

**MINUTES – CONSERVATION COMMISSION  
TUESDAY, JUNE 16, 2015 7:00 p.m.  
TOWN HALL, HEARING ROOM 2, 2<sup>ND</sup> FLOOR  
870 MORaine ST., MARSHFIELD, MA**

**Approved 12-8-15**

**5-0-0**

Members present: Robert Conlon, Chairman (RC), William Levin (WL), Frank Woodfall (FW), Chad Haitsma (CH), Alison Cochrane (AC), and Jay Wennemer, Conservation Agent (JW). RC motioned to open the meeting, WL second, motion passed 4-0-0. Bert O'Donnell attended as an observer.

**MINUTES**

**BUSINESS**

- Vote & sign Orders of Conditions for closed hearings (if projects are voted closed and/or the Commission is prepared to vote on Conditions): SE42-2559 Wunschel, 153 Bay Ave. The Commissioners read the draft orders. RC motion to issue as drafted, FW second, passed 4-0-0.
- Scheduled Meetings: Tue. July 7th
- Sign Requests for Determination voted on at last meeting: MA Highway, Rt. 3A and Parsons, 11 Steamboat Drive
- Final Signatures on Eames Brook Farm Conservation Restriction – Commissioners signed 4 pages.

**ENFORCEMENT ORDERS**

20 Wilson Road – Mr. Vacirca will file a NOI with Conservation.

**REQUESTS FOR CERTIFICATES OF COMPLIANCE**

Backburner:

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. REQ-PCC-1925, Cushing Construction (Parsonage St.) Garden Gate
6. 2381 NSTAR, Pine Street

**Current:**

1. SE42-2539 Northland Construction, 21 Cranberry Cove
2. SE42-2104 Insight Bridgeway LLC, 1277 Ferry Street
3. SE42-1930 Curtlo, Snow Road
4. SE42-2169 Casa Development, 451 & 465 Spring Street

JW recommended all four of the above receive Certificates of Compliance. RC motion to issue, WL second, motion passed 5-0-0.

**REQUESTS FOR DEVIATION**

SE42-2520 Vu, 10 Howes Brook Road – JW recommended the Deviation be approved. Adding a deck and a bulkhead to the house. Still meets setbacks mandated initially JW said. RC motion to approve, WL second, motion passed 5-0-0.

**REQUESTS FOR EXTENSION**

**NEW BUSINESS**

This time is reserved for topics that the chair did not reasonably anticipate would be discussed.

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## **PUBLIC HEARINGS**

**7:05 2554 Our Place R.T., 221 Ocean St.** - Hearing had been continued for more discussion with the State regarding the proposed foundation. Mr. & Mrs. Kaufman present, and Dick Rockwood, Rockwood Design. Rockwood said the discussion left off on the building code. Property designated at edge of coastal dune, last property. Substantial improvement Rockwood said – have to meet all flood zone requirements – knock out panels, fill in basement, etc. He was told by the Building Department and Conservation that the house had to be put on pilings and torn down a portion of the way; Rockwood is proposing to keep the existing foundation. 50% of that property will be open. Biggest factor is the cost - \$50,000 difference. RC asked if the \$50,000 is just for the foundation; Rockwood said that and the turret and decks. Have minimal expansion, basically 4'. Have building code which includes FEMA 8<sup>th</sup> addition. By all rights have to adhere to all flood issues. Meeting all other requirements. Want to lift house. Rockwood stated this house has not had flood damage to the foundation and therefore they don't have to tear the whole house down. Not repairing foundation – it's fully intact – just raising it. RC asked if the Building Commissioner weighed in about this. Rockwood said he hasn't received anything yet from Jerry. Jerry called the State today but no one got back to him. Board of Building Regulations & Standards (BBRS) wrote the code. Rockwood said this same issue came up with the house on Bay Ave. – doing substantial improvement. JW stated there is a big difference between the house on Bay Ave and this one.

RC – issue here is the expansion. JW – other property wasn't doing any work to the foundation so it didn't trigger that. Jerry & Jay talked to Rich Zingarelli from CZM – he initially said it was clear to him that a piling foundation is appropriate. When we pointed out the loophole from Rockwood, he missed the definition as 'substantial'. He had focused on repairing not the height. We discussed the cost of adding 2 or 3 courses of block & whether, while there may be a loop hole, it's his opinion that the intent is it's a substantial repair and should be on pilings. Substantial improvements need to go on pilings. Don't need to do anything with foundation, that is elective.

JW read email from Mr. Zingarelli from the State. *'Initial impression is that, assuming this is a coastal dune, and the foundation work being a "significant improvement" means "substantial repair of a foundation," they would be required to rebuild with an open pile foundation. They may be confused because we exempt substantial damage to the structure from the open piling requirement if the damage was from other than a storm or flooding, and let it just kick back from the flood section. In an A zone the flood section does not require open pile foundation. The section of the code they need to look at is R322.4.5. There is enough gray area in this that we should probably discuss it in detail so I know all the parameters. We may also want to bring the Building Commissioner into the discussion.'*

Mr. Zingarelli stated it is clear to him the intent is a substantial repair and should go to a piling foundation. FW said he read through the code, and one thing stood out to him – 'any damage to foundation'. FW said there was no damage to foundation; it was fire to the structure. He felt the existing foundation would be okay, but flood vents would be required and to meet the code, has to be pilings.

JW – need written report from the Building Inspector before the Commission can make a decision. Rockwood asked where the Building Inspector's source is. JW stated if Mr. Rockwood doesn't like Jerry's opinion, he can always appeal it. Jerry O'Neill arrived at 7:30. He stated he's had a lot of advice but would like to make a clear, decisive decision. WL – we need a definitive answer.

Mr. Kaufman thanked the Commissioners for their deliberations, and said he realizes the decision will affect others down the line. But he also asked what about common sense? He said he could leave it at the height it's at right now. If he goes up, that may save him some money, and the impact to the Town when they have to rescue people during bad storms, if 3 feet up is safer, why not? RC – easiest thing for us to say is put it on pilings. Rockwood – if I left it as it is, it's still a substantial improvement. RC – but the foundation's not being touched.

JW stated the situation is pretty clear – if the Building Commissioner says it's a substantial repair then we do a piling foundation. We need that information before we make a decision. Jerry O'Neill asked if this house is considered "historic"; Mr. Kaufman wasn't sure.

RC motion to continue until the Building Inspector gets his opinion from the State, to July 7<sup>th</sup> at 7:05, WL second, motion passed 5-0-0.

**7:30 2560 Welch, 1 Jackson Street** - RC read notice of public hearing. Ms. Welch, Mr. Abate present. They would like to repair and stabilize the existing concrete block revetment by bringing in boulders and re-positioning the existing boulders. The present wall has gone through 37 years of storms. Would extend 8 to 10 feet, no further east or onto the beach, which it presently does. CH was on site and asked who owns the land that the boulders would be on; Mr. Abate said it's in front of their land. Could be town-owned. Would need permission from DPW to do the work you're proposing. JW said he didn't think Ms. Welch would have a problem with getting the DPW's permission. RC motion to continue to 7/7/15 at 7:10 for receipt of confirmation from the DPW that they are amenable to the proposed revetment, FW second, passed 5-0-0.

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**7:30 TBL 15-01 Oliva, Highland Street** - FW hearing officer. Mr. Oliva, Mr. O'Leary of Sitec, Atty. Watsky, Lenore White, present. Ms. White stated that two separate areas were flagged, and that Bob Gray didn't have any issues with that. Also looked at another area, made somewhat larger, moved flags. Did see some hydric soils. Also flagged area along path as a BVW – shown by flags 1 – 12. Plan is dated May 19<sup>th</sup>, RC's plan is dated May 29<sup>th</sup>. LW stated the most significant change is wetland along stone wall, that's a new area that's been identified. Flags 1A through 12A. FW asked about the area further down where the grade dropped off; LW said they did not investigate that area. JW noted Ms. White also said she was told to work only in that area, not tasked to go anywhere else. JW – not sure that's reflective – said years ago did not see any wetlands on the site. JW – other issue is the dark green portion on the plan – no disturbance proposed other than detention pond. 4 to 1 slope Mr. O'Leary said. This application is currently before the Planning Board.

Don Lonergan, Highland Ave., said his understanding was that you were going to investigate lower area; RC agreed, at the last meeting understood they would. CH asked if 10 years would change the site; JW said it's conceivable but not very likely. CH if we gave the impression we were going to investigate then we should do it. LW – should have been brought up at the time. Bob Gray wasn't at the meeting last time to hear that. FW would like JW, Bob Gray and LW to go out again. Watsky stated it is a very steep and distinct slope, and asked if JW just go out and see if there are wetlands at the bottom of the site. FW said he wants Bob Gray to go out with LW and JW. If addressed in Bob Gray's report, we shouldn't need to go out LW said.

CH asked if there is a deadline. FW said we should have Bob Gray's report shortly. FW motion to continue to 7/7/15 at 7:15, WL second, passed 5-0-0.

**7:45 25\_\_ Grady, 74 Keene Road** - RC read notice of public hearing. No representative was present. No number from the State. CH motion to continue to 7/7/15 at 7:00, WL second, passed 5-0-0.

RC motion to close at 8:45, FW second, passed 5-0-0.

Respectfully submitted,  
Lois Keenlside  
Marshfield Conservation Commission

Jay Wennemer, Conservation Agent  
Robert Conlon, Chairman  
William Levin  
Frank Woodfall  
Chad Haitsma  
Alison Cochrane