

TUESDAY, DECEMBER 1, 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: AL-yes, CH-yes, JR-yes, PC-yes, SC-yes, BO-yes, JK-yes.

MINUTES

- The minutes of the November 3, 2020 meeting were presented for approval. No comments or suggested changes were received, and none were made on the floor.
- JK motions to accept the November 3, 2020 minutes as written. SC 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

- 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.
- 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.
- At the last meeting, the Commission voted 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.
- 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.

BUSINESS

B1 35 Nathaniel Way, driveway in BZ to SM: DeMinimis Activity vs. Conservation Permit-Collen McCall

- Property owners, Collen McCall (CM) and Bill McCall (BM) would like to pave their driveway, which is in the 50 ft buffer to salt marsh; the entire property is in AE 15 flood plain and land subject to coastal storm flowage. JK notes that Chapter 505 of the Town Bylaw specifically requires the filing of a NOI for this kind of activity inside a resource area.
- CM notes they are requesting to pave their existing gravel driveway, which requires extensive effort to maintain and keep clear of weeds and acorns. They are currently out of town, but their property manager has been unable to control weed growth in the driveway despite the use of natural weed killer, which runs off into the marsh. They are committed to continuing to be good stewards of their property.
- JK feels that the project requires a Notice of Intent as proposed, given the location of the limit of work, and asks for further comments from Commissioners and the public; none.
- JK motions that the Commission require the filing of a Notice of Intent for the driveway project as proposed. AL second. Approved 7-0-0 by Roll Call Vote: AL-yes, CH-yes, JR-yes, PC-yes, SC-yes, BO-yes, JK-yes.
- CM asks whether a new delineation will be required given that the delineation for a project in 2018 is still within the three-year timeframe? BG will check the delineation but believes it will still be valid.

B2 70 Carolyn Circle/SE42-2122 Amended new deck: DeMinimis Activity vs. Conservation Permit-Matt Ahl

- Property owner Matt Ahl (MA) would like to add a deck to his house, which will be located about 90 ft from the resource area, and has submitted a narrative and marked up site plan accordingly. Applicant has maintained good and proactive communication with the Conservation Office, and BG feels the activity to be DeMinimis as the deck will be less than 90 sq ft.
- BO supports approving the change as a DeMinimis Activity that can be captured in the as-built plan; PC and CH concur.
- JK moves that the Commission approve the deck addition, as described, as a DeMinimis Activity to be captured in the As-Built plans for SE42-2122 Amended. JR second. Approved 7-0-0 by Roll Call Vote: AL-yes, CH-yes, JR-yes, PC-yes, SC-yes, BO-yes, JK-yes.

B3 97 Wrights Way/Enforcement Order vs. After-The-Fact Notice of Intent-Jordan Borchert

- The subject property is part of the John Sherman Estates, a subdivision that was approved with a variance under filing SE42-2217 Amended; Lot 11, 97 Wrights Way property owner Jordan Borchert (JB) 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. JK advised that Town Counsel has indicated to him 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. Town Administrator Mike Maresco (MM) has also been advised.
- The Commission voted at the November 17 meeting to require the filing of a Notice of Intent. The Building Department added Conservation to the Building Permit sign-off on November 25, which BG rejected with a message that JB must file with the Commission.
- JB notes that he received an invitation to the November 17 meeting at 6:36 p.m. the day of the meeting. JB reiterates his position that there was already a variance granted allowing the driveway for his lot, and nowhere in the Bylaw does it say that a secondary permit needs to be filed under such circumstances. JB reviewed the meeting notes for the subdivision approval from 2013 and notes that at that time the Commission made an amendment to the order of conditions granting a variance allowing a driveway for lots 10 and 11, as they would have no adverse impact on the wetland area; JB feels that the 2013

variance effectively approved the construction of a driveway with all the attendant activity, and as such an additional filing is not required.

- JB additionally states that he filed for the building permit in late September, and claims it subsequently “sat on the desk” of the Conservation office until November 25, which means now he either has to risk building in the winter or wait until spring. JB asks that the Commission allow the building permit to go forward without the filing of a Notice of Intent, based on the original 2013 variance.
- JK thanks JB for his comments and states it is always his intent to give applicants and their representatives a chance to speak their mind. JK agrees with JB that the 2013 variance allows him to build a driveway on the lot, but notes that driveways can be built in many different ways, with many different materials and possibly different routes; this is why, although the variance allows JB to have a driveway, the actual driveway proposal must be vetted by the Commission through the Notice of Intent process.
- Regarding the building permit delay, JK feels the ultimate responsibility for this lies with the Commission and not BG, but also notes that BG asked JB to file for the NOI on 2/10/20 and again on 9/14/20; had JB done so at either of those times, there would have been no delay in the building permit. BG adds that the permit did not come to him for sign-off until November 23, after he personally notified the Building Commissioner of the new info that the Commissioner required a NOI and an isolated vegetated wetland under Chapter 505-26/definitions (isolated vegetated wetland) so the matter did not sit on his desk for two months.
- JK also notes for the record that he took a significant amount of his own personal time to explain the Commission’s position and the permitting process, and gave JB the additional courtesy of adding this matter as the first business item to the November 17 meeting agenda. JK also reached out to Town Administrator Maresco regarding the matter, and MM in turn reached out to JB to advise him of the meeting. As such, JB was given extra courtesies and opportunities to respond that most applicants do not receive. Notwithstanding this consideration, it is evident that JB has already started work on the site without proper permitting.
- JK additionally reads the following statement from Town Counsel into the record: “The Commission is aware of what was done in 2013 regarding the subdivision variance. However, the details of the driveway, and clearing and construction details would need to receive conditions; the Chair specifically told me that he understand he has a variance and the driveway would go through, but it probably would just have some minor conditions.”
- To resolve the matter, JK proposes that the Commission allow JB to file a NOI, whose fees are half those of an after-the-fact NOI, provided that such NOI is filed by a date certain. BO agrees that the 2013 variance specifically allowed for two of the lots in the subdivision to have a driveway, but then individual lots were sold off to individual owners and builders whose individual drawings and plans must be approved through the permitting process, and JK’s suggestion is more than fair. AL agrees that JK has been generous with his time and in his offer to applicant; JR feels the offer might be overly generous given how the matter has carried on for several months. BG suggests that the Commission additionally order that erosion controls be deployed immediately on the site, given the runoff issues in the subdivision, but otherwise feels that a NOI could be quickly submitted and approved given the limited nature of disturbance in the 100 ft buffer. JB states that he already has deployed silt socks in the basins; BG asks him to put additional controls around the perimeter to keep the sediment out of the street and storm water runoff.
- PC asks about the gap between the original variance’s approval in 2013, and house and driveway construction in 2020? JK notes that 2013 was the date of the original subdivision approval, and there are still stormwater management issues that have not been resolved under the subdivision. In response to a

follow-up query from PC, JK affirms that Town Counsel has confirmed that the 2013 variance did not negate the need for individual filings to construct driveways in the two lots referenced in the variance.

- After Commission deliberation, JK asks JB if he is willing to agree to file a NOI by a date certain in exchange for the lower NOI filing fee. JB thanks the Commission for the offer and agrees to the filing, but states for the record that he still thinks personally that it is not needed. BG indicates that if the NOI is submitted to the Conservation Office by 12 noon, December 22, it can be heard on January 5. BG and Administrative Assistant Liz Anoja (LA) will assist JB with the filing process.
- JK polls the Commissioners as to whether to accept JK's proposal to allow JB to file a NOI by a date certain, with its lower filing fees: AL yes; CH yes; PC yes; JR yes; SC yes; BO yes; JK yes. JK also polls the Commissioners as to whether to allow JB to make the filing without further conditions: SC yes; JR yes; PC yes; CH yes; AL yes; BO yes; JK yes.
- JK moves that the Commission allow JB to file for a regular as opposed to after-the-fact Notice of Intent, regular NOI fees to apply, provided that such application is received at the Conservation Office within 30 days, Commission to respond expeditiously to the application upon receipt. If said application is not received within 30 days, enforcement order will issue. JR second. Approved 7-0-0 by roll call vote: AL-yes; CH-yes; PC-yes; JR-yes; SC-yes; BO-yes; JK-yes.

PUBLIC HEARING

Prior to the start of the public hearings, BG advises that the hearings for 10 Richard Street (28XX), 1354 Union Street (2709 Amended), and 93 Bourne Park (2885) are being continued.

20-30 Loney, 321 Plymouth Avenue (8 x 10 Shed).....NEW (Joe)

- JK reads the legal ad. Hearing Officer JR confirms administrative requirements are complete.
- Applicant Wade Loney present. The proposed activity is the installation of an 8' by 10' shed in flood zone and buffer to salt marsh and BVW. The shed will be on cinder blocks and is proposed to be about 10 ft from the edge of the marsh and property line.
- JR asks for comments from Commissioners and public; none.
- JR describes the site conditions, limit of work and notes for the record that applicant should not expand the lawn further and should not dump green waste in the marsh.
- BG indicates that the standard conditions of approval will apply in addition to a special condition requiring the posting of three (3) conservation markers at the edge of the lawn.
- JR motions to close and issue a Determination of Applicability, Pos #5 for the Bylaw and Neg #3, with special conditions drafted by BG. AL second. Approved 7-0-0 by roll call vote: AL-yes; CH-yes; PC-yes; JR-yes; SC-yes; BO-yes; JK-yes.

20-31 McDonald, 180 Ridge Road (Replace Shed).....NEW (Joe)

- JK reads the legal ad. Hearing Officer JR confirms administrative requirements are complete.
- Applicant Ellen McDonald (EM) present. The proposed activity is to replace an existing shed at the edge of the yard with a slightly larger one. The property is located in riverfront, buffer zone to salt marsh, and land subject to coastal storm flowage.
- BG notes that there is a well-established vegetative fringe at the border of the salt marsh that should be protected; this could be accomplished in part by posting conservation markers at the edge of the lawn.
- JR asks for comments from Commissioners and public; none.
- BG indicates that the standard conditions of approval will apply in addition to a special condition requiring the posting of three (3) conservation markers at the edge of the lawn.

- JR motions to close and issue a Determination of Applicability, Pos #5 for the Bylaw and Neg #3, with special conditions drafted by BG. SC second. Approved 7-0-0 by roll call vote: AL-yes; CH-yes; PC-yes; JR-yes; SC-yes; BO-yes; JK-yes.

20-32 Foster, 28 Brighton Street (ATF Installation of Wooden Posts).....NEW (Art)

- JK reads the legal ad. Hearing Officer AL confirms administrative requirements are complete.
- Commissioner JR recuses.
- AL note that this is an after-the-fact filing for the installation of wooden posts in the salt marsh, along the property line. Applicant Nancy Foster (NF) notes they would also like to level them off at 36" height and connect them with rope, so that the property line is clear. They are hoping this will prevent further encroachment on their property (i.e. mowing) by neighbors. AL asks if the posts are correctly placed along the property line; NF states they are correctly placed at 10 feet intervals along the line, but John Zimmer (JZ), South River Environmental, states that a survey by Bob Crawford (BC), EET, indicated that several posts were incorrectly placed on an adjacent property; these will be relocated to the actual property line. Additionally, five red and white conservation markers will be placed on several of the posts, and this is noted on the site plan of November 18.
- BG asks JZ about a metal marker at the corner of 28 Brighton, 24 Brighton, and 93 Avon that didn't seem to line up with the other posts. JZ is unsure as to whether that marker is correctly placed and recommends that Bob Crawford confirm. AL wants to ensure that all posts are in their correct location. JZ suggests that the project be approved with a special condition requiring that the property line be fully staked out before any posts are relocated; AL concurs.
- NF states that the posts were placed by J. Michael Landscaping, and she wasn't aware that some of them were misplaced. In response to a query from BG, she indicates none of the posts have been moved since they were placed. BG suggests that NF work with Bob Crawford to correct the placement of any mislocated posts, and that the site plan be updated to include the metal marker and shed as points of reference.
- JK understands why applicant wanted to mark of their property line, but feels personally that there should be no disturbance in the salt marsh. JK also feels that any rope will eventually degrade and wash into the marsh; AL concurs. BO is okay with the posts given that the area in which they were placed is previously disturbed. AL wants at least 5-6 conservation markers to be added to the posts, but feels adding markers to all the posts would be beneficial; NF would prefer to post the fewer number of markers, but the Commissioners do not object to AL's suggestion that markers be placed on all posts. SC feels that any posts that have to be removed should not be replaced, so as to minimize the disturbance to the resource area; AL concurs.
- AL asks for comments from the public. Mary Lawrence (ML), 93 Avon, feels some of the posts were illegally installed on her property, and that they should not have been installed without a permit. ML also objects to the proposal for decorative roping and feels there are less intrusive ways to delineate the property line. ML notes for the record that her lot is not being mowed and there is no dumping on her property. ML also questions NF's standing to file this application, as she is not the landowner. Mark Lawrence (ML), also 93 Avon, states there has been no remediation for the disturbance caused by the installation of the posts; he would like to have all the posts removed, but the suggestion to remove just the encroaching posts is acceptable. ML asks why NF is presenting as she does not own the property. Regarding NF's standing, BG indicates that the application is actually signed by the property owner, Nancy McAuliffe (NM), with the representative being JZ. Barbara Kelly (BK), 14 Brighton, has the same concerns as the Lawrences, and is also concerned about wildlife impacts.
- Commissioner JR, who is recused on the matter, asks to comment as a resident. JK feels that commissioners retain the right to comment on matters, as residents or abutters, provided that they

recuse when appropriate. BG notes that he previously served as a Commissioner in other towns, and agrees that commissioners have a right to comment, but recommends caution when commenting on matters from which a commissioner is recused. JR declines to comment.

- AL asks JZ about the legality of placing the posts? JZ agrees applicant should have filed prior to placing the posts, but notes that they are in a lawn area and not the salt marsh, are intended to establish the property line, and have no direct impact on the resource area. As such, JZ feels it is no different than the Commission requiring the placement of conservation markers at the edge of lawn. PC asks about replacing the existing posts with conservation markers on posts? JZ states that the existing posts are smaller than the conservation posts, but BG notes that they are higher. AL suggests that the existing posts be replaced with five conservation markers on posts; PC concurs, but BO notes that the Commission has permitted fencing in similar areas at other properties, and the Commission seems to be taking a much stricter approach here.
- After further discussion, AL maintains that the existing posts should be replaced with five conservation markers on posts. BG recommends that the matter be continued until the posts are replaced, or provide a hard deadline; JZ indicates he can provide a revised site plan by next Tuesday, and the Commission can provide a date certain by which the posts must be removed in its conditions.
- Prior to the vote, NF notes for the record that she took the word of her landscaper that a filing with Conservation was not required, and her only intent was to stop mowing, dumping, and other encroachment. BG indicates that special conditions will include submission of updated site plan by noon, December 8, and removal of the original posts within 30 days.
- AL motions that the Commission approve a Pos#5 for the Bylaw and Neg#3 with special conditions as follows: 1) the 15 existing posts on the property be removed within 30 days, 2) replaced with five 2.5 to 3 foot conservation posts bearing conservation markers, distributed evenly along the property line, said line to be verified by surveyor prior to placement of the posts, and 3) additional conditions to be drafted by BG and a revised site plan reflecting Commission concerns will be submitted. JK second. Approved 6-0-0 by roll call vote: AL-yes; CH-yes; PC-yes; SC-yes; BO-yes; JK-yes.

JR returns to the public meeting.

20-33 Harrington, 52 Carolyn Circle (Confirm No Wetlands on Property).....NEW (Joe)

- JK reads the legal ad. Hearing Officer JR confirms administrative requirements are complete.
- Brad Holmes, ECR, presents for applicant. The filing is a request to determine whether any areas of the subject property, a 0.5 acre lot, are within Commission jurisdiction under the state WPA or the Town Bylaw. BH has performed a vegetative analysis of the site, and a soils/hydrologic analysis was performed by Art Allen (AA), Ecotec. BH is willing to meet BG and Commissioners on site if desired.
- BG has reviewed both studies. The site in question is disturbed, so the “wetlands” definition set forth in Chapter 505-16/definitions (wetlands), which relies primarily on plants except in the case of disturbed site in which case soils analysis applies. However, detail data sheets regarding the horizons of the soil samples are missing from both the ECR and Eco-Tec reports. BG visited the site and observed the vegetative test plots on the site as well as the existing plant species. A pocket on an adjacent lot dominated by red maples may qualify as an isolated vegetated wetland under 505-16/definitions (isolated vegetative wetland). AA describes the presence of hydric soils and upland plants in a letter dated October 22, 2020, but data sheets are not provided; BG feels these data sheets are essential to the final determination and recommends a continuance to allow for the submission of the missing sheets and site visit. BG would like to witness the soil samples as they are made by AA.
- JR notes that like BG, he had questions about the soils and would like to see the additional soils data before issuing a DOA; CH and PC concur. JK agrees that since the lot is previously disturbed, the

Commission needs to look at soils, and agrees that additional soil data is needed. BH indicates he will work with all parties to coordinate a site visit.

- Frank Trocki (FT), 64 Carolyn Circle, notes that he is an abutter but was not notified of this hearing. BG notes that this filing is a request for determination for applicability (RDA), for which direct abutter notification is not required.
- JR motions to continue the matter to January 5, 2021. CH second. Approved 7-0-0 by roll call vote: AL-yes; CH-yes; PC-yes; JR-yes; SC-yes; BO-yes; JK-yes.

2891 Dickinson, 938 Summer Street (Install Lawn in BZ to SM).....NEW (Craig)

- JK reads the legal ad. Hearing Officer CH confirms administrative requirements are complete.
- CH notes that the proposal is to establish a zone in buffer zone to salt marsh and BVW. John Zimmer (JZ), South River Environmental, presents for applicant. JZ notes that the property was the subject of an enforcement order earlier in the year due to unpermitted clearing within the 50 ft buffer. A restoration plan was approved, and JZ re-delineated the wetlands. The plantings have since been made and conservation markers installed along the 50 ft setback. Applicant would like to expand his lawn area back to the 50 ft buffer on the left side and 60-75 ft on the right, looking at the site plan. No tree removal would be involved; just grading, loaming, seeding, and possibly irrigation installation. Erosion controls are proposed at the 50 ft buffer or limit of work, whichever is closer.
- BG indicates that a revised site plan has been provided to the Conservation Office. He would like to ensure that no trees shown on the plan are removed without additional permitting from the Commission. BG also notes that several of the conservation markers, even though technically on the 50 ft buffer, are located in the woods; he would like to move them to the existing fence line to avoid further encroachment. JZ indicates that his client is amenable to moving some of these markers to just outside the fence line, provided maintenance can still be done up to the line; BG concurs. BG asks that an additional marker be added to this area; JZ concurs.
- CH notes that this proposal to establish a lawn right up to the 50 ft line on a sloping property, and would like to condition approval on a special condition that there be no chemical inputs (e.g. nitrogen or phosphorus), which contribute to algal blooms nor use of herbicides/pesticides. PC, JK, and BO concur; BG notes that this is a common condition in neighboring towns.
- CH asks for comments from the public; none.
- In addition to the standard conditions of approval, special conditions will apply regarding the posting of 8 conservation markers, relocation of 3 conservation markers and addition of 1 marker to just outside the fence line; no removal of trees, saplings, or woody shrubs depicted on the site plan without Commission approval; and no use of chemicals, herbicides, or pesticides on the lawn.
- CH motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. JR second. Approved 7-0-0 by roll call vote: AL-yes; CH-yes; PC-yes; JR-yes; SC-yes; BO-yes; JK-yes.

289X Bertolami, 10 Richard Street (Revetment Repair with Ongoing Maintenance).....NEW (Bert)

- JK reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- All parties discuss whether to issue a denial without prejudice for the continuation. BG indicates that applicants' check to MassDEP not clear in time, as MassDEP will not issue a number if the check doesn't clear. Applicants became aware of this at 2:30 p.m. today and at that point requested continuation in writing. BO does not feel a Denial Without Prejudice (DWOP) is warranted under the circumstances, but notes for the record that all applicants must have a MassDEP number before their hearing can open. The matter is continued to January 5, 2021 to allow for receipt of MassDEP number as well as NHESP comment letter.

- JK motions to continue the hearing to January 5, 2021. BO second. Approved 7-0-0 by Roll Call Vote: AL-yes; CH-yes; PC-yes; JR-yes; SC-yes; BO-yes; JK-yes.

2890 Sullivan, 0 Old Mt. Skirgo (New SFH).....cont 11/17/2020 (Craig)

- Continued Hearing. Hearing Officer CH confirms administrative requirements are complete.
- Terry McGovern (TM), Stenbeck & Taylor, presents for applicant. The proposed activity is the construction of a single-family home on a one plus-acre lot. Associated resource areas are a BVW across Old Mt. Skirgo Street and an IVW in the rear, associated with a nearby bog operation. The lot was delineated by John Zimmer, South River Environmental. Applicant would like to build the house on the high point of the hill, which would place the house and septic outside the 100 ft buffer, but the driveway will pass through the 50 and 100 ft buffer in accessing the home site. The driveway is proposed to be angled up the hill; it will have a just under 15% grade. To address runoff concerns, they are proposing to put a 3' wide, 3' deep stone trench lined with filter fabric on the downhill side of the driveway. Slopes in the area will be covered with ground cover plantings, such as creeping juniper. They have submitted a variance request associated with the driveway and, as mitigation, are proposing the posting of conservation markers along the 75 ft setback to the BVW across Old Mt. Skirgo, and along the 50 ft setback to IVW in back. Silt sock erosion control will be utilized at the limits of work. Soils on the site are sandy and granular.
- BG notes that he walked the site and found no significant issues with the delineation. Although the 75 ft setback offer is generous, BG is concerned with drainage issues associated with the driveway and would like to know if the driveway work area could be quickly restabilized with native vegetation, either wetland mix or rye mix, to prevent silt from being washed into the wetland across the street. BG also talked with Town Engineer Rod Procaccino, who suggested that TM consider installing drains at various intervals in the driveway, to reduce the runoff into the street. TM indicates he is amenable to installing trench drains into the driveway as suggested, and also agrees that stabilization with a seed mix on the side slope would be beneficial, provided it is compatible with the sandy soils on the lot. He also envisions the upper slope being mulched for stabilization.
- BG also suggests that the position of several markers in the front and back be shifted, in areas a homeowner is unlikely to mow, so as to increase the protected area in the lot. TM feels these are doable but will check with the applicant.
- In response to a query from PC, TC indicates the driveway will have to be asphalt due to the grade on it. JK appreciates the amount of land being restricted in the lot but is concerned about runoff issues resulting from the grade of the driveway. TM indicates that 15% is the maximum allowed grade by the town; this driveway is proposed to have between a 12%-15% grade.
- JK notes that the driveway is likely to be heavily salted in the winter and would like to prevent the salt, etc. from running into the wetland, and would like to know if there is any way to reduce the grade of the driveway. TM indicates that they looked at a possible left-to-right-and right-to-left curve for the driveway, and found both to have relatively the same grade and disturbance. He also looked at running the driveway up the right property line, but this would require the grading to extend into the neighboring property. In response to a further query from JK, TM believes the existing design is the best grading possible for the property.
- CH asks the public. Applicant Chris Sullivan (CS) comments he has experience installing water recharge systems, and is open to suggestions to address any drainage issues. He has no issue with moving up conservation markers in unmowable areas. The matter is continued to allow for receipt of updated site plan including driveway trench drain locations, conservation marker shifts, and planting plan for the slope.

- CH motions to continue the matter to December 15, 2020. SC second. Approved 7-0-0 by roll call vote: AL-yes; CH-yes; PC-yes; JR-yes; SC-yes; BO-yes; JK-yes.

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

- Continued Hearing. BO Hearing Officer.
- JK notes that the public hearing was continued on October 20 to allow for a third-party stormwater review. BG put out a request for proposals that received five responses, which have been distributed to the Commissioners. The purpose of this hearing will be to evaluate and pick a peer review firm.
- BO notes that Amory Engineers has already conducted a review of the matter for the Planning Board and is already familiar with the issues and history, but would prefer a new set of eyes on the project, either Chessia Consulting or Goldman. JK reviewed all proposals in depth, and agrees with BO that Chessia and Goldman had the strongest bids, slight edge to Goldman. PC agree either Chessia or Goldman; AL, CH, JR, and SC lean to Goldman. JR cites Goldman's previous peer review of the Safe Harbor Green Harbor Marina project.
- BG notes that Seacoast and Chessia have the lowest hourly rates, and Goldman the highest. The Goldman and Comprehensive Environmental proposals utilize several reviewers whereas all other bids are single-person reviews. BG prefers the Chessia bid as being lower in cost and supplemental to Amory's previous review. JK comments that cost should not be a determinative factor in picking a third-party reviewer.
- Attorney Jay Creed (JC), representing applicant, would like copies of all responses to the RFP for his file. BG will send copies of the responses to JC as well as Attorney Kim Kroha (KK), representing abutters, and Attorney Gene Guimond (GG). JC also notes for the record that the engineering cost with Stenbeck & Taylor currently stands at just under \$24K for reviews with three town bodies, and Goldman's bid is almost a third of this figure for just the Commission review.
- Terry McGovern (TM), Stenbeck & Taylor, requests that he be able to have a dialogue with the reviewers once their report is complete, as was done effectively in the SHM Green Harbor Marina project. JK agrees, noting that TM and Goldman worked very well together at Green Harbor; AL concurs as hearing officer for the SHM Green Harbor project.
- BO motions to accept the proposal from Goldman Environmental for third-party stormwater review. JR second. Approved 7-0-0 by roll call vote: AL-yes; CH-yes; PC-yes; JR-yes; SC-yes; BO-yes; JK-yes.
- BO motions to continue the matter to January 5, 2021. CH second. Approved 7-0-0 by roll call vote: AL-yes; CH-yes; PC-yes; JR-yes; SC-yes; BO-yes; JK-yes.

CONTINUED HEARINGS

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

- The hearing is continued until the next public meeting of the Marshfield Conservation Commission on December 15, 2020
- JK motions to continue the hearing to December 15, 2020. CH second. Approved 7-0-0 by roll call vote: AL-yes; CH-yes; PC-yes; JR-yes; SC-yes; BO-yes; JK-yes.

2709 Amended Lohe, 1354 Union Street (Amend dock float).....cont 11/17/2020 (Rick)

- The hearing is continued until the public meeting of the Marshfield Conservation Commission on January 20, 2020.
- JK motions to continue the hearing to January 20, 2020. PC second. Approved 7-0-0 by roll call vote: AL-yes; CH-yes; PC-yes; JR-yes; SC-yes; BO-yes; JK-yes.

REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS

2808 DPW, 70-76 Bay Avenue [Partial COC]

- BG inspected the new sea wall project and related fixtures, and recommended issuance of a partial COC for the above-referenced section only, with the following declaration and ongoing conditions:
- The section of the sea wall spanning 70 Bay Avenue through 76 Bay Avenue is complete, yet may require ongoing periodic maintenance which is permitted as part of this Partial Certificate of Compliance and ultimately the Complete Certificate of Compliance, with ongoing conditions for the entire approved project spanning 14 Bay Avenue through 162 Bay Avenue, when approved by the Conservation Commission.
 - Before commencing any additional repair work to this section, 70 Bay Avenue through 76 Bay Avenue, notify the Conservation Administrator in writing 2 weeks before any sections of the sea wall, revetment wall or ramp are repaired as per the approved original Orders of Conditions and this Partial Certificate of Compliance with ongoing conditions as per the approved original Orders of Conditions.
 - Provide an access plan for heavy equipment that will be used in the repair of sections of the sea wall, revetment wall and ramp.
 - Obtain right of entry or equivalent from property owners and provide written evidence to the Conservation Administrator.
 - Ensure best management practices and building codes are followed.
 - Do not mine the beach of sand or stones.
- JK motions to issue a partial COC for the section of the sea wall spanning 70 Bay Avenue through 76 Bay Avenue with ongoing conditions as noted. JR second. Approved 7-0-0 by roll call vote: AL-yes; CH-yes; PC-yes; JR-yes; SC-yes; BO-yes; JK-yes.

2816 Holbrook, 26 Cove Street [COC]

- BG visited the property, praised the result as being exactly what the Commission sought and a model for future projects in the area. He recommended issuance of a complete COC with ongoing conditions and contingency note from Town Counsel as follows:
- **Contingency Note:**
 - 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 and Certificate of Compliance approving the work shall not be construed as evidence of legal title or ownership of the subject area which is beyond the scope of the Commission's right to determine.
- **Ongoing Periodic Maintenance of the revetment wall and plantings:**
 - Ensure best management practices are followed.
 - Follow the plan of record in the ongoing periodic maintenance of the revetment wall maintaining roughened finish and boundaries of the revetment wall are not to exceed the limits of the final approved plans in A. General Information/Item 8 in the original signed OOC. This condition continues in perpetuity.
 - Only use materials that are part of the original revetment wall. Do not mine sand or stone materials from the beach. This undermines the integrity of the coastal beach and could affect wildlife.
 - Do not disturb native, coastal plants that are established. Option to perform periodic plantings similar to the established plants such as American beach grass, Rosa rugosa, Eastern Red Cedar, Pitch Pine or equivalent native, coastal plant species. Material used to fill and reconstruct the dunes shall be as close as possible to grain size of sediment on the coastal beach, with little or no fine grain component (less than 10% silt or clay).

- Notify the Conservation Administrator in writing 2 weeks before any periodic maintenance of the revetment wall commences.
- JK motions to issue a complete COC for the property with ongoing conditions as noted. AL second. Approved 7-0-0 by roll call vote: AL-yes; CH-yes; PC-yes; JR-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 9:33 PM. BO second. Approved 7-0-0 by roll call vote: AL-yes; CH-yes; PC-yes; JR-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	