

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

MEMBERS NOT PRESENT – Joe Ring (JR)

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

MINUTES

- The minutes of the September 23 and October 5 meetings were presented for approval. No comments or suggested changes were made on the floor. BG reads the following comment regarding the October 5 minutes: "BO states that the Commission vote supports Fall Town Meeting Article 30, leaving open the option to request a Conservation Restriction as well."
- CH motions to accept the September 23, 2021 minutes as edited. SC second. Approved 5-0-0.
- CH motions to accept the October 5, 2021 minutes as edited. PC second. Approved 5-0-0.

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 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 and should provide new information only. Pre-vote polls may be conducted to gain the perspective of the Commission.
- The Conservation Office received a complaint about serious cutting in a dune area; the matter is not on this meeting's agenda but is being addressed and will be discussed at an upcoming meeting.

BUSINESS

B1 27 Old Beach Rd, discussion regarding COC issued for SE42-2359 and ATF Conservation Permit– Rick Servant

- A request for Certificate of Compliance was deliberated by the Commission at the September 7 public meeting. After viewing photos of additional unpermitted structures and considering the location of the property in barrier beach/coastal dune and recent DEP guidance regarding Commission decisions in this area, the Commission voted to issue a complete COC for the previous filing but require the filing of an after-the-fact NOI for the deviations.
- Rick Servant (RS), Stenbeck & Taylor, advises that the property has since been sold by his client, previous owner Joe Connelly; as such, the new owner would have to file the ATF NOI. JC is uncomfortable asking the new owner to do this and would like to know if there is an alternative way to get the new structures permitted. RS has prepared an updated site plan that includes the new structures and includes a new coverage table.
- In response to a query from PC, RS indicates JC would be willing to pay for the filing and engineering fees if the new owner signs the application. BG indicates that a similar situation occurred at 111 Canal Street; there, the new owner assumed responsibility for the After-The-Fact filing and BG believes the same is required here. BG adds that the Commission is requesting the After-The-Fact NOI in lieu of an enforcement order, which would tie up the process further.
- CH suggests that JC reach out to the new owner regarding the required filing and offer to pay the application and engineering fees. PC believes it will be in new owner's interest to cooperate, as it will avoid enforcement.
- RS will discuss Commissioner's comments and requirements with JC.

B2 Policy & Procedure Process Associated With Commission Approvals – Commissioners

- CH notes that recent approved changes to Commission policies and procedures have required additional changes (i.e., updates to the Web site and other forms) not specifically approved. BG has requested authorization for Conservation staff to revise policies, procedures, forms, and other documents impacted by revisions specifically approved by the Commissioners.
- CH motions that the Commission approve an ongoing process allowing Conservation staff to revise policies, procedures, forms, and other documents affected by Commission-approved revisions to office documentation. AL second. Approved 5-0-0.

B3 Discussion about Request for COC Additional Information Never Provided – Commissioners

- All parties discussed the disposition of Requests for Certificates of Compliance where the Commission has requested additional information but said information has not been provided, or insufficient information has been provided. CH would like to close out these requests, as some of them go back several years and some of the properties have since been sold.
- BG notes that the Commission has already issued a denial for one filing on the original list, SE42-2390 (Rogan / 14 Bank Road). Rogan's representative for 14 Bank Street contacted BG today with a reminder that 14 Bank Street had been denied previously. BG will issue follow-up correspondence as appropriate.
- BO asks how long these requests have been outstanding; BG indicates all are at least a year outstanding except for Marshfield Liquors, which has multiple issues. SC agrees, noting she observed all the same issues at a follow-up visit this week at Marshfield Liquors.
- CH moves that the Commission deny the Request for Certificate of Compliance for the following six properties with the Conservation Staff to take appropriate notification measures:
 - SE42-1342 Wunshell / 153 Bay Avenue
 - SE42-2140 Griffin / 190 Foster Avenue
 - SE42-2199 Tedeschi / 1 Atlantic Street
 - SE42-2436 1852 Ocean St. LLC (now Marshfield Liquors) / 1852 Ocean Street
 - SE42-2579 Dalton / 1735 Main Street
 - SE42-2743 Mastergeorge Reatly Trust / 22 Damons Point CircleSC second. Approved 5-0-0.

B4 Transfer of Old Mount Skirgo and Couch Beach DPW to Con Comm: CR Process – Commissioners

- Tabled pending writeup from CH and BG.

PUBLIC HEARING

21-33 Coppenrath, 1165 Ferry Street (ATF Retaining Wall).....NEW (Susan)

- CH reads the legal ad. Hearing Officer SC confirms administrative requirements are complete.
- Jean Coppenrath (JC) homeowner and Ethan Coppenrath (EC) son present. EF provides the background: The activity to be permitted is the after-the-fact installation of a retaining wall and concrete pad. The property is located in LSCSF, AE10 flood zone, and buffer zone to salt marsh. The wall and pad were discovered by BG on a follow-up visit to the property; the Commission subsequently voted to require an after-the-fact RDA for the unpermitted work.
- EC states that the work was done to protect the septic mound from floodwaters; the wall also protects the downgradient salt marsh from contamination. The pad provides access to the shower in back.
- BG notes that the scope of work, and amount of fill, probably qualifies as a Notice of Intent, but the Commission at the time voted to require an RDA.
- SC notes that the lot is very small, almost entirely disturbed, with very little room for mitigation. PC is familiar with the property and agrees with SC's assessment. CH suggests that some native plantings may fit into a run of lattice along the foundation. SC does not feel involvement of a wetland scientist is warranted given the small size of the mitigation area. CH suggests that applicant plant a mix of native, salt-tolerant grass from the Commission's list of suggested plantings. SC also requests that debris, including an old fence and lobster traps, be removed from the area of phragmites in back.
- SC asks for comments from the public; none.

- Special conditions of approval include the planting of native, salt-tolerant native plantings along the foundation and removal of debris from the salt marsh in back.
- SC motions to close the hearing and issue a positive 5, negative 2 Determination of Applicability with special conditions drafted by EF. PC second. Approved 5-0-0.

21-34 Coppenrath, 1165 Ferry Street (Replace 1 Deck Footing).....NEW (Susan)

- CH reads the legal ad. Hearing Officer SC confirms administrative requirements are complete.
- Jean Coppenrath (JC) homeowner and Ethan Coppenrath (EC) son present. EF provides the background: The proposed activity is replacement of two footings under an existing screened-in porch with sonotubes in the same footprint. The original request was to replace one footing, but the Building Department subsequently determined that two footings needed to be replaced.
- BG recommends that applicant check back with Conservation Staff if the Building Department requires any additional work; this is also a standard condition of approval.
- SC asks for comments from the public; none.
- Special conditions of approval include the installation of erosion control at the limit of work.
- SC motions to close the hearing and a positive 5, negative 2 Determination of Applicability with special conditions drafted by BG. PC second. Approved 5-0-0.

21-35 Zailskas Family Nominee Trust, 36 Old Ocean Street (Septic).....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 installation of a new septic system to be located in Riverfront and Bordering Land Subject to Flooding, but further away than the existing cesspool, which is to be decommissioned. TM indicates that the new system will include a 1500-gallon tank and 1000-gallon pump chamber outside the 50 ft setback, in the most opportune location on the property. The system has been approved by Board of Health.
- SC asks about alternate locations for the system; TM indicates there is no viable location that is meaningfully further away from the wetland line given how it surrounds the property; additionally, an underground ledge outcropping intrudes into part of the property which would prevent installation of the system in a different location.
- BG notes that the tank and pump chamber are located in BLSF, but this in itself does not nullify the favorable presumption under 310 CMR 10.03(3) for construction of a new system, and the project as proposed meets the required performance standards. EF visited the site and had no issues with the wetland flags depicted on the site plan, but noted there were additional flags in the field that were not shown on the plan. BG and EF recommend that the delineation be reviewed only for those flags shown on the site plan. An additional filing is pending for repair of the culvert under Old Ocean Street.
- BO has no issue with the project as proposed but would like it to be conditioned properly with respect to the delineation. TM indicates there is nothing pending but the property is still for sale. BO would like to avoid any encroachment into the resource area by a potential new owner. BG notes that the existing house was built around 1800, so the 25 ft buffer applies; conservation markers are not appropriate for this proposed project given the limited scope of work and location of the work area, but should be considered as part of any future filing involving structures closer to the resource area.
- BO asks for comments from the public; none.
- EF states that the standard conditions of approval will apply.
- BO motions to close the hearing and issue a Positive #2A Determination of Applicability, confirming the portion of the delineation for which the flags were identified individually on the site plan by number (A7-A15, B1-B12, WF1-8, & MHW8-10), Positive #2B, stating that the remaining boundaries are not confirmed (Reference Positive Determination #2A and approved site plan), Positive #5 for the Bylaw, Negative #5 for the exemption under 10.03(3), and Negative #3 with special conditions drafted by BG. CH second. Approved 5-0-0.

2953 Coyne, 111 Canal Street (ATF Fence, fill with gravel, & Conservation Markers).....NEW (Art)

- CH reads the legal ad. Hearing Officer AL confirms administrative requirements are complete.

- Applicant Alex Coyne (AC) present. The activity to be permitted is the After-The-Fact fill with gravel in the wetland, and installation of a fence along the wetland line; these were put in by the previous owner and were discovered in visits to the property by BG and EF. AC indicates he has been cooperating with BG and EF, and is hopeful the filing will resolve any remaining issues.
- EF visited the property and confirmed that the (9) nine conservation markers on posts were installed, as required in RDA 21-23 filed by the previous owner. BG confirms that AC has been cooperatively working with Conservation staff, and recommends that the OOC be issued with the ongoing condition specifying no disturbance beyond the markers. BG also recommends that AC apply for a COC quickly so all issues associated with the property are resolved.
- Mohammad Marzuq (MM), 117 Canal, notes that (4) four of the markers are adjacent to his backyard, and is concerned his kids may injure themselves by running into the posts, and inquires if there is a less intrusive alternative. BO notes there are some options with respect to the posts used for the marks and their heights, including markers on a birdhouse with post or split rail fence. BG suggests that MM and AC work together to come up with a mutually acceptable way to post the markers; the Commission is flexible with respect to what they are posted on. In response to a follow-up question from MM, BG feels that all four markers are necessary, as there has been a history of disturbance in that area. Robin Tlasek, 97 Canal, comments that the marsh was a dumping ground near his side of the property; CH notes that the reason for the markers is to prevent dumping and other disturbance, and hopes they will improve conditions in the area.
- The standard conditions of approval will apply plus an ongoing condition specifying no disturbance downgradient of the conservation markers.
- AL motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. SC second. Approved 5-0-0.

2956 Cook, 125 Surf Avenue (Elevate Single Family Home).....NEW (Bert)

- CH reads the legal ad; BO Hearing Officer. Continued pending receipt of DEP file number; all other administrative requirements are complete.
- CH motions to continue the hearing until November 2, 2021. SC second. Approved 5-0-0.

2919A Kiley, 31 Branch Street (Elevate SFH, Addition, reconstruction of garage & deck).....NEW (Art)

- CH reads the legal ad. Hearing Officer AL confirms administrative requirements are complete.
- Terry McGovern (TM), Stenbeck & Taylor, present for applicants, who wish to amend the previously issued OOC SE42-2919 for reconstruction of a two-story addition, garage, and deck in LSCSF, flood zone, and buffer to saltmarsh and coastal bank. A *de minimis* Activity increasing the size of the garage by 22 sq ft was approved in June. Upon building permit sign-off, EF noted that the scope of work had been expanded to include elevation of the entire house; this in turn constitutes a substantial renovation or reconstruction which triggers the open-pile requirement under 505 Section 307.2. However, TM maintains that an open-pile foundation is not feasible at this location due to the presence of an underground ledge on the lot; they are proposing a concrete foundation with 30" wide by 48" high flood openings. The area beneath the house will be pervious crushed stone and will not be utilized for parking. They have provided a letter from structural engineer John McQueen which indicates that concrete footings would not be stable on this lot, and the full reinforced concrete foundation proposed would be much more structurally sound due to the underlying soil and site conditions.
- BG notes that the Chapter 505 regulations require an open pile foundation and concrete piers with footings could be considered, but suggests Mr. McQueen's letter may be the basis for the Commission to consider a variance. EF & BG were present for the digging of 2 test holes on 10/12/21 with Stenbeck & Taylor, which revealed the presence of ledge roughly 5'-8' below the surface.
- AL indicates he is inclined to accept Mr. McQueen's opinion with respect to the type of foundation needed. BG suggests, if the Commissioners agree with AL, that a special condition be added granting a variance as to foundation type; alternately, the Commission could require that a variance request letter from applicant be submitted by 12 noon on Friday. The Commissioners agree that a variance is warranted under these circumstances.
- AL asks for comments from the public; none.

- Special conditions of approval include submission of a variance request letter by noon on Friday and elevation certificate; the footprint of the subsurface must remain pervious. A D(0) special condition will specify that the Commission approves the variance request.
- AL motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. PC second. Approved 5-0-0.

Scheduled Continued Hearings:

2916 Lawson, 62 Marginal Street (Dock).....cont. from 7/6/2021 to 11/17/2021 (Rick)

- Applicant's representative requested continuation to November 16, 2021.
- CH motions to continue hearing until November 16, 2021. AL second. Approved 5-0-0.

2950 Gomes, 76 Carolyn Circle (Pier, Dock & Float).....cont. from 10/5/2021 (Rick)

- Applicant's representative requested continuation to November 16, 2021.
- CH motions to continue hearing until November 16, 2021. AL second. Approved 5-0-0.

2951 Trocki, 12 Branch Street (Raze & Rebuild SFH).....cont. from 10/5/2021 to 11/02/2021 (Joe)

- Applicant's representative requested continuation to November 2, 2021.
- CH motions to continue hearing until November 2, 2021. AL second. Approved 5-0-0.

2954 Martin, 70 Preston Terrace (Dock System).....NEW (Rick)

- CH reads the legal ad. Hearing Officer PC confirms administrative requirements are complete.
- Applicant's representative requested continuation to November 2, 2021.
- CH motions to continue the hearing until November 2, 2021. PC second. Approved 5-0-0.

REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS

2796 74B Marginal Street, Clemence (Now South Shore Realty Trust) [COC]

- The new house was built substantially in compliance with the approved Site Plan except for slight changes to deck/stair location. However, no impervious coverage table was included as requested, and applicant converted part of the lawn to a shell parking area. The approved Site Plan shows an open pile foundation, but the foundation as constructed is enclosed on all sides with no flood vents evident. Additionally, an upper level deck was constructed with a solid deck bottom which nullifies the use of ThruFlow material on a lower deck. Further, applicant has not lowered the height of a rock wall at the edge of the marsh to make it even with the grade, and a planting bed was observed to have been added to the marsh side of the property.
- BG has been in communication with Town Administrator Mike Maresco, Chair Hannafin and Building Commissioner Andrew Stewart, and recommends that the request be denied based on deviations from the final Approved Plan and lack of action regarding the height of the rock wall.
- PC questions whether changes had in fact been made to the stone wall? CH believes there has been no change; BO does not recall any reference to an upper deck on the Approved Plans. BG suggests that all Commissioners visit the property to get an idea of the issues at hand.
- CH motions to deny the request for COC for SE42-2796 based on deviations from the final Approved Plan and lack of action regarding the height of the rock wall as per business session on 12/17/19. AL second. Approved 5-0-0.

2756 7 Richard Street, Hammond [COC]

- The filing permits ongoing maintenance of a revetment wall. The first round of maintenance has been completed and As-Built Plans have been provided. BG and EF visited the site and observed no issues.
- BG recommends issuance of the COC with an ongoing condition allowing periodic maintenance in accordance with the original special conditions and with the ongoing conditions defined in the letter from NHESP (file no. 18-38112) and appropriate notifications to DPW, Beach Administrator and Natural Heritage and Endangered Species Program.
- CH motions to issue a COC for SE42-2756 with ongoing condition as noted. SC 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 \leq 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 8:00 PM. SC 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	Bert O'Donnell, Vice Chair
Art Lage	Joe Ring
Susan Caron	Rick Carberry