

TUESDAY, NOVEMBER 3, 2020 6:30 P.M., ZOOM VIDEO CONFERENCE (HELD REMOTELY)

MARSHFIELD TOWN HALL, 870 MORaine STREET, MARSHFIELD, MA

MEMBERS PRESENT – James Kilcoyne (JK) Chair, Bert O'Donnell (BO) Vice Chair, Arthur Lage (AL), Joe Ring (JR), Rick Carberry (PC), Craig Hannafin (CH), Susan Caron (SC), Bill Grafton, Conservation Administrator (BG)

MEMBERS NOT PRESENT – None

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

MINUTES – Tabled.

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. Commissioners should identify themselves before speaking, and all parties should mute themselves until they want to speak.
- The Commission has reinstated the "three continuance" policy 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." Applicant will be able to reapply when they have all the necessary information to proceed, without having to wait the two year period.
- The 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. Public comments are to be addressed to the Chair or Hearing Officer.
- JK asks that applicants and their representatives refer to the Commission's permit checklist, ratified 11/20/2018, for submission requirements. If they prefer to use the legal ad for an abutter notification, it is the applicant's responsibility to request a copy from the Conservation Office two business days after the submittal deadline.
- JK notes that the Commission has been working to develop a mission and value statement; he received feedback from all Commissioners and incorporated all comments into the final document. JK reads the full text into the record. The Commission is responsible for enforcing wetland and stormwater regulations set forth in the town bylaws and Massachusetts Wetland Protection Act, and educating citizens as to compliance with such regulations and conservation issues. The Commission also strives to protect open spaces in town, manages properties for public access and recreation, and improve the environmental integrity of the community. The Commission mission is to improve the quality of life in Marshfield through outstanding environmental stewardship of the town's natural resource areas; its core values are honesty, integrity, respect, courage, openness, diversity, and balance. The full statement will be posted on the Commission Web site after ratification.
- JK moves that the Commission ratify the Commission mission and value statement as drafted. JR second. Approved 7-0-0 by Roll Call Vote: JR-yes, AL-yes, SC-yes, PC-yes, CH-yes, BO-yes, JK-yes.

BUSINESS

B1 251 Damon's Point Road / Restoration Plan & Third Party Review – Holmes & Commissioners

- John Rockwood (JR), Ecotec, present. JK notes that cutting on the property was reported by a citizen. The matter went to the North River Commission and pictures were sent to him. The Commission subsequently issued an enforcement order and, at the January 21 discussion, voted 5-0-0 for a third party to assist with the restoration plan. Mr. Rockwood submitted a report to the Commission on March 23, but further review and discussion has been delayed due to the pandemic and Stage 2 drought. JK notes that the most recently received report from Ecotec proposes the planting of 28 saplings and 63 shrubs; the unpermitted cutting involved the removing of a number of 8 inch to 3 ft thick trees both in the wetlands and buffer zone, exposing the watershed of the North River salt marsh.
- JK polls the Commissioners as to whether to accept the Ecotec proposal, on the understanding that additional information will be required regarding plant locations. CH feels strongly that the Ecotec plan should be implemented with more specificity as to plant material and placement. AL, JR, and SC concur. PC concurs but notes that the site has somewhat revegetated due to the delay in planting, and asks whether this will pose a risk to success of the proposed plantings. JK indicates that this will be taken into consideration as the plan is developed. BO notes that the Ecotec report is not a restoration plan in its present state, but rather provides guidelines to what the plan should be, and asks if the intent is for JR to subsequently prepare a restoration plan; JK confirms.
- BG asks about timing of the plantings; JK feels Spring 2021 makes sense, but specific details can be provided in the plan. BH asks JK if he can be involved in developing the proposal, as applicant's representative. JK's understanding is that the Commission votes on the third-party reviewer's proposal given this is an enforcement order, and the third party's recommendation carries.
- JK moves that the Commission accept the proposal prepared by JR of Ecotec with respect to 251 Damon's Point Road, and ask that he prepare a planting plan. CH second. Approved 7-0-0 by Roll Call Vote: JR-yes, AL-yes, SC-yes, PC-yes, CH-yes, BO-yes, JK-yes.

B2 50 Ocean Street / Handicap Lift Footing DeMinimis Activity or Conservation Permit– James Marathas

- The Commission discusses a proposal to add an elevator to the subject property. Applicant James Marathas (JM) has a Flood Mitigation Assistance grant associated with outstanding order of conditions SE42-2704, and FMA grants do not allow any deviations from approved site plans. In February of this year, the Commission approved the addition of crushed stone to areas of the yard abutting the seawall as a minor deviation that could be captured on the As-Built plan.
- BG notes that the subject property is in a velocity zone and setback to coastal bank and coastal beach, and the Commission should consider whether the proposed activity meets criteria for a DeMinimis Activity under MassDEP Policy Guide 85-4, or if applicant must file for an Amended Order of Conditions. BG advised JM to reach out to the Town Building Commissioner and FMA Grant representative for feedback. Building Commissioner indicated that the elevator must comply with FEMA technical bulletins. FMA Grant representative Jack Sullivan reported that JM intended to close out the FMA Grant prior to performing the elevator work.
- JK has no issue with the proposed work but feels it is likely not DeMinimis given the scope of activity and multiple (FEMA, ADA) jurisdictions involved. BO asks where the elevator will be built, and if that location is in a VE zone. BG believes that about 1/8 of the house is in the VE zone but, per the Building Department, even if just a section of the house touches the VE zone, the greater FEMA standard applies. The exact location of the elevator is not clear from the information on hand. JK suggests that the Commission require an Amended Order of Conditions filing so a properly detailed site plan can be received for review.

- JK moves that the Commission require a request for Amended Order of Conditions for 50 Ocean Street, SE42-2704. AL second. Approved 7-0-0 by Roll Call Vote: JR-yes, AL-yes, SC-yes, PC-yes, CH-yes, BO-yes, JK-yes.

B3 Conservation Administrator Update/Increase in wetlands violations under COVID-19 Conditions – Bill Grafton

- BG asks members of the public to try to have some extra respect for natural resources and Conservation areas in this period of COVID-19 restrictions, when town resources for dealing with violations are limited. He has observed an increase in violations such as litter and graffiti in Conservation properties, and unpermitted tree cutting in resource areas.

PUBLIC HEARINGS

Prior to the start of the public hearings, JK advises that the hearings for Kirwan (2885) and Murphy (2887) are being continued.

20-26 McKenzie, 56 Surf Avenue (Deck).....NEW (Joe)

- JK reads the legal ad. Hearing Officer JR confirms administrative requirements are complete.
- JR notes that the filing is an After-The-Fact RDA for a deck repair that was referred to the Conservation Office from the Building Department as part of a stop work order. The property is in AE9 flood zone.
- Applicants Pam MacKenzie (PM) and Phillip Joy (PJ) indicate that they took down an existing deck with concrete stairs and replaced it with a slightly longer and wider deck, reusing most of the existing footings, adding one new footing to support the additional deck area.
- BG has no issues with the work as completed. The standard conditions of approval will apply.
- JR asks for comments from the Commissioners and public; none.
- JR motions close and issue a Determination of Applicability, Pos #5 and Neg #3, with special conditions drafted by BG. PC second. Approved 7-0-0 by Roll Call Vote: JR-yes, AL-yes, SC-yes, PC-yes, CH-yes, BO-yes, JK-yes.

2888 Hassett, 0 Norwell Road (New SFH).....NEW (Bert)

- JK reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- Jeff Hassett (JH), Morse Engineering, present for applicant Steven Hassett (SH). The proposed activity is the construction of a SFH on a 9600 sq ft lot of record. There is a BVW off-site to the rear. Wetlands were flagged by John Zimmer (JZ), South River Environmental, in 2019 for the abutting property; this delineation was extended this year for the current project. The proposed SFH will be 26' by 36' with a 22' by 32' garage; a roof drywell will be installed in the back yard. The proposed septic system will be in the backyard; perc tests were highly favorable. The lot is in the Stormwater Management District, and the project is designed to comply with all requirements resulting therefrom.
- JH notes that no disturbance is proposed for the 50 ft buffer; mulch sock erosion control will be placed along the 50 ft buffer, along with five (5) conservation posts to be installed at the conclusion of the project. The deck and house are both outside the 75 "no structure" buffer. JH and BG will be reviewing the wetland line this coming Thursday afternoon with JZ.
- BG notes that he asked for the review of the wetland line, as neither of the existing lines has been approved by the Commission, and the delineation on this property will impact abutting properties. BO notes the presence of two "A1" flags on the site plan; JH indicates this is correct, as the flags were from two different delineations. BG asked for a revised naming convention for the entire revised wetland delineation for clarity pertaining to this project. This will be updated in any subsequent site plan.

- BO asks whether there will be any additional retaining walls to the one shown on the site plan. JH indicates the septic wall will be the only wall; there will be a boulder wall downgradient of the septic. BG would like to see a cross-section of the boulder wall added to the site plan, given the hilliness of the lot. BO asks that additional conservation markers be added to the property line between the lot and the adjoining conservation property; JH will work with BG to place the markers in the field. In response to a query from JR, JH indicates that the driveway will be paved. JK asks that the 25 ft buffer be added to the site plan; JH will update the site plan to add the 25 ft buffer, boulder wall cross-section, and additional markers.
- BO notes that the property is also in the inland wetlands district and asks if there are any requirements resulting therefrom. JH believes the only requirements have to do with zoning, but will confirm. The lot predates zoning, so JH believes it doesn't have to comply with the area requirement. They have a letter from Town Counsel confirming the lot's status; BG asks for a copy for the file.
- BO asks for comments from the public; none.
- The matter is continued to allow for receipt of an updated site plan, and for BG, JH, and JZ to review the wetland delineation.
- BO motions to continue the hearing to November 17, 2020. AL second. Approved 7-0-0 by Roll Call Vote: JR-yes, AL-yes, SC-yes, PC-yes, CH-yes, BO-yes, JK-yes.

2889 Brown, 243 Ridge Road (Raze & Rebuild).....NEW (Rick)

- JK reads the legal ad. PC comments that the proposed activity is the raze and rebuild of an existing home in riverfront, land subject to coastal storm flowage and buffer too salt marsh. BG notes that he confirmed that all abutters set forth on the assessors' list were notified but is not certain all notifications were delivered within seven days.
- PC also notes that the site plan received before the submittal deadline does not provide the 50, 75, or 100 ft setbacks to the resource area, nor does it specify who delineated the area and when. First-floor elevation is 9.25 ft, but the site is in AE12-AE13 flood zone. The lower level will be garage and storage only, but the site plan must specify that the area will not be habitable.
- Given the quantity of missing information, JK feels applicant should be charged a denial without prejudice (DWOP) under Commission policy; PC has no issue with the project once all the required information is provided but agrees that a DWOP and continuation is in order. Applicant engineer Bob Crawford (BC) assents to a continuation to November 17. BG notes for the record that the project will ultimately reduce impervious surface on the lot. PC notes that an updated site plan was received at the Conservation Office this afternoon, after the submittal deadline.
- PC asks for comments from the public; none.
- PC motions to issue a denial without prejudice and continue the hearing to November 17, 2020. JR second. Approved 7-0-0 by Roll Call Vote: JR-yes, AL-yes, SC-yes, PC-yes, CH-yes, BO-yes, JK-yes.

2887 Murphy, Brewster Rd (Road impvts. & storm water mgmt facilitates).....cont from 10/20/2020 (Bert)

- This hearing was continued at the October 20, 2020 meeting until the public meeting of the Marshfield Conservation Commission on December 1, 2020.

2884 D.H. Smith & Sons LLC, 887 Plain Street (Addition to Existing Building).....cont from 10/20/2020 (Art)

- Continued Hearing. AL Hearing Officer.
- Richard Grady (RG), Grady Consulting, present along with applicant Dan Smith (DS). The subject property extends from Plain Street to the Route 3 right of way. Applicant would like to put an addition on the rear of the rear building. The area of the proposed addition is entirely within existing pavement, and will remain out of the 75 ft buffer to a bordering vegetated wetland in the rear of the property, and greater than 100 ft away from another wetland in the front of the property. The addition will have roof drains

front and back, emptying into crushed stone trenches, which will provide filtration. Silt sock erosion control is proposed along the limit of work.

- BG walked the limit of work and beyond with applicant and has no issue with the new delineation of the isolated vegetated wetland on the adjacent Flynn property, which was done by John Zimmer (JZ). He would like conservation markers to be added to the property line with the Flynn property to protect the functioning wetland on that property. Town Engineer Rod Procaccino (RP) reviewed the proposed roof drainage system and feels it will be an improvement over existing conditions. BG would like the erosion control to be expanded so it better protects a wetland to the west which feeds a cold water fishery/fish run in Pembroke.
- All parties discuss possible mitigation plantings for previous activities on the property under SE42-2762. BG advised applicant that the natural rejuvenation that has taken place in the area would not be acceptable given that mitigation was required not optional under OOC SE42-2762; additional conservation markers are needed as well. AL would like the additional markers and plantings to become part of the order of conditions for this project.
- JK concurs with AL's comments, as the property is surrounded by wetland and most of the project is inside the 100 ft buffer. For this reason, it will also be essential that applicant notify the Commission regarding any other disturbance that takes place on the property. JK also observed a paved area in back of the property that appears to drain a lot of sediment into the wetland, and would like that to be addressed; BG comments that additional erosion control may be needed here. RG indicates he will look at the area and recommend a solution.
- JK asks BG about the multiple recent filings for this property; RDA 18-40, from 2018, involved improvement to the front part of the lot; NOI SE42-2762 concerned the addition of a mulch facility in the rear of the lot; NOI SE42-2814, for a proposed sawmill, was withdrawn. BG confirms that plantings required as conditions of approval for these filings had not been implemented. JK suggests that approval of this project be contingent upon applicant completing the plantings and conservation marker installation required in the previous Orders of Conditions/SE42-2762; AL concurs, noting that given the narrowness of the lot, it would be very easy for heavy equipment to encroach on the resource area without markers. BO agrees that planting completion and conservation marker installation should be a condition of approval for this project, but does not think that other work associated with the previous OOC, in the rear of the lot, need be completed before approving this work. PC and JR concur with AL and JK.
- DS comments that he has been focusing on finalizing improvements to the front of the lot, and working his way to the rear. With regard to sediment drainage in the back of the lot, DS states there is crushed stone concealed in the weeds that filters out sediment. The company has been busy during the pandemic, and this has delayed completion of work in the back of the lot.
- All parties briefly discuss the number of plantings required in the Order of Conditions/SE42-2762; DS believes that 100 plants were required, but AL believes 150 may have been required, and asks BG to verify. RG displays the approved plan of record under OOC/SE42-2762 showing no details on the planting plan. BG will check the record, but does not believe an exact number was given and recommends that the Commission accept the 100 plants if no number was specified; AL agrees.
- AL asks for comments from the public; none.
- BG advises that the standard conditions of approval will apply, in addition to special conditions requiring that (1) the revised stormwater report be on site, (2) a qualified wetland scientist be engaged to prepare a planting/implementation plan for the 100 plantings required in OOC SE42-2762 before the start of work, (3) all erosion controls for this project and ongoing work associated with SE42-2762 be installed before the start of work, (4) conservation markers associated with this project and SE42-2762 be placed in the field with BG, (5) appropriate modifications be made to ensure any runoff into the offsite wetlands meets the treatment standards set forth in 310 CMR 10.05(6).

- AL polls the Commissioners as to whether to close the matter with the special conditions as discussed or continue pending additional actions by applicant: CH close; PC close; JR close provided BG can handle the adjustments; SC close providing OOC is specific regarding all outstanding requirements; BO close; JK continuance due to the number of special conditions.
- Hearing Officer AL asks JK what he thinks is missing? JK cites an impervious table, information as to whether any additional asphalt will be put down, and planting plans. AL now feels the matter should be continued pending receipt of additional information, and re-polls the Commission: AL continue, CH continue, PC continue, SC continue, BO continue - recommends that applicant review the stormwater requirements, JK continue.
- AL motions to continue the hearing to November 17, 2020. SC second. Approved 7-0-0 by Roll Call Vote: JR-yes, AL-yes, SC-yes, PC-yes, CH-yes, BO-yes, JK-yes.

2885 Kirwan, 93 Bourne Park Avenue (Pier, Ramp & Float).....cont from 10/20/2020 (Rick)

- This hearing was continued at the October 20, 2020 meeting until the public meeting of the Marshfield Conservation Commission on December 1, 2020.

REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS

1113 Sinn (now Vozzella), 181 Quail Run Road [COC]

- Property was recently sold with open Orders of Conditions. Realtor's attorney provided an As-Built plan prepared by Josh Green (JG), Merrill Engineers, which disclosed an unpermitted deck in the back yard, outside the 50 ft setback to wetlands in back, plus a walking path and stairs between the driveway and front door and green waste fill beyond rear stone wall in violation of the special conditions. BG walked the property with new owner, John Bascon (JB), and advised him of the nearby wetlands. JB has subsequently removed two piles of green waste; one left in the backyard by previous owners. BG feels the deck, stairs, and walking path qualify as accessory structures to a residential dwelling under 310 CMR 10.02.(2B)(2e), is OK with them having been captured in the As-Built plans, and recommended issuance of a complete COC.
- JK motions to issue a complete COC for the property. BO second. Approved 7-0-0 by Roll Call Vote: JR-yes, AL-yes, SC-yes, PC-yes, CH-yes, BO-yes, JK-yes.

2390 Rogan, 14 Bank Road [COC]

- JK comments on the extensive history associated with the property, and notes that most commissioners have made several visits to the site. BG comments that applicants did a good job on the plantings, but outstanding issues at the property include a float on a tidal flat, addition of a granite bench inside the 0-2buffer, southerly riprap not approved, and unapproved additions to northerly riprap. BG has no issue with the bench, but notes that coir logs are in place on the property, feels there is no need for riprap, and recommends that the excess northerly and southerly riprap should be removed, as it likely deflects wave energy onto neighboring properties.
- All parties discuss whether the Commission should order removal of the excess riprap, deny the RCOC and require a re-filing, or issue the COC. CH comments that it does not look like applicant is far out of conformance, but after some discussion reconsiders as it is noted that CH was looking at an As-Built plan from 2017 and not the plan of record from 2012. PC-remove riprap, not needed along riverbank. AL-remove riprap; JR-remove riprap and deny; SC-remove riprap. BO-issue COC; the Commission approved a minor deviation in December '17, everything on the site conforms to the as-built. Every home on Ridge Road has armoring.
- With respect to the minor deviation referenced by BO. BG states the deviation was to allow the placement of 12-15 cubic yards of sand, and he allowed applicant to use the As-Built plan as submitted to

avoid adding to applicant's costs as per the Commission's disposition at the time. BG notes it was not submitted with the Request For Certificate of Compliance for the original work with approval by the Commission. BG further states that a new As-Built reflecting a current date be submitted with this Request For Certificate of Compliance but the applicant cited cost variables and asked to utilize the 2017 As-Built.

- JK polls the Commissioners as to whether the Commission should order removal of the excess riprap, deny the RCOC and require a re-filing, or issue the COC. JR-deny; CH-deny; PC-deny; SC-deny; BO-issue COC; AL-deny; JK-deny.
- JK moves that the Commission deny the request for COC WPA form 8A, with no reimbursement of the filing fee, and require a new RCOC submittal complete with filing fees, revised As-Built, and photo documentation showing the riprap has been removed. JR second. Approved 6-1-0 by Roll Call Vote: JR-yes, AL-yes, SC-yes, PC-yes, CH-yes, BO-no, JK-yes.
- After the vote, Brad Holmes (BH), ECR, representing applicants, notes that his clients were not in a rush to receive the COC, and would have preferred to work with the Commissioners to address any concerns prior to the request being denied. JK points out that when a request for COC is on the agenda, the assumption is that applicants are seeking a vote and not additional feedback. BH replies that he could have clarified had the matter been opened up for discussion, but JK notes that COC requests, unlike public hearings, are only opened up for public discussion at Commission discretion. After further discussion, all parties agree to meet on the site.

2716 Fidler, 410 Union Street [COC]

- BG visited the site and observed conservation markers in place and required plantings doing well; monitoring reports have been provided by John Zimmer (JZ), South River Environmental. An unpermitted gravel driveway has been added, but it likely qualifies as an accessory structure to a residential dwelling under 310 CMR 10.02.(2B)(2e). BG is OK with the driveway having been captured in the As-Built plan, and recommends issuance of a COC ongoing conditions allowing for maintenance mowing of the wet meadow and permanent posted conservation markers.
- JK motions to issue a COC for the property with ongoing conditions as follows: maintenance mowing of the wet meadow is allowed and permanent posting of conservation markers is required as per the As-Built plan revised July 7, 2020 prepared by Amory Engineers and signed and stamped by Patrick Brennan, RPE, and Special Conditions of SE42-2716 Orders Of Conditions. CH second. Approved 7-0-0 by Roll Call Vote: JR-yes, AL-yes, SC-yes, PC-yes, CH-yes, BO-yes, JK-yes.

2746 Mastergeorge Realty Trust, 22 Damons Point Circle [COC]

- BG notes that the plantings required in the Order of Conditions have not been made and no monitoring reports have been submitted, and recommended that the request be tabled.
- JK motions to table the request pending receipt of planting implementation report and two years of monitoring showing (2) two successive seasons of 75% successful plant growth as per 310 CMR 10.24 and 10.53. PC second. Approved 7-0-0 by Roll Call Vote: JR-yes, AL-yes, SC-yes, PC-yes, CH-yes, BO-yes, JK-yes.

2806 Lyons, 18 Naomi Street [COC]

- BG visited the site and recommended issuance of a COC with ongoing conditions
- JK motions that the Commission issue a Complete Certificate of Compliance with ongoing conditions referencing the location of the (4) four permanent conservation markers depicted on the As-Built dated 10/13/2020 prepared by Stenbeck and Taylor, signed and stamped by Rick Servant. There shall be no mowing or vegetative management downgradient of these permanent conservation markers. This

condition remains in perpetuity. AL second. Approved 7-0-0 by Roll Call Vote: JR-yes, AL-yes, SC-yes, PC-yes, CH-yes, BO-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. JR second. Approved 7-0-0 by Roll Call Vote:

JR-yes, AL-yes, BO-yes, SC-yes, PC-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	Joe Ring
Craig Hannafin	Rick Carberry
Susan Caron	