

**APPROVED MINUTES - CONSERVATION COMMISSION
TUESDAY, MARCH 17, 2020 7:00 P.M., MCTV STUDIO (HELD REMOTELY)
MARSHFIELD HIGH SCHOOL, FOREST STREET, MARSHFIELD, MA**

APPROVED 5/26/2020 R/C 6-0-0

MEMBERS PRESENT – James Kilcoyne (JK) Chair, Bert O'Donnell (BO) Vice Chair, Art Lage (AL), Frank Woodfall (FW), Joe Ring (JR), Bill Grafton, Conservation Administrator (BG)

MEMBERS NOT PRESENT – Rick Carberry (PC), Craig Hannafin (CH)

CALL TO ORDER – JK motions to open the meeting at 7:00 PM. FW second. Approved 5-0-0 by Roll Call Vote: FW-yes, BO-yes, AL-yes, JR-yes, JK-yes.

PLEDGE OF ALLEGIANCE

- Pledged by the Marshfield Conservation Commission.

MINUTES

- The minutes of the March 3, 2020 meeting were presented for approval. BG received one addition by e-mail; no further changes were made on the floor. BG confirms edits with the Commissioners.
- JK motions to accept the March 3, 2020 minutes as edited. JR second. Approved 5-0-0 by Roll Call Vote: JK-yes, BO-yes, FW-yes, JR-yes, AL-yes

CHAIRMAN'S ADDRESS

- JK reads the announcement, available on the Commission Web site, that meetings will be held remotely until further notice as per the Governor's Emergency Executive Order of March 12, 2020, suspending certain provisions of the Open Meeting Law. Meetings are recorded on Marshfield Community TV, and members of the public can call in to 781-837-3462 to make comments.
- JK reads the general rules and procedures for remote meetings, including that members of the public can record any portion of the meeting provided they announce who they are and identify the means by which they are recording. All votes' at all remote meetings will be taken by roll call. Commissioners must identify anyone listening in on their line, and must state their name each time, prior to making comments. The meeting will be suspended if any Commissioner is disconnected, and will resume once they reconnect; the same applies for any presenting applicant. The call-in line can only handle one call at a time, so members of the public should try again if they receive a busy signal. Guidelines for remote meetings are available on the Town Hall Web site.
- JK adds that the general procedure for hearings is that 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 welcomes Commissioner Joe Ring to the Commission and thanks him for volunteering. Now that there is a full set of Commissioners, he would like to obtain some alternates and develop a new recruitment strategy.
- Given the State of Emergency, JK would like to table efforts to find a farmer for Mounce's Meadow this season, and arrange for the meadow to be cut as needed.
- JK notes that a new continuation policy was approved at the last meeting, whereby "should an applicant request three continuances, or should they fail to properly address questions of the Commission for three hearings, then on the third date the Commission, at their discretion, may open the hearing and deny without prejudice for lack of information. By denying without prejudice versus a regular denial, the

applicant will be able to reapply for a new Notice of Intent when they have all the necessary information to proceed and do not have to wait the two year period.”

BUSINESS

JK motions to table all business items, Certificate of Compliance and Extension Order of Conditions requests, and Enforcement discussions. AL second. Approved 5-0-0 by roll call vote: AL-yes, FW-yes, BO-yes, JR-yes, JK-yes

B1 1087 Union Street/SE42-2828 Chute (now Campbell) De Minimis Deviation Request – Campbell

- Tabled by vote of the Commission. See Business Session.

B2 Conservation Trails Kiosk Design Update/ Angela Scieszka & Commissioners

- Tabled by vote of the Commission. See Business Session.

PUBLIC HEARINGS

- Prior to the start of the hearings, JK advises that the hearings for Murphy (1213 Ferry; SE42-28XX), Brown (20 Shady Ln; SE42-28XX), SHM Green Harbor (239 Dyke Road; SE42-28XX), Summer Street Realty Trust (922 Summer Street; 2842), Holbrook (26 Cove Street; 2816), Gomes (76 Carolyn Circle; 2829), Curtis (3 Cove Creek; 2825), Tedeschi Trust (100 Marginal Street; 2850), and Sailors Valentine Trust (34 Marginal Rear; 2857) are being continued. Continuations are also posted outside the entrance to the meeting room.

On / After

2860 Murphy, 1213 Ferry Street (Extend Pier, Ramp & Float).....NEW (Jim)

- JK reads the legal ad; the matter is continued to April 7 at written request of applicant’s representative.
- JK motions to continue the hearing to April 7, 2020. FW second. Approved 5-0-0 by roll call vote: FW-yes, JR-yes, AL-yes, BO-yes, JK-yes

2861 Brown, 20 Shady Lane (Septic Repair).....NEW (Bert)

- JK reads the legal ad; the matter is continued to April 7 at written request of applicant’s representative.
- JK motions to continue the hearing to April 7, 2020. FW second. Approved 5-0-0 by roll call vote: FW-yes, JR-yes, AL-yes, BO-yes, JK-yes

2863 SHM Green Harbor LLC, 239 Dyke Rd (Replace storage/shop & parking/drainage impvts).....NEW (Art)

- JK reads the legal ad; the matter is continued to April 7 at written request of applicant’s representative.
- JK motions to continue the hearing to April 7, 2020. FW second. Approved 5-0-0 by roll call vote: FW-yes, JR-yes, AL-yes, BO-yes, JK-yes

2859 DPW, 0 - 440 Ocean St. (Region 2 Brank Rock Coastal Infrastructure Repairs).....NEW (Frank)

- JK reads the legal ad and confirms administrative requirements are complete. FW hearing officer.
- Town Engineer Rod Procaccino (RP) present for DPW along with Senior Project Engineer Jeramy Packard (JP) with Foth/CLE. The filing is a Notice of Intent for continuing maintenance of the coastal protection structures within Region 2, which comprises the Brant Rock area. Earlier work was permitted along Bay Avenue. The specific project area goes from Green Harbor Point to 440 Ocean Street. The purpose of the filing is to allow the Town to perform ongoing maintenance to any and all existing infrastructure in the region, including sea walls, revetments, and access ramps. This will allow the Town to more proactively perform maintenance and repairs.

- JP breaks down the nature of the request into three categories: Category (1) a description of work already performed by DPW under the emergency declaration following the March 2018 storms, including backfill, placement of armor stone, and seawall repairs; Category (2) an Order of Conditions for work proposed to be performed by DPW, including reconstruction of seawall and armor stone revetment in several spots; Category (3) authorization to perform ongoing periodic maintenance as needed, to include seawall patching, repair, or replacement; repair of damage by over wash; revetment repair/reconstruction; as well as temporary repairs. JP notes that the intent of Category (3) is the maintenance of existing authorized structures and not the addition of new structures or expanding the footprint of existing structures.
- FW thanks JP for his detailed explanation of the particulars. With respect to Category (1), he would like to know whether this would be handled through the issuance of a partial COC. BG believes the work under the local and state emergency declarations and certifications was authorized with the condition that a NOI be filed, but he would like to check the paperwork. BG feels this work can be captured in the as-built plans for the project as a whole, including the work to be performed in Category (2), and both phases Category (1) and Category (2) can be closed out with one COC; JK and FW are okay with this, but FW points out that this could result in a seven-year lag between performance of the work in 2018 and issuance of the COC if the Town seeks extensions.
- With respect to the reconstruction work proposed in (2) FW is satisfied with the drawings and details given in the current site plan. AL is okay with phases Category (1) and Category (2) but comments that the authorization for ongoing maintenance in (3) seems open-ended; JK would not support just saying DPW can at any time perform major concrete work in the resource area without a NOI, but is open to an ongoing authorization to perform minor maintenance. FW feels sufficient detail has been provided as to what would be authorized for ongoing maintenance.
- BO would like to know if a similar scope of ongoing maintenance/repair was authorized under the Bay Avenue filing. JP states that the previous filing broke the work down into the same categories and requested the same approval for maintenance. JP further states that any work performed in the future would be coordinated between RP and BG, and site meetings, abutter notification, and access authorizations would be involved as necessary. The purpose of the authorization sought under Category (3) is for the Town to not have to file a Notice of Intent, which he feels can be onerous for small repairs, and thus be more agile in their repairs. RP adds that major repairs would typically involve structural improvements or replacements which would not be authorized under Category (3), which he sees as authorization for minor or emergency repair work.
- AL would like RP's statement with respect to Category (3) authorizing just minor or emergency repairs to be specified in writing prior to a vote. JK confirms with BG that comments from the Harbormaster and MA DMF are also still pending, and suggests that RP and JP amend the narrative as to Category (3) to specify it applies to emergency and minor repairs; FW concurs but is otherwise satisfied with the submission.
- JK notes that a Town bylaw prohibits the addition of structures to seawalls, and comments on the need for balance between ensuring beach access for residents and protecting the seawalls.
- Rusty O'Dowd, 12 Ocean Street, comments that the seawall near his residence has no foundation beneath it, which he feels undermining the structure and causing sinkholes on the landward side of the wall. He would like to know if the proposed repairs will address the issues with the wall in this area. JP indicates there is no work currently planned, but this filing, if approved, would allow for repairs to be made.
- FW motions to continue the hearing to April 7, 2020. AL second. Approved 5-0-0 by roll call vote: FW-yes, AL-yes, JR-yes, BO-yes, JK-yes

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

- JK reads the legal ad and, as Hearing Officer, confirms administrative requirements are complete. JR recuses from voting.
- Terry McGovern (TM), Stenbeck & Taylor, presents for applicant. The proposed activity is the replacement of an existing failed cesspool, which has overflowed periodically, with a Title V compliant septic system. The proposal was approved by the Board of Health and they received the necessary variances. Based on their test pits, they have located the system uphill and to the right of the existing house; the area to the left of the house does not have suitable soils. The system will be about 12' by 18' and includes a 1500-gallon tank, 1000-gallon pump chamber, leaching system with 16 plastic chambers, distribution box, small retaining wall, and rubber membrane. It crosses an intermittent drainage panel that TM believes was formed by a pipe under Kingston Street. TM indicates that the system is located so as to minimize disturbance, as locating it closer to the house would require significantly more excavation. Construction access will be from Kingston Street and silt sock erosion control will be utilized. They are also proposing to install an erosion control swale to direct stormwater away from a downgradient abutter and towards a BVW.
- BG notes that the property is surrounded by wetlands; he sees no evidence of encroachment, and agrees that the system is located in the most suitable part of the property. FW indicates that everything on the plan is acceptable, but points out a notation stating "contractor to work from plan approved by Board of Health only," and asks if there are any differences between the plans submitted to Board of Health and Conservation. TM indicates that the two plans are one and the same; he adds this note to ensure the contractor works off the correct plan. BO feels that applicants have done the best they can in siting the system given the limitations of the lot.
- JK asks for comments from the public; none.
- BG advises that the standard conditions of approval apply.
- JK motions to close the hearing and issue Orders of Conditions with special conditions to be drafted by BG. FW second. Approved 4-0-0 by roll call vote: FW-yes, AL-yes, BO-yes, JK-yes; JR having recused.

2858 Robblee, 56 Weston Farm Path (Replace Deck).....NEW (Rick)

- JK reads the legal ad and, as Hearing Officer, confirms administrative requirements are complete. JR recuses from voting.
- Terry McGovern (TM), Stenbeck & Taylor, presents for applicant. The proposed activity is to replace the existing deck. The original proposal was permitted by a Determination of Applicability issued by the Commission on January 7, 2020. Applicants have since decided to expand the deck by approximately 250 sq ft, requiring the filing of a Notice of Intent as the structure moves closer to the wetlands. The concrete landing pad for the new deck will be slightly closer to the wetland line, but will be in previously disturbed area. On a site visit during the RDA review, BG noted that large trees in the back, within the 100 ft buffer, had been cut. The RDA was issued with a special condition requiring the placement of five markers, locations to be determined in the field.
- In response to a query from JK, TM indicates that the house was built in 1988, and therefore the "no-disturb" buffer for the lot is 25 ft. The lawn in the back yard extends to the resource area and has done so since the house was built. JK asks TM whether any trees were cut inside the 25 ft buffer; TM believes some of the cutting may have been.
- BG notes that the conservation markers and their documentation on the as-built plans will help to better preserve the buffer zone. JK would like the installation of markers to be considered more as memorialization of a resource area as opposed to mitigation.
- JK asks TM whether applicants would be willing to move the conservation markers 3 ft further from the resource area in exchange for having the landing pad 2 ft closer to the resource area. TM notes that the

marker locations had been worked out with BG in the field but JK notes that the Commission ultimately makes decisions regarding projects. TM notes that applicant is not on the line with him and is not comfortable answering on their behalf. BG is satisfied with the markers where they are, as their ultimate memorialization through reference on the COC recorded in the Registry of Deeds will provide long-term protection for the resource area.

- JK asks for comments from the public; none.
- BG advises that the standard conditions of approval will apply.
- JK motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. AL second. Approved 4-0-0 by roll call vote: AL-yes, FW-yes; BO-yes, JK-yes, JR having recused.

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

- JK reads the legal ad. Hearing Officer BO confirms administrative requirements are complete. JR recuses from voting. AL signed a Mullin affidavit, qualifying him to vote on the matter despite having missed the previous hearing.
- Frank Gallagher (FG), Gallagher Engineering, presents for applicant. The proposed activity is the construction of a single-family home. The subject property is located within the Chestnut Hill subdivision. In response to feedback they received at the previous hearing, they conducted additional soil testing and as a result have moved the septic system out of the 50 ft buffer to BVW and 100 ft buffer to vernal pool, to just south of the proposed swimming pool. They are proposing to add a polyethylene barrier around the system. Grading will be required for the system, but will remain outside the two buffers. They have also expanded erosion controls to better protect the resource areas.
- In response to a query from BO, FG indicates that Board of Health has not reviewed the updated septic system; they will submit the revised plans immediately to BOH upon approval.
- BG thanks applicants for the significant improvement to the plans and suggests that the Commission consider the posting of conservation markers along the 50 ft buffer to prevent future encroachment. FG is agreeable to placement of the markers. BO agrees with BG that the plan is a dramatic improvement from the original submission. JK agrees, and thanks the Commissioners for requesting changes at the original hearing.
- FW notes that the topological information seems to be different between the two site plans. FG noted that the information on the original plan was inaccurate when he dug the test pits, re-surveyed the area, and updated the new plan accordingly.
- JK asks for comments from the public; none.
- BG suggests that in addition to the standard conditions of approval, special conditions will apply requiring the posting of five conservation markers along the 50 ft buffer and submission of an updated site plan showing the markers.
- BO motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. FW second. Approved 4-0-0 by roll call vote, JR having recused.

JR returns to the public meeting having recused during the public hearings for SE42-2854/70 Cohasset (Freel); SE42-2858/56 Weston Farm Path (Robblee) and SE42-2847/556 Holly Road (Deprossino).

2842 Summer St Realty Trust / 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 April 7, 2020. Deadline for receipt of additional requested information lapsed.
- JK motions to continue the hearing to April 7, 2020. FW second. Approved 5-0-0 by roll call vote: FW-yes, JR-yes, AL-yes, BO-yes, JK-yes

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 April 7, 2020. Required quorum of Commissioners not present.
- JK motions to continue the hearing to April 7, 2020. FW second. Approved 5-0-0 by roll call vote: FW=yes, JR=yes, AL=yes, BO=yes, JK=yes

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 April 7, 2020. Required quorum of Commissioners not present.
- JK motions to continue the hearing to April 7, 2020. FW second. Approved 5-0-0 by roll call vote.

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 April 7, 2020. Required quorum of Commissioners not present.
- JK motions to continue the hearing to April 7, 2020. FW second. Approved 5-0-0 by roll call vote: FW=yes, JR=yes, AL=yes, BO=yes, JK=yes

2857 Sailors Valentine Trust, 34 Marginal Street Rear (Pier, Dock & Float).....NEW (Rick)

- The hearing is continued until the next public meeting of the Marshfield Conservation Commission on April 7, 2020. Deadline for receipt of additional requested information lapsed.
- JK motions to continue the hearing to April 7, 2020. FW second. Approved 5-0-0 by roll call vote: FW=yes, JR=yes, AL=yes, BO=yes, JK=yes

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 April 7, 2020. Deadline for receipt of additional requested information lapsed.
- JK motions to continue the hearing to April 7, 2020. FW second. Approved 5-0-0 by roll call vote: FW=yes, JR=yes, AL=yes, BO=yes, JK=yes

REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS

2716 Driscoll (Now Fidler), 410 Union Street [COC]

- Tabled by vote of the Commission. See Business Session.

2749 McGowan, 18 Paddock Way [COC]

- Tabled by vote of the Commission. See Business Session.

2789 Flashner, 206 Carolyn Circle [COC]

- Tabled by vote of the Commission. See Business Session.

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)

- All discussions related to the above Enforcement matters tabled by vote of the Commission. See Business Session.

ADJOURNMENT – JK makes a motion to close the hearing at 8:51 PM. BO second. Approved 5-0-0 by Roll Call Vote: FW-yes, BO-yes, AL-yes, JR-yes, JK-yes.

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
Craig Hannafin	Rick Carberry
Joe Ring	