

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

**MEMBERS NOT PRESENT** – None

**CALL TO ORDER** – JK motions to open the meeting at 6:38 PM. CH second. Approved 7-0-0.

**CHAIRMAN'S ADDRESS**

- JK notes that tonight's meeting is a continuation of the April 20 meeting, which was Zoom-bombed.
- 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. Pre-vote polls may be conducted to gain the perspective of the Commission.

**BUSINESS**

**B1 251 Damon's Point Road Restoration Plan Finalization – Bill Grafton & Brad Holmes**

- JK briefly reiterates that on April 20, the Commission had reached consensus to accept the submitted EcoTec third party comment letter dated April 14, 2021, and the ECR restoration report, plan and table dated April 12, 2021. After a brief discussion and poll, the Commissioners indicated they would accept the language in the combined language of the EcoTec and ECR submitted documents regarding use of herbicides as presented. JK thanked all parties for working together to reach a resolution.
- JK motions that the Commission accept the restoration plan as presented. PC second. Approved 7-0-0.

**B2 Couch Cemetery Land Transfer to Conservation Care and Custody – Commissioners**

- The Commission voted to accept the transfer of 63.98 acres of land in Couch Cemetery to its custody, as required to satisfy NHESP mitigation requirements for town projects at the Cemetery and ballfields off Rockwood Road.
- JK motions that the Commission ratify the transfer of 63.98 acres of Couch Cemetery land to the care and custody of the Commission as proposed. AL second. Approved 7-0-0.

**B3 16 E Street, Special Conditions Review/SE42-2563/LoConte – Bill Grafton & Commissioners**

AL recuses as a neighbor.

- The matter is tabled to May 4 at applicant's request to provide additional time to respond to the additional information request.
- JK motions to table the matter to the May 4 meeting. CH second. Approved 6-0-0.

AL returns to the meeting.

B4 William C. Finn Associates, Inc. ratify as Airport qualified consultant reporting to the Commission – Commissioners

- The Commission ratified William Finn as a consultant to report to the Commission regarding matters concerning the Town airport. JK notes that WF has an extensive background in environmental regulation and protection, and recently assisted with revising the Chapter 505 Marshfield Wetland Protection Regulations. JK thanked WF for his past and future assistance; WF looks forward to continuing to work with the Commission.
- JK motions that the Commission ratify William C. Finn as a qualified consultant for airport matters, reporting to the Commission. JR second. Approved 7-0-0.

B5 Policy and Procedure Guide Review and Ratification (Sections 3-7) – Commissioners

- BG noted that sections 4, 5, and 6 of the revised Commission Policy and Procedure Guide were sent out for Commissioner review but parts of Section 4 were still being deliberated. JK would like to have the rest of the manual ready for ratification at the next meeting.
- JK polls the Commission as to whether to ready to ratify Sections 5 and 6: AL-yes, CH-yes, JR-yes with grammar corrections, PC-yes, SC-yes, BO-yes, JK-yes.
- JK motions to ratify Sections 5 and 6 of the Policy and Procedure Guide as written, with grammar corrections noted. SC second. Approved 7-0-0.

B6 49 & 54 Waterman Avenue, Enforcement Order Dissolution Letter/WAPRA (Waterman Avenue Private Road Association) – Bill Grafton & Eric Flint

- BG and EF visited the site on April 12 and observed that an unpermitted fence and gate had been removed; BG recommended dissolution of the enforcement order issued in response to the fence/gate installation.
- JK motions to ratify the dissolution of EO SE42 20-04 and issue correspondence to that effect. AL second. Approved 7-0-0.

B7 de minimis activity Roll/Review/Ratification – Bill Grafton

a. Webster Plaza – American Tower – Monopole Cellular – Bill Grafton

- Applicant American Tower wishes to install a monopole cellular tower in a currently paved area behind Webster Plaza. BG recommended approval with a special condition requiring that an access gate to parcel H07-04-03 remain open, and that BG be notified prior to the start of work.
- JK motions to approve the proposed activity as a DeMinimis activity. JR second. Approved 7-0-0.

b. Mt. Skirgo Well Field- Tiled Wells (5) five to be Decommissioned – Bill Grafton

- Marshfield DPW is requesting permission to decommission five old tile wells in the Mt. Skirgo well field; this would involve the placement of mats over vegetation to allow backhoes to access the wells. The decommissioning will protect the wells from contamination.
- BG recommended approval with a special condition that DPW cut vegetation to the ground level before laying the mats, and dispose of the vegetation outside of the resource area.
- JK motions to approve the proposed activity as a DeMinimis activity. PC second. Approved 7-0-0.

c. 1400 Ocean Street – Eversource Gas Line Install within Buffer Zone – Bill Grafton

- Homeowner would like to have Eversource install a gas line to their house. BG recommended approval with no special conditions.
- JK motions to approve the proposed activity as a DeMinimis activity. JR second. Approved 7-0-0.

d. 15 Howes Brook Road – Eversource Gas Line Install within Buffer Zone – Bill Grafton

- Homeowner would like to have Eversource install a gas line to their house. BG recommended approval with no special conditions.
- JK motions to approve the proposed activity as a DeMinimis activity. JR second. Approved 7-0-0.

## **PUBLIC HEARINGS**

Prior to the start of the hearings, JK advises that the hearings for 2920, 2887, 2905 and 2916 are being continued.

21-05 Brait, 53 Kent Avenue (After-The-Fact) back concrete patio).....NEW (Susan)

- JK reads the legal ad. Hearing Officer SC confirms administrative requirements are complete.
- Rick Servant (RS), Stenbeck & Taylor, presents for applicant. The filing is an ATF RDA for an unpermitted installation of a concrete patio over stone. The lot is in buffer zone to barrier beach and coastal dune. The new owner tore up and reconstructed an existing concrete patio around the pool and added new sections north of the pool, adding 1037 sq ft impervious surface to the lot. Trench drains were installed for stormwater management.
- In response to a query from SC, RS indicates that the total increase in impervious area on the lot is 1242 sq ft including a 205 sq ft addition in the south of the lot. SC notes concern at the increase in impervious surface and questions whether the Commission would have permitted the work as constructed. PC is not sure the work would have been permitted without some sort of mitigation. AL concurs with PC and is not sure there is an opportunity for sufficient mitigation. BO notes that the paved drive is mostly outside the 100 ft buffer and thus out of jurisdiction, but believes the Commission would have asked for pervious pavers rather than solid slab. JK notes that the unpermitted work almost doubles the impervious area in the buffer, agrees with BO that the Commission probably would have asked for pervious pavers, and doesn't think plantings can fully mitigate the work done.
- EF notes that he and BG observed the work while visiting a neighboring property. At the time, they were informed it was a 1 for 1 change-out, with no increase in impervious surface. EF discovered the additional impervious coverage after additional review of the submitted site plan, and also noted patio furniture and other recreation pool equipment is being stored within a vegetated area to the rear of the property during the follow up site visit. BG displayed historical pictures of the vegetated portion of the backyard taken as part of RDA 19-13/Sennett in 2019 for the Commission's consideration. This provided evidence of the conversion from pervious to impervious and not an impervious to impervious as described. BG suggest that the Commission should decide whether to accept the work as done, require mitigation, require some removal with pervious replacement, and suggests that the Commission consider mitigation that would improves the buffer to coastal dune and salt marsh; a vegetated area in front of the gate may be a suitable mitigation area.
- BG suggests requiring an after-the-fact NOI given that the work was done by new owners not aware of the regulations. JK polls the Commission as to whether to require the filing of an ATF NOI with mitigation: AL-yes, CH-yes, JR-yes, PC-yes, SC-yes, BO-yes, JK-yes.
- SC motions to deny the RDA with pos 5, pos 1 findings, requiring the filing of an after the fact NOI. JR second. Approved 7-0-0.

2919 Kiley, 31 Branch Street (addition, reconstruction of garage and deck).....NEW (Art)

- JK reads the legal ad. Hearing Officer AL confirms administrative requirements are complete.
- Terry McGovern (TM), Stenbeck & Taylor, present for applicant. The proposed activity is the reconstruction of a two-story addition, garage, and deck in LSCSF, flood zone, and buffer to saltmarsh and coastal bank. This will involve enclosing the rear corner of the house on a foundation with flood vents so as to prevent plumbing in that part of the house from freezing. The deck will be rebuilt in the same location, with no expansion. The garage will be rebuilt 2 ft wider and 4 ft longer so it can fit a vehicle; the driveway to the garage will not be paved.
- JR asks whether the Building Department would consider the project to be a substantial improvement. TM indicates that the Building Department would make that determination when they appear before ZBA next Tuesday; if it was found to be substantial, they would have to elevate the entire house. AL suggests a continuation to after the ZBA meeting, but JK notes that the project is not in a velocity zone and is entirely outside the 75 ft buffer; given this, he has no issues with approving the project tonight; BO concurs. AL is willing to close with the appropriate conditioning.
- BG questions whether the proposed work constitutes a substantial renovation or reconstruction which would trigger the open-pile requirement under 505 Section 307.2. BO thinks a copy of the building permit, with their determination as to whether the project is a substantial improvement, would address the concern.
- AL asks for comments from the public; none.
- BG indicates that the standard conditions of approval would apply and suggests a special condition that the applicant provide the final plan approved by all other pertinent permitting departments before the start of work; BO thinks a copy of the building permit would be sufficient.
- AL motions to close the hearing and issue orders of conditions with special conditions drafted by BG. JR second. Approved 7-0-0.

- 29XX Calcagni, 167 Planting Fields Road (single family home).....NEW (Art)
- JK reads the legal ad. Hearing Officer AL confirms administrative requirements are complete.
  - Applicant has requested continuation, as NHESP comments are outstanding.
  - AL motions to continue the matter to May 4, 2021. CH second. Approved 7-0-0.
- 2915 Cutter, 10 South Street (elevate single family home).....cont from 4/6/2021 (Bert)
- Continued hearing; BO hearing officer. JR has completed a Mullin affidavit so he can participate and vote.
  - Terry McGovern (TM), Stenbeck & Taylor, presents for applicant. The proposed activity is the elevation on concrete piers of an existing SFH near the cell tower in Brant Rock. The house is proposed to be raised above the flood elevation, leaving the area beneath as open stone/gravel for parking purposes. An existing second story addition that juts outward from the house will be enclosed below without expanding the house footprint. The matter was continued pending receipt of a revised site plan and additional narrative regarding the viability of helical piles in the area. The revised submissions include paver details and a letter from a structural engineer, bearing stamp, giving the reasoning for concrete piers. Mr. McGovern notes that open piles are an option for a deck or new construction, but not to elevate this existing house, as there is no place to put the house while the piles are being driven in.
  - BO believes it is in the Town's best interest to get this house elevated but questions whether the structural engineer's letter includes a discussion of the foundation options. AL would like to have this specific discussion on a letter with the engineer's stamp; JK concurs. JK notes that a letter from an RPE and a site plan revised with 2020 flood zone were requested at the last meeting and neither were provided. TM notes that alternatives were discussed in his own letter but is willing to provide the same letter with a structural engineer's stamp. BO would also like the Building Commissioner's opinion regarding the foundation, as it is outside the Commission's area of expertise. SC agrees with BO, and does not feel qualified to vote on the project without the engineer letter.
  - TM confirms that the work area is in barrier beach and the site plan is based on the 2020 FEMA FIRM; BG asks that this be referenced on the site plan.
  - BO asks for comments from the public; none. The matter is continued for a letter with alternatives analysis prepared, signed and stamped by a structural engineer; revised plan to reference barrier beach, coastal dune, and 2020 FEMA FIRM; and Building Commissioner opinion on the foundation construction.
  - BO motions to continue the hearing to May 4, 2021. JR second. Approved 7-0-0.
- 2917 Last, 13 Brewster Road (Construction of single family home).....cont from 4/6/2021 (Bert)
- Continued hearing; BO Hearing Officer. JR has completed a Mullin affidavit so he can participate and vote.
  - BG advises that the matter must be continued, as outstanding town taxes have not yet been paid. Applicant will be charged one count towards a denial without prejudice.
  - JK motions to continue the hearing to May 4, 2021 and charge applicant one count towards a denial without prejudice. AL second. Approved 7-0-0.
- 2914 Gibbs, 77 Cherry Street (Raze & rebuild single family home).....cont from 4/6/2021 (Joe)
- Continued hearing; CH Hearing Officer. JR has completed a Mullin affidavit so he can participate and vote.
  - Rick Servant (RS), Stenbeck & Taylor, presents for applicant. The proposed activity is a raze and rebuild on a lot located in AE12 flood zone, buffer zone to salt marsh, and isolated vegetated wetland. The revised site plan changes the new house foundation to driven wood piles and reflects the addition of six conservation markers along the property lines and eight Eastern Red cedars to which additional markers will be attached.
  - BG comments that the site plan is much improved, but is concerned putting markers on trees might kill the trees; he suggests additional posts associated with 89 Cherry Street protecting the IVW during construction with temporary posts and line.
  - CH shares BG's concern regarding the trees, and would prefer the markers to be on posts. JK feels the revised proposal is a considerable improvement over the original, and has no further issues.
  - CH asks for comments from the public; none.
  - BG indicates that the standard conditions of approval will apply as well as special conditions with respect to placement of additional conservation markers to be determined by BG and RS as well as temporary posts to prevent degradation of the IVW. BG will work with RS as to placement of the markers in the field.

- CH motions to close the hearing and issue Orders of Conditions with special conditions to be drafted by BG. AL second. Approved 7-0-0.

2908 Weymouth, 257 Oak Street (addition & septic relocation).....cont from 3/2/2021 (Joe)

- Continued hearing; JR Hearing Officer. The proposed activity is the construction of an addition to the existing SFH and relocation of the septic system. The addition will be built 10 ft off the house, away from the wetlands, and will be connected to the house by a mudroom; it will house a two-car garage and new master bedroom above. The septic tank, currently located where the addition is to be constructed, will be relocated inside the driveway island, in line with the existing pipe. JR, JK, BO, BG, and EF visited the site on March 26 and asked for some revisions. Terry McGovern (TM), Stenbeck & Taylor, sent in a revised site plan with the changes and additional details. Easement documentation regarding use of abutter Leon Perry's (LP) back yard was also provided.
- JR notes there is evidence of alteration to the wetlands in back between 2013-present. JK spoke to Town Counsel who advised that an enforcement order be issued to applicants and Mr. Perry. TC advised that during the enforcement there is a period of discovery so the Commission can weigh out the concerns to be assigned to either the 271 Oak and/or 257 Oak owners. JK feels the current project can be approved separately from the EO; JR, AL, and PC occur.
- Property owner Meaghan Weymouth (MW) states that they thought tonight was to get this proposal completed and approved, they did cut some trees due to blight presence and LP is completely incapacitated so the Town would need to deal with his attorney in fact in any EO. They are willing to cooperate with the Commission, but feel misled as to the purpose of the hearing, which they thought was only to discuss and approve their addition and septic relocation.
- BG notes that the project itself is fairly straightforward but the historic issues regarding fill, alteration, and removal need clarity. MW indicates they are willing to work with their wetland scientist, John Zimmer (JZ), to provide mitigation and/or restoration. After further discussion, Commission consensus is to approve the NOI for the addition and septic relocation and issue an EO to both parties with respect to past fill, cutting, and removal.
- BG indicates that the standard conditions of approval will apply with respect to the addition and septic relocation.
- JR asks for comments from the public; none.
- JR motions to close the hearing and issue Orders of Conditions with special conditions to be drafted by BG. PC second. Approved 7-0-0.
- JR motions to direct the Conservation Administrator to issue an EO for alteration and cutting within the wetlands. AL second. Approved 7-0-0.

2820 Amended Follett, 300 Ridge Road (driveway, walkway, landscape & accessory).....cont from 3/2/2021 (Joe)

- Continued hearing; JR Hearing Officer.
- John Zimmer (JZ), South River Environmental, presents for applicant. The filing is a request for an amended OOC due to deviations from the plans approved under OOC SE42-2820. The deviations from approved plans include installation of a paved instead of pervious driveway, HVAC unit on a gravel base, gas meter and junction box on the side of the house, as well as some landscaping and pavers in front of the house. The original hearing was continued for a revised site plan with RPE stamp, planting plan including planting table, soil amendments and other requirements, and impervious table with cross-sections.
- JZ indicates that the revised site plans include the requested planting details, impervious table, and cross-sections. It also replaces 470 sq ft of pavement in two sections of the driveway with pervious pavers.
- JR asks for comments from the Commissioners and public; none.
- BG indicates that the standard conditions of approval will apply plus special conditions with respect to monitoring of plantings, replacement of 470 sq ft of pavement with pervious pavers, and placement of conservation markers.
- JR motions to close the hearing and issue amended Orders of Conditions with special conditions to be drafted by BG. CH second. Approved 7-0-0.

#### **Scheduled Continued Hearings:**

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

- The hearing is continued until the next public meeting of the Marshfield Conservation Commission on May 4, 2021.
- JK motions to continue the hearing to May 4, 2021. CH second. Approved 7-0-0.

- 2905 Dewey, South River Street (New SFH).....cont from 2/2/2021 (Bert)
- The hearing is continued until the next public meeting of the Marshfield Conservation Commission on May 4, 2021.
  - JK motions to continue the hearing to May 4, 2021. JR second. Approved 7-0-0.

- 2916 Lawson 62 Marginal Street (dock, pier, ramp & float system).....cont from 4/6/2021 (Rick)
- The hearing is continued until the public meeting of the Marshfield Conservation Commission on June 1, 2021.
  - JK motions to continue the hearing to June 1, 2021. PC second. Approved 7-0-0.

#### **REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS**

2581 Crowther, 163 Island [COC]

- BG and EF visited the site. Applicant's engineer TM noted that roof downspouts had been directed into recharge bins instead of a stone trench. A fireplace/chimney and outdoor shower were added inside the 80-100' setback that were not referenced in the approved plans. Other than this, BG recommends issuance of the COC.
- JK motions to issue a complete COC for the property. AL second. Approved 7-0-0.

2735 Bjorklund (now Snow), 485 Pleasant Street [EXT]

- Applicant is requesting a three-year extension to their OOC for the raze and rebuild of a SFH. CH, BG, and EF visited the site and recommended issuance of the extension to July 19, 2024.
- JK motions to issue an extension to the Orders of Conditions for the property to a date not to exceed July 19, 2024. JR second. Approved 7-0-0.

#### **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 9:00 PM on April 22, 2021. JR second. Approved 7-0-0.

Respectfully submitted,  
Bill Grafton, Conservation Administrator

Marshfield Conservation Commission  
Liz Anoja, Conservation Administrative Clerk  
Eric Flint, Conservation Agent

James Kilcoyne, Chair	Bert O'Donnell, Vice Chair
Arthur Lage	Joe Ring
Craig Hannafin	Rick Carberry
Susan Caron	