

MEMBERS PRESENT – James Kilcoyne (JK) Chair, Bert O'Donnell (BO) Vice Chair, Arthur Lage (AL), 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. BO second. Approved 5-0-0 by Roll Call Vote: BO=yes, PC=yes, JR=yes, CH=yes, JK=yes; AL=no vote having joined the meeting late.

MINUTES – None

CHAIRMAN'S ADDRESS

- JK notes for the record 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. All votes will be taken by roll call.
- JK motions that BG set Commission meetings for the first and third Tuesday of each month for the remainder of the year. PC second. Approved 5-0-0 by Roll Call Vote: BO=yes, PC=yes, JR=yes, CH=yes, JK=yes; AL=no vote having joined the meeting late.
- JK notes that there may be a need for additional meetings to address any backlogs resulting from the COVID-19 Emergency Declaration.

BUSINESS

B1 24 Wolcott Road/Whalin COC & revised Deed Restriction – Commissioners

- Property owner has to sell the property due to health issues. However, Special Condition D of the order of conditions issued to previous owner Whalin specified that the crawl space was to be no larger than 3'10", and the actual crawl space is 4'2.5". At the May 26 meeting, the Commission asked seller's attorney to draft an amended deed restriction citing the actual crawl space dimensions. The deed restriction has been amended to strike the reference to the 3'10" maximum crawl space height; language indicating that this space shall not be habitable living space remains.
- JK motions that the Commission waive the 3'10" maximum crawl space height set forth in Special Condition D, approve the revised deed restriction, and make the revised restriction part of the ongoing conditions with the Certificate of Compliance. BO second. Approved 5-0-0 by Roll Call Vote: BO=yes, PC=yes, JR=yes, CH=yes, JK=yes; AL=no vote having joined the meeting late.

B2 60 Regis Road/Governor Winslow School (proposed fit trail) Conservation Permitting

- All parties revisited a proposed fitness trail around the perimeter of the Governor Winslow School. Parts of the trail are inside the buffer zone to salt marsh and bordering vegetated wetlands. Applicants would like to know if the project requires conservation permitting. At the May 26 meeting, the Commissioners requested additional information regarding fitness equipment and trail details, whether any fitness equipment would be located along the trail and how far from the wetlands any such equipment would be.

- JK notes that wetlands delineation had been performed by Jason Zimmer (JZ), a qualified wetland scientist and Brooke Monroe (BM), Pinebrook Consulting. JZ also provided details regarding flood zones and NHESP habitat areas. Most equipment will be located in previously disturbed, manicured lawn sections, outside sensitive areas. Five fitness stations are proposed, three of which will be outside conservation jurisdictional boundaries; the two stations within jurisdiction are outside the 50 ft buffer. BG believes the project would qualify for the exemption, under Chapter 505 10(B)2d, for “public space nature trails.”
- JK motions that the Commission approve the fitness trail project as proposed, showing the trail located in the buffer zone only as it is consistent with Chapter 505-10(B)2d, taking exemption (d) for public open space nature trails, observation platforms, boardwalks, or footbridges. BO second. Approved 5-0-0 by Roll Call Vote: BO-yes, PC-yes, JR-yes, CH-yes, JK-yes; AL-no vote having joined the meeting late.
- GWS teachers Dawn Backlund (DB) and Mark Talacci (MT) thank the Commission for their support for this project and the outdoor classroom approved and constructed last year.

AL joins the meeting citing technical difficulties.

B3 242 Ridge Road/Lemoine/SE42-2647 (septic) Extension: Expired Orders – Commissioners

- The order of conditions for this filing expired on March 1, just prior to the Emergency Declaration. The new owners of the property are requesting that the OOC be extended so they can proceed with the proposed septic upgrade without having to file a new Notice of Intent. JK notes that the difficulties a septic upgrade will be an improvement over existing conditions, and feels extending the existing OOC would be appropriate given the circumstances associated with the early stages of the COVID-19 emergency declaration.
- JK motions to extend the deadline for SE42-2647 to no later than 45 days after the State of Emergency is terminated. CH second. Approved 6-0-0 by Roll Call Vote: BO-yes, PC-yes, JR-yes, AL yes, CH-yes, JK-yes.

B4 Vice Chair O’Donnell CPC Reappointment & Open Space Con Comm liaison – Commissioners

- Vice Chair BO notes that his term as Commission liaison to CPC is up and would like to be reappointed. He has served as liaison for five years and would like to continue in this role.
- BO also notes that there has been no Commission liaison to the Open Space Committee (OSC) since Commissioner Chad Haitsma left the Commission, and invites a Commissioner to take on the role; OSC meets once per month on Thursdays. JK encourages any interested Commissioner to contact BO for more information.
- JK motions to approve Commissioner O’Donnell to serve as the Commission liaison to CPC. AL second. Approved 5-0-1 by Roll Call Vote: PC-yes, JR-yes, AL yes, CH-yes, JK-yes, BO-having abstained.

PUBLIC HEARINGS

20-03 McDonald, 250 Canal Street (Fence).....NEW (Jim)

- JK reads the legal ad and, as hearing officer, confirms administrative requirements are complete.
- JK comments that applicant wishes to install a 4’ white vinyl picket fence with a 6-inch gap underneath to allow for wildlife passage. The fence will be located in a previously disturbed area.

Applicant Tim McDonald (TM) notes the fence will be used to keep his dog in the backyard and provide protection from coyotes he has seen in the area.

- JK thanks applicant for proactively coming forward with the request; no additional Commissioner comment. BG indicates that the standard conditions of approval will apply.
- JK asks for comments from the public; none.
- JK motions to close the hearing and issue a Determination of Applicability, pos 5, neg 3, with special conditions as drafted by BG. PC second. Approved 6-0-0 by Roll Call Vote: BO-yes, PC-yes, JR-yes, AL yes, CH-yes, JK-yes.

20-05 Burke, 14 Winthrop Road (ATF Vegetative Management).....NEW (Jim)

- JK reads the legal ad and, as hearing officer, confirms administrative requirements are complete.
- JK notes that the filing is an RDA for after the fact tree removal. Paul Burke (PB) property owner present.
- JK notes that a complaint was received at the Conservation office regarding tree removal and burning on the site. BG met with homeowners and observed the conditions on site, including the presence of wetland-indicator plants under the Town bylaw, which add about 30 linear feet up gradient from the state-identified wetlands; this places two of the three trees removed within jurisdictional boundaries.
- BG and JK suggest the installation of conservation markers to ensure any future owners are aware of the resource areas on the property. BO asks about the location of the markers; BG suggests that red and white “Wetland resource” markers be placed on the property line to adjacent town-owned conservation land; placing green and white markers at the edge of the buffer would require a survey or delineation at increased cost to the owner.
- BG indicates that the standard conditions of approval will apply in addition to placement of (3) three red and white conservation markers: one along the property line, adjacent to town-owned conservation land (parcel ID K10-01-44C) and one on each property corner adjacent to the neighbor at 4 and 22 Winthrop Drive.
- JK asks for comments from the public; none.
- JK motions to close the hearing and issue Determination of Applicability pos 5, neg 3, with special conditions as drafted by BG. AL second. Approved 6-0-0.

2693 Banks, 89 Bourne Park (Amended NOI).....NEW (Rick)

- JK reads the legal ad for the record. The hearing is continued until the next public meeting of the Marshfield Conservation Commission on June 16, 2020. Gatehouse Media did not run the legal ad for the hearing despite the Conservation Department’s transmittal for publishing on 5/27/2020.
- JK motions to continue the hearing to June 16, 2020 pursuant to Governor Baker’s emergency order and Chapter 53 of the Acts of 2020. JR second. Approved 6-0-0 by Roll Call Vote: BO-yes, PC-yes, JR-yes, AL yes, CH-yes, JK-yes.

2684 Courchene, 74 Blue Heron Way (Inground Pool).....NEW (Rick)

- JK reads the legal ad. Hearing Officer PC confirms administrative requirements are complete.
- Applicant Brent Courchene (BC) indicates that the filing is to install a 14’ by 33’ in-ground pool. There are two isolated wetlands along the western and south sides of the property, and the back property line abuts salt marsh. A 25-foot sewer easement goes through the back of the property; the proposed pool will be surrounded by about 800 sq ft of patio, and is located outside the 25 ft buffer. There is a section of his neighbor’s property which he had been mowing and has since stopped as it became apparent it is within conservation jurisdictional boundaries. The previous

owners had installed a 2300 sq ft hard surfaced volleyball court that will be restored to pervious surface; this will result in a net gain of about 1000 sq ft of pervious surface; including the now unmowed area, this will be about a 2:1 mitigation ratio. He is submitting a variance request letter, as the footprint of the proposed pool and patio move closer to the wetland than the existing structure.

- BG indicates he walked the property with BC, and advised him to reflag covering the riverfront and all pertinent wetlands to the property and request the variance. Applicant is posting (8) eight conservation markers (7) seven on the 25 ft buffer and (1) one along the wetlands to west side of the home due to the previously disturbed conditions.
- PC visited the property and feels the pool is sited in the only viable location on the property. BC indicates that the apron will be comprised of semi-pervious pavers.
- JK feels that the net increase in pervious surface, the addition of markers, and the cessation of mowing as described constitute sufficient mitigation to allow the project to move forward without a variance. BG feels the Bylaw requires a variance, but JK feels the project isn't necessarily rare or unique. PC is OK with granting a variance, as the pool is placed in the only viable location on the property. AL feels that granting variances should be rare, but it seems one is required for this project to move forward. JR and CH would support a variance. BO feels the project is reasonable and is open to how it is permitted. Given the application was submitted with a variance request, he would support granting one. JK notes that consensus seems in favor of granting the variance and is willing to do so.
- AL comments that even if a certain structure can only be placed at a certain location, if it shouldn't go there, it shouldn't go there. BG notes that an applicant who is denied a variance can appeal to the state at additional expense to the Town. BO also points out that mitigation, such as offered here, is also a valid consideration for approval; BG concurs. JK agrees with AL philosophically regardless of whether there is an appeal. PC feels the impacts of the project are more than offset by the mitigation.
- PC asks for comments from the public; none.
- BG comments that the standard conditions of approval will apply, including the posting of (8) eight conservation markers as discussed.
- PC motions to close the hearing and issue Orders of Conditions with special conditions to be drafted by BG. JK second. Approved 6-0-0 by Roll Call Vote: BO=yes, PC=yes, JR=yes, AL yes, CH=yes, JK=yes.

2868 Good, 113 Bay Avenue (Addition).....NEW (Bert)

- JK reads the legal ad for the record. The hearing is continued until the next public meeting of the Marshfield Conservation Commission on June 16, 2020. Gatehouse Media did not run the legal ad for the hearing despite the Conservation Department's transmittal for publishing on 5/27/2020.
- JK motions to continue the hearing to June 16, 2020 pursuant to Governor Baker's emergency order and Chapter 53 of the Acts of 2020. JR second. Approved 6-0-0 by Roll Call Vote: BO=yes, PC=yes, JR=yes, AL yes, CH=yes, JK=yes.

2867 Brait Point LLC, 113 Union Street (Subdivision Drainage).....NEW (Bert)

- JK reads the legal ad. BO Hearing Officer. BG confirms administrative requirements are complete.
- Terry McGovern (TM), Stenbeck & Taylor, presents for applicant. They are before the Commission for a drainage outfall and stormwater management discharge as part of a five-lot definitive

subdivision. A BVW surrounds the west side of the property and cuts across the southwest corner. The property is located in the Water Resource Protection district and NHESP priority habitat. Brad Holmes (BH), ECR, has been in communication with NHESP, which has approved a turtle protection plan. The project is before the Planning Board on June 15, and the PB's consulting engineer, Pat Brennan (PB)/Amory Engineers, is preparing a review. Wetlands were delineated by Mr. Holmes earlier this year. The closest work to the buffer zone is a drain lot by lot 4. Given the property's location, any road and roof runoff must be filtered and discharged directly into the ground; this will be achieved through a retention basin, infiltration structures, and a drain lot. Roof runoff will be discharged through drywells. Limit of clearing is shown on the site plan. The only work that will fall entirely within the buffer is a stormwater management structure on the far end of the drain lot, on a low point close to the wetland; there is an exemption within Chapter 505 allowing such structures to be located within the buffer zone. Engineering comments are pending. TM would like to receive Commission comments that he can bring to Planning.

- BG indicates he checked the wetland line and feels it is accurate overall, but notes BH seems to have used the state criteria and not the Town Bylaw criteria, which also takes wetland plants into consideration. Additional areas upgradient from flags A2-A5 may be warranted and A18-A22 may qualify as isolated wetlands under the Town Bylaw. BG would like BH to address the Town Bylaw criteria in future reports. BG is unsure whether PB's review will address the stormwater regulations in 310 CMR 10.05(6)(b) and (k-q); if it does not, the report will require additional review by the Town Engineer. BG also feels the final approval communication from NHESP will be required for the file. BG recommends a continuation until Planning and NHESP comments have been received and incorporated into the site plan, so as to avoid the need for applicants to return to the Commission under a business session to determine if they should submit an amended NOI for any potential changes.
- BO notes that although the conservation jurisdictional boundaries appear to be limited as to the proposed work, if the proposed project affects this area, it is within Commission oversight. He would like BG to confirm the wetland line in the two areas discussed with BH. BG feels that A2-A5 might move 30 ft up gradient using the Town Bylaw criteria; he is unsure if anything will change with respect to A18-A22 but would like to confirm.
- In response to a query from BO, TM indicates that any grading will occur beyond the 50 ft buffer using the current delineation. BO would like to ensure any clearing inside the 50 ft buffer is minimized. BG would like to know if there is an alternate location for the drainage basin so it would not potentially overtop into the intermittent stream in the future. TM feels this is not a concern, as the basin would only shed water in emergency situations, and the present location is dictated by gravity. TM also notes that the drain lot will have drywell recharge structures and will not simply be a pond that can overflow, and soils in the area are relatively sandy.
- JK agrees it makes sense to re-check the wetland line as discussed. He would like to know who would be responsible for maintenance of the drain lot and easement. TM indicates the Planning Board typically assigns to the homeowners association (HOA), and specifics regarding maintenance responsibilities will be addressed in the incorporating documents. An operations and maintenance document will also be provided that addresses long-term maintenance of the structures.
- BO asks for comments from the public; none.
- Jennifer Mullen (JM), 73 Union, has drainage ditches extending from the back of her property emptying into the intermittent stream, and wants to make sure the project won't impede any of her drainage. BO notes that the stream is not being touched by the project, but it may introduce additional storm water flow into the stream in major storms. TM confirms that the stream is off

the property and will not be altered, nor will there be any grading within 50 ft. The associated drainage pipe will just be 12 inches to provide an outlet in emergency situations only.

- JK asks if there are wetlands downgradient that could possibly be impacted, making other aspects of the project jurisdictional. BG indicates there could be temporary impacts during large storm events. JK would like the Commission to be mindful of these possible impacts moving forward. TM notes that under the stormwater management guidelines, the project is not allowed to increase runoff, by volume or flow, off the site in any storm event from 2 through 100 year storm, and states PB agrees the project as designed meets that standard.
- Chris Bernstein (CB), 83 Union, notes that the intermittent stream cuts through a corner of his lot; he has the same concerns as JM with respect to impacts on the stream and drainage. BO suggests that all abutters take note of the Planning Board meeting next week and check the Commission Web site for future public hearings.
- BO motions to continue the hearing to July 7, 2020. JK second. Approved 6-0-0 by Roll Call Vote: BO-yes, PC-yes, JR-yes, AL yes, CH-yes, JK-yes.

2863 SHM Green Harbor LLC, 239 Dyke Rd (Replace storage/bait shop & parking/drainage improvement).....cont from 3/17/2020 (Art)

- Continued Hearing. AL Hearing Officer. AL notes that Goldman Environmental was selected as third party peer reviewer at the previous meeting, and this meeting's discussion should touch upon setting a schedule and arranging for payment from applicant, which will involve delivery of a check to the Conservation Office.
- Attorney Steve Guard (SG), representing applicant, states he looked over the peer review proposals with his client and notes for the record that applicant is concerned about the reasonableness of the Goldman fees which, at a range of \$7,000–\$14,000, were higher than the other proposals which ranged from \$2500 to \$5000. However, his client has not opted to appeal to the Board of Selectmen, as they would like the review to be conducted as soon as possible so work can begin. To that end, applicant would also like to be able to communicate directly with Goldman to facilitate their analysis. With respect to payment, SG indicates it will take a few days to receive the check from applicant's office in Texas.
- AL thanks applicant for their willingness to expedite the review and comments that the Goldman bid was accepted based on the thoroughness of their proposed review and the environmentally sensitive nature of marina projects.
- SG hopes Goldman's fees will come in at the lower end of their estimate. BG suggests that a sufficient amount be deposited to the peer review fund so it will not need to be replenished; any funds not used will be returned. JK notes that the Commission also wants the project to proceed as expeditiously as possible while also protecting the wetlands.
- AL asks for comments from the public; none.
- AL motions to continue the hearing to June 16, 2020. CH second. Approved 6-0-0 by Roll Call Vote: BO-yes, PC-yes, JR-yes, AL yes, CH-yes, JK-yes.

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 June 16, 2020.
- JK motions to continue the hearing to June 16, 2020 pursuant to Governor Baker's emergency order and Chapter 53 of the Acts of 2020. JR second. Approved 6-0-0 by Roll Call Vote: BO-yes, PC-yes, JR-yes, AL yes, CH-yes, JK-yes.

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

- The hearing is continued until the next public meeting of the Marshfield Conservation Commission on June 16, 2020.
- JK motions to continue the hearing to June 16, 2020 pursuant to Governor Baker's emergency order and Chapter 53 of the Acts of 2020. JR second. Approved 6-0-0 by Roll Call Vote: BO-yes, PC-yes, JR-yes, AL yes, CH-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 June 16, 2020.
- JK motions to continue the hearing to June 16, 2020 pursuant to Governor Baker's emergency order and Chapter 53 of the Acts of 2020. JR second. Approved 6-0-0 by Roll Call Vote: BO-yes, PC-yes, JR-yes, AL yes, CH-yes, JK-yes.

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

- The hearing is continued until the next public meeting of the Marshfield Conservation Commission on June 16, 2020.
- JK motions to continue the hearing to June 16, 2020 pursuant to Governor Baker's emergency order and Chapter 53 of the Acts of 2020. JR second. Approved 6-0-0 by Roll Call Vote: BO-yes, PC-yes, JR-yes, AL yes, CH-yes, JK-yes.

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

- The hearing is continued until the next public meeting of the Marshfield Conservation Commission on June 16, 2020.
- JK motions to continue the hearing to June 16, 2020 pursuant to Governor Baker's emergency order and Chapter 53 of the Acts of 2020. JR second. Approved 6-0-0 by Roll Call Vote: BO-yes, PC-yes, JR-yes, AL yes, CH-yes, JK-yes.

REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS

2823 Airport, 93 Old Colony Road [COC]

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

1455 Whalin, 24 Wolcott [COC]

- BG notes that the Commission voted to accept the revised deed restriction waiving the 3'10" height requirement of the crawl space during the business section (B1) of this meeting, and recommended issuance of the COC.
- JK motions to issue a COC for the property with ongoing conditions as noted therein, (that the Commission waive the 3'10" maximum crawl space height set forth in Special Condition D, approve the revised deed restriction, and make the revised restriction part of the ongoing conditions with the Certificate of Compliance). BO second. Approved 6-0-0 by Roll Call Vote: BO-yes, PC-yes, JR-yes, AL yes, CH-yes, JK-yes.

2823 Citron, 407 Holly Road [COC]

- BG visited the site and recommended issuance of the COC.
- JK motions to issue a Complete COC for the property. BO second. Approved 6-0-0 by Roll Call Vote: BO-yes, PC-yes, JR-yes, AL yes, CH-yes, JK-yes.

2783 Andersen-Kalandranis, 482 Ocean Street [COC]

- BG visited the site and recommended issuance of the COC.
- JK motions to issue a Complete COC for the property. BO second. Approved 6-0-0 by Roll Call Vote: BO-yes, PC-yes, JR-yes, AL yes, CH-yes, JK-yes.

2805 Gray, 1150 Ferry Street [COC]

- BG visited the site and recommended issuance of the COC.
- JK motions to issue a Complete COC for the property. BO second. Approved 6-0-0 by Roll Call Vote: BO-yes, PC-yes, JR-yes, AL yes, CH-yes, JK-yes.

1563 Pellegrini, 31 Water Street [COC]

- BG spoke with attorney Jay Creed, representing applicants, but has not heard back from Town Counsel. JC requested a continuation pending feedback from TC.
- JK motions to continue the mater to June 16, 2020. AL second. Approved 6-0-0 by Roll Call Vote: BO-yes, PC-yes, JR-yes, AL yes, CH-yes, JK-yes.

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); 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 8:37 PM. AL second. Approved 6-0-0 by Roll Call Vote: BO-yes, PC-yes, JR-yes, AL 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 Rick Carberry
Craig Hannafin Joe Ring