

MINUTES – CONSERVATION COMMISSION
TUESDAY, JUNE 21, 2016 7:00 p.m., HEARING ROOM 3
TOWN HALL, 870 MORaine ST., MARSHFIELD, MA

Approved 8-16-16 5-0-0

Members present: Robert Conlon, Chairman (RC), Frank Woodfall (FW), Chad Haitsma (CH), Bert O'Donnell (BO'D), James Kilcoyne (JK) and Jay Wennemer, Conservation Agent (JW). William Levin was not present. RC motioned to open the meeting at 7:00 p.m., FW second, motion passed 5-0-0.

MINUTES

BUSINESS

- Approve, vote & sign Orders of Conditions for closed hearings:
 1. **Whooley, 890 Webster St.** – Commissioners read JW's draft orders. FW suggested putting in trash removal upon notification to the Conservation Agent, and adding as condition "j" three permanent marker posts. RC motion to issue with above changes, FW second, passed.
 2. **Warner, 159 Webster St.** – RC motioned to approve as written, FW second, passed 5-0-0.
- Scheduled Meetings: July 12th, July 26th, August 16th
- **Vu, Howes Brook Road** – Mr. Vu, Atty. Steve Guard, and Dave Klenert of Collins Engineering, present. Atty. Guard explained that they are before the Commission this evening as the result of an Enforcement Order for construction inside the 75' no structure zone. The work that has taken place consists of some excavation, footings for a retaining wall, and proposed patio. Applicant intends to remove retaining wall and is looking for relief for pervious pavers instead of a patio. Can use rip rap on the edge that wouldn't be considered a structure.

JW said there are a couple of violations of the original Orders – the stone patio would be a structure under our Regulations. Mr. Vu is proposing a structure within the no-structure zone. 50' no disturb zone has had quite a lot of clearing in it; shrubs have been cut down, couple of trees down, vegetation that was there is gone. JW said the "no disturb zone" is disturbed now. The Orders of Conditions were not appealed, were recorded at the Registry.

RC suggested filing a new NOI for the patio. Atty. Guard said he is taking the position that the patio is not a structure, and asked if the Commission would consider the patio outside of the no disturbance zone. CH asked if the applicant has a reference that backs up that it's not a structure. Atty. Guard said he didn't see anything in the Regulations about that. RC – it's on page 16.

Conservation's definition is in the Regulations, page 16, XVI Definitions:

Structure – *A combination of materials assembled at a fixed location to give support or shelter including, but not limited to, a building, bridge, driveway, trestle, tower, framework, retaining wall, tank, tunnel, stadium, reviewing stand, shed, platform, deck, fence, sign, flagpole, windmill, solar devices, tennis courts, swimming pools, paved areas or anything requiring a building permit.*

FW asked if it would be a platform; JW said the difference is that patios on grade are exempted from set-backs in Zoning; Conservation's definition is a little vague – would be included. RC – pervious driveways are still considered a structure. CH asked about crushed stone. Atty. Guard asked if staggered blue stone was an option; JW said the intent of the Orders was to move all activities further away from the wetland. An argument could be made as to how you want to use the back yard – lawn, patio? As long as we keep activity out of the wetland with the 50'. RC – rip rap is in lieu of the patio? No. FW – wall is a structure. Mr. Klenert said they could make it a grass slope, shorten the patio by a foot. FW said it is very difficult to add another structure; was a difficult site in the first place.

FW asked what the elevation is; Mr. Klenert said 2 ½ feet, 3 to 1 grass slope, easy to maintain. FW would like to see a plan.

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RC said the Commission is asking for a new Notice of Intent, and some replication. JW stated the fence should be put up as stated in Special Condition "G". New plan should show how you're going to fix the damaged area. Applicant says trees that were taken out were dead. JK asked how wide the patio is; Mr. Klenert said it is just under 18' or 20'. Need to take some of that away. BO'D asked if the original Orders call for permanent markers. JW said yes, that was the fence in "G" and no disturbance signs. Haven't done that yet. CH said the new Notice of Intent is not going to be a guessing game next time; need to see what we discussed tonight on a new plan.

- Dredging the narrows in Green Harbor – proposal by Army Corp of Engineers – the Town went in with an excavator two years ago, was nice, built up beach, lasted for about three years. Currituck can't handle the large cobble. The Corp wants to use the landside excavator; the State says it's not impossible, would need to figure this out. Possible, take dredge and run it along the beach on Bay Avenue instead of using a barge and dumping it out in the ocean.

EXECUTIVE SESSION

ENFORCEMENT ORDERS

1. Walker, 110 Elm Street – nothing new, no discussion

REQUESTS FOR CERTIFICATES OF COMPLIANCE

Backburner: (until problems are resolved)

1. 1658 Heaney, 29 Farragut Road
2. 2324 Wallace, 110 Damon's Point Road
3. 1090 Peterson, 219 Ridge Road
4. 1827 L. L. Smith, 60 Macomber's Ridge
5. REQPC-1925, Cushing Construction (Parsonage St.) Garden Gate
6. 2381 NSTAR, Pine Street
7. 1318 Darman, Chestnut Hill Trust, Holly Road
8. 2546 Hutchinson, 499 Union Street

Current:

SE42-2138 Feetham, 141 Bay Avenue

SE42-2168 Beran, 468 Spring Street

JW said both requests are in compliance. RC motion to issue Certificates, FW second, motion passed 5-0-0.

REQUESTS FOR DEVIATION

REQUESTS FOR EXTENSION

NEW BUSINESS

PUBLIC HEARINGS

7:00 2612 Warner, 159 Webster St. – Hearing had been continued until approval was received from the Board of Health. They did approve and CH motioned to close and issue orders, FW second, passed 5-0-0. JW will have draft Orders.

7:00 2591 McGuillicuddy, 64 Foster Avenue – Dick Rockwood present. Have existing house next to seawall in V-zone. Adding 2-car garage with living space above, garage will be in AO flood zone. Proposed connector is in V-zone. Jerry O'Neill thought it was a substantial improvement, so applicant is going to make it so it's not substantial.

Mr. Rockwood said he has gone through Building Code; Mr. O'Neill says "based on how it's built", but the Code doesn't actually say that. Mr. Rockwood said it's only an entrance used for access – door coming in and a set of stairs. RC – less than 20 and more than 10 is the requirement in pounds per square foot of force when designing a break away wall.

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JW noted the issues he came up with – proposed concrete walls are within V zone. Plan clearly shows at least 2 solid concrete walls heading roughly east-west within the V-zone: they cannot be there. The line for the V-zone goes right through the foundation walls that run north/south and the east/west walls are clearly within V zone.

Jerry & JW talked about sliding the garage toward the street 0.9 feet to make sure foundation walls are outside the V-zone. Also, foundations within the AO-zone cannot obstruct storm water flow. Solid poured concrete walls cannot go in the V-zone or AO-zone.

JW – some other Zoning issues Jerry was thinking about – maximum size of the building has to be 40% or less of the lot area. 40% of this lot is 2,136. 30% of the lot must be open, 30% of the lot is 1,602'. JW – Mr. Rockwood needs to get a plan to Conservation showing these square foot coverage figures before a building permit can be issued. Other issue is the building value is \$570,000; estimate for repair is over 60%. Jerry said, that being the case, then the whole thing has to be in compliance.

The Commission is asking Mr. Rockwood to give us the maximum footprint on the lot, the amount of open space left using the definitions in the Zoning law and a real estimate of the real cost of the renovations. RC – broken down by square foot. JW – take advantage of whatever set back you have and move the walls back out of the V zone.

JW asked if there is an issue with electricity and plumbing; RC said that is allowed. JW suggested continuing for more info and more clarity from the Building Department. FW motion to continue to 7/26 at 7 p.m., RC second, passed 5-0-0.

7:05 2615 McDonald, 316 Canal Street - RC read notice of public hearing. CH hearing officer. Mr. McDonald present. Proposing deck on back side of the house – will extend approximately 15', the width of the house with a slight extension on the north side of the house for the stairway. JW agrees with wetland delineation. CH was on site and asked if the brush has been removed. Mr. McDonald said he is waiting for the landscaper to chip and haul away the brush. JW asked if there will be any grading'; Mr. McDonald said there will not.

Beth Jordan, 298 Canal Street, asked if it's okay to cut trees that close to the marsh. JW said the Commission allows pruning if a tree presents a danger. One thing we don't like to do is get rid of all the trees along the edge of the marsh.

CH motioned to close and issue Orders, FW second, passed 5-0-0.

7:10 2606 Harvey, 37 Acorn Street - Applicant has requested a continuance. RC motioned to continue to 7/12 At 7:10 p.m., FW second, motion passed 5-0-0.

7:15 _____ Mahaney, 46 Preston Terrace - Applicant has requested a continuance. RC motioned to continue to 7/12 at 7:15 p.m., FW second, motion passed 5-0-0.

RC motioned to adjourn at 8:00, CH second, passed 5-0-0.

Respectfully submitted,
Lois Keenlside
Marshfield Conservation Commission

Jay Wennemer, Conservation Agent
Robert Conlon, Chairman
Frank Woodfall
Chad Haitsma
William Levin
Bert O'Donnell
James Kilcoyne