

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

**MEMBERS NOT PRESENT** – None

**CALL TO ORDER** – JK motions to open the meeting at 6:30 PM. JR second. Approved 7-0-0 by Roll Call Vote: FW-yes, BO-yes, PC-yes, AL-yes, JR-yes, CH-yes, JK-yes.

**MINUTES** – None.

**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 make comments.
- JK advises that this is Commissioner Woodfall's last meeting and thanks him for his time and service to the Town and Commission.
- 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 notes that a new policy was recently ratified that limits applicants to three continuances, after which an application will be dismissed without prejudice. He would like to suspend this policy until the lifting of the state of emergency. All Commissioners indicate support.
- JK moves that the Commission suspend the continuation policy until the end of the state of the emergency or a Commission vote to reinstate. BO second. Approved 7-0-0 by Roll Call Vote: FW-yes, BO-yes, PC-yes, AL-yes, JR-yes, CH-yes, JK-yes.
- JK notes that Chapter 53 of the Acts of 2020, signed by Governor Baker on April 4, 2020 makes several temporary modifications to the Open Meeting Law. Section 17.2 suspends the requirement that a hearing by a government permitting agency commence within a specific period of time after the filing of an application, effective March 10, 2020 until the termination of the state of emergency. Once the emergency is lifted, the permitting agency has 45 days to hold such hearings. Section 17.5 states that "Notwithstanding the time periods by which a permit is to be heard or acted upon, a permit granting authority may, by a declaration of its chair, schedule or reschedule on one or more occasions the hearing or decision deadlines on a permit application; provided, however, that the chair may make a declaration

whether or not a quorum is present to vote on such matter; provided further, that no such date or deadline is rescheduled for more than 45 days after the termination of state of emergency or after a date otherwise prescribed by law, whichever is later. The chair will provide written notice of any applicable rescheduled dates or deadlines to the applicant at the applicant's address and to the general public by posting electronically on the website of the city or town clerk or the website of the county or regional entity."

- In light of the aforementioned provisions, JK proposes to cancel the Commission meetings on April 21 and May 5, unless the state of emergency is lifted prior to that date. All continued or scheduled hearings would be added to the agenda for May 19. FW asks about applicants in possible emergency situations or having a pending sale of a property. JK asks Assistant Town Counsel Anthony Riley if the Commission could take a vote in such situations without a public meeting. AR thinks this could be possible, but suggests that the Commission document what it considers to be an emergency for these purposes.
- The Commission discusses what would be considered an emergency situation warranting a special vote. BO cites septic repairs and COC requests prior to a real estate closing. BG thinks it may be possible for Board of Health to allow most emergency septic repairs to proceed without the Commission hearing. JK notes that all of tonight's hearings are for applications filed prior to Town Hall being closed. Now that Town Hall is closed and Conservation Administrator, Bill Grafton and Administrative Clerk, Liz Anoja (LA) are not in the office, there are numerous logistical impediments to scheduling hearings including but not limited to ensuring checks have cleared, arranging for public notices, and distributing applications and site plans for review. BG suggests that if the Commission cancel the next two meetings; all COC and OOC extension requests and septic repairs could be handled at the May 19 meeting, with other hearings being pushed further out, as allowed under Section 17.5; he also suggests that the May 5 filing deadline for such requests be waived.
- AL thinks the proposal to cancel makes sense, and emergencies can be taken case by case. PC concurs, noting it would be a significant challenge to have to review site plans in PDF format only, and the details that might be missed constitute a greater risk than delay to an applicant. PC adds that most real estate closings are likely being postponed in the current state of emergency. CH agrees with the delay, as she does not want to put BG and LA at risk processing paperwork or compromise the review process. BO concurs, noting these are exceptional times, and a clear deadline will give applicants the needed direction. JR agrees with the need to postpone.
- Based on Commissioner feedback, JK advises that he will invoke Section 17.5 of Chapter 53 of the Acts of 2020 and cancel the April 21 and May 5 meetings.

## **BUSINESS**

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

- Pat Campbell (PC2), 1087 Union, advises that he purchased the subject property in November 2019 subject to a Title V replacement, which was approved by the Commission at that time. During the repair process, construction vehicles damaged the north portion of the driveway, which is located in a buffer zone to a wetland. Further, a non-functional culvert nearby causes flooding issues at the lower points of the driveway. He would like to add approximately 1 ft of fill material to this section of the driveway, to where the new septic line was installed, as this would reduce the grade of the driveway and address drainage issues in the yard.
- JK indicates that two possible approaches were proposed, one with a more gradual grade and one with a steeper grade, to the Commission and asks Mr. Campbell which one he proposes to take. PC2 indicates he is proposing to use the fill to reduce the grade from 5% to 3% for its entire length. BG clarifies that this is the "gradual" option referenced; it would be possible to reduce impacts by going with a steeper grade, but this may present a safety issue. BO thinks this would be considered repair of an existing

driveway, which is allowed in the buffer; BG confirms this is typically allowable in the 50 to 100, but this work area is inside the 50. However, he feels the activity to be DeMinimis Deviation; additionally, the driveway is previously existing and its current condition presents a safety issue. BO visited the property and has no issue with the proposed repair.

- JK motions to allow the DeMinimis Deviation as proposed. Seconded and approved 7-0-0 by Roll Call Vote: FW-yes, BO-yes, PC-yes, AL-yes, JR-yes, CH-yes, JK-yes.
- BG asks that the As-Built plans for the septic include the two DeMinimis Deviations including a separate one discussed previously. JK thanks Mr. Campbell for proactively reaching out to the Commission.

#### **B2 De Minimis Activity/new Gas Line at 300 Ridge Rd under approved OOC SE42-2820 / Commissioners**

- BG notes that the house construction at 300 Ridge Road was approved in September 2019 under OOC SE42-2820; Columbia Gas is now seeking to install a gas line through the lawn to the new house from existing main line within the street. BG feels this activity to be a DeMinimis Deviation.
- JK asks for Commissioner comments; none.
- JK motions to allow the minor deviation as proposed. Seconded and approved 7-0-0 by Roll Call Vote: FW-yes, BO-yes, PC-yes, AL-yes, JR-yes, CH-yes, JK-yes.

#### **B3 89 Bourne Park/dock location review-Amended NOI or As-Built /OOC SE42-2693 / Commissioners**

- Bob Rego (BR), Riverhawk Environmental, present for applicant, Jeff Banks (JB). The Commission had previously permitted a pier, ramp, and float under OOC SE42-2693. After issuance of the OOC, additional changes were made as part of the Chapter 91 permit with Mass DEP, whereby the dock was rotated slightly to ensure it was 25 feet away from an abutting property. There was also a 5 ft extension of the dock into the river during construction, to ensure the ramp would not come in contact with the bank during low tide. BR reviewed these changes with BG and JK on the site, and he would like to be able to capture the changes on the As-Built plans as opposed to filing an Amended NOI.
- JK feels the changes have minimal impact on the environment, but also notes the tendency of docks and fixtures to not reflect what is actually in the plans approved by the Commission; he wants to ensure applicants come back before the Commission when changes are made.
- JK feels the Commission options are to (1) grant a COC with the changes captured in the as-built plans, (2) allow the changes to be captured in the As-Built plan but hold the COC until the float and ramp are in, or (3) request an Amended NOI for the changes. BO favors holding the COC until the float and ramp are in, but then capturing the changes in the As-Built, noting that in this case the ramp was moved further away from the abutter and he has no issue with the changes. AL favors requiring an Amended NOI, noting that when a plan is approved and applicant changes the plan, applicants should come back to the Commission. JR agrees with AL that applicants should loop in Commission as modifications are done; the Commission needs to know what it approved. CH agrees with AL in principle, but if impacts are minimal that is also a factor. PC notes that when he had to raise his own pier, he came back with amended filing. People have to come back if they are going to make changes to anything the Commission approves. FW favors holding the COC until the float and ramp are in but capturing the changes in the As-Built, as there was no detrimental impact, and the pier was shifted away from the abutter.
- JK motions to require an Amended NOI. Seconded and approved 4-3-0 by Roll Call Vote: BO no; AL yes; JR yes; CH yes; PC yes; FW no; JK no.
- BR notes that he reviewed the changes on site with BG and JK and states that if he had been advised to file an Amended NOI then, he would have already started the process. It was an oversight on his part, not the homeowner's, to not circle back to the Commission once changes were made in the Chapter 91 permitting process. JK feels the Commission's message to the public is to come back before the Commission if changes to a permitted project are made. FW feels that the fact that BG and JK were out

at the site after the OOC was issued would have been good to know before; JK notes that all Commissioners are invited out on site visits.

## **PUBLIC HEARINGS**

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

- The hearing is continued to the next public meeting of the Marshfield Conservation Commission at the written request of applicant representative.
- JK motions to continue the hearing to May 19, 2020. PC second. Approved 7-0-0 by Roll Call Vote: FW-yes, BO-yes, PC-yes, AL-yes, JR-yes, CH-yes, JK-yes.

### **20-02 Highland Street 36, Doherty (Septic Repair).....NEW (Bert)**

- JK reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- Darren Grady (DG), Grady Consulting, presents for applicant. The proposed activity is an emergency septic repair. There are two nearby wetlands, one across the street and one in the back yard. There are five test pits on the property that don't conform to Title V standards, two of which are in the 100 ft buffer and will need to be pumped and filled. The leaching field is outside the 100 ft buffer; a portion of the tank is inside the buffer, 91 ft from the wetland at its closest point. Silt sock will be utilized at the limit of work, 81 ft from the wetland.
- BG indicates he is satisfied with the wetland delineation, and notes that only 15-40 sq ft of work is inside the 100 ft buffer; Board of Health has approved the work as an emergency repair. BO did not visit the site but is familiar with the area.
- BO asks for questions from the Commissioners and public; none. BG advises that the standard conditions of approval will apply.
- BO motions to close the hearing and issue a Determination of Applicability, pos 5, neg 5, neg 3, with special conditions as drafted by BG. FW second. Approved 7-0-0 by Roll Call Vote: FW-yes, BO-yes, PC-yes, AL-yes, JR-yes, CH-yes, JK-yes.

### **2862 37 Duck Hill Ln, Duxbury Construction LLC (Garage Demo).....NEW (Art)**

- JK reads the legal ad. Hearing Officer AL confirms administrative requirements are complete.
- Freeman Boynton (FB), Duxbury Construction, presents for applicant. The proposed activity is to demolish an existing garage and foundation and demolition. Wetlands were delineated by Brad Holmes (BH), ECR, and consist of an adjacent pond. FB proposes to utilize straw wattle erosion control. There are some trees that will have to be removed, as they will be compromised when the foundation is pulled out. They propose to introduce some fill, once the foundation is removed, to re-establish the pre-construction grades. Disturbed areas that are currently lawn will be re-established with loam and seed; the area of the former garage will be stabilized with 6 inches of mulch and allowed to revert to forest.
- AL characterizes the project as straightforward and has no additional comments.
- BG advises that applicants proactively came to him to discuss the project and agreed to file a NOI given the closeness of the garage to the wetlands. Applicants should make sure there are no ruts left behind, and that the disturbed area is seeded so as to avoid erosion into the pond. BG does not feel that replacement trees or conservation markers are warranted, and notes the removal of the garage from the buffer zone will be an improvement over existing conditions.
- AL asks for comments from the public; none.
- BG advises that the standard conditions of approval will apply, but a pre-construction site visit can be waived under the emergency declaration circumstances.
- AL motions to close the hearing and issue Orders of Conditions with special conditions as drafted by BG. PC second. Approved 7-0-0 by Roll Call Vote: FW-yes, BO-yes, PC-yes, AL-yes, JR-yes, CH-yes, JK-yes.

- With respect to the filing of Orders of Conditions at the Registry of Deeds, JK notes that TC has advised that applicants have up to 45 days after the close of the state of emergency to do so.

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

- JK reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- Jeff Hassett (JH), Morse Engineering, presents for applicant. The filing is a Notice of Intent for a septic repair. The lot is 9000 sq ft in size, and there is currently a cesspool in the back yard. Offsite wetlands were delineated by John Zimmer (JZ) , South River Environmental, and include salt marsh just beyond the rear property line and on the other side of the street. The entire property is in the 100 ft buffer to the marsh. The repair will consist of installing a 1500-septic tank, 1000-gallon pump chamber, and mounded leaching field. The system, at 42 feet, is located as far away from the wetland as possible, and all work is in existing lawn. Silt sock erosion control is proposed around the limit of work, and conservation markers will be added to the edge of the lawn.
- BO was able to visit the site. The wetland line is on the rear lot line, abutting conservation land. The markers will be useful in preventing further encroachment, as the house is for sale. BG notes that neighbors in the area are beginning to add stones to the fringe of the salt marsh, and hopes the markers will prevent the same from occurring with this property.
- BO asks for comments from the public; none.
- BG advises that the standard conditions of approval will apply, in addition to a special condition requiring the posting of three conservation markers.
- BO motions to close the hearing and issue Orders of Conditions with special conditions as drafted by BG. JK second. Approved 7-0-0 by Roll Call Vote: FW-yes, BO-yes, PC-yes, AL-yes, JR-yes, CH-yes, JK-yes.

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

- Continued hearing. JK Hearing Officer. Commissioners Woodfall, Ring, and Hannafin recuse from voting.
- Terry McGovern (TM), Stenbeck & Taylor, presents for applicant. The subject filing is a NOI is for revetment repair work. JK indicates that approval of the project had been held up by delay as to ambiguity as to ownership of the property. TM provided results of a title search to the Commission, which were reviewed by Town Counsel (TC). TC feels the project is permissible by the Commission with a special condition stating “The applicant represents that he/she/they has/have been responsible for the maintenance of the existing revetment wall. The Commission’s Order of Conditions approving the work shall not be construed as evidence of legal title or ownership of the subject area which is beyond of the scope of the Commission’s right to determine.”
- BG advises that the standard conditions of approval will apply, in addition to the aforementioned special condition regarding legal title and special conditions allowing for ongoing periodic maintenance of the revetment wall provided that stone or sand from the beach are not used in said maintenance. Boundaries of the revetment wall are not to exceed the limits of the final approved plans.
- JK asks for comments from the public; none.
- BO motions to close the hearing and issue Orders of Conditions with special conditions as drafted by BG. AL second. Approved 4-0-0 by Roll Call Vote: BO-yes, PC-yes, AL-yes, JK-yes.

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

- Continued hearing. Hearing Officer PC confirms administrative requirements are complete. Commissioners Woodfall, Ring, and Hannafin recuse from voting.
- PC advises that the filing is a Notice of Intent for repairs to an existing dock. A site visit was conducted with Harbormaster Mike DiMeo (MD), who asked that the float be reduced in size and advised that stops would be needed. Harbormaster DiMeo also expressed concern about the float restricting navigation in

the channel. Mass. DEP commented that a Chapter 91 license may be required. MassDMF provided comments in January, stating that the existing dock should be removed and a new dock rebuilt with a 1.5:1 height to width ratio. North River Commission issued a permit for the project as proposed. BG requested that missing wetland flags be hung and added to the site plan.

- Terry McGovern (TM), Stenbeck & Taylor, presents for applicants along with Attorney Adam Brodsky (AB). Since the site walk, they have submitted pictures showing they have adequate draft underneath the area of the float. They also pointed out to MD that there were only two docks with power vehicles upstream. With respect to Mass DMF comments, TM states the proposed new walkway cannot have a 1.5:1 height to width ratio and tie into the existing platform without additional support pilings. TM states that Dave Hill, Mass DEP, indicated to him that under these circumstances the new walkway as designed was sufficient, as it will be significantly narrower than the existing one, and further, the 1.5:1 ratio is a preference but not a requirement.
- PC asks about the Harbormaster's comments regarding navigation. TM states the existing design leaves almost 35 ft clear to the other riverbank, and that MD had no issues given there are just two docks upstream. PC indicates this is different from what he heard, and MD specifically asked applicant to consider alternative locations for the float. TM states there is sufficient draft under the float, in its proposed location, to prevent it from disturbing the bottom; however, moving the float further in could result in this disturbance as the creek gets shallow very quickly.
- BG comments that riverfront flags will not be required due to the scenic rivers exemption; applicant is willing to post 10 conservation markers. BG notes that Mr. DiMeo, in their conversations, expressed concern as to the size and "U" shape of the float and typically are rectangular.
- JK notes that this project is unique in that the existing dock does not appear to have been permitted originally, and is more like construction of a new dock altogether given the replacement of the existing walkway. JK concurs that the 1.5:1 height to width ratio is nice to have but not required; however, given the likelihood of sea level rise, he recommends going beyond the 1:1 ratio to the extent possible. If there is not 2.5 feet of water under the entire dock, he believes it will need stops. With respect to navigation, JK notes that the existing float design restricts the navigable channel by almost half. Given that the creek cannot accommodate a large boat, he thinks the existing "U" configuration is unnecessary and recommends a smaller float. PC believes a dock and float is permissible at this location but believes the concerns expressed regarding float size, extension into the channel, and depth beneath the float need to be addressed.
- Attorney Brodsky (AB) notes that the actual dock and float has been in place since the seventies and had not heard any feedback that the proposed dock and float is going to create any additional adverse wetland impacts, which is the standard by which the Commission evaluates dock projects. PC notes that there need to be shoes on the float if it is going to sit on the bottom at low tide; AB believes the plans include shoes but PC states they are not shown on the drawing. JK believes these can be easily added to the site plan.
- JK reiterates that this project is essentially the construction of a new dock, and part of that permitting process is to obtain engineered soundings of water where the float is going to be. TM confirms that the soundings provided are in picture form and not engineered; he is willing to add the engineered soundings as well as shoes to the float if needed. JK also believes the existing U-shaped float would not be permitted, and would like to see a smaller float alternative considering MD's comments. JK also suggests that TM and AB review the newly ratified Commission guidelines for small docks. AB asks whether they are guidelines or regulations; JK indicates they are guidelines to assist applicants and expedite the permitting process. BG adds that the policy guidelines are designed to provide the Commission with clear and convincing information, by a preponderance of evidence, that a dock project can be permitted.

- JK notes that if the float design is changed, the Harbormaster and Commission would like to see the four corners of the float depicted by flags on the site, and suggests that all parties take a dock walk when the design is ready. TM requests a copy of the updated Commission dock guidelines for reference. PC believes the dock can be permitted with relatively few modifications and additional information as to float design, location, and engineered soundings. BG requests that the replacement of the existing walkway be added to the plan narrative.
- BO asks if the Harbormaster has provided any written comments. BG indicates there are no written comments so far but JK anticipates these will be forthcoming.
- BG asks whether the Commission will require applicant to build to the 1.5:1 height to width ratio as per Mass DMF contacts. AB points out that this would not allow for a connection to the existing platform. JK concurs with AB and reiterates that 1.5:1 is not a requirement at this time, but recommended in light of sea level rise to build beyond the 1:1 ratio to the extent possible.
- PC asks for comments from the public; none. AB requests a continuation on behalf of applicant.
- PC motions to continue the matter to May 19, 2020. AL second. Approved 4-0-0 by Roll Call Vote: BO-yes, PC-yes, AL-yes, JK-yes.

Commissioners Woodfall, Ring and Hannafin return to the public meeting.

**2859 DPW, 0 - 440 Ocean St. (Reg 2 Brank Rock Coastal Infrastructure Repairs)....cont from 3/17/20 (Frank)**

- Continued hearing. FW hearing officer. Commissioners PC and CH confirm that they completed Mullin affidavits, qualifying them to vote.
- Project engineer Jeramy Packard (JP), Foth Engineering, presents for DPW; Town Engineer, Rod Procaccino (RP) present. The filing is a Notice of Intent for continuing maintenance of the coastal protection structures within Region 2, which comprises the Brant Rock area. JP briefly reviews the updated plan set with the Commissioners, which denotes the annual predicted high tide line and in turn determines Army Corps jurisdiction. Mean high and low water lines are determined by buoy data points and their own modeling software. The plans depict work already performed under the 2018 Emergency Declaration (Category 1) and work currently proposed (Category 2). (Category 3) work is ongoing periodic maintenance as needed by DPW in the near future. Coastal Dune delineation was also added to the updated plan set. Cat 2 work includes 25 linear ft of concrete seawall reconstruction. BG notes that the plans also include access plans, temporary structure information, and specific Cat 2 work activities. JP reviews the range of work activities in greater detail, including seawall cap repair, placement of backfill in sinkholes behind the seawall, crack repairs, revetment reset, wall replacement, and toe stone replacement. All proposed Cat 2 work is to occur within the existing footprint of structures. JP adds that they are requesting authorization to perform ongoing maintenance to allow DPW quicker turnaround of repair/maintenance requests. To ensure the Commission continues to be looped in, any specific work to be performed under Category 3 would be discussed with the Commission as a business item at a Conservation Commission public meeting. The Commission could require a conservation permit filing for work that exceeds the scope of the activities set forth in Category 3.
- FW is agreeable to the process proposed for Category 3 work. JK is satisfied with the additional information JP has provided since the last meeting. BG asks the Commissioners whether applicant should remove any sand used for a temporary ramp, as this could possibly help re-nourish the beach; PC suggests that the sand stay.
- BG notes that the project will also have to be reviewed by Army Corps of Engineers, and applicant appears to have all the necessary information for their review. The standard conditions of approval will apply as well as special conditions requiring applicant to obtain right of entry or equivalent from property owners, adhere to the approved construction access plan, and maintain an approved spill kit for any

vehicular leaks. No construction vehicles or materials are to be stored on private property without permission of owner.

- FW motions to close the hearing and issue Orders of Conditions with special conditions as drafted by BG. PC second. Approved 7-0-0 by Roll Call Vote: FW-yes, BO-yes, PC-yes, AL-yes, JR-yes, CH-yes, JK-yes.

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

- Continued hearing. Hearing officer PC confirms he has signed a Mullin affidavit, permitting him to vote. PC confirms administrative requirements are complete.
- CH and JR recuse from voting.
- PC notes that a site walk had been done prior to the March 3 meeting, and that applicant had provided \$1000 in shellfish mitigation as requested by Harbormaster MD. North River Commission has approved the project, requesting an As-Built plan when complete. Mass DEP advises that a Chapter 91 permit may be required. Mass DMF suggests a 1.5:1 height to width ratio which the pier, as designed, provides. Applicant has provided additional information requested at the March 3 meeting, including providing the locations of the tree line and phragmites, float depth at mean low water, and a copy of the forestry management plan.
- Jed Hannon, Atlantic Coast Engineering, advises that he received the checklist of additional requested information and updated the plans accordingly. BG notes that applicant will likely have to go back to NRC with the updated plans. JK thanks JH for providing the additional information, and feels the property owner will have a better dock as a result of going through the process.
- PC asks for comments from the public; none. BG indicates that the standard conditions of approval will apply in addition to special conditions requiring that no metal chains be used to secure the float, 1" spacing between boards on catwalk and dock, no use of wheeled nor tracked equipment that will damage the salt marsh, no grounding of barge. Ongoing conditions include no grounding of floats or boats on tidal flats or river bottom, no storage of fuel on dock, no dragging of float across salt marsh, winter storage of float above mean high water. PC notes that the bylaws have been updated to add payment of Harbormaster barge construction fees to the standard conditions of approval.
- PC motions to close the hearing and issue Orders of Conditions with special conditions as drafted by BG. JK second. Approved 5-0-0 by Roll Call Vote: FW-yes, BO-yes, PC-yes, AL-yes, JK-yes.

Commissioners Ring and Hannafin return to the public meeting.

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

- Continued hearing. AL hearing officer confirms administrative requirements are complete.
- AL notes that the subject property is commercial riverfront property; AL believes most of the outstanding questions concern stormwater management.
- Attorney Steve Guard (SG) present for applicant along with Terry McGovern (TM), Stenbeck & Taylor and site manager Jason Heywood (JH). SG notes that they visited the site with BG prior to the hearing, and incorporated BG's feedback into the site plans. They have also received comments from the Harbormaster Mike DiMeo (MD) and Town Engineer, Rod Procaccino (RP). The site is an existing waterfront marina, and thus previously disturbed land. They are looking to replace and slightly enlarge an existing warehouse, demolish an office building/bait & tackle shop, and construct a small addition between the restaurant building and Dyke Road to house the bait shop. The office will be relocated into the restaurant building. The parking lot will be resurfaced, and approximately 23,000 sq ft of impervious surface will be removed from the parking area to help with stormwater management.
- TM notes that the site is considered a redevelopment project, as noted in RP's comments, requiring certain best management practices. Stormwater management features will include stone recharge



trenches around the building and replacement of 23,000 sq ft of pavement in the parking area with gravel/stone mix and several layers of filter fabric. Other BMPs such as tarps under boats being worked on would be enforced on the site. A catch basin currently discharging directly into the harbor will be eliminated. TM notes that construction will take place in phases, the first of which will be demolition of the existing building. Silt sock erosion control will be used for construction of the new addition and parking area renovations, and a temporary sump will be available for temporary dewatering. Parking lot resurfacing will be done in small phases, with erosion control dams. TM feels that the project as proposed, given the reduction in impervious surface, removal of a point source discharge, and updated stormwater control features, will be an improvement over existing conditions on the site.

- BG advises that he received comments from RP to the effect that the project appears to meet three of the four best management practices it needs to meet, but that further review by a third party is suggested, as the Town is involved in a joint project with the Marina concerning the raising of Dyke Road. DEP comments indicate that both 310 CMR 10.58 (riverfront) and 10.05 (stormwater) regulations are applicable. Given that this is a commercial development, as well as some uncertainties regarding the impact of boat maintenance work on water quality, BG agrees that a third-party stormwater review is warranted.
- AL asks BG about comments from MD. BG indicates that these came in late this afternoon and are generally favorable, to the effect that the project will be an improvement on the property. AL comments that TM's proposal to conduct the work in phases makes sense.
- At BG's request, TM describes the proposed construction in greater detail. BG displays site plan Sheet. The first phase will be demolition of the existing bait shop/boat storage buildings, with material hauled off-site. Second phase will be construction of a new 20' by 60' bait shop directly in front of the restaurant and boat storage building. They are planning on doing the conversion of part of the parking area from paved to gravel in late September/early October, before boats are removed from the water. TM feels there is limited opportunity to put in additional stormwater control measures in the parking area, such as rain gardens, given space constraints but states that the project is phased in such a way as to keep the site easily manageable while work is underway.
- JK comments that a marina is needed in Town, but notes that the EPA cites marinas and related businesses as a major source of coastal pollution. Given that renovations of such properties occur infrequently, he would like to see as many best management practices (BMPs) as possible to reduce non-point-source pollution such as boat cleaning chemicals, sewage management, and fuel facilities management. Stormwater management is also essential, as it can convey fuels and chemicals into the harbor. Given these issues, he feels a third-party review concerning stormwater management and other feasible BMPs will be essential. PC agrees that boat fuels, paint and cleaning products can be a major pollutant source and peer review is needed. CH notes that the Harbormaster's letter doesn't seem to address shellfish impacts, and believes protection of this resource is a priority. BO concurs that a third-party review will be essential to ensuring the project is done right.
- BG feels the project, if properly designed with the right BMPs, presents an opportunity to potentially reduce pollution impacts on Green Harbor.
- JK feels the review should not just concern stormwater management, but also look at ways to minimize pollution and other impacts. FW agrees that a third-party review is needed but notes there is limited space on the site for cleaning and treatment. JR concurs with all others that the scope of the review required is beyond the Commission's expertise.
- AL asks for comments from the public; none.
- All parties discuss peer review options. JK comments that the reviewer must be knowledgeable about marina projects and not just stormwater management. BG notes that he had compiled a list of stormwater management consultants, and feels there may not be many marina experts to consider for

selection. BG's list includes Marti Nova, Beta Engineering Group; John Chessia, Chessia Consulting; and Patrick Brennan, Amory Engineers. JK would prefer that the time be taken to find peer reviewer specializing in marinas. TM suggests Jeff Picard, Vertex Engineering, or Ed Pesce (Ed), Pesce Engineering; SG will inquire as well. BG will look for between two to five candidates. AL suggests that BG email a list of candidates, with credentials, to the Commission. Qualifications must include both marina and stormwater management expertise.

- SG requests that the Commission settle on a reviewer in one week to allow sufficient time for the review, and the applicable site plan revisions, to be completed by the May 19 meeting. AL is not sure one week will be sufficient time given the state of emergency; SG understands that the deadline may not be achievable but suggests it as a benchmark. SG feels that JK's earlier comments could be interpreted to mean that the marina is already polluting and states for the record that the operating company operates multiple marinas around the country, has a strong record for operations, and uses best management practices to protect the environment. SG also notes that the stormwater enhancements are not being proposed to address any existing pollution issue. Assistant TC Anthony Riley (ATC) feels that the comments from all parties were clear: the Chairman is allowed to state concerns and applicant's representative is allowed to address them.
- AL motions to continue the hearing to May 19, 2020. JK second. Approved 7-0-0 by Roll Call Vote: FW=yes, BO=yes, PC=yes, AL=yes, JR=yes, CH=yes, JK=yes.

**2860 Murphy, 1213 Ferry Street 1213 (Extended Pier, Ramp & Float).....cont from 3/17/20 (Jim)**

- The hearing is continued to the next public meeting of the Marshfield Conservation Commission at the written request of applicant's representative.
- JK motions to continue the hearing to May 19, 2020. PC second. Approved 7-0-0 by Roll Call Vote: FW=yes, BO=yes, PC=yes, AL=yes, JR=yes, CH=yes, JK=yes.

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

- The hearing is continued to the next public meeting of the Marshfield Conservation Commission at the written request of applicant's representative.
- JK motions to continue the hearing to June 2, 2020. FW second. Approved 7-0-0 by Roll Call Vote: FW=yes, BO=yes, PC=yes, AL=yes, JR=yes, CH=yes, JK=yes.

**2857 Sailors Valentine Trust, 34 Marginal Street Rear (Pier, Dock & Float).....cont from 3/03/20 (Rick)**

- The hearing is continued to the next public meeting of the Marshfield Conservation Commission at the written request of applicant's representative.
- JK motions to continue the hearing to May 19, 2020. FW second. Approved 7-0-0 by Roll Call Vote: FW=yes, BO=yes, PC=yes, AL=yes, JR=yes, CH=yes, JK=yes.

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

- The hearing is continued to the next public meeting of the Marshfield Conservation Commission as the applicant's representative has not responded to the request for additional information.
- JK motions to continue the hearing to May 19, 2020. JR second. Approved 7-0-0 by Roll Call Vote: FW=yes, BO=yes, PC=yes, AL=yes, JR=yes, CH=yes, JK=yes.

## **REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS**

### **1563 Pellegrini, 31 Water Street [COC]**

- Attorney Jay Creed (JC) present for owner Lee Anne Pellegrini (LP). BG advises that he had met with Ms. Pellegrini and e-mailed her on 4/03/2020 regarding Special Conditions A, D, H, and J, and forwarded the same feedback to the original project engineer. Special Condition required the presentation of the foundation plan to the Conservation Administrator before his sign off of the building permit. It appears that the Commission at the time requested a foundation plan, but closed and issued the original OOC without it. JK notes that the Conservation Administrator at the time the permit was issued appears to have signed off on a building permit without having received the foundation plan. There also appears to be new construction of a 4' by 10' covered porch, as well as an upper deck on sono tubes that has been converted to a covered porch. There also appear to be differences between the proposed work on the plot plan and reference plan. JK notes in summary that there appears to be significant differences between what was originally approved and what was ultimately constructed.
- JC feels the Commission is making assumptions based on an incomplete record. JC notes that the OOC issued on April 4, 2001 and the building permit did not issue until May 9, 2002. In the interim, JC states a foundation plan was created by John Queen, Structures Engineering, dated November 30th, 2001. JC feels it is likely that the building permit issued as a result of the foundation plan having been "walked around" by the applicant for all the necessary sign-offs, which was the procedure at the time. If the plan is not in the Commission file, JC is willing to provide a copy, but he feels the Commission assumption should be that then-agent Harrington viewed the foundation plan prior to signing off on the building permit.
- BG indicates that copies of the foundation plan were provided to the Conservation Department in December 2019 and February 2020. If a building permit was issued, it could be that there was the appropriate sign-off. If applicant can provide a copy of the building permit, BG feels that might satisfy Special Condition A pending Town Counsel review so this is open for discussion.
- JK asks JC if the request can be tabled to allow TC time to review the matter and provide an opinion, as he feels he lacks sufficient information at this point to make a decision. BG agrees that additional review is warranted. JC notes that LP sold the property in December, and the COC request is post-closing work to clear up the title. There is an escrow hold-back that she will lose as of April 30 unless the COC is obtained.
- Assistant Town Counsel Anthony Riley (ATC) feels that JC's assumption regarding the signoff may be reasonable but also notes there are still open questions the Commission must resolve before issuing the COC. The escrow hold-back is an agreement between two private parties that should not, in itself, compel the Commission to act prematurely. JC suggests that the matter be continued to the May 19 meeting, and he will try to obtain the escrow agreement. JK concurs and feels the Commission in turn should commit to reaching a decision at the next hearing.
- FW asks about issues with special conditions D, H, and J. JC indicates that these conditions deal with the concrete slab. BG states, in addition to the slab, there are also isolated supports and a deck on the side of the house that are not in Commission records as permitted. JC feels that these issues in part stem from inadequacies in the plan of record, and there was a second plan iteration which he feels the Commission should review. JK concurs that the plan they have on file is minimal, and suggests that the Commissioners visit the site with JC prior to the next meeting. BG will refer the matter to TC Bob Galvin. JC will provide the Commission with the additional documentation he has.
- JK motions to table pending resolution of outstanding issues. JR second. Approved 7-0-0 by Roll Call Vote: FW-yes, BO-yes, PC-yes, AL-yes, JR-yes, CH-yes, JK-yes.

**2121 Brewster, 50 Bay Ave [COC]**

- The property has an outstanding OOC for a deck with outstanding special conditions, including two-foot freeboard below the lowest horizontal member and no risers on the stairs. BG did a due diligence review of the property with prospective buyers, and observed that the deck wrapped slightly around the house and the stairs did have risers. BG suggests that the COC issue for the deck but be held at the conservation office until evidence that the risers are removed, completing Special Condition D.
- FW states that Condition D seems to conflict with the Marshfield Building Code, which requires risers. BG feels the conflict can be resolved by putting in holes or slots as done for other similar properties.
- JK polls the Commissioners as to whether to issue the COC or require removal of the risers: FW issue; CH issue; PC issue; JR issue; AL issue; JK issue; BO issue.
- JK motions to issue a COC for 50 Bay Ave, SE42-2121, for the deck as constructed. CH second. Approved 7-0-0 by Roll Call Vote: FW-yes, BO-yes, PC-yes, AL-yes, JR-yes, CH-yes, JK-yes.

**2672 Thibeault, 599 Summer [EXT]**

- BG recommends issuance of a three-year extension to the Order of Conditions.
- JK motions to issue an extension to the OOC for 599 Summer, SE42-2672. FW second. Approved 7-0-0 by Roll Call Vote: FW-yes, BO-yes, PC-yes, AL-yes, JR-yes, CH-yes, JK-yes.

**2790 Maguire, 80 Ocean Street [COC]**

- BG recommends issuance of a Certificate of Compliance.
- JK motions to issue a COC for 80 Ocean St, SE42-2790. AL second. Approved 7-0-0 by Roll Call Vote: FW-yes, BO-yes, PC-yes, AL-yes, JR-yes, CH-yes, JK-yes.

**2789 Flashner, 206 Carolyn Circle [COC]**

- BG recommends issuance of a Certificate of Compliance with ongoing conditions requiring the installation and maintenance in perpetuity of three conservation markers on posts including no disturbance beyond the conservation markers.
- JK motions to issue a COC for 206 Carolyn Cir, SE42-2789, with ongoing condition as noted. JR second. Approved 7-0-0 by Roll Call Vote: FW-yes, BO-yes, PC-yes, AL-yes, JR-yes, CH-yes, JK-yes.

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

- BG recommends that the request be tabled, as applicant has not completed the planting reporting.

**2740 McGowan, 18 Paddock Way [COC]**

- BG recommends that the request be tabled, as applicant has not completed the planting reporting.

**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)

**ADJOURNMENT** – JK makes a motion to close the hearing at 10:45 PM. FW second. Approved 7-0-0 by Roll Call Vote:

FW=yes, BO=yes, PC=yes, AL=yes, JR=yes, CH=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	