

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

**MEMBERS NOT PRESENT** – Eric Goodwin (EG)

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

### **MINUTES**

- The minutes of the November 26, 2019 meeting were presented for approval. No comments or suggested changes were received, and none were made on the floor.
- JK motions to accept the November 26, 2019 minutes as written. BO second. Approved 4-0-1, FW having abstained.

### **Mullin Affidavits**

- PC completes a Mullin affidavit for 0 Enterprise Drive, qualifying him to vote on this matter.
- FW completes Mullin affidavits for Waterman Avenue and 0 Enterprise Drive, qualifying him to vote on these matters.

### **CHAIRMAN'S ADDRESS**

- JK notes that the Commission tries to schedule meetings about six months out, with an eye towards town meetings, elections, and other conflicts. The Commission's usual hearing room is taken on April 21, and another location needs to be found.
- JK also notes that Town Hall closes at 12:30pm on Fridays, which is a ½ hour after the deadline for applicants to provide additional information to the Conservation Office; this leaves just Monday and Tuesday for BG to review and prepare Administrator Notes and provide them to the Commissioners. He would like the Commission to consider moving the filing deadline to Thursday to allow more review time for BG and the Commission.
- As Commission meetings often run past 10 pm, JK would like the Commission to consider starting meetings at 6:30 rather than 7 pm.

### **Land Use Guidelines**

- JK comments that he has updated the draft land use guidelines based on feedback he received from the Commissioners, and feels they are much improved as a result. The preamble notes the Commission's authority to oversee the use of the land under its supervision and sets forth the following use guidelines:
  - All proposed activities on Conservation-administered land shall initiate with an overview concept proposal to the Conservation Commission to determine if such activity is consistent with the majority view of the Commission; this approval allows for the further development of an activity concept but does not confer final approval, which requires a majority ratification vote.
  - Updates of activity concept shall occur on a regular basis, enabling the Commission to provide guidance. The Commission shall seek comments from interested parties to assist in the decision process. All proposed use/activity will comply with all Federal, State, and local bylaws.

- Regarding RFP or agricultural license use in general, the general objectives to be employed in evaluating proposed agricultural use of Conservation lands are as follows:
  - Preserve the land as agricultural land for future generations
  - Preserve and enhance the quality of the soil for agricultural purposes
  - Preserve vistas of open fields
  - Preserve open space, which provides special habitats for wildlife
  - Provide value and opportunity to the community, especially Marshfield residents; “value” is meant to include food for humans or animals, as well as possible in-kind remuneration services and educational events; “opportunity” is meant to include local food growth, including community-supported agriculture, educational events on agriculture and wildlife habitats, and possible private farming activities
  - Licensing priority would be to a Marshfield resident, business owner, or local farmer; provide the greatest resident benefit of the licensing activity; minimize impact on the land in terms of intensity of disturbance and structure(s) to achieve the general objectives as stated
  - Decision preference will be based on the following criteria:
    - Food grown for local consumption by humans or livestock
    - Prior successful and proper use of the land by the farmer
    - Will preserve soil quality and use soil-conservation practices including crop rotation and cover cropping
    - Utilize best management plans for fertilizer/pesticide use
    - Minimal or no infrastructure such as roads, fences, buildings, etc., with detailed restrictions set forth on the license
    - Preservation of natural vistas/habitat
    - No hindrance to public use of existing trails/areas
    - Use of appropriate equipment for farming
    - Provide opportunity for more diverse agricultural use in town
    - Farmer is a Marshfield resident or associated with local activities
    - Operations may provide educational opportunities
    - Applicant has a plan to return the land to its pre-existing state after expiration of license
- JK notes that these guidelines are meant as a guidance document as opposed to a regulatory document, and need not prevent this or any future Commission from approving any application or use deemed appropriate.
- BO notes that he shared the first draft of the guidelines with the Agricultural Commission and received some comments back; he would like to know if the subsequent drafts went back to them; JK believes they did. BO would like to approve the first paragraph of the guideline document now but wait to approve the remaining guidelines. JK notes that the guidelines have been amended to specify that the Commission would seek comments from interested parties to assist in its decision-making; these interested parties would include Agricultural Commission, Recreation & Trails, local residents, abutters, and other bodies as appropriate; he feels that this addition will ensure that other entities will be looped in appropriately on proposals.
- BO feels the guidelines are much improved, but would still like to hear more feedback as the Conservation Commission’s time is limited, and thus other groups will probably have to develop their own vetting processes for proposals. JK feels this would amount to Conservation delegating its authority to other bodies.
- BO also notes that the deed for the Mounce property specifies protection of watershed resources, and feels that additional caution about the use of pesticides/agents on this property is warranted.

- BG notes that he has researched past farming contracts for the property, and found them to be very short and general. With respect to the use of Conservation land generally, BG feels the Conservation Commission should remain the ultimate decision-maker.
- FW notes that Mounce's is currently the only Conservation land available for farming, and would like the agricultural guidelines to apply specifically to Mounce's. BG feels the guidelines could help address encroachment issues that occur at all Conservation properties.
- AL supports implementation of the document, but suggests that the guidelines be split into two documents, with the agricultural guidelines broken out as "Guidance for proposed agricultural activities for Conservation-stewarded land" and the remaining guidelines directed towards proposed activities for Conservation-stewarded land. After some further discussion regarding the applicability of the guidelines to non-agricultural activities, JK states that he would like a vote to accept or not accept the document as presented.
- AL motions to accept the guidelines as presented. PC second. The motion carries by a 3-2-0 vote, FW and BO having voted no.

## **PUBLIC HEARINGS**

### **On / After**

- Prior to the start of the hearings, JK advises that the hearings for 2816 (Holbrook), 2825 (Curtis), 2829 Gomes, 2835 (Waterman Ave), and 2842 (Summer Street RT) are being continued. The applicant for 2814 (Smith & Sons) has withdrawn, which will be ratified at this meeting.

### **19-37 Recreation Trails Com., Ocean St to Station St (Bridle Path-Rail Trail Improvements).....NEW (Jim)**

- JK reads the legal ad. Hearing Officer JK confirms administrative requirements are complete.
- Ned Bangs (NB), Vice Chair of the Recreational Trails Committee (RTC), presents for applicant. Keith Rice (KR), RTC Secretary is also present. The proposed project concerns improvements to the Rail Trail/Bridle Path between Ocean and Station Streets. As the trail passes through possible resource areas/buffers, they worked with BG to prepare a Request For Determination of Applicability (RDA). They are looking to add a 6 inch deep, 10 ft wide (on average) layer of stone dust to the trail to improve walkability. They are willing to narrow this in areas close to wetlands.
- JK asks for comments from the public; none.
- BG comments that the trail runs through Riverfront area and buffers to multiple wetlands, but the trail itself is a previously disturbed environment, having been built on a hard-packed rail bed with a long history of use. BG agrees that the trail is in need of maintenance, and feels the project is eligible for the Chapter 505-10B(2D) exemption for work on public nature trails in the buffer zone as well as the 310 CMR 10.58(6a) exemption for work on previously existing rail lines within riverfront.
- BO notes that he has been working off and on with the RTC on this and other projects; he has spoken to the Town Planner about the project and he would like to know whether grading work near South River Street will require engineering and Commission review. NB indicated that the plan is to have upland areas of the trail graded; this will be done by DPW prior to the placement of the stone dust. BG feels the grading is permissible given they are staying in the original footprint. He will walk the site with the DPW workers prior to the start of work, and point out the areas they need to avoid grading in.
- BO feels that the Commission has to hold Town projects to the same standards and criteria as private applicants; BG concurs. JK suggests that the Commission review the project with applicants after the grading portion is completed. BO also feels that the first culvert south of Pinehurst will require repairs beyond the laying of stone dust, and is located in a sensitive area. BG is willing to review this area with the workers in the pre-start-of-work meeting.

- FW suggests a special condition requiring sketch plans/cross-sections for the areas of concern prior to the start of work. BO concurs, and notes that RTC has engineering funds that can pay for the sketches. After further discussion, the Commissioners agree to the addition of special conditions requiring (1) the submission of sketch plans for the grading work near South River Street/Pratt Property and culvert repairs south of Pinehurst prior to grading, and (2) prevention of stone dust from spreading beyond the 10 ft wide footprint and 2 ft shoulder, especially in the aforementioned South River, Pratt Property, and Pinehurst areas.
- JK motions to close and issue a DOA, Pos. #5, Neg. 5 for the Town and State exemptions, and Neg. # 3, with special conditions as drafted by BG and read by JK. AL second. Approved 5-0-0.

**19-45 Rightmire, 70 Warren Avenue (ATF Pool Deck and Landscape).....NEW (Art)**

- JK reads the legal ad. Hearing Officer AL confirms administrative requirements are complete.
- Landscaper Lou Seoane (LS) presents for applicant. He was hired to replace the property's pool decking and patio area, plus do some wall repair; all work was in existing footprint except for an extension of the wall, and the work area extended into the 50-100 ft setback to a wetland previously delineated by South River Environmental as part of a project involving decks and additions in the 100-foot buffer zone. The new patio is comprised of concrete pavers, vinyl mesh, and various layers of crushed stone, and is designed to be pervious.
- BO asks what material was used in the previous patio; it was previously a concrete-stone aggregate that was not pervious. AO asks about the placement of conservation markers; BG states there are currently two markers on the property. More could be added.
- BG comments that this matter came to his attention via a phone call from a Town official; he subsequently advised property owners to file an after-the-fact Request For Determination of Applicability (RDA). BG concurs that the work area is a previously disturbed environment auxiliary to the house, and that the exemption allowing the conversion of lawn accessory to residential structures is applicable. The proposed work is beyond the 50-foot setback. The standard conditions of approval will apply.
- AL asks for comments from the public; none.
- AL motions to close and issue a DOA, Pos. #5, Neg. #5 for the state exemption, and Neg. # 3, with special conditions drafted by BG. JK second. Approved 5-0-0.

**2846 Moran, 150 Cedar Acres Road (Addition & Relocate Septic).....NEW (Frank)**

- JK reads the legal ad. Hearing Officer FW confirms administrative requirements are complete.
- Dave Newhall (DN), Merrill Engineers, presents for applicant Jim Moran (JM). The subject lot has a previously permitted and constructed pool under Orders of Conditions; there is a BVW in the rear of the property. The proposed work involves construction of a 12' by 36' addition off the back of the house, in previously maintained lawn area about 78 feet away from the wetland, plus relocation of an existing septic tank to existing lawn area about 56 feet from the wetland. Silt sock erosion control is proposed downgradient from the work area. They are proposing to add conservation markers along the tree line in back of the property. A hearing with the Board of Health is pending.
- BO asks whether the tank is being relocated solely to accommodate the addition as opposed to a title V failure. DN indicates the relocation is to accommodate the addition only. BO notes that he visited the site and had no issues with the work as proposed.
- FW asks for comments from the public; none.
- BG reads the standard conditions of approval into the record plus a special condition requiring the placement of five conservation markers as shown on the final approved site plan.

- FW motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. BO second. Approved 5-0-0.

**2845 Rigby, 131 Winslow Cemetery Road (Septic).....NEW (Frank)**

- JK reads the legal ad. Hearing Officer FW confirms administrative requirements are complete.
- Bob Crawford (BC), EET, presents for applicant. The existing septic system on the property has failed Title V inspection, and applicant would like to replace the system with a 450 sq ft tank with leaching chambers; the lot is located in LSCSF, thus requiring filing with the Commission.
- In response to a query from FW, the existing cesspools will likely be pumped dry and filled with sand. FW feels the upgrade will be an improvement from the previous system.
- FW asks for comments from the public; none.
- BG advises that the standard conditions of approval would apply, including that the grass cover over the new system exhibits successful growth prior to issuance of the COC.
- FW motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. AL second. Approved 5-0-0.

**2798 VRT Corp, 0 Enterprise Dr. (Amend Drive, Storm Water Basin & utilities....cont from 12/3/19 (Bert)**

- Continued Hearing. Hearing Officer BO confirms administrative requirements are complete.
- Terry McGovern (TM), Stenbeck & Taylor, presents from applicant. TM notes that at the hearing on December 3, 2019, the Commission requested feedback from the Planning Department as well as additional planting details. TM, BG, and Brad Holmes (BH), ECR, have revised the language regarding the white pine trimming and mitigation plantings. They have also reached out to Town Planner Greg Guimond (GG) and Town Engineer Rod Procaccino (RP) regarding proposed relocation of the roadway reservation; GG confirmed that building out the proposed roadway reservation would require a conservation filing plus a need for additional drainage work. They have moved the proposed roadway reservation such that there would be no structural impact inside the 75 ft setback.
- BO asks TM if additional mitigation would be needed should be roadway reservation be built out; TM indicates this would be a separate conservation permit filing possibly requiring separate mitigation. JK asks if any more tree cutting beyond what is shown on the site plan will be required; TM feels the current site plan sets forth all the cutting required.
- BO asks for comments from the public; none.
- BG confirms he has worked with TM and BH on this matter, and notes that a new signature is needed on the illicit discharge statement. The standard conditions of approval will apply plus special conditions requiring the posting of 18 conservation markers as set forth on the site plan and 75% survival of the proposed mitigation plantings within two growing seasons.
- BO motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. FW second. Approved 5-0-0.

**2841 613 Careswell St. R.T., 613 Careswell St. (ATF Fence & Veg Removal).....cont from 11/26/19 (Bert)**

- Continued Hearing. JK reads the legal ad and Hearing Officer BO confirms administrative requirements are complete.
- Rick Servant (RS), Stenbeck & Taylor, presents for applicant along with Attorney Steve Guard (SG). SG indicates that the property has an original OOC that the house was built under, but that BG discovered some additional activity, in walking the property, that he felt warranted an after-the-fact Notice of Intent (NOI); this includes an agricultural fence around the property extending into the wetlands as well as vegetation removal within the 25 ft setback. The wetlands were recently reflagged, as

requested by BG, and the line adjusted accordingly; they have removed an additional portion of fence as a result of the new delineation.

- SG notes that the latest site plan proposes removal of any fencing inside the 25 ft setback, and also shows the removal of what he characterized as dead trees inside the 25 ft buffer. Homeowner has planted several spruce trees along the southwest side of the property that SG would like the Commission to consider as mitigation for the trees removed, along with 14 high brush blueberries that are to be planted. SG adds that the plan sets forth some grading that had occurred on the site to account for retaining walls that were removed, and that the originally proposed patio is not being built. The closest point the house will now get to the wetland line is 54 ft.
- In response to a query from BO, RS confirms that the area of the fence extending towards the Gov. Winslow School will be removed, as well as any portions of the fence extending into the 25 ft buffer.
- BG indicates that the most recent delineation was performed by Brooke Monroe (BM), Pinebrook Consulting, who added flags and adjusted others; he feels the new delineation accurately depicts the full extent of the wetlands in the area. BO would also like to know if it had been confirmed that all the trees to be removed are dead; BG does not believe all the trees are dead, but a number of them had sustained wind damage; he feels these could be removed if they were replaced at a 2:1 ratio.
- BG notes that the narrative for the previous NOI SE42-2428 indicated that there would be minimal clearing that in fact turned out to be much more extensive, so he feels that replacement plantings are needed if any more tree removal is to be permitted. SG indicates applicant is amenable to replacement plantings provided that a portion of the spruce trees planted be included in the total. BG notes that the trees planted were not permitted, and therefore does not want to count them as mitigation.
- AL asks why applicant wants to cut down damaged trees. RS indicates that the trees in question have lost large limbs and/or had their tops broken off. AL asks if any trees can be pruned and allowed to regrow. RS feels that most of the trees are too damaged to save. JK comments that he saw the trees in question on a recent site visit; some may be salvageable for another 5 years but some aren't; he agrees they are generally in poor condition.
- JK asks about details concerning which additional trees will be removed and where the replacements will be planted; SG indicates they would like guidance from the Commission on how to proceed, noting that 14 trees were removed and eight spruce trees planted. JK polls the Commission as to whether to count the eight unpermitted spruce trees as part of the 2:1 mitigation. BO no, given their location; PC no; FW no; AL no.
- BO asks if BG has any preference as to species on the mitigation plantings. BG would like to see additional Eastern Red Cedars, as they seem to be thriving on the site and do well in storms; locust and cherry are additional options. BG suggests that a planting plan be drafted by a qualified wetland scientist. JK agrees, noting that this is a challenging area in which to plant.
- The Commission discusses whether to require that all trees removed be mitigated with trees alone or a mixture of trees and shrubs. BO suggests trees alone for mitigation with additional shrubs to fill in. JK would like to hear from a wetland scientist as to what species would survive best and whether undergrowth would be beneficial. SG advocates for 1:1 replacement plantings in the buffer, but BG would like a minimum 2:1 replacement in the buffer, as the homeowner was not authorized to do any work in the 25 ft setback under the Original Orders/SE42-2428. BO notes that the area in which the unauthorized work occurred was heavily wooded previously, and thinks the cutting to create the lawn area may have damaged the trees to the point where they needed to be removed.
- FW would like to make sure any subsequent tree removal/planting doesn't harm the buffer further; BG recommends a condition that no wheeled or tracked vehicles be used inside the 25. FW suggests that the trees in the buffer that are still alive be pruned as appropriate, but not removed, as removing

some of the larger trees could result in land damage; AL concurs, and feels that some of the trees can be restored to health. BO feels winter is a difficult time to assess tree health. JK suggests that the scientist who prepares the planting plan issue a recommendation as to which trees may be salvageable. RS feels that most of the trees in question are not salvageable; BG agrees that a good portion of the trees have sustained some damage.

- BG reads his suggested conditions of approval, including that applicant not submit a COC request for SE42-2428 until the OOC for this filing (SE42-2841) has been recorded at the Plymouth Registry of Deeds; SG concurs. BG would also like a special condition specifying construction sequencing as follows: 1) fence removal; 2) mitigation plantings no later than Fall of 2020 and removal of approved trees; 3) placement of conservation markers; 4) construction of garage/driveway after notifying BG; 5) two years of mitigation planting monitoring, 75% successful survival within two growing seasons required.
- BG asks whether the proposed driveway will be paved, as it is all inside the 100 ft buffer; RS's understanding is that the driveway will be pervious, with stone pavers in front of the house. BG wants to ensure that the driveway is not paved in the future given its location, and notes this will be part of the conditions of approval.
- BO asks for comments from the public; none.
- The Commission directs the matter is continued pending receipt of a detailed planting plan prepared by a qualified wetland scientist.
- BO motions to continue the hearing to January 7, 2020. AL second. Approved 5-0-0.

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

- The hearing is continued until the next public meeting of the Marshfield Conservation Commission on January 7, 2020.
- JK motions to continue the hearing until January 7, 2020. FW second. Approved 5-0-0.

**2842 Summer St. R.T. / Julie Tweed, 922 Summer St. (Pier, Ramp & Float).....cont from 12/03/19 (Rick)**

- The hearing is continued until the next public meeting of the Marshfield Conservation Commission on January 21, 2020.
- JK motions to continue the hearing until January 21, 2020. PC second. Approved 5-0-0.

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

- JK reads the legal ad and advises that applicant has requested that the application be withdrawn.
- JK motions to accept the withdrawal. BO second. Approved 5-0-0.

**2835 Waterman Ave Private Rd Association, 49 & 54 Waterman Ave (Fence).....cont from 11/5/19 (Jim)**

- Per applicant request at the November 26 meeting, the hearing is continued until the public meeting of the Marshfield Conservation Commission on January 21, 2020.
- JK motions to continue the hearing until January 21, 2020. FW 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 next public meeting of the Marshfield Conservation Commission on January 7, 2020.
- JK motions to continue the hearing until January 7, 2020. AL 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 next public meeting of the Marshfield Conservation Commission on January 7, 2020.
- JK motions to continue the hearing until January 7, 2020. PC second. Approved 5-0-0.

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

**2412 Curley (Wilson), 25 Meadow [COC]**

- BG visited the site on 12/16/19, noting that splash pads were installed in place of the drywells specified in Condition G. As a written request from relief from this condition was duly received, he recommended issuance of the COC with ongoing conditions accepting the installation of splash pads in place of drywells, and that the four conservation markers remain in perpetuity with no mowing/vegetative management beyond the markers.
- JK motions to issue a COC for the property with ongoing conditions as noted. PC 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 visited the site on 12/16/19, noting that rain barrels were installed in place of the drywells specified in Condition G. As a written request from relief from this condition was duly received, he recommended issuance of the COC, accepting the installation of rain barrels in place of drywells.
- JK motions to issue a Completion COC for the property with condition as noted. FW second. Approved 5-0-0.

**2685 Devinentis Trust (Now Milton Corp. / Solimando), 1180 Ferry Street [COC]**

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

**2693 Banks, 89 Bourne Park Avenue [COC]**

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

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

- BG advises that he observed incomplete special conditions and recommended that the request be tabled.
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**2789 Flashner, 206 Carolyn Circle [COC]**

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

**ENFORCEMENT ORDERS**

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

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

New Owner, Winslow Avenue Ext.

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

MARSHFIELD CONSERVATION COMMISSION MINUTES



White, 180 Atwell Circle (Escalation letter in Process)  
Bednarz/ Nouza, 65 Ireland Road (Unpermitted Cutting <= 50 ft)  
Tamara Macuch, 237 Webster Avenue  
Stifter, 102 Bartlett's Island (unpermitted revetment wall)

## **BUSINESS**

### **B1 70 Little's Lane/SE42-2494 Planting Plan-Enforcement-SFH / Brad White & Nathan Sloane**

- Realtor Brad White (BW) present for Conservation Realty Trust, which manages the property, along with Gail McLaughlin (GM), personal representative to the estate of previous owner Christian Haufler (CH), and Attorney Jonathan Sloan (JS). JK confirms with GM that she has the legal authority to sign documents relating to this property; JS notes that the Commission had asked her to appear.
- BW advises that he has received a letter from Brooke Monroe (BM), who had previously worked on the property, containing her recommendation that about 30 high bush blueberry plants plus intermittent red chokeberry be planted at a relatively sparse area at the base of the slope of the property, in the spring of 2020, exact locations to be determined in the field. BW shows the Commissioners a map of the property and points out the proposed planting area. They would like to do the plantings, and then receive a COC for previous filing SE42-2494 and sell the property.
- JK comments that from the Commission's perspective, the matter at hand is noncompliance with the originally approved restoration planting plan to have been executed by the previous (now deceased) owner Haufler. BW adds that a potential buyer, who had received approval to plant blueberries up to the 50 ft setback, also passed away in the middle of the transaction. Mr. Haufler subsequently passed away, the plantings were never made, and the area cut has since grown back.
- BO notes that the large number (200) of blueberry bushes originally proposed was because Haufler wanted to establish a blueberry farm; since Mr. Haufler is deceased, he feels the 200 plantings should not be the benchmark for the updated planting plan. JK notes that with the passage of time, the nature and extent of the original cutting, and previous agent Wennemer's intent in addressing same, is less clear. JK does not personally recall an instance in which the Commission required such a large number of plantings, so he feels the originally approved planting plan for the 200 bushes may have been a reflection of what the applicant was seeking to do with the property. However, he also has difficulty with drastically scaling back the mitigation plantings given this is an enforcement situation.
- With respect to the cut area having grown back in, JK note that such areas are often overrun with invasive species; he would like to know exactly what species have grown in. BG feels that most of the grown-in species are natural, including greenbrier, but notes that BM did not provide specifics. The Commission reviews maps of the property to determine the area cut as well as the area of the proposed plantings. With respect to what was cut, BW does not believe trees were cut originally, as Haufler was physically handicapped and would have been unable to do so on his own.
- All parties discuss the desired quantity of plantings. BO notes that most of the cut area has grown back, but BG would like to see enough plantings to cover the planting area depicted in the 2014 site plan, and does not feel 30 plans are sufficient to do so.
- FW comments that he was the Hearing Officer at a public hearing in 2014, and does not recall the cutting to have been extensive; applicant was looking at establishing a blueberry farm at that time to qualify the property for an agricultural exemption. BG notes he talked to Agent Wennemer, and there was also concern about a cart path and possible boardwalk over a wetland area, but agrees some details have been lost with the passage of time. BG suggests that the Commission settle on an agreeable number of plantings somewhere between 30 and 200.
- After further discussion as to the intent of the originally proposed planting plan, JK requests that applicants provide a detailed planting plan from a qualified wetland scientist that includes plant

species, caliper size or height as appropriate, and location. BG suggests that the Commission provide a specific number of plants for further guidance; he would like to see some trees added, and four species of shrubs and trees in total.

- BO asks if the cottage on the property will be torn down; BW indicates their intent at this time is to leave it for the future buyer's consideration; JK requests that the site plan be revised accordingly.
- FW questions whether the Commission can overrule a wetland scientist's original recommendation; JK feels that the Commission can provide some guidance as to quantity and variety. AL does not feel the Commission is bound to accept a wetland scientist's recommendation verbatim, as they are hired by applicants; JK concurs. BG comments that he has never seen a planting plan with just one or two species, and notes that the Commission is the ultimate permitting authority.
- BW asks for additional guidance he can bring to BM; BG is willing to provide a list of species observed on a different area of the property by John Zimmer (JZ). JK polls the Commission on the number of plantings to request: FW 30; PC 30; BO 30; AL possibly seek second opinion.
- BW asks if a potential buyer can farm on the property outside the 100 ft setback; JK doesn't feel the Commission can properly answer the question and suggests they consult with the estate attorney. BW will follow up with BM to create a detailed planting plan and Bob Crawford (BC) to update the site plan. BG additional requests that BM provide a grid with plant species, quantity, and location. BG is willing to assist or review a draft plan.
- All parties discuss the timing of receiving the COC for SE42-2494. BG feels the plantings can be made in the spring of 2020, and the COC can be issued after 75% planting survival after two growing seasons. JS asks if a prospective buyer can obtain a loan in the absence of a COC. BG indicates that he was involved with a similar situation with a developer from Scituate that was resolved using an bond/assurity with the Town that was released back to the seller when the plantings were completed. BG states that if applicants get the planting done, the Commission may be in the position to waive one of the monitoring years at its discretion.

## **B2 89 Bourne Park/SE42-2693 Changes to Dock & Ramp / Bob Rego & Jeff Banks**

- Bob Rego (BR), Riverhawk Environmental, present along with applicant Jeff Banks (JB). The subject filing, SE52-2693, was for construction of a pier, ramp, and float; after obtaining all necessary permits, they proceeded with construction. During the pier installation, contractor Harbor Moorings advised that it would not be possible to get a barge up the South River to the property and install two 12-inch piles to hold the float in place via water-based pile driving, as originally permitted. Harbor Mooring would instead like to use a structural ramp connection to connect the float to the pier, and BR would like the Commission to approve this as a minor modification.
- JK notes that the removal of the two piles would be a net positive. PC would like to know how the float is secured to the dock without the piles; BR indicates that the ramp would be attached to the float and pier.
- JK notes that the updated site plan seems to show that the pier is about 10-15 feet over from where it was originally drawn, and would like to know why the location was shifted. BR indicates this shift was made to ensure the pier is 25 ft away from the property line. JK also notes that the length of the ramp is not defined on the plan; BR indicates the ramp length is about 27 ft.
- BG notes that BR has been in touch with Harbormaster Mike DiMeo, and notes that the additional dock/ramp length will be picked up by him, as it could create additional navigation issues; JK adds that this could be avoided if applicants revert back to the approved pier/ramp lengths. BR believes the pier/ramp were lengthened to clear the riverbank; applicant JB adds that he prefers the additional length to increase safety and usability at low tide. JK and BG recommend that applicants notify Harbormaster DiMeo and Dave Hill at MassDEP.

- BR indicates he will update the site plan to depict a 30 ft ramp. JK and BG recommend that BR clear the new pier/ramp dimensions with Harbormaster Dimeo and MassDEP, and reappear before the Commission for approval before sending the updated plans to the permitting agencies.

### **B3 74B/76A Marginal/ Unpermitted Fill / Commissioners & Paul Armstrong**

- Rick Servant (RS), Stenbeck & Taylor, present along with Paul Armstrong (PA) South Shore Pile Driving. PA distributes a packet showing photos of the site before the start of work. A concrete patio and stone wall were pre-existing on the site. Also included in the packet are drawings of the site by Grady Consulting and Stenbeck & Taylor, showing the existing and proposed grades. PA notes that in addition to cutting phragmites, he removed a significant amount of tires and other debris from an area on the bay side of the existing stone wall that was likely deposited by the tide. JK reviews the elevations on both side of the wall, noting differences between one side and the other. PA feels this discrepancy is largely a result of the debris he removed from the water side of the wall.
- PA feels the grading on the site ranges from 0 (pre-existing) to upwards of six inches. In some areas he is a foot lower and a few inches higher in others. The projects on 74B and 76A Marginal Road were filed as separate NOIs, but he ended up doing the work on both projects given the tightness of the space, so the demolition and grading on both lots were done together. During the process of pile driving, they encountered a significant amount of glacial till.
- AL notes that the properties on either side of the two work sites appear to be significantly lower. PA agrees but feels that 74 and 76 were raised up by a previous owner or builder.
- JK reviews the before and after pictures provided and comments that it appears to him that the area was razed and back-filled, in addition to being cleaned up. Additionally, it looks that stones were added to the wall without permitting. PA states that the wall was previously overgrown and covered by debris; the wall looks taller because he restacked the existing stones after the debris was removed, but he also added some stones to the wall that he recovered from the site during grading. JK notes that he observed stones in the wall that appeared to have claw marks from being moved; PA states he used his machine to rearrange the rocks in the wall. He is willing to remove rocks to make the wall even with the grade. He did not change the length of the wall.
- JK comments that the elevations on the site do not seem to have substantially changed before and after, based on what he is seeing; JK polls the Commissioners on this point and all agree. BG points out that they are missing the elevations for the area beyond the stone wall.
- With respect to the stone wall, FW is okay with the wall as modified, noting it is about an 18 inch wall. BG notes that PA's clearing and wall alterations have changed the previously tapered terrain. BO feels that the area that was cleared by the wall will likely fill back in, in short order; it doesn't seem like the area will be subject to scouring. FW doesn't think the property has been raised up; the wall is somewhat higher, but he would leave the wall as is.
- BG notes that the performance standards for projects in or near a salt marsh require that no portion of the marsh be destroyed and that the project not have an adverse effect on the productivity of the marsh. BG feels that the sharp edge of the new wall may have an adverse impact on the marsh, and may appear to be armoring to neighbors who may then want the same for their properties. He would like the wall to be rounded and smoothed out, and feels leaving it as is will deflect tidewaters onto neighboring properties.
- JK agrees with BG that the effect of PA's clearing and adding stone to the existing wall is to change the area from a natural slope to a sharp revetment wall, which the Commission does not want to encourage in the salt marsh area; he would like the slope to be re-created, possibly by moving back the top layer of stone. PC feels that the area would likely fill in naturally after a few storms.

- JK polls the Commission as to whether to ask PA to taper the top of the stone wall; JK taper top layer; FW wall OK as is, add some material to front of the wall to soften slope; AL taper top layer, neighbors will want same if wall left as is; PC wall OK as is, area going to fill in and slope will be restored naturally, removing top layer will be unsightly; BO don't need fill in front, think area will fill in on its own.
- John DeMeo (JD), 76A Marginal, shows BG and the Commissioners photos of his property, including where the cement pad used to be before he removed it to increase pervious surface area and points out that his property is fairly level with the driveway next to him. He questions whether removing the top layer of rocks would encourage erosion into the marsh. BG states there were no erosion issues before, but the work on the wall may create such issues with the neighbors; he has previously received complaints from other neighbors about both properties. In response to a query from JK, JD does not think removing the top layer of stones would improve conditions on the lot.
- All parties revisit whether fill was added to the site; FW contends the two engineered drawings show negligible change in grade and therefore no fill. BG feels the drawings, though accurate, are inadequate to prove that no fill was brought in. BG has suggested that all Commissioners visit the site to get a first-hand experience about the site conditions.
- BO suggests that the wall be left as is through the winter, to see whether any filling in occurs. BG points out that the Commission enforced on the Marsh property, on Bartlett's Island, and he subsequently removed the stones; he feels this is a similar situation that requires a similar response from the Commission. AL points out that the stone wall was previously much less substantial than it is now, so waiting until spring won't restore the site to the previously existing condition.
- PA indicates that he is willing to remove stones where they are sticking up higher, to help soften the grade, but would like some guidance as to acceptable wall height; BG is agreeable to this and willing to assist. JK asks PA to reappear before the Commission if any disagreements arise between BG and PA in the process.
- JK motions that the Commission accept Mr. Armstrong's offer to reduce the elevation of the stone wall in cooperation with BG. BO second. Approved 5-0-0.

**ADJOURNMENT** – JK makes a motion to close the hearing at 10:00 PM. BO 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
Rick Carberry	