

MEMBERS PRESENT – Craig Hannafin (CH) Chair, Bert O'Donnell (BO) Vice Chair, Rick Carberry (PC), Joe Ring (JR), Susan Caron (SC), Eric Flint, Conservation Agent (EF), Bill Grafton, Conservation Administrator (BG)

MEMBERS NOT PRESENT – Arthur Lage (AL)

CALL TO ORDER – CH motions to open the meeting at 6:30 PM. SC second. Approved 5-0-0.

MINUTES – None

CHAIRMAN'S ADDRESS

- Pursuant to Chapter 20 of the Acts of 2021 date June 16, 2021, An Act Relative to Extending Certain COVID 19 Measures Adopted During the State of Emergency regarding suspending certain provisions of the Open Meeting Law, G. L. c. 30A §18, Commission meetings will be conducted both in-person and via remote participation. Members of the public may attend in-person or may participate remotely. While an option for remote attendance and/or participation is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless required by law.
- 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 Conservation staff (BG/EF) 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 *de minimis* Activity Roll/Review/Ratification – Eric Flint

BO recuses from the discussion and vote.

a. 58 Summer Street, Millar (Shed installation)

- The proposed activity is installation of a shed over an existing gravel driveway. EF suggests the proposed work qualifies for the exemptions for conversion of lawn to uses accessory to residential structures in the Buffer Zone and in Riverfront. 10.58(6)(b); 10.02(2)(a)(1); & 10.02(2)(b)(2)(e), and recommends approval with the condition that applicant seek all pertinent permits prior to the start of work. EF recommends approval with the condition that applicant seek all pertinent permits prior to the start of work.
- CH motions to approve the proposed activity as *de minimis* with conditions as noted. PC second. Approved 4-0-0.

BO rejoins the meeting.

b. 29 Ice House Lane, Jay (Tree branch pruning)

- The proposed activity is the removal of dead/rotting branches from three oak trees that could damage the house. The trees are in buffer zone to salt marsh. EF recommends approval with the condition that applicant seek all pertinent permits prior to the start of work.
- CH motions to approve the proposed activity as *de minimis* with conditions as noted. SC second. Approved 5-0-0.

c. 773 Summer Street, Lucchetti (Hazard tree removal)

- The proposed activity is the removal of three hazard trees leaning over the house. One tree is less than 5' from the foundation, and falling branches have already caused roof damage. One tree appears to be within

the 25 ft setback to Eames Brook. EF recommends approval with the condition that applicant seek all pertinent permits prior to the start of work.

- CH motions to approve the proposed activity as *de minimis* with conditions as noted. JR second. Approved 5-0-0.

d. 257 Oak Street, Weymouth (electrical pipe)

- The proposed activity is the digging of an 18" by 18", 20 ft trench and installation of PVC pipe enclosing utility lines. BG recommends approval with the conditions that applicant seek all pertinent permits prior to the start of work, and that erosion control be installed prior to the start of work and removed after the limit of work has been stabilized. EF recommends approval with the condition that applicant seek all pertinent permits prior to the start of work.
- CH motions to approve the proposed activity as *de minimis* with conditions as noted. SC second. Approved 5-0-0.

e. 12 Edward Road, After-The-Fact Addition in the BZ to IVW – Commissioners

- BG recommends that the request for approval as a *de minimis* activity be denied as the addition has been determined, by qualified wetland scientist report and aerial photographs with estimated setbacks, to be within the 50 ft setback to an Isolated Vegetated Wetland on site. The matter will be further discussed in Business Session B5 tonight.
- CH motions to deny the request for approval as a *de minimis* activity. JR second. Approved 5-0-0.

B2 Green Harbor Marina/SE42-2863 – *de minimis* Activity vs. Amended OOCs – Rick Servant

- Terry McGovern (TM), Stenbeck & Taylor, fills in for Rick Servant (RS) present to discuss a request to change the position of a 100' by 150' metal storage building 7 ft north and 6 ft east from the location shown on the previously approved site plan. TM notes that they unexpectedly encountered concrete caissons, pilings, and pieces of foundation throughout the original site of the proposed building which would require significant disturbance to remove. The dimensions of the building would remain the same, and they are working to address outstanding issues with the Building Department; any changes required by Building would be within the proposed building footprint.
- EF indicates that based on his conversations with Building Commissioner Andrew Stewart (AS), it sounds like they may be requiring substantial changes to the plan, and suggests that applicants be required to reappear before the Commission if substantial changes are required to the foundation or subsurface; TM indicates they will circle back to the Commission if so. BG adds that some of the changes may have to do with elevation, which doesn't affect potential disturbance, but it would affect the final plan. TM indicates they will reappear before the Commission in this eventuality.
- CH suggests that the Commission approve the shift in building location on the understanding that applicant will reappear if further substantial changes are required by the Building Department. AS agrees the Commission should consider only the proposed shift in building location at this time.
- CH motions to approve the proposed shift in building position as *de minimis* with condition as noted. SC second. Approved 5-0-0.

B3 257 Dyke Road, GHYC/SE42-2804 (changing location of dredge disposal to offshore Cape Cod Bay Disposal site off Wellfleet, MA) – *de minimis* Activity vs. Amended OOCs – Commissioners

- Applicant is requesting to change the dredge spoils disposal location from the Marshfield DSA to the Cape Cod Bay disposal site off Wellfleet. They have received approval from the U.S. Army Corps of Engineers and Mass DEP to do so, but the OOC requires that the Conservation Administrator and Harbormaster be notified of any change in disposal location. They also request that approval not rule out future use of the Marshfield DSA should it become necessary.
- BG recommends approval as a *de minimis* Activity with the condition that applicant follow the requirements of the US Army Corps of Engineers.
- BO asks whether the dredge spoils would be suitable for beach nourishment; Kevin McGuire, representing applicant, indicates the spoils are a little too fine to be compatible with the local beach materials.

- CH motions to approve the proposed shift in dredge spoils disposal as *de minimis* with condition as noted. PC second. Approved 5-0-0.

B4 167 Planting Fields, Site Plan Revision Calcagni, de minimis Activity vs. Amended OOCs – Commissioners

- Applicant has proposed that the NHESP rare species/turtle protection fence be expanded to encircle a larger area, which will allow for removal of a large pile of stones. The proposal has been approved by NHESP subject to the same time of year constraints previously issued. BG recommends that the activity be approved as *de minimis*.
- CH motions to approve the proposed turtle fence expansion as *de minimis*, and approve the Proposed Site Plan revised 7/14/2021. JR second. Approved 5-0-0.

B5 12 Edward Road-Rhodes (ATF Conservation Permit or Enforcement pending review of fill & vegetative removal complaint in BZ to IVW) – Commissioners

- CH notes that BG and EF visited the site in response to complaints about vegetative cutting and observed an open foundation hole and stockpile of dirt and hydric plants associated with construction of an addition that was permitted by the Building Department but not forwarded for Conservation review due in part to removal of the site from the flood plain. The site has recently been delineated by John Zimmer (JZ), South River Environmental, and the new delineation shows the proposed addition to be within the 50 ft. setback to IVW. BG suggests that the Commission require the filing of an after-the-fact NOI.
- JZ inquires whether the 25 ft. or 50 ft. setback applies to this lot, based on the presence of the existing structure and the area having been previously disturbed. BG indicates that the age of the house typically controls, with the 25 ft. buffer generally applying to structures built prior to 2002. CH notes that the house appears to predate 2002 and therefore the 25 ft. buffer applies; BO concurs and believes the project is permissible with the proper filing.
- BO asks whether the wetlands on site were missed by the Commission when it previously permitted an RDA for a garage on the property. BG notes that the lot was on the flood plain according to the previous FEMA firm, and a delineation of the IVW was not required as the flood plain designation was sufficient to establish Commission jurisdiction. Subsequent to the RDA, an unpermitted walkway and paved parking area were installed.
- Based on applicant's cooperation with Conservation staff, BG suggests that the Commission ask for an after-the-fact RDA but require a surveyed plan, which would provide contours that would help resolve recent written complaints about fill on the property; CH concurs that a surveyed plan would be beneficial to all parties. EF adds that the Building Department will likely be requiring a surveyed As-Built plan regardless of what the Commission requires.
- CH questions whether to require a NOI given the Commission is requesting everything typically needed for a NOI. JZ would prefer to file a NOI, as it will ensure the abutters are notified of the public hearing and possibly avoid further legal action; the Commissioners concur based on JZ's comments.
- BG suggests that the filing deadline be extended to Thursday at 12 noon, which would allow the project to be heard on September 21; the Commissioners concur. JZ indicates applicants will be unable to have a surveyed site plan ready by Thursday, and asks if the site plan submitted for this meeting can be used to get the application in with the understanding that a surveyed plan will follow. BG suggests that he can request the surveyed plan in an Additional Information Request, which would be due at 12 noon on 9/14.
- CH motions that the Commission require the filing of an after-the-fact NOI, and to leave a cease and desist order in effect until Orders of Conditions are issued. SC second. Approved 5-0-0.
- CH motions that the Commission extend the filing deadline for applicants to 12 noon, September 9, in order for the NOI hearing to be held on September 21. JR second. Approved 5-0-0.

B6 John Sherman Estates/SE42-2217 and SE42-2217 Amended – Review & Ratify Punch list Items For Request To Comply Through Planning Board – Commissioners

- The Commission discussed ongoing issues at the subdivision, including road damage from erosion, runoff, and construction vehicles. Additionally, there remain several unfulfilled conditions of approval from the Subdivision Orders of Conditions despite nearly all lots having been sold. BG and CH have been in touch with Town Planner Greg Guimond, as the Planning Board is holding funds in surety from the developer that could be used to address the road and drainage issues if needed. GG has requested that the Commission provide a punch list of

outstanding issues related to the OOC so the PB can link resolution of these issues to release of the funds. All agreed that the issues at the development needed to be resolved. BG notes that TC had previously suggested to him that the Commission require its own bonds for subdivision projects as additional insurance against noncompliance on the part of the developer. It may be necessary to issue fines and citations if collaboration with Planning doesn't yield results, as the homeowners will have liens on their property if the subdivision Certificate of Compliance is not obtained by the developer.

- CH moves to direct the Conservation Administrator to prepare and submit to the Planning Board the Commission's request to coordinate completion of SE42-2217 OOC and Amended OOC Special Conditions that match Planning Requirements, subject to CH's review, finalization, and signature. JR second. Approved 5-0-0.

B7 Fees Structure Modifications/Dock Max under Town and Subdivision COC Introduction & update Policy and Procedure Guide accordingly – Commissioners

- The Commission discussed additional fee increases proposed as a result of a task force meeting convened in July 2021 consisting of CH, BG, EF, LA, JR and AL regarding the Conservation Permit Submittal and Request for Certificate of Compliance Checklist. During this meeting, potential fee increases and introductions were discussed, these include introduction of the Request for Certificate of Compliance (RCOC) fee for subdivisions (Category 3 or 4 activity) from \$125 to \$1250 if submitted within five years of issuance of the subdivision OOC and from \$250 to \$2500 if submitted more than five years after issuance of the subdivision OOC. CH notes that crafting these orders and then ensuring compliance with them takes significant Commission and staff time. They also discussed increasing the Category 5 (dock project) minimum to \$100 and maximum to \$2000, to match the State minimum and maximum. The task force did not take a position at the time. BG and CH made The Town Administrator and Town Treasurer aware of this initiative. They suggested that the BOS should review as well for approval and additional information would be helpful including evidence of any other Towns with such fees. BG provided the necessary feedback.
- CH motions to approve the introduction of Town Wetland Fees to the Marshfield Wetland Fee Schedule of \$1250 for subdivisions from 1 to 5 years after issuance of the OOC, Amended OOC, or Extended OOC and \$2500 for subdivisions beyond five years after the issuance of the OOC, Amended OOC, or Extended OOC; and revising the text language for COCs to reflect "Request For Certificate of Compliance". SC second. Approved 4-1-0, PC having voted no.
- CH motions to approve increase of the Commission's Category 5 (dock) project Filing Fee minimum to \$100 and maximum to \$2,000 to match the Mass DEP fees. JR second. Approved 4-1-0, PC having voted no.

PUBLIC HEARING

Prior to the start of the public hearings, CH suggests that the hearing for RDA 21-30 be taken out of order and heard first.

21-30 Smith, 82 Genevieve Lane (New Garage).....NEW (Susan)

- CH reads the legal ad. Hearing Officer SC confirms administrative requirements are complete.
- The proposed activity is the construction of a two-car garage and 14' wide gravel driveway in existing lawn; the garage is 41' from a bordering vegetated wetland at its closest point. Applicant Steven Smith (SS) states he put the addition on so he can stay in the house, and the garage must intrude slightly into the buffer to accommodate a doorway into the bedroom and handicap lift.
- EF notes there is an existing shed closer to the wetland than the proposed garage location. This was reviewed and approved as part of the Determination of Applicability 20-04 public meeting. There are already conservation markers along the back of the property and EF doesn't think there is room for additional mitigation. EF suggests approval with a special condition requiring erosion control up gradient of the wetland during construction.
- SC asks for comments from the public; none.
- Conditions of approval will include installation of erosion control up gradient of the wetland during construction.
- SC motions to close and issue a Pos. #5 and Neg. #3 Determination of Applicability, with special conditions drafted by EF. BO second. Approved 5-0-0.

2943 Hunt, 17 Water Street (Vegetative management).....cont. from 8/17/21 (Bert)

- Continued Hearing. Hearing Officer BO confirms administrative requirements are complete.

- John Zimmer (JZ), South River Environmental, present for applicant. The proposed activity includes treatment of invasive plant species by herbicide to be applied by a licensed applicator, removal of the treated plants and replacement with native coastal plantings. The property abuts the Green Harbor River near Bluefish Cove; resource areas include coastal dune, 100 ft. buffer to salt marsh, and land subject to coastal storm flowage. JZ notes that existing native species on the property are getting overrun by invasive bittersweet. They are willing to provide advance notice of when the herbicide application will take place, and all removed bittersweet will be disposed of offsite. EF visited the site on 6/25 and observed the presence of invasive vines; applicant would like a provision allowing for ongoing periodic maintenance of invasives.
- In response to a query from BO, EF recommends that the Commission exempt the requirement of a surveyed site plan for this application; BG favors exempting the surveyed plan requirement for activities such as this provided the exemption is used judiciously. BO also inquires about the herbicide to be used? JZ states it will likely be glyphosate. PC asks whether this agent is still commercially available? JZ states it is.
- BO asks for comments from the public; none.
- Conditions of approval include special conditions requiring direct application, not spraying, of the herbicide, 48 hour advance notice of application, authorization to replace removed plants with native species, and an ongoing condition allowing for removal of invasives by hand or direct herbicidal application by a licensed applicator.
- BO motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. SC second. Approved 5-0-0.

2942 Jackson, 38 Hunter Drive (Dock).....cont. from 8/17/21 (Rick)

- Continued Hearing. Hearing Officer PC confirms administrative requirements are complete.
- Carolyn Rees (CR), Cavanaro Consulting, present for applicant. The proposed activity is construction of a 4' by 177' pier, 3' by 30' seasonal gangway, and 10' by 15' seasonal float to access the North River. This project involves removal of approximately 200 sq. ft. of brush in order to access the steps to the pier. Resource areas include Riverfront, salt marsh, LSCSF, and a section of NHESP priority habitat on the east side of the property.
- CR states they have sited the dock to minimize impact to the salt marsh and NHESP habitat, and minimize the vegetation to be removed. There is an existing grassy path that leads from the house to the start of the proposed pier, but some vegetation will have to be removed near the start of the pier. They obtained North River Commission approval on June 29, and ZBA voted to approve a special permit and variance in early August.
- A dock walk was held on August 25 with BG, PC, Harbormaster Mike DiMeo (MD), North River Commission Administrator, Gary Wolcott (GW) and Building Commissioner Andrew Stewart (AS). In response to feedback from MD, they have pulled the float back by 5 ft. toward the salt marsh, as there is still adequate depth at that location. They have also added two planting areas that will provide 1:1 mitigation of the vegetation to be removed.
- BG suggests up gradient features of the property, including tree line and up gradient wetland delineations, be hashed out on the plans with a notation that these hashed areas are not approved by the Commission. BG also questions whether the riverfront location is depicted according to the methodology set forth in Chapter 505, Section 205.1(c), and also suggests the depiction of wetland flags WF1 and WF6 be relocated where the surveyed field flags are actually located and not in the salt marsh as currently depicted. BG also notes that the site plan should be revised to reference the 2021 FEMA FIRM and include construction sequencing information to account for the proposed piles. Additionally, MD has requested shellfish mitigation for loss of habitat, and the site plan should show the project square footage needed to calculate this mitigation. Building Commissioner AS is recommending 1/2" deck planking gaps for safety reasons, but the NRC and Chapter 505 regulations both specify a 1" or greater gap; BG recommends that the Commission adhere to its own regulations, as a portion of the distance between planks tends to shrink with time; flow-through decking, although costly, may help resolve the conflict.
- PC also acknowledges the discrepancy between deck spacing requirements, adding that Mass DEP requires 3/4" spacing, but agrees the Commission should stick with the Chapter 505 1" standard. He also notes that the dock as currently proposed does not meet the Chapter 505 304.1 e(12) performance standard requiring minimum 5' height or 1:1.25 decking width/salt marsh separation ratio, as the current proposed pier height is 4.2'. This could be addressed by redesigning the dock or by additional mitigation. PC also suggests that the planting plan be prepared by a wetland scientist, specifying size, species, and quantity; expanding the planting area by 20 sq. ft. may be an acceptable offset for the 4.2' dock height.
- The Commissioners agree to BG's suggestion regarding additional hashing, construction sequencing information, and adhering to the 1" planking gap specification. BO suggests that a mitigation plan prepared by a wetland

scientist is not required given the size of the property relative to the brush removed, and that the 25 ft. buffer applies to this property. CH agrees that the lot itself is large, and the mitigation area that would have to be monitored would be relatively small, but BG points out that not having a mitigation area for this property could prompt other applicants to ask not to have one. CH agrees that mitigation is required when serious cutting is done, but questions the overall benefit of requiring mitigation for a small area of cutting, and in this case would forego the requirement for annual monitoring by a wetland scientist. BG questions what the mitigation will be for the reduced dock height if there is not a mitigation area. BO suggests that applicant should get some reward for keeping most of their lot vegetated and complying with the applicable regulations. With respect to mitigation requirements for other properties BO suggests that they be considered on a case by case basis; CH concurs. PC feels that the area to be cut consists of relatively low-value vegetation, but BG points out the area has value in terms wildlife habitat, flood control, and pollution prevention.

- Regarding the shellfish mitigation calculations, CR believes the total dock area was provided by John Cavanaro; BG notes that the total square footage of the pier, ramp, and float is used to determine the total shellfish mitigation fee, at \$3.22 per square foot. CR notes the total square footage of pier, ramp, and float to be 928 sq. ft., for a total fee of \$2988. BO asks if comments from DMF have been received; BG indicates their comments recommend a 1:1.5 decking width/salt marsh separation ratio; they defer to the Harbormaster in terms of shellfish mitigation.
- CH polls the Commissioners as to whether to require zero, 200 sq. ft., or 220 sq. ft. of mitigation: JR 220; BO none; SC 220; PC 220.
- PC asks for comments from the public; none.
- Special conditions of approval include that the site plan be revised to include the 2021 FEMA FIRM, 220 sq. ft. mitigation area, construction sequencing information, and hashing of other areas of the property as discussed to be submitted by 12 noon, Friday, September 10th.
- PC motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. SC second. Approved 5-0-0.

21-27 Lizine, 737 Careswell Street (ATF Landscaping).....NEW (Joe)

- CH reads the legal ad. Hearing Officer JR confirms administrative requirements are complete.
- The filing is for after-the-fact clearing, landscape work, and alteration of a stone driveway; installation of an above-ground deck behind the house; and removal of a greenhouse structure and installation of a paver patio in its place. Associated resource areas include riverfront and buffer zone to BVW; an AE 11 flood zone is on the property but not in the work area. Terry McGovern (TM), Stenbeck & Taylor, representing applicants, notes that the deck will be installed in previously disturbed area; both it and the deck are just outside the 75' setback. They are proposing to install six (6) conservation markers up gradient of the 75' setback on the west side of the house, plus two markers up gradient of the 25' setback on the south side.
- EF notes that BG and CH initially visited the property in January in response to a complaint, at which time they noted expansion of the parking area and signs of cutting, and recommended the filing of an ATF RDA. BG and EF returned on August 5 and observed that the driveway had been pulled back and the cut area allowed to revegetate. EF notes that the proposed deck and patio installation are exempted under 10.58(6)(b); 10.02(2)(a)(1); & 10.02(2)(b)(2)(e) and suggests the proposed conservation markers will provide sufficient protection to the resource areas. EF adds that he reviewed the wetland flags on September 2, at applicant's request, and feels that flags WF2-4 could be moved about 10 ft. up gradient based on a predominance of wetland indicator species. Thus, EF suggests that a Pos. 2A determination be issued for the creek and BVW boundaries with the exception to WF2-4. EF also notes that the Building Commissioner currently has a stop-work order for the property, which must be resolved before the start of work.
- JR asks for comments from the public; none.
- Conditions of approval will include the installation of six (6) conservation markers at the locations depicted on the plan of record, and a requirement that applicant obtain all subsequent permits.
- JR motions to close and issue a Pos. 2A, confirming creek and BVW boundaries with exception to WF2-4, Pos. #5, and Neg. #3 Determination of Applicability with special conditions drafted by EF. PC second. Approved 5-0-0.

21-28 McCall, 35 Nathaniel Way (Driveway replacement).....NEW (Craig)

- CH reads the legal ad and, as Hearing Officer, confirms administrative requirements are complete.

- Brad Holmes (BH), ECR, present for applicants. The proposed activity is replacement of an existing gravel driveway in the existing footprint and installation of a 6 ft. wide cobblestone apron. The work area is within buffer zone to salt marsh and LSCSF. Applicants William McCall (WM) and Colleen McCall (CM) subsequently indicate they will not be proceeding with the cobblestone apron.
- EF notes that the exemption under 10.02(2)(b)(2)(q) does not apply to this project due to its location within LSCSF. However, during a business session during the Public Meeting on 12/01/2020 for similar work at 35 Water Street, Town Counsel advised that the in kind replacement of a gravel driveway appeared to be eligible for a negative determination on an RDA. Applicants initially inquired about installing a paved driveway but switched to an in-kind replacement of the current gravel driveway upon learning what would be required as part of the NOI filing.
- BG inquires whether the Commission wishes to require a cross-section for the driveway, as it has requested for other filings in the area, as a road base beneath the driveway would render even a gravel driveway impervious. CH notes that when EF and she visited the site, CM indicated they would not be using any impervious materials; CH is willing to rely on this representation and does not feel a cross-section is necessary; the Commissioners concur.
- CH asks for comments from the public; none.
- Special conditions of approval include the installation of erosion controls along the edge of the driveway.
- CH motions to close and issue Pos. #5 and Neg. #3 Determination of Applicability with special conditions drafted by EF. SC second. Approved 5-0-0.

21-29 Daddario, 16 Joyce Street (Replace Deck & Hardscapes).....NEW (Rick)

- CH reads the legal ad. Hearing Officer PC confirms administrative requirements are complete.
- Brad Holmes (BH), ECR, present for applicants. The proposed activity is the replacement of an existing deck with a hardscaped patio and new deck areas. The lot is located in barrier beach, coastal dune and LSCSF. BH notes the project will result in a net decrease in impervious surface of 120 sq. ft., from 2606 to 2486 sq. ft. The hardscaped patio will be constructed using either stone or pavers and would be designed to be pervious. They are also proposing a small stairway and landing to the easterly deck, as well as an additional small deck.
- EF visited the site on 8/30/31. The proposed side stairs are located in existing lawn area. The new deck is proposed for an existing landscaped bed. EF adds that the Chapter 505 regulations require that hardscaped surfaces in AO/VE flood zones be considered impervious regardless of their ability to absorb runoff, and that the total combined area of impervious surfaces on the property should not exceed 500 sq ft. Additionally, the Commission recently received feedback from Mass DEP regarding a Determination of Applicability (20-41) it issued for 56 Cove St. on January 21, 2021, which stated that even pervious hardscaping interferes with the migration of dune material and the Commission should have issued a positive determination as coastal dune activity is per se significant.
- EF also points out that applicant, at a business session in March, indicated they would be replacing the existing deck with “usable space, including plantings” with no mention of hardscape; additionally, the current proposal contains no mention of plantings. EF recommends that Commission ask for additional details regarding the hardened surface, as well as clarification as to whether any plantings will be made.
- PC notes that the subject lot is not called out as coastal dune on Mass GIS, but the state and Town definitions of barrier beach describe it as mostly composed of coastal dune and coastal beach; however, the area is previously disturbed and the proposed work would reduce the amount of impervious surface. PC would also like to see a cross-section for the proposed patio and additional planting information. Further, the site plan references the 2016 FEMA FIRM but should reference the 2021 FEMA FIRM, which show the lot as being in A03 and VE19 zones. PC recommends that applicants consult the Building Department as to whether a flood plain permit will be required. CH agrees that an updated site plan, cross-section, and planting information are all needed.
- BG asks BH whether he consulted the Chapter 505 regulations regarding hardscaped surfaces in AO/VE flood zones? BH states their position is that they are taking out an existing deck and not increasing the square footage of impervious surface; they are willing to provide additional detail as to what they are proposing. BG notes that the removal of the deck would be considered an alteration under the regulations.
- Applicant Jim Daddario (JD) states that after the March business session, he and his contractor decided to remove the ground-level deck, which results in the removal of additional impervious surface. They do not intend to put anything impervious in its place, and the area will include a combination of crushed stone and pavers spaced for pervious drainage. They are not proposing any additional plantings, as the work areas will all be walkable area comprised of crushed stone and pavers. He is willing to provide any additional information the Commission needs.

- All parties discuss the application of the Chapter 505 regulation concerning hardscaped surfaces to this and future projects. BO notes that this is a new regulation that the Commission also needs to develop an appropriate response. BG agrees and suggests that flexibility may be required in these early stages, and the Chapter 505 Regulations itself and its interpretation may need fine-tuning.
- SC asks how different this project is from the one at 56 Cove Street, which prompted Mass DEP feedback?. BG notes that such feedback may require the Commission to require all activity in a Coastal Dune to be permitted through a NOI. BH feels the difference in this case may be removal of an existing structure.
- PC asks for comments from the public; none. The matter is continued pending receipt of a revised site plan referencing the 2021 FEMA FIRM, patio cross-section, and planting table. BG suggests a deadline of 12 noon, September 10.
- PC motions to continue the matter to September 21, 2021. BO second. Approved 5-0-0.

21-31 LoConte, 16 E Street (Fence).....NEW (Susan)

- CH reads the legal ad. Hearing Officer SC confirms administrative requirements are complete.
- The proposed activity is installation of an L-shaped fence along the rear and north side of the property; resource areas include barrier beach/coastal dune, LSCSF; the property lies within VE13/AE12 flood zone.
- EF notes there recently was a fence approved for 14 E Street, next door, but that 16 E Street lies in a VE flood zone and thus is subject to stricter performance standards. Building Commissioner/Floodplain Manager AS indicated the fence should have sufficient spacing (4" or greater) between pickets, if a picket fence, and a minimum 6" spacing between fence bottom and ground; chain link or solid wall fences should not be permitted; EF and SC conveyed this information to applicant.
- BO asks how tall the fence will be; applicant Kathleen LoConte (KL) indicates it will be under 6'. BO asks if a building permit will be required for the fence. AS indicates a permit is not required for fencing under 8', but with revitalization of the flood plain permit, they want to ensure any fences in the flood zone permit adequate movement of flood water. SC advises KL that the Commission will need information as to the type of fencing and dimensions once she has hired a contractor. KL indicates that she may not do the work immediately but will provide this information prior to start of work.
- BG asks AS about optimal fence footings for coastal dune environments? AS suggests the Commission evaluate the different options according to ground disturbance. BG suggests a special condition that applicant seek guidance from Building Department as to fence footings, to prevent potential damage from dislodged footings in a flood event.
- SC asks for comments from the public; none.
- Special conditions of approval include that applicant provide fence details and dimensions to Conservation Office when known, and that the fence bottom be at least 6" off the ground with pickets spaced at least 4" apart.
- SC motions to close and issue a Pos. #5 and Neg. #3 Determination of Applicability with special conditions drafted by EF. JR second. Approved 5-0-0.

2731A Sheehan, 193 South River Street (Peastone Parking area & turnaround).....NEW (Joe)

- CH reads the legal ad. Hearing Officer JR confirms administrative requirements are complete.
- John Zimmer (JZ), South River Environmental, present in place of representative Bob Crawford (BC), EET. The filing is a Request for Amended OOC to include construction of a peastone apron and turnaround bordered by landscape timbers. The additional work is in existing lawn in the 75 to 100 ft. buffer to BVW.
- EF notes that applicant had filed a Request for Certificate of Compliance for the outstanding order of conditions SE42-2731 in July; on the resulting site visit, BG noted additional unpermitted activity including mowing downgradient of two conservation markers and the addition of a peastone turnaround area. EF points out deviations from the originally approved Site Plan dated 7/3/2018 and suggests an ongoing condition specifying that no mowing or other vegetative management take place beyond the conservation markers. BG notes that the driveway changes as a whole appear to be *de minimis*, as they also reduced the scope of the approved paved driveway, but would like to convey to applicant the requirement that no disturbance should take place beyond the markers on the property; JR indicates that applicant understands this now as he personally spoke to him.
- BG asks the Commissioners if they wish to see a cross-section and/or revised impervious table for the turnaround area. BO visited the property and observed landscape cloth under the gravel in the turnaround area; however, BG

notes there was no indentation in the turnaround when he drove over it, and would like a cross-section to confirm there is no impervious surface beneath the geotextile; PC concurs. BO thinks the cross-section is not needed in this case but has no issue with asking for one; JR concurs.

- JR asks for comments from the public; none.
- Special conditions of approval include the submission of a revised site plan with cross-section for the turnaround area by Friday, September 10, at 12 noon.
- JR motions to close the hearing and issue Amended Orders of Conditions with special conditions drafted by EF. SC second. Approved 5-0-0.

2944 Hedlin, 9 Bryants Lane (Raze & Rebuild SFH).....NEW (Bert)

- CH reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- Terry McGovern (TM), Stenbeck & Taylor, presents for applicant. The proposed activity is the demolition of the existing SFH and reconstruction of a new house on open wooden piles. First floor elevation for the new house will be at elevation 21, (2' above the flood elevation), and the surface underneath will be composed of sand and cobble. Given the closeness of the adjacent houses, the piles will be driven into the ground by a technique using vibration, rather than hammering, except for the last six inches.
- EF notes that the proposal appears to comply with the Regulation requirements and appears to be a net benefit to the area from a Conservation perspective.
- BO notes there are many houses on piles in the area, and the neighboring houses appear to have withstood the pile driving process; he has some familiarity with the vibratory pile driving technique, and feels the use of open piles is clearly appropriate for the area.
- Denise McAuley (DM), 11 North Street, notes that the existing house is just four feet from hers, which was built in 1900, and is concerned about the potential construction impacts. BG adds that Michelle McAuley (MM) 11 North Street commented through Chat that the two houses are closer than they appear in the photo shown to the Commissioners. PC asks what Paul Armstrong (PA), of South Shore Pile Driving, recommends regarding possible mitigation when houses are less than 10 feet apart; TM indicates that PA suggested a forensic survey of the abutting structure's foundation prior to the start of work, and reiterates that only the last six inches of the piles will be hammered. L. Ondick (phonetic), 7 Bryants Lane, comments she notices when work is being done on other houses further down the street and asks who would be responsible if her house is damaged. TM reiterates that PA has recommended a forensic survey of nearby properties, where the condition of walls, foundations, etc. prior to the work would be noted. DM questions what the pilings will be anchored on given it is rock and sand beneath the houses in the area, and whether the piling will impact any gas or water lines. CH is sympathetic to the abutter concerns but notes the discussion is moving beyond the purview of the Commission hearing, which is to evaluate Conservation impacts. Building Commissioner AS indicates he is willing to discuss abutter concerns regarding pile driving technique and utility line locations. BO also confirms that the project is still before ZBA, who can also answer additional questions.
- Special conditions of approval include submission of an elevation certificate at the end of construction.
- BO motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. SC second. Approved 5-0-0.

2946 Cronin, 22 Winston Road (Invasive Plant Control).....NEW (Susan)

- CH reads the legal ad. Hearing Officer SC confirms administrative requirements are complete.
- John Zimmer (JZ), South River Environmental, present for applicant. The proposed activity includes cutting and treatment of invasive plant species by herbicide to be applied by a licensed applicator, removal of the plants, and replacement with native coastal plantings. The property lies within salt marsh buffer zone and LSCSF. JZ notes that existing native species on the property are getting overrun by the invasive, Tree of Heaven (ailanthus) and phragmites. They are willing to provide advance of when the herbicide application will take place, and would like to replace the removed invasives with appropriate native plantings to avoid any regeneration.
- BG/EF visited the site on 8/09/2021 and confirmed the extent of the invasive plant colonization.
- EF recommends that the Commission exempt the requirement of a surveyed site plan, plus special conditions requiring direct application, not spraying, of the herbicide, 48-hour advance notice of application, authorization to

replace removed plants with native species, and an ongoing condition allowing optional plantings for removal of invasives by hand or direct herbicidal application by a licensed applicator.

- SC asks for comments from the public; none.
- The Commission adopts EF's recommended special conditions.
- SC motions to close the hearing and issue Orders of Conditions with special conditions drafted by EF. CH second. Approved 5-0-0.

2947 Snyder & Keeble, Spring Street (New Single Family Home).....NEW (Bert)

- CH reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- Nicholas Leing (NL), Grady Consulting, presents for applicant. The proposed activity is construction of a new SFH and driveway on an undeveloped lot lying partially in buffer zone to BVW and IVW as defined under the Town Wetland Regulations. The driveway has been located as far away as possible from the resource areas. There is an existing fence, 10 ft away from the wetland line which is associated with 229 Spring Street and will be relocated onto that property. The proposed house and septic system are entirely outside the 100 ft buffer, but the ECB is 41.1' away from the wetland at its closest point. They have tried to keep all clearing outside the 100 ft buffer wherever possible, except as needed to construct the driveway, and will install erosion control along the limits of work.
- EF notes that a site walk with John Zimmer (JZ), South River Environmental, and Conservation staff resulted in the adjustment of several wetland flags, placing the driveway inside the 50' buffer. As the driveway is considered to be a "structure" under the Regulations, the Commission could request mitigation such as conservation markers along the driveway and/or tree line in back, as well as plantings. BG is concerned that the area between the driveway and the wetland will become overgrown with opportunistic vines and invasive plants if planting native plants, preferably trees and saplings, are not added, and suggests a condition giving applicants the option to plant native species in this area if the Commission does not wish to mandate plantings; BO is okay with providing an option but not a mandate. BG would also like the fence to be moved prior to the start of work; NL concurs.
- The Commissioners agree to the posting of conservation markers along the erosion control line and driveway edge as mitigation for the slight intrusion into the 75' no disturb buffer. BO feels a 50' interval between markers is sufficient, noting that the lot abuts Mass. Audubon property.
- BO asks for comments from the public; none.
- Conditions of approval include posting of conservation markers as discussed, relocation of the fence prior to the start of work, and submission of an updated site plan by 12 noon on Friday, September 10.
- BO motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. SC second. Approved 5-0-0.

2945 Brugnoli & Malone, 55 Constellation Road (Raze & Rebuild Garage).....NEW (Susan)

- CH reads the legal ad. Hearing Officer SC confirms administrative requirements are complete.
- Terry McGovern (TM), Stenbeck & Taylor, present for applicant. The proposed activities are removal of an existing 24.5' x 24.3' garage and replacement with a 34' x 36' garage with seven flood vents, as well as removal of 550 sq. ft. of paved driveway and replacement with a 725 sq. ft. crushed stone or shell driveway, with 4' paved apron to remain. The lot lies within LSCSF and AE9 flood zone, as well as buffer zone to BVW. TM notes that the project will result in about a 1% increase in impervious area, or about 230 sq. ft.
- EF notes that the new, larger garage will be built on existing lawn/disturbed area but will move closer to the wetland than the existing one, 31 ft. from the wetland at its closest point. Given the property was developed prior to 2002, the 25 ft. buffer applies. The yard, which has been in existence at least 20 years, extends all the way down to the wetland, with a fence between the yard and wetland. The Commission could consider requesting conservation markers on the fence at its discretion.
- SC feels that adding conservation markers to the fence may prevent encroachment into the wetland; she would also like to see a cross-section of the proposed stone/shell driveway to ensure it is actually pervious. TM indicates the new driveway will be comprised of 3" of stone or shells, and will provide the cross-section.
- SC asks for comments from the public; none.

- Conditions of approval will include posting of three (3) conservation markers on the rear fence and written evidence from the Building Department that the project is not substantial to the Conservation Office. If the project is found to be substantial, applicant must contact the Conservation Office for further guidance.
- SC motions to close the hearing and issue Orders of Conditions with special conditions drafted by EF. PC second. Approved 5-0-0.

CONTINUED HEARINGS

2916 Lawson, 62 Marginal Street (dock, pier, ramp & float system).....cont. from 7/6/2021 to 9/21/2021 (Rick)

- The hearing is continued until the next public meeting of the Marshfield Conservation Commission on September 21, 2021 per applicant representative written request. Additional information is pending, including Building Commissioner and Harbormaster comments.
- CH motions to continue hearing until September 21, 2021. PC second. Approved 5-0-0.

REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS

1579 Lynch, 25 Billings Road [COC]

- Deed restriction for the porch is still outstanding. BG suggests that the request be denied if the matter is not resolved soon.
- CH motions to table the matter until the September 21, 2021 meeting. SC second. Approved 5-0-0.

2359 Tauro, Tauro Realty Trust (Now Connelly), 27 Old Beach Road [COC]

- EF visited the site on 8/31/21 and observed several changes not on the 9/10/2012 site plan, including the addition of an enclosed fire pit, pervious paver patio, and bench; 3-sided fenced changing area; outdoor shower, and two loose-stone walkways. Representative Rick Servant, Stenbeck & Taylor, notes that applicant has made extensive plantings on the property which he suggests could be considered mitigation for these structures; EF observed extensive well-established native vegetation on the lot.
- After viewing photos of the structures and considering the location of the property in barrier beach/coastal dune and recent Mass. DEP guidance regarding Commission decisions in this area, the Commission votes to issue a complete COC for the previous filing but require the filing of an after-the-fact NOI for the deviations.
- CH motions to issue a complete COC for SE42-2359 but require the filing of an after-the-fact NOI, with revised site plan capturing the deviations, by September 21, 2021. PC second. Approved 5-0-0.

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 – CH makes a motion to close the hearing at 10:35 PM. JR second. Approved 5-0-0.

Respectfully submitted,
Liz Anoja, Conservation Administrative Clerk

Marshfield Conservation Commission
Bill Grafton, Conservation Administrator
Eric Flint, Conservation Agent
Craig Hannafin, Chair
Arthur Lage
Susan Caron

Bert O'Donnell, Vice Chair
Joe Ring
Rick Carberry