

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. SC second. Approved 7-0-0 by Roll Call Vote: AL-yes, CH-yes, JR-yes, PC-yes, SC-yes, BO-yes, JK-yes.

MINUTES

- The minutes of the October 20 meeting were presented for approval. No comments or suggested changes were received, and none were made on the floor.
- JK motions to accept the October 20, 2020 minutes as submitted. JR second. Approved 7-0-0 by Roll Call Vote: AL-yes, CH-yes, JR-yes, PC-yes, SC-yes, BO-yes, JK-yes.

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.
- JK notes that as of December 1, 2020, the 21 day deadline for the Commission to open a public hearing on an application will be reinstated. The Commission has been meeting regularly and opening hearings within the deadline throughout the state of emergency, so no impacts are anticipated. Prior to the end of the meeting, BG thanks the Commission for its efforts in expediting hearings and permits.
- 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 questions/comments (10 minutes, with extensions by motion and vote), public comment, deliberation, and vote. Public comments are to be addressed to the Chair or Hearing Officer.
- JK reminds all that applicants and their representatives can no longer speak once the Commissioner deliberation phase of the hearing has been reached. However, since there may be situations where further clarification from applicant or representative is needed, JK proposes to modify the hearings procedure to allow applicant/representative to speak after start of Commissioner deliberations to (1) offer new and not previously known information, or (2) correct statements the Commission has misunderstood. Applicants should not rehash their presentation at such times. Since in most cases, the Commissioners have already visited the property and reviewed the submission at length in advance of the hearing, and have listened to applicant or their representative's presentation prior to the start of deliberations, JK feels that the need for applicants to interrupt Commissioner deliberations should be infrequent.

- JK moves that the Commission modify the public hearings procedure as discussed. CH second. Approved 7-0-0 by Roll Call Vote: AL-yes, CH-yes, JR-yes, PC-yes, SC-yes, BO-yes, JK-yes.

BUSINESS

B1 97 Wrights Way / De Minimis Activity vs Conservation Permit– Jordan Borchert

- JK notes that the subject property is part of the John Sherman Estates, a subdivision that was approved with a variance under filing SE42-2217 Amended; property owner Borchert maintains that the additional activity he is proposing, construction of a driveway in buffer zone to wetlands, is covered under the variance issued for the subdivision; BG states that a Notice of Intent filing is required for individual lots within subdivisions regardless of whether the subdivision OOC (or amended OOC) was issued with a variance. JK spoke to Town Counsel, who indicated that the subdivision variance allowed applicant to have the driveway as proposed, but this did not mean that applicant could construct the driveway without a permit.
- CH visited the property and feels the proposed activity clearly requires a Notice of Intent. BO asks how the project received a building permit without BG sign-off. BG feels the subject isolated vegetated wetland jurisdictional under the Chapter 505 only did not show up on the mapping resource they checked. He has been in touch with the Building Department and Board of Health regarding the need for a Conservation permit in this case.
- JK moves that the Commission require the filing of a Notice of Intent for the proposed driveway construction at 97 Wrights Way. BO second. Approved 7-0-0 by Roll Call Vote: AL-yes, CH-yes, JR-yes, PC-yes, SC-yes, BO-yes, JK-yes.

B2 73 Spring Street/Drainage Water Sewer Pipe DeMinimis Activity vs Amended OOC – Steve Grable

- Commissioner CH recuses.
- The Commission discussed deviations from the approved site plan of 8/11/20. An Order of Conditions was issued for the subject property at the 9/1/20 Commission meeting, and abutter Geraldine Lantieri (GL) has appealed to Mass DEP for a superseding Order of Conditions. JK notes for the record that a letter from Ms. Lantieri outlining eight alleged changes had been received at the Conservation Office this morning.
- JK feels that the changes will not have significant additional impacts on the wetlands, and believes some of the ongoing issues with this project could be alleviated with better communication from applicant's representative to BG and GL. BO notes that he visited the site with CH, BG, and Mass DEP; GL was present, and seemed to be most concerned about drainage being redirected to her lot. BO suggests that applicant's engineer work directly with GL to resolve these concerns, but agrees with JK that the changes themselves are DeMinimis.
- Attorney Gaetano DeLuca (GD), representing GL, briefly notes the changes observed from the approved site plan, including change in water main location and sewer line and leaching field orientation, and agrees that her primary concerns are additional drainage being directed to her property. Applicant Steve Grable (SG) states that the water line had already been tapped when his engineer created the site plan, without the engineer's knowledge. The changes to the leach field were necessary for the system to function properly, but do not change drainage. SG does not feel that any additional drainage will be directed to the GL property, as her property is higher than his.
- JK polls the Commissioners as to whether the changes described are DeMinimis or require an Amended OOC. AL - DeMinimis, JR DeMinimis, PC DeMinimis - no changes that affect the resource area, SC DeMinimis, BO DeMinimis, JK DeMinimis.
- BG suggests that the following special conditions accompany a DeMinimis approval: Cease and desist remain in effect until (1) a revised site plan is received showing a gridded area on the previous Order of

Resource Area Delineation (ORAD), (2) preconstruction meeting with BG is completed, (3) the Superseding OOC matter with Mass DEP is resolved, and (4) all applicable appeals periods have elapsed.

- JK motions that the Commission approve the deviations from the approved site plan as DeMinimis Activity that can be captured in the As-Built plan for the property subject to the special conditions set forth by BG. AL second. Approved 6-0-0 by Roll Call Vote: AL-yes, JR-yes, PC-yes, SC-yes, BO-yes, JK-yes.

Commissioner CH returns to the public meeting.

B3 63 Rexhame Road/Complaint Vegetative Management DeMinimis Activity vs. ATF RDA – Florentinos

- BG received a complaint about illegal cutting on the property, which he confirmed in a site visit on 10/21/2021. The property is in LSCSF and in the 100 ft buffer to an isolated vegetated wetland across the street. It appears that the previous owners removed several trees in 2015, prior to the property being sold. BG subsequently met with the new owners, who are contemplating some additional clearing to reach and remove some litter in the wooded area in back.
- Property owner Karen Florentino (KF) comments that the only thing they had done was remove poison ivy from sections of the property, as husband Al Florentino (AF) is severely allergic. BG has no issue with the poison ivy removal, but notes that the future activity they are contemplating will require a permit.
- JK moves that the Commission approve the recent vegetative management as DeMinimis Activity with the understanding that further activity will require a Conservation permit. BO second. Approved 7-0-0 by Roll Call Vote: AL-yes, CH-yes, JR-yes, PC-yes, SC-yes, BO-yes, JK-yes.

B4 Schedule meeting dates form January – June 2021 – Commission & Bill Grafton

- The Commission reviewed proposed Commission meeting dates from January to June 2021; Administrative Clerk Liz Anoja has screened the dates for conflicts with holidays or town meetings.
- JK moves that the Commission to accept the January to June 2021 meeting schedule as proposed. PC second. Approved 7-0-0 by Roll Call Vote: AL-yes, CH-yes, JR-yes, PC-yes, SC-yes, BO-yes, JK-yes.

PUBLIC HEARINGS

Prior to the start of the hearings, JK advises that the hearings for Murphy (2887), Kirwan (2885), and Sullivan (2890) are being continued.

20-27 Depathy, 29 Preachers Path (Tree Removal & Lawn Expansion).....NEW (Joe)

- JK reads the legal ad. Hearing Officer JR confirms administrative requirements are complete.
- JR advises that the proposed activity includes the removal of five trees in the 50-100 buffer zone to a wetland. Applicant Mark Depathy (MD) states that the purpose of the tree removal is to prevent damage to his house. He would also like to grade the area so he could plant grass, as well as reconfigure or replace a fence in back in order to expand the yard. There is an uprooted tree by WF7 that he would like to address, if possible. He has obtained a delineation from Brooke Monroe (BM), Pinebrook Consulting; there may be future work on the yard.
- BG notes that he advised MD to cut the uprooted tree at 12 or 18 ft height, and it will likely resettle creating standing wildlife habitat and improve aesthetics. BO asks where the fence would be relocated; JR indicates applicant is looking to move it about 10 feet back; it would still be outside the 50 ft buffer.
- CH comments that one tree appears to be inside the 50 ft buffer; JK notes some confusion on part of the Commissioners, and asks MD to re-state what he is looking to do. MD is looking to remove five trees, the closest one 41 ft to WF6. With regard to the request to move the fence, JK notes that a fence is considered to be a structure under the Town Bylaw, and suggests a special condition be added specifying

that the fence not be moved any closer than 50 ft to the wetlands. BG adds that the fence must be notched at certain intervals to allow for wildlife migration.

- BG indicates that the standard conditions of approval will apply, including special conditions that the fence remain outside the 50 ft buffer and be notched to allow for wildlife migration, that five conservation markers be posted along the 50 ft buffer, and that there be no further green waste dumping in the buffer.

JR asks for comments from the public; none.

- JR motions to close and issue a Determination of Applicability, Pos #5 for the Bylaw, Pos #2A approving the wetland delineation by Brooke Monroe, and Neg #3, with special conditions drafted by BG. AL second. Approved 7-0-0 by Roll Call Vote: AL-yes, CH-yes, JR-yes, PC-yes, SC-yes, BO-yes, JK-yes.

20-28 Marshfield Beach Administrator, Pearl St, Brighton St, Beach St EXTS (pathway impvts).....NEW (Joe)

- JK reads the legal ad. Hearing Officer JR confirms administrative requirements are complete.
- Beach Administrator Cindy Castro (CC) present. The proposed activity is improvements to access paths to Burke's Beach at the Pearl, Brighton, and Beach Street entrances. CC notes that the Brighton and Pearl access paths are currently paved and frequently flooded. They would like to remove the remaining paved surface at these entrances, replace with seasonal (Spring through Fall) mobi mats, and add plantings. They would also like to remove the remaining tar at the Beach Street entrance, straighten the pathway, and add new plantings.
- CH thanks CC for putting in the mobi mats, as they will improve beach accessibility. BG likewise thanks CC for being a good steward of the town beaches.
- JR asks for comments from the public; none.
In addition to the standard conditions of approval, BG recommends a special condition allowing for optional periodic replacement plantings, to maintain plant density and integrity, in perpetuity.
- JR motions to close and issue a determination of applicability, Pos# 5 for the Bylaw, Neg #3 with special conditions drafted by BG. CH second. Approved 7-0-0 by Roll Call Vote: AL-yes, CH-yes, JR-yes, PC-yes, SC-yes, BO-yes, JK-yes.

20-29 Marshfield Board of Selectman (So River Park), 2154 Ocean St. (Pathway Maintenance).....NEW (Joe)

- JK reads the legal ad. Hearing Officer JR confirms administrative requirements are complete. Commissioner SC recuses.
- Sue MacCallum presents for the Friends of the South River Park. The proposed activity is maintenance of the upper walkway at the park for ADA compliance, including the removal of weeds and, at the recommendation of a contractor, replacing the existing gravel and compacting the pathway.
- BO asks whether the conditions of approval will allow for ongoing periodic maintenance; BG confirms, as the site is previously disturbed and this will help with maintenance of the park.
- JR asks for comments from the public; none.
- JR motions to close and issue a determination of applicability, Pos #5 and Neg #3, with special conditions drafted by BG. BO second. Approved 6-0-0 by Roll Call Vote: AL-yes, CH-yes, JR-yes, PC-yes, BO-yes, JK-yes.

Commissioner SC returns to the public meeting.

2890 Sullivan, 0 Old Mt. Skirgo (New SFH).....NEW (Craig)

- JK reads the legal ad. BG administrative requirements are complete except for abutter notification.
- The public hearing is continued until the next public meeting of the Marshfield Conservation Commission on December 1, 2020. Written continuation request was received at the Conservation Office.

- JK motions to continue the public hearing to December 1, 2020. CH second. Approved 7-0-0 by Roll Call Vote: AL-yes, CH-yes, JR-yes, PC-yes, SC-yes, BO-yes, JK-yes.

2709 Amended Lohe, 1354 Union Street (Amend dock float).....NEW (Rick)

- JK reads the legal ad. Hearing Officer PC confirms administrative requirements are complete. Commissioner CH recuses from voting.
- PC notes that the project was originally permitted in 2018, and applicant submitted a Request for Certificate of Compliance at the 9/15/20 meeting, which was denied due to the ramp design being changed from that on the approved Orders of Conditions.
- Brendan Sullivan (BS), Cavanaro Consulting, present for applicant, Tim Lohe (TL). BS notes that the dock and pier has been built. In lieu of the helical anchors set forth in the approved site plan, they used a structural gangway attached to the pier and float, thus avoiding the need for piles or anchors on the river floor. The purpose of the filing is to memorialize these changes to the ramp and float.
- BG advises that comments from Harbormaster Dimeo are still outstanding. BS indicates that he did receive comments from DMF. BG reads the comments into the record that the new design will be as follows “as there will not be bottom anchors and chains resting on the substrate.”
- PC feels there are a number of remaining outstanding issues, including the need for at least 2 feet of water on the inland side of any float, measured at mean low water if no shellfish, 2.5 ft if shellfish; BS reports 18 inches of inland-side water. PC notes there seems to be a steep drop-off at that section of the river, so an adjustment to the float position may be possible. PC also suggests that the distance from the outland side of the float to a mooring marker midriver be added to the site plan. BS believes that the mooring referenced was a temporary mooring that is not there anymore. TL states that the mooring in question was an abandoned mooring that had been dragged upriver by ice; it has since been given to a new owner and moved downriver. BG would like to ensure the Harbormaster has no concerns regarding navigation.
- TL notes he was under the impression that the inland-side depth requirement was 18 inches; PC reiterates that the guidelines specify 2 ft if no shellfish in the area, 2.5 ft if shellfish, and this is the standard the Commission has been following. BS also believes the state regulatory requirement is 18 inches, but will verify.
- JK notes that the Commission has drafted a checklist for dock applicants, setting forth all the information required for approval, and feels the checklist was not followed, as the current drawing lacks the information needed to approve the project. JK also comments on the late receipt of revised plans dated 11/17/202, the date of this public hearing that, by itself, would justify a denial without prejudice. JR agrees that a denial without prejudice is in order to ensure that the Commission sees timely and sufficiently detailed submissions.
- PC polls the Commissioners as to whether to issue a denial without prejudice - BG notes it would be the first denial of three allowed before refileing: JR yes; BO yes; AL yes; SC yes since it is the first; JK yes since it is the first; PC no.
- PC asks for comments from the public; none.
After further discussion, applicant is charged a denial without prejudice and the matter is continued pending adjustment of float position, receipt of revised plans, and Harbormaster comments regarding navigation. BG encourages BS to work with him to address all remaining issues.
- PC motions to issue a denial without prejudice and continue the hearing to January 5, 2021. JR second. Approved 6-0-0 by Roll Call Vote: JR-yes, AL-yes, PC-yes, SC-yes BO-yes, JK-yes.

Commissioner CH returns to the public meeting.

2888 Hassett, 0 Norwell Road (New SFH).....cont 11/3/2020 (Bert)

- Continued hearing; BO Hearing Officer.
- BO notes that the hearing had been continued so BG could check the wetland delineation. Jeff Hassett (JH) of Morse Engineering, representing applicant, states that he, BG, and John Zimmer (JZ), South River Environmental, met on the site; this resulted in some changes to the delineation but none that impact the work area, and the new line is depicted on the updated site plan. Additional changes include addition of the 25 ft buffer, a cross-section, and specification that Pearl's Premium Grass will be used, as it has a deeper root system to stabilize the soil. They have also added 7 sweet pepperbushes and 10 sweet ferns along the 50 ft buffer, and will add three conservation markers to the property line with the adjoining Conservation land.
- BG adds that seven to nine wetland flags were moved, none of which impacted the proposed structure. He would like to post five (5) red and white ("No disturbance") markers along the 50 ft buffer in addition to the three (3) green and white ("Conservation Land") markers along the property line; JH assents. BG has no issue with the plantings proposed. BO cautions JH to take time of year into consideration, and to stabilize the work site as soon as possible owing to steep grades. JH notes they will be using Jute mesh and wood chips to stabilize the site as work proceeds.
- BO asks for additional comments from the Commissioners and public; none. Special conditions regarding the posting of conservation markers, as described above, will apply. BG suggests the option to repurpose felled tree trunks placed perpendicular to the hill to augment the erosion control barrier and wood chips.
- BO motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. PC second. Approved 7-0-0 by Roll Call Vote: AL-yes, CH-yes, JR-yes, PC-yes, SC-yes, BO-yes, JK-yes.

2889 Brown, 243 Ridge Road (Raze & Rebuild).....cont 11/3/2020 (Rick)

- Continued hearing; hearing officer PC reconfirms all administrative requirements are complete.
- PC notes that the proposed activity is the raze and rebuild of an existing home in riverfront, land subject to coastal storm flowage and buffer zone to salt marsh. BG notes that all abutters had in fact been notified last week, but a continuation would have been needed regardless.
- Bob Crawford (BC) of EET, representing applicant, notes that the proposed activity is the teardown and rebuild of a single-family home, which lies in buffer zone to salt marsh. The site was delineated by John Zimmer (JZ) South River Environmental in 2019, and the missing wetland flags have been replaced. There are two FEMA flood zones on the site, AE 13 and AE 12, with the line between them running through the house. The new house will have six flood vents. The lower area of the house, elevation 9.25, will be used as a garage and for storage/mudroom, and will not be habitable space. All habitable space will be above elevation 18.5.
- A new septic system will also be constructed, including 1500 gallon septic and new leach field parallel to the roadway. 1' to 1.5' of fill will be required to cover the new system. The new system will be further away from the wetland than the existing one. Applicant is also proposing to construct a concrete driveway; however, this plus the new house will be a net reduction in impervious surface of about 2%.
- BG notes the presence of dock/float sections including helical piles on the property, and points out there is no permit history for a dock on this property as depicted on the 10/08/2020 site plan and 11/02/2020 revised site plan but not the 11/09/2020 revised site plan. Any construction of a dock would require the filing of a Notice of Intent, and BG recommends a special condition specifying such. PC adds that a Chapter 91 10A permit from the Harbormaster notification would be required if the intent is to put in a swim float platform; BG will add this notation to the special condition.
- BG adds that the site plan clearly indicates that the lower level of the house is not to be habitable space; after some discussion as to whether to require a deed restriction affirming such, BG indicates he will add

a special condition, specifying no first floor habitable space that will remain in perpetuity. In response to a query from BO, BG indicates that it is always a better option for a deed restriction referencing the proper non-habitable space language and approved final site plan be included as there may be separation in the Plymouth County Registry of Deeds (PCRD) between the various recorded documents but the inclusion of a deed restriction attaches clearly to the property. He states that a deed restriction is appropriate in such cases. The Commission determines that the reference to no first floor habitable space is sufficient and no deed restriction is required at this time.

- PC asks for comments from the public; none.

PC notes that a comment from one resident was received in writing opposing the conversion of cottages into multistory houses, but this issue is outside Commission jurisdiction.

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

CONTINUED HEARINGS

2887 Murphy, Brewster Rd (Road impvts. & stormwater mgmt., facilities).....cont from 10/20/2020 (Bert)

- Continued public hearing. The hearing is continued until the next public meeting of the Marshfield Conservation Commission on December 1, 2020.
- JK motions to continue the hearing to December 1, 2020. CH second. Approved 7-0-0 by Roll Call Vote: AL-yes, CH-yes, JR-yes, PC-yes, SC-yes, BO-yes, JK-yes.

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

- Continued public hearing. The hearing is continued until the next public meeting of the Marshfield Conservation Commission on December 15, 2020. Dock walk is pending.
- JK motions to continue the hearing to December 15, 2020. CH second. Approved 7-0-0 by Roll Call Vote: AL-yes, CH-yes, JR-yes, PC-yes, SC-yes, BO-yes, JK-yes.

WITHDRAWAL

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

- Applicant has requested withdrawal of the Notice of Intent discussed at the previous meeting.
- JK motions that the Commission accept the withdrawal request and direct the Conservation Administrator to prepare and submit an acknowledgement letter to be sent to the applicant, ccing Mass DEP, Town Council, and Conservation Commission Chair. AL second. Approved 7-0-0 by Roll Call Vote: AL-yes, CH-yes, JR-yes, PC-yes, SC-yes, BO-yes, JK-yes.

REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS

2374 Tanglewood Club, Off Edmund Road [COC]

- BG visited the site and observed the floats and ramp being stored on the salt marsh, and asks whether this matter should be addressed as a separate enforcement matter or tied to issuance of the COC. JK feels the matter should be addressed separately. JR inquires why consider a separate issue? BG states that the proposed work was for the pier repair not then full dock system including the floats and ramp. BG will specify no storage of floats/ramp on salt marsh in the COC ongoing conditions.
- With respect to the project, which was for repair of the pier system, BG recommended issuance of the COC with ongoing conditions as follows:
 1. No grounding of floats or boats on tidal flats or river bottom. No prop wash of river bed.
 2. No storing of fuel on dock. No fueling of vessels from dock.
 3. No dragging the float across the salt marsh for storage or maintenance reasons.
 4. No chemical spraying in resource area.

5. Periodic maintenance of floats & pilings securing system to assure alignment as per original Orders.
 6. Repair for safety reasons within approved scope of original Orders.
 7. Optional to post a permanent “NO WAKE IN RIVER” on the end of the pier facing the river.
- JK motions to issue a COC for the property with ongoing conditions as noted. CH second. Approved 7-0-0 by Roll Call Vote: AL=yes, CH=yes, JR=yes, PC=yes, SC=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 8:30 PM. JR second. Approved 7-0-0 by Roll Call Vote: AL=yes, CH=yes, JR=yes, PC=yes, SC=yes, BO=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	