

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

**MEMBERS NOT PRESENT** – Rick Carberry (PC)

**CALL TO ORDER** – CH motions to open the meeting at 6:30 PM. JR 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.

### **BUSINESS**

#### **B1 *de minimis* Activity Roll/Review/Ratification**

##### **a. Webster Street Rear (aka Webster's Wilderness) – Footbridge Replacement**

- The proposed activity is replacement by the Recreation and Trails Committee and other volunteers of the first footbridge on the Red Trail. Building has advised that no permits are required. BG 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. AL second. Approved 5-0-0.

#### **B2 Conservation Land Footbridge Replacements/Land Use Rules & Regulations – Commissioners**

- Numerous foot bridges on Conservation trails are in need of work ranging from routine maintenance to replacement. BG would like authorization for Conservation staff and volunteers to perform ongoing maintenance on these and other structures as needed. Permits will be submitted in the usual manner when work occurs within wetlands; work within buffer zones will be presumed to be exempt under Chapter 505-103.5(d).
- BO is fine with authorizing the ongoing repair of existing structures but would like to know about the addition of any new structures anywhere to the trail network, and suggests these be discussed as a business item so they are in the minutes; CH and BG concur.
- CH motions to authorize the ongoing maintenance of existing structures within the Conservation land network. BO second. Approved 5-0-0.

#### **B3 Enforcement Order Hearing Officer Initiative – Commissioners**

- BG and CH have discussed assigning Commissioners to be hearing officers for enforcement orders, as is currently done with public hearings, with the goal of increasing Commissioner involvement and oversight.
- AL sees no negatives with the proposal but asks how much it would help. JR agrees with BG's reasoning. BO notes that the enforcement hearings are already held in front of all Commissioners; BG agrees but suggests it would be helpful to have Commissioners to be more involved in the earlier stages of enforcement. BG also notes that the additional workload for individual Commissioners would be light, maybe one per year for each Commissioner, and he is also hoping to streamline the process. SC agrees this would help with the EO backlog and notes it may also be helpful having the Commissioner, as Town residents, involved in the process along with Town employees; AL concurs.
- CH motions to establish Enforcement Order hearing officers modeled after the Conservation Permit hearing officer protocols. JR second. Approved 5-0-0.

#### **B4 Enforcement Order/53 Kent Avenue (Brait) Unpermitted Cutting in Coastal Dune – Commissioners**

- The Conservation Office received three complaints about unpermitted cutting in the coastal dune adjacent to the property. BG reached out to property owner Robert Brait (RB), who indicated that his landscaper cut beyond what they were told to do; he has agreed to restore the area and has hired Brad Holmes (BH), ECR, to prepare a restoration plan. BG has drafted an enforcement order, which he requested that the Commission approve in order to start the restoration process.
- CH adds that the cutting involved a large area, impacting about 2500 sq. ft. She would like BH to provide a count on every tree that was cut, as well as their diameters. BG notes that the planting plan and monitoring reports would be subject to the new procedures just approved with regards to timing and reporting. Based on time of year, BG thinks plantings could be done in the spring, with implementation report by June 1 and annual monitoring reports December 1 of each year. BG also notes that the cutting took place on town-owned land in a large area of vital resource area, coastal dune, and thus the restoration should be held to a high standard. He also points out that the property recently was the subject of two after-the-fact RDAs and one after-the-fact NOI.
- BO asks whether the Commission should offer any guidance as to what it wants to see in the restoration plan. BG indicates that RB indicated willingness to replace the cut trees at a 2:1 or greater ratio, and may be willing to convert a bocce court on the property to planting area. AL, who visited the property with BG, states this is consistent with his own memory of the conversation and reiterated that a large number of mostly medium-sized cedar trees were cut. CH believes some sumac shrubs were also cut. BG suggests that the Commission ask for beneficial native coastal shrubs and replacement cedar trees. SC asks if there is enough room on the site for a 2:1 tree replacement that large; AL believes there is. BG adds that the cleared area is likely to be overrun by invasives if not reforested and revegetated. BO suggests the Commission asked if replacement trees could be similar to what was cut.
- BG suggests that the Commission consider 3-5 years of monitoring given the scope of the cutting; the Commission has done up to three years in the past. JR and CH suggest five years of monitoring. CH would also like the Commission to review the plan, and would like to see specificity in terms of number and types of plants, and where they will be planted. BO notes that if the adjoining lot belongs to the Town, it shouldn't be used for personal use or storage; all concur. All briefly discuss the placement of conservation markers, with SC noting there seem to be sufficient barriers between the yard and resource area, as the fence is on the property line. All agree to request four markers along the retaining wall at the property lines.
- BG notes that restoration plan will be due from BH by December 2, 2021 with Commission review by January 2, 2022.
- CH motions to issue an enforcement order for unpermitted cutting at 53 Kent Avenue. JR second. Approved 5-0-0.

#### **PUBLIC HEARING**

##### **2957 Lotti, 28 Shipyard Road (Septic & Retaining Wall).....NEW (Bert)**

- CH reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- Bob Crawford (BC), EET, present for applicant. The proposed activity is the installation of a new septic system, retaining wall, regrading, and adjustment of the back steps and deck footings. Associated resource areas are LSCSF and AE12 flood zone. The existing failed cesspool will be replaced with a 1000-gallon septic tank. The west side of the system requires a retaining wall. A mounded system is required due to the high water table in the lot, which in turn will require some fill.
- EF visited the site on 10/26/21 and noted no issues. The proposed location of the system, in the back yard, meets the criteria for the presumption of 310 CMR 10.03(3) provided it is approved by the Board of Health.
- BO also visited the property and has no issues with the system or its proposed location.
- BO asks for comments from the public; none.
- A special condition of approval requires reappearance before the Commission if Board of Health mandates changes to the system.
- BO motions to close the hearing and issue Orders of Conditions with special conditions drafted by EF. JR second. Approved 5-0-0.

**2958 Speakman, 274 Foster Avenue (Elevate Single Family Home).....NEW (Susan)**

- CH reads the legal ad. EF advises that receipt of DEP file number remains pending, so the matter must be continued.
- Paul Bakis (PB), Grady Consulting, present for applicant. The proposed activity is the elevation of an existing SFH on concrete piles above the baseline flood elevation. The lot is located in LSCSF, coastal dune, and barrier beach and in buffer zone for coastal bank and coastal beach. The house is oceanfront, with a seawall acting as the coastal bank. An existing basement and deck on the right side are to be removed, and they wish to add a deck in back of the property. An existing deck and steps on the left side of the property are to be renovated to meet the new elevation and serve as access and egress. The existing concrete foundation is to be removed and filled with clean fill topped with gravel; applicant wishes to use the area underneath the house for parking and storage. PB states the work will result in about a 1200 sq. ft. reduction in impervious area, as they will be removing asphalt from both sides of the house.
- EF notes that the Chapter 505 regulations and the building matrix for coastal dune/barrier beach require open piles without footings; if the house is to be raised on piers with footings, EF suggests the Commission will need evidence and possibly third-party confirmation that open piles are not feasible. Additionally, EF suggests that applicant provide additional details regarding the foundation and notes that the overall building footprint is expanding, as the proposed deck in back moves closer to the sea wall. If the area beneath the house is to be used for storage, EF recommends the Commission ensure nothing is stored that could cause damage in a storm. EF suggests that PB add a table of coverage to the impervious table to account for the coverage of the house and reiterates that the Commission may require a third-party review if they wish to use footings.
- SC agrees that additional information regarding foundation design and open pile feasibility is needed given the lot's location in a velocity zone. JR notes that a pile foundation, if feasible, would better protect the building in the event of a flood event that might wash out a footing. PB states he just received plans from a structural engineer that address the foundation, and will be submitting them to the Conservation Office tomorrow. CH believes the Commission should review these plans before making a decision regarding third party review, but notes they will need very compelling evidence as to why open pilings are not feasible.
- SC motions to continue hearing until November 16, 2021. JR second. Approved 5-0-0.

**2956 Cook, 125 Surf Avenue (Elevate Single Family Home).....cont. from 10/19/21 (Bert)**

- Continued hearing; BO hearing officer.
- Terry McGovern (TM), Stenbeck & Taylor, present for applicant. The proposed activity is the elevation of an existing SFH, porch repairs within existing footprint, and installation of stairs, landings, and a stone driveway. The house will be raised from its present elevation of 4.52' to 11.5', bringing it above the flood elevation. The lot lies in AE9 flood zone and LSCSF. First floor elevation will be 12.8'. The house will be set on a new poured foundation with smart vents; the area underneath the house will be used for parking, and the new driveway will be pervious with either crushed stone or shells. Applicants also wish to install a wraparound deck, which may need to go back to ZBA for a special permit. As such, TM indicates he would like to close the hearing tonight for elevation of the house and then permit the porch separately as a *de minimis* Activity.
- EF notes that the proposed poured foundation would be allowable on this lot as it is not in barrier beach/coastal dune, and has no issues with reviewing the deck later, as a possible *de minimis* Activity. BG notes that he has already received calls at the office regarding the proposed deck, and that an amended OOC may be required depending on its final layout, but agrees that the deck can be reviewed at a later point.
- BO also agrees with the suggestion to consider the deck at a future hearing.
- BO asks for comments from the public; none.
- The standard conditions of approval will apply.
- BO motions to close the hearing and issue Orders of Conditions with special conditions drafted by EF. AL second. Approved 5-0-0.

**2954 Martin, 70 Preston Terrace (Dock System).....cont. from 10/19/21 (Rick)**

- Applicant's representative has requested a continuation to the November 16, 2021 meeting.
- 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 10/5/21 (Joe)**

- Applicant's representative has requested a continuation to the January 18, 2022 meeting.
- CH motions to continue hearing until January 18, 2022. JR 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 has requested a continuation to the November 16, 2021 meeting.
- 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 has requested a continuation to the November 16, 2021 meeting.
- CH motions to continue hearing until November 16, 2021. SC second. Approved 5-0-0.

**REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS**

**0276, 1947, 2460 110 Elm Street, Masse [COCs]**

- The Commission reviewed requests for Certificates of Compliance for 3 open Orders of Conditions at the property: SE42-0276: 3-car garage; SE42-1947: Septic repair and SE42-2460: Drain.
- Correspondence from applicant's engineer and the accompanying As-Built Plan indicated compliance as to SE42-0276 and SE42-1947. However, deviations were noted as to SE42-2460, including a small addition between house and garage (addressed in a 2014 RDA), small deck expansion, and deviations from the required restoration plan. John Zimmer (JZ), South River Environmental, inspected and found no evidence that 10 sweet pepperbush or 10 bayberry plants had been planted as required; additionally, there is no record of any monitoring reports.
- EF visited the site on 10/29/21 and noted that the swale is well vegetated, but parts of the proposed planting area looked sparse. He recommends that the Commission issue COCs as to SE42-0276 and SE42-1947 but deny the request as to SE42-2460 and require an assessment of the plan, as implemented, by a qualified wetland scientist.
- BO is familiar with the property and the conditions in back, agrees that additional information and possibly planting is needed to close out SE42-2460, but also suggests that the original NOI paperwork be reviewed to verify what was requested and approved.
- CH motions to issue a complete COC as to SE42-0276. SC second. Approved 5-0-0.
- CH motions to issue a complete COC as to SE42-1947. JR second. Approved 5-0-0.
- CH motions to deny the request for COC for SE42-2460 pending evaluation by a professional wetland scientist. AL second. Approved 5-0-0.

**2458 50 MacArthur Lane, Houilhan (now Vega) [COC]**

- Applicant's representative has provided an As-Built site plan and letter stating that the approved raze and rebuild of a SFH on the lot was done in accordance with the OOC. EF visited the site on 10/28/21 and confirmed that conditions are as represented on the As-Built plans except for a small gravel walkway. Elevation of the HVAC system was confirmed by EF on Monday.
- CH motions to issue a complete COC for SE42-2458. SC second. Approved 5-0-0.

**2809 11 Farragut Road, O'Donovan [COC]**

- Applicant's representative has provided an As-Built site plan and letter stating that the approved deck replacement was done in accordance with the OOC. EF visited the site on 10/26/21, confirmed that 20 plugs of beach grass had been planted as required, and recommended issuance of the COC.
- CH motions to issue a complete COC for SE42-2809. SC second. Approved 5-0-0.

**2709/2709A Lohe, 1354 Union Street [COC]**

- CH recuses from the discussion and vote.
- SE42-2709 was issued for the modification of an existing single family home and construction of a dock system, this was subsequently amended to redesign the dock to comply with DMF recommendations. EF notes that a brick patio was added to the east side of the house but suggests this could be considered a *de minimis* Activity, as it is outside of the 50' setback, qualifying for the exemption under 10.02(2)(b)(2)(e) allowing conversion of lawn to

uses accessory to residential structures. EF also advised that mowing past the conservation markers on the property had ceased. BG notes for the record that this mowing occurred when the home was occupied by the previous owners, and the Lohes have been good stewards since their arrival. BG recommends issuance of the COC with the standard ongoing conditions for dock projects under the COC.

- BO motions to issue a complete COC with the standard ongoing conditions as to dock projects for SE42-2709 & 2709 Amended as per the As-Built dated October 15, 2021 prepared by Cavanaro Consulting signed and stamped by John Cavanaro, RPE. SC second. Approved 5-0-0.

CH returns to the meeting.

#### **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 7:41 PM. 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  
Art Lage  
Susan Caron

Bert O'Donnell, Vice Chair  
Joe Ring  
Rick Carberry