

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

**MEMBERS NOT PRESENT** – Arthur Lage (AL)

**CALL TO ORDER** JK motions to open the meeting at 6:30 PM. BO second. Approved 4-0-0, FW having not been in the room for the vote.

**MINUTES** – None

**CHAIRMAN'S ADDRESS TBD**

- JK thanks the Commissioners for their efforts, noting that they put in many volunteer hours outside of attending the meetings. PC thanks JK for taking on the Chair role and for his efforts.
- JK notes that he received feedback from remote viewers of the meetings that they can't tell who the Commissioners are, and suggests that the Commissioners identify themselves by name at the start of each meeting.
- The Commission will continue to meet in Hearing Room 3, as it has more room for the Commissioners and applicants.
- JK asks BG if applicants are requesting specific continuation dates. BG indicates if an applicant has not provided administrative requirements (i.e. abutter notification), the hearing is continued to the next public meeting based on a date certain.
- JK met with the Norwell Conservation Commission to discuss their farm field leasing practices; he would like to develop a similar process for Mounce's Meadow.
- JK spoke to Town Counsel about the idea of a "parking lot" for ongoing continuances discussed at the previous meeting. TC indicated that this was not feasible, and hearings had to be continued to a date certain. JK will work with the Commissioners on an alternative solution.
- The revision of Chapter 505 regulations, concerning Wetlands Protection regulations, is ongoing.
- A new Guidelines for docks and piers in the Town of Marshfield document has been finalized and is ready for posting on the Web site. JK notes that the document provides guidelines for applicants but are not bylaws or laws, and can be changed by a majority vote of the Commission.
- BO asks whether the possibility of applicant self-licensing through Chapter 91 should be added to the language. BG feels this may increase the amount of time he has to spend providing assistance to applicants, as even experienced dock consultants seem to have difficulty with the process. BO notes that BG can politely set limits on such assistance. PC agrees that the procedure has gotten more complicated, with multiple agencies potentially being involved. FW notes that he permitted his dock himself, through a Chapter 91 (a 35-year) license; he would like to keep that in the regulations. JK notes that he and Commissioner PC have also been spending increasing time assisting dock applicants, to the point where they are essentially designing docks for them. JK agrees that an applicant can self-license, but feels most applicants do not have the necessarily qualifications to do so. PC suggests adding language recommending that applicant hire an engineering firm; FW does not want to add this language, as it is up to the homeowner to make this determination. CH is comfortable with the guidance doc with PC's suggested change. BG notes that the Commission already has a suggested consultant list for engineers, surveyors, and wetland scientists, and suggests that the language in this

document be made consistent with that which references the existing consultant lists. JK indicates that he personally is uncomfortable designing docks for applicants, and feels that applicants trying to design and permit complicated docks on their own will result in illegal activities requiring enforcement by the Commission. FW notes that plans designed by engineers can also run into problems, but JK states that plans designed by professionals have far fewer mistakes. PC suggests language stating it is “recommended but not required” that applicants hire a professional. BO is okay with adding this language.

- JK also notes that the Harbormaster requested that language be added specifying nylon rope be used on mooring balls instead of chains or wires. JK will add all changes to the guidance document and send it out for ratification next week.

## **BUSINESS**

### **B1 New Commissioner Recruitment Discussion / Commissioners & Joe Ring**

- Joe Ring (JR) present to discuss his application for appointment as a Commissioner. JK reads Mr. Ring’s application letter into the record. His family has lived in Marshfield for over 100 years, and he recently returned to Marshfield. He works as a physicist, but his early training was in marine biology and conservation. He is well versed in interpreting regulations and serving on committees.
- JK also reads a letter of support from Commissioner AL. AL has known Mr. Ring for many years, and finds him to be thoughtful, professional, and intelligent. PC feels that having a physicist on the Commission would be a useful addition.
- JK notes that the Commission is still seeking additional applicants and encourages interested residents to consider applying. The Commission will vote later in this meeting on whether to recommend Mr. Ring’s appointment to the Board of Selectmen.

### **B2 Discuss Consultant Lists for any modifications / Commissioners**

- Tabled.

### **B3 251 Damon’s Point Road/Enforcement Order Discussion / Brad Holmes, Ed O’Cain & Commissioners**

- Brad Holmes (BH), ECR, present along with property owner Ed O’Cain (EO). JK notes that cutting on the property was reported by a citizen. The matter went to the North River Commission and pictures were sent to him. The Commission subsequently issued an enforcement order and, at the January 21<sup>st</sup> Business Session discussion, voted 5-0-0 for a third party to assist with the restoration plan. Of the four consultants BG reached out to, only John Rockwood of EcoTec has provided a quote thus far. One consultant cited a conflict of interest and another was recently injured. Steve Ivas can’t get a quote in until March 1<sup>st</sup>. JK indicates that at this point EO can accept the quote from EcoTec, or he can wait to receive the Ivas quote and possibly reach out to other consultants.
- EC notes that North River Commission reached out to him, and they asked him to provide a vegetation plan, to which he agreed and hired BH to prepare. NRC also suggested that EC reach out to the Marshfield Commission, which he did. Citing the financial burden of paying for a third-party consultant in addition to BH, EC asks if the Commission could review BH’s plan before bringing in the third party.
- JK is sympathetic to EC’s concerns but notes that EC did the cutting, and the Commission is obliged to take certain actions when unpermitted activity occurs. The Commission has the ability to impose fines of up to \$300 a day for the infraction but has not done so. JK notes that the Commission decided that it needed assistance from a qualified wetland scientist, representing the Commission as opposed to EO, to design the best restoration plan, and voted 5-0-0 to seek such assistance on January 21<sup>st</sup>. JK

adds that BH's plan may be acceptable as is, but the Commission requires an independent professional review in this case.

- BH states that the Commission voted to hire the reviewer using Town funds; at that point, he suggested that all parties take a site visit before funds were expended. JK states that the point of business sessions is not to rehash previous discussions, and the vote to engage a third party reviewer would stand. Although it was indicated at that meeting that the Town would pay for the reviewer, Town Counsel subsequently stated that such reviews should be paid for by the violator. JK adds that additional consultants can be contacted, if EO wishes, to see if the review can be done at lower cost.
- BH feels the matter is at a standstill, as they haven't received any direction from the Commission aside from the e-mail chain from TC indicating that they must pay for the reviewer. As they are just receiving the EcoTec quote now, they have not had time to digest it. BH thinks the Commission may be in conflict with the regulations for hiring a third-party reviewer, as they haven't filed any application, but rather are the recipients of an enforcement order.
- BG concurs that the regulations reference filings rather than enforcement orders specifically, but states that TC advised the Commission that either the review could be paid for by EO now under the enforcement order, or the Commission could request that they file an after-the-fact NOI, at additional cost, and then pay for the review. BH reiterates that at the January 21<sup>st</sup> meeting, it was mentioned that the review would be paid for by the Town and not the applicant.
- JK asks EO to advise the Commission, prior to the next meeting, as to whether he would like the Commission to (1) accept the EcoTec quote, (2) solicit additional quotes, or (3) file an after-the-fact NOI and then pay for the review. BG notes that the Commission actually has the sole authority to approve peer review quotes, but applicant input is sought as a courtesy. In response to a query from BO, BG feels the review can get underway quickly after a consultant is selected. BH suggests that the Commission follow its standard procedure for hiring a third party. FW would like to see at least two quotes before a decision is made. EO would like to see two to three quotes to establish a ballpark range, but would also like the review to proceed quickly afterwards.
- The Commission discusses further whether to solicit additional quotes, and the impact on timing of review. BG asks whether applicant could agree to accept a quote, by e-mail, without a further vote of the Commission. JK feels that a vote is necessary. EO indicates he is looking for the quickest and easiest possible resolution of the situation; JK indicates that filing an after-the-fact NOI would incur additional costs. After a further discussion by all parties of the options, BG will follow-up with Steve Ivas and try to solicit additional quotes.

## **PUBLIC HEARINGS**

- Prior to the start of the hearings, JK advises that the hearings for 922 Summer St RT (2842), 613 Careswell RT (2841), Holbrook (2816), Gomes (2829), Curtis (2825), and Deprossino (2847), Freely (2854), Tedeschi Trust (2850), and 35 Parsonage (No DEP #) are being continued. Continuations are also posted outside the entrance to the meeting room.

## **20-01 DPW, Wellington Avenue (Drainage Improvements).....NEW (Art)**

- JK reads the legal ad and reassigns to FW. FW confirms administrative requirements are complete.
- Town Engineer Rod Procaccino (RP) present for DPW. They have filed a RDA for a proposed 12 inch culvert near the intersection of Washington and Wellington Avenues. The culvert will include energy dissipators; nearby wetlands were delineated by John Zimmer (JZ), South River Environmental. They are proposing wetland mix and plantings by hand as mitigation for any disturbance. The culvert is being installed to address abutter concerns regarding flooding. RP observed a remnant of a headwall about 25 ft to the south, but could not locate any drainage pipe. The culvert will be installed higher

than existing standing water, and will only function in high water events. Merrill Engineers observed mainly Type A soils in the area. RP also notes that Section 505-10 of the bylaws provides an exemption for work related to stormwater management structures in the buffer zone.

- BG feels the proposed activity in the wetlands is minimal; there appears to have been a pipe in the area before, but neither he nor RP were able to find it. Neighbors in the area have been complaining about excessive ponding, and the wetlands in the area would benefit from some water flow. BG feels the proposed mitigation would be an improvement over existing conditions given the relatively small alteration; a 1:1 replacement ratio is proposed, as 2:1 would be required the filling of wetlands but the altered area will be restored 1:1 in better condition than current conditions. No NHESP commenting will be required. BG has no issues with the wetland delineation.
- FW has no issues with the 1:1 replication, and notes there will be additional seeding outside the replication area. BO visited the site and feels the planting is sufficient as proposed.
- FW asks for comments from the public; none. BG notes that the standard conditions of approval will apply, including that plantings should be initiated in the first planting season after completion of the approved work.
- FW motions to close and issue a DOA, Pos. #2A, Pos #5 for Town Bylaw, Neg #5 for Town Exemption, Neg #3, with special conditions as drafted by BG. PC second. Approved 5-0-0.

**2853 Wood, 430 Holly Rd (Garage w/Deck, Wall, Fence, Expand Driveway & Propane Tank)...NEW (Bert)**

- JK reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- Applicant Andrew Wood (AW) present. He is looking to build a two-car garage, with a small deck in the rear and porch in front, over an existing driveway. As part of the project, they are looking to install a retaining wall within 32 feet of an existing wetland, as well as expand the existing driveway and put in a split rail fence above the wall. He is looking to pave the driveway to facilitate easier snow removal and less salt usage. He will need to remove three trees in expanding the driveway, and will plant six replacement trees. He would also like to expand the chain-link fence in the backyard to incorporate the septic mound.
- AW notes that behind the proposed addition, there is a retaining wall that will be replaced; there are high-bush blueberries behind the wall that will be relocated to the area of the new wall. AW distributes a brochure for the wall material, noting that there is crushed stone on the inside to allow water to flow through. JK would like to know if the wall will be permeable.
- JK asks AW if the work area is previously disturbed. The area of the addition is asphalt driveway.
- BG notes that currently roof drainage is routed by pipe, downhill into the buffer zone; he would like to see this runoff be filtered better, possibly through a drywell in the yard up gradient from the 50 foot setback, so it doesn't erode the hill. After further discussion, all parties agree that the pipe will be cut back and the drainage routed into a 4-6 ft precast drywell as a special condition.
- BG notes that there are 5-6 existing conservation markers but a sizeable gap between the left-side property line and driveway; he would like to protect against further encroachment down the hill, but after a brief discussion and review, agrees that the placement of additional markers may be difficult. BO thinks the existing markers are acceptable as placed.
- BO asks BG about the location of the beehives on the property; they are inside the 100 ft buffer but up gradient from the conservation markers. In response to a query from JK, AW states that the house was built in 1984, pre-dating the adoption by the Town of the 50 ft no-disturb buffer. There will be crushed stone between the new retaining wall and the driveway.
- BO notes BG's mention of a variance request letter in the Administrator Notes, but notes that the Commission had already asked applicant to change the filing from an RDA to a NOI, and feels the letter should have been asked for at that time. BG notes that the project is moving structures closer

to the wetlands; the Commission has required a variance in such cases. JK feels the bylaws give the Commission discretion in this instance to determine whether or not to require a variance. BO believes there is sufficient mitigation to allow the project without a variance; FW and PC concur.

- BO asks for comments from the public; none.
- BG advises that the standard conditions of approval will apply, as well as a special condition requiring the installation of the drywall referenced in the discussion.
- BO motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. FW second. Approved 5-0-0.

**2703 Boyd, 31 Island St (Amended-enclosed deck, add room above, remove structures).....NEW (Frank)**

- JK reads the legal ad. Hearing Officer FW confirms administrative requirements are complete.
- Homeowner Tim Boyd (TB) present to discuss a deviation from the Order of Conditions issued for SE42-2703, changing the second-story deck in back of the house into living space with an enclosed storage area underneath; this would involve a change to the footings to support the structure, all of which would be raised off grade, and the only disturbance to the soils would be from the piles. To offset the new footings, they are also proposing to remove an existing pergola, patio, brick building, and garage.
- BG notes that the amended project will result in a significant reduction of impervious surface on the lot; applicant is also providing conservation markers and a planting plan from John Zimmer (JZ), South River Environmental as part of the original Order of Conditions.
- JK notes that the amended project, given the mitigation and removal of impervious space, is a net-positive conservation-wise, while allowing applicant to implement his desired changes.
- BG notes that in addition to the standard conditions of approval, special conditions carried over from the previous filing, including the posting of conservation markers, completion of the planting plan with monitoring, and filing of an elevation certificate, will apply.
- FW asks for comments from the public; none.
- FW motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. JK second. Approved 5-0-0.

**2852 DPW, Union Street (Couch Cemetery Expansion).....cont from 2/4/20 (Frank)**

- Continued Hearing. JK reads the legal ad. Hearing Officer FW confirms administrative requirements are complete. JK notes that Commissioner PC missed the February 4<sup>th</sup> hearing for this matter but has signed a Mullin Affidavit, qualifying him to continue to vote on the matter.
- Dana Altobello (DA), Merrill Engineers, present along with Town Engineer Rod Procaccino (RP). The filing is a Notice of Intent for expansion of the Couch Cemetery in two phases, providing roughly 4600 new grave sites. The previous hearing was continued pending receipt of a NHESP comment letter. DA indicates that letters from NHESP have been received for both Phase I and II now.
- JK notes that the Phase II comment letter seems to indicate that applicant must (1) demonstrate that phase of the project will not have a significant impact on the local Eastern Box Turtle population, and (2) provide a Conservation and Management Plan that provides long-term net benefit to the conservation of the species. BG agrees that this will be the case when DPW proceeds with Phase II, and following the NHESP special conditions for both phases will be part of the Commission's OOC. BG also notes that if any major changes are made as a result of the NHESP conditions, DPW may have to file a new or amended NOI with the Commission. RP advises that Phase II will likely start in about two years.
- BG notes that FW expressed concerns at the previous hearing about regarding slopes and possible erosion, in the area between flags B37 through B61 that could possibly be mitigated with jute netting.

Also discussed was supplementing the planting plan with shrubs and trees; BG could assist in this, or a wetland scientist could be engaged. JK notes that BG posed this question by e-mail and three Commissioners replied that a wetland scientist should be used given the proximity to the buffer zone; FW does not concur. RP is willing to reach out to John Zimmer (JZ) with respect to the planting plan.

- BG notes that FW and BO also questioned the use of herbicides/pesticides near the buffer zone at the previous hearing. DA indicates their plan was to use a slow-releasing organic fertilizer, with no agents used within the 50 ft buffer on the slopes. FW would like this to be incorporated into the Order of Conditions, including a statement that pesticides/herbicides would be excluded within the buffer zone. DA reiterates that they are proposing to not use any agents within the 50 ft buffer. FW would like to see the “no use” zone extended to 75 ft in areas with a steeper slope. BG thinks that strategic planting and landscaping can accomplish the same objective; he wants the plan to be simple enough for the landscapers to easily follow. JK suggests that the wetland scientist provide a recommendation in this area; BO concurs. BG will write into the special conditions that a wetland scientist be hired to review the planting plan and use of chemical agents.
- BG notes that peer-reviewer Pat Brennan (PB), Amory Engineers, has responded to the flooding concerns raised by abutter Steve Moraski (SM) at the previous hearing.
- FW asks for comments from the public; none.
- BG notes that the standard conditions of approval will apply, as well as special conditions requiring compliance with all NHESP special conditions, the hiring of a qualified wetland scientist with respect to the planting plan and use of chemical agents near the buffer zone, and the posting of 31 permanent conservation markers.
- FW motions to close the hearing and issue Orders of Conditions with special conditions to be drafted by BG. JK second. Approved 5-0-0.

**28 DPW, 35 & 123 Parsonage St & 1639 Ocean Street (Site Redevelopment).....NEW (Frank)**

- JK reads the legal ad. BG indicates that the hearing cannot close tonight, as one abutter was not notified and a DEP number has not yet been received, but noted a project engineer from out of town was present and asked that he be able to present. Commission consensus is that the project should not be discussed since the continuance was required for administrative reasons.
- BG notes that applicant is also seeking Commission feedback on certain aspects of the project; FW will assist.
- JK motions to continue the hearing to March 3, 2020. PC second. Approved 5-0-0.

**2849 Marsh, 110 Bartlett’s Island Way (Revetment).....cont from 1/21/20 (Jim)**

- Continued Hearing. JK reads the legal and, as Hearing Officer, confirms administrative requirements are complete.
- James Garfield (JG), Morse Engineering, presents for applicant. The proposed activity is the construction of a hybrid revetment wall with gaps to dissipate wave energy and plantings above and below the wall. The subject site was the focus of Enforcement Order SE42 (19-04) for filling the buffer zone with stone revetment without a permit. The homeowner subsequently removed all of the stone and returned months later for a due diligence review with BG, at which time BG suggested the hybrid option, as some degree of armament is required on the property.
- JG advises that, as requested at the previous hearing, they have pulled the revetment further back from the salt marsh, to about the edge of the existing line. They have also reused some of the high tide bush, and are proposing to relocate some of these plants to the toe of the revetment on the marsh side.

- BG believes applicant has addressed the concerns raised at the previous hearing, as the revetment has been moved back 5-8 feet on average, and he has no further issues.
- JK thanks applicant for working cooperatively with the Commission and complying with its requests.
- JK asks for comments from the public; none.
- BG notes that, in addition to the standard conditions of approval, a special condition requiring implementation of the planting plan referenced in the plan of record, with 75% successful growth within two growing seasons, and allowing for periodic maintenance of the plantings going forward.
- JK motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. PC 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 March 3, 2020. Deadline for receipt of additional requested information lapsed.
- JK motions to continue the hearing to March 3, 2020. CH second. Approved 5-0-0.

Commissioner CH recuses and leaves the room.

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

- Continued Hearing. Hearing Officer BO confirms administrative requirements are complete.
- Rick Servant (RS), Stenbeck & Taylor, presents for applicant. The property has an original OOC/SE42-2428 that the house was built under, but that BG observed some additional activity based on multiple complaints and subsequently walking the property that warranted an after-the-fact NOI, including a fence around the property extending into the wetlands as well as vegetation removal within the 25 ft setback. Since the previous hearing, RS, BG, and Arborist Dave Harrington (DH) have met on site to review 14 trees they wished to cut as well as discuss replanting. The total number of trees to be cut is now reduced to 11, which will be replaced at a 2:1 ratio as agreed to previously. They gave prepared a planting plan showing the trees to be removed, including caliber and species, as well as the replacement species, caliber, and locations. The replacements will primarily be eastern red cedar, maple (sugar and red), and red oak.
- BG confirms that all parties agreed to removal of the 11 trees and the planting of 22 replacements; 14 high-brush blueberry shrubs will also be planted. The plan also shows removal of the fence but not the sections to be notched with a 6-inch clearing at the bottom to allow for wildlife movement; this should be captured in the special conditions as well as the construction sequencing.
- BO asks for comments from the public; none.
- BG advises that in addition to the standard conditions of approval, special conditions as to construction sequencing, planting plan, placement of conservation markers, and fence notching for wildlife movement will apply. BG reads the draft special conditions in their entirety into the record.
- JK thanks RS and applicant for working with the Commission to resolve all outstanding issues, and thanks BG for his diligence in writing the special conditions.
- BO motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. FW second. Approved 4-0-0, CH having recused.

Commissioner CH returns to the public meeting.

**2850 Jan M. Tedeschi Trust, 100 Marginal Street (Pier, Ramp & Float).....cont from 1/21/20 (Rick)**

- The hearing is continued until the next public meeting of the Marshfield Conservation Commission on March 3, 2020. Applicant requested continuation in writing.

- JK motions to continue the hearing to March 3, 2020. BO 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 March 3, 2020. Applicant requested continuation in writing.
- JK motions to continue the hearing to March 3, 2020. PC 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 March 3, 2020. Applicant requested continuation in writing.
- JK motions to continue the hearing to March 3, 2020. FW 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 March 3, 2020. Applicant requested continuation in writing.
- JK motions to continue the hearing to March 3, 2020. CH second. Approved 5-0-0.

**2854 Freel, 70 Cohasset Ave (Septic, Grading, Clearing, Swale, Xing Drainage Ditch to Main....NEW (Rick)**

- The hearing is continued until the next public meeting of the Marshfield Conservation Commission on March 3, 2020. Applicant requested continuation in writing.
- JK motions to continue the hearing to March 3, 2020. FW second. Approved 5-0-0.

**2847 Deprossino 556 Holly Road (Lot 8) (New SFH).....cont from 1/21/20 (Bert)**

- The hearing is continued until the next public meeting of the Marshfield Conservation Commission on March 3, 2020, as per motion made at January 21, 2020.
- JK motions to continue the hearing to March 3, 2020. BO second. Approved 5-0-0.

**REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS**

**2650 Spectrum Homes Inc., 108 Webster Street & Adelaide Way [EXT]**

- Applicant has requested an extension on the Subdivision Order of Conditions SE42-2650. BG notes that work is progressing as set forth in his Administrator notes to the Commissioners, but would like to convey to the developers that progress on implementation of all conditions, including plantings and conservation markers, is expected.
- BG indicates that AL, the original hearing officer, is concerned about the easement/public path through Lots 13 & 14 as well as compliance with all conditions. There was not a specific timeline as to the plantings and marker placement. BG feels applicant has been cooperative, but some issues remain.
- All parties discuss whether to extend the OOC 1, 2, or 3 years. JK feels two years is appropriate, noting applicant's cooperation but also that it is a complicated project. JK polls the Commission as to duration of extension: JK 2 years; FW 2 years; CH 2 years; PC 2 years; BO 2 years.
- JK motions to issue a two-year extension on Order of Conditions SE42-2650 for the property. CH second. Approved 5-0-0.

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

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



## **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)**

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 (Continued)**

### **B4 New Commissioner Recruitment Discussion / Commissioners & Bill Grafton**

- The Commissioners note Mr. Ring's experience and qualifications, and agree to forward his name to the Board of Selectmen for appointment. BG will initiate the process so he can be appointed as soon as possible.
- JK moves to recommend Mr. Ring to the Board of Selectmen for appointment as a Commissioner. BO second. Approved 5-0-0.

### **B5 206 Carolyn Circle-Flasher SE42-2789 Adam Brodsky**

- Attorney Adam Brodsky (AB) present, representing applicants, along with Rick Servant (RS), Stenbeck & Taylor. Also present is Assistant Town Counsel Anthony Riley (AR). The subject project was the installation of an in-ground pool in buffer zone to a BVW. The property abuts the North River and there is also a FEMA flood zone and salt marsh nearby. Applicant's back lawn slopes down to the BVW. AB notes that the Order of Conditions issued in February of last year included a special condition requiring the placement of conservation markers along the 25 ft buffer line. AB notes that, at the hearing, RS suggested that the markers be placed at the edge of the existing lawn, but after some discussion, the site plan was marked up to place the markers roughly along a line from the shed. AB states that applicants were unable to attend the hearing and would have objected to the placement of the markers at that location, as they would like to maintain their existing lawn in back. AB feels this area will be overgrown with phragmites if not mowed, and requests that the markers be relocated to the edge of the phragmites. AB adds that under 310 CMR 10.02 (2b)2e, the mowing of lawns is exempt under the state WPA, and he believes the local bylaw also allows for this exemption although not specifically referenced. AB distributes a copy of 310 CMR 10.02 (2b)2e for the Commissioners' review.
- JK asks whether the fact that an applicant doesn't show up at a public hearing is any reason to change the decision issued at the hearing? AB states his clients do not wish to re-argue the project or contest the Orders, but are asking to relocate the markers to the edge of the lawn. JK notes that there was a lot of back and forth discussion as to where the line should be, and having the markers at the 25 ft buffer was the only tradeoff they asked in exchange for allowing the additional structures (pool patio, etc.) to be built in the buffer zone. JK also notes that they did not require the shed to be moved, and in fact placed the markers downgradient of the shed, and feels that homeowners would have better understood the tradeoffs had they attended the hearing.

- AB distributes 2001 and 2007 photographs of the lawn, as well as a long-standing path through the phragmites to the salt marsh. AB adds that structures are allowed in existing lawn area in the buffer zone without mitigation. JK notes that no objections were raised at the hearing but would like to offer a compromise, which TC found acceptable upon review, whereby the 25 no-touch zone be maintained but homeowners would be allowed to do periodic cutting during the dry season, without disturbance of the roots and not more than once every four years, so as to maintain their vista. AB is willing to take the proposal to his clients but states they are not simply looking to maintain their vista, but rather maintain the lawn and prevent the area from being overrun with phragmites. AB also feels that the 25 ft no-touch serves no purpose on this property and location given the presence of the phragmites.
- BG comments that the 100 ft buffer has a higher value for coastal dune and salt marsh than it does for other resource areas and must be protected accordingly. At this property, multiple structures had been added inside the 100 ft buffer and, when this latest project came before the Commission, a plurality of the Commissioners (3-1) voted that the markers should be put in place.
- BO asks whether phragmites are considered an invasive or a protected species? JK believes they are an invasive species that are protected as part of the salt marsh according to the state. CH notes that the wildlife value of lawn is minimal to zero. AB notes that the lawn has been in place where it is for decades, and he is not aware of any evidence of any ongoing encroachment towards the salt marsh.
- JK comments that, given that the Commission had permitted all projects proposed for the property in the buffer zone, some after the fact, he cannot envision changing the ruling, as he feels it may send an improper signal and prompt multiple similar requests. FW would like to know more about JK's proposed mowing compromise. JK spoke to Town Counsel, Bob Galvin regarding the proposal; TC indicated he was okay with the Commission offering this compromise.
- AB feels that the cutting would have to be done more than once every four years, and would like the Commission to consider other alternatives. JK would like the Commission to either affirm its previous decision or accept the compromise if agreed to by the homeowners. AB would like time to work with a wetland scientist to offer some additional alternatives, as there may be more advantageous forms of mitigation that may better achieve Commission objectives with respect to the resource area. JK notes that the public hearing was closed last year, and homeowners had an opportunity to be present at the public hearing.
- FW notes that the discussion tonight is a business item that should normally only take 5-10 minutes, and not an exhaustive discussion of alternatives, and the 25 ft no-touch zone is part of the town bylaw.
- JK motions that the Commission deny the request to alter its previous decision and require that the markers remain where they are. CH second. Approved 5-0-0.
- AB wishes to put on the record that the discussion tonight was a conversation and not a hearing; JK and BG affirm that this was a business discussion.

#### **B6 50 Ocean Street/Modifications – James Marathas & Commissioners**

- Homeowner James Marathas (JM) present. He recently elevated his house and the yard has been graded. They are looking to loam and reseed their yard in the Spring, but significant over wash, splash over is coming over the seawall and spreading throughout the yard. JM feels this will wash any loam out into the street, so he would like to put in rip rap or crushed stone where the yard abuts the seawall, so the seawater has something to drain into. This will also prevent seawater from washing onto neighboring properties.
- FW thinks, given the location of the property, that about 6 to 12 inches of stone will be needed so the water will drain properly. JK notes that the Town is asking property owners to allow sufficient space

for DPW and other entities to access the back of the wall, and it would be great if more owners did what JM is proposing.

- Commission consensus is that JM's proposal will be beneficial to all parties. JM notes he is almost ready to file the as-built plans for the previous NOI, and would like to show the added stone/gravel on the as-built. JK notes that MCC administrative policy allows small modifications such as this, resulting in less or no impact to the wetlands, to be captured in the as-built. The Commissioners agree that the changes can be captured on the as-built plan. JK reads the as-built plan title into the record as follows: As-built plan showing elevated house, 50 Ocean Street, Marshfield, MA, Parcel N06-07-08, dated 1/7/2020, Job 8026, prepared by Stenbeck & Taylor.
- JK motions that the Commission allow the project changes proposed by the homeowner to be captured in the as-built plan. FW second. 5-0-0.

**ADJOURNMENT** – JK makes a motion to close the hearing at 9:15 PM. PC second. Approved 5-0-0.

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

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