation Office.
- PC motions to accept the proposed land donation pending receipt of the associated site plan. BO second. Approved 5-0-0.

B4 251 Damon's Point Road – Unpermitted Cutting / Commissioners & Ed O'Cain

- BG advises he has recently received notification from several sources regarding cutting on the subject property over the summer. Property owners have appeared before the North River Commission

regarding the matter, and NRC is requiring some restoration. BG met with the property owners would like to know whether to request an after-the-fact NOI or proceed to enforcement. After further discussion, the Commission determines that enforcement is necessary.

- EG motions to prepare an Enforcement Order. PC second. Motion approved 5-0-0.
- EG motion to issue an Enforcement Order with 45-day deadline due to the holidays. FW second. Motion approved 5-0-0.

ADJOURNMENT – BO makes a motion to close the meeting at 10:52 PM. EG 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