

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

MEMBERS NOT PRESENT – Susan Caron (SC)

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

MINUTES

- The minutes of the December 7 meeting were presented for approval. No comments or suggested changes were received, and none were made on the floor.
- CH motions to accept the December 7, 2021 minutes as written. BO 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.
- Based on comments from the public, the Commission has changed the order of its agenda as follows: Business Items, Public Hearings, Certificate of Compliance and Extension requests, and Enforcement Order discussions. CH believes the new policy will prevent enforcement matter discussions from delaying public hearings.

BUSINESS

B1 *de minimis* activity Roll/Review/Ratification – Eric Flint

a. 335 Careswell Street, Watson – Hazardous tree removal & mitigation planting

- The proposed activity is the removal of two trees and the pruning of a third tree along the boundary of an IVW. Homeowners are proposing to replace the trees with several shrubs and saplings. 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 a *de minimis* activity. BO second. Approved 5-0-0.

B2 SE42-2798 Amended, 0 Enterprise Drive – Billboard line of site tree clearing & pruning in established Limit of Clearing *de minimis* activity vs. Request For Amended Order of Conditions – Bill Grafton

- The proposed activity is tree cutting and pruning to provide a clean line of sight from Route 3 North to a billboard on the property. BG notes that the Order of Conditions SE42-2798 Amended established a limit of clearing, and some of the proposed clearing for the billboard is within the limit; however, BG adds that the billboard performs a public safety/advisory function as well as advertising, and recommends approval with the condition that applicant seek all pertinent permits prior to the start of work, and that the Conservation Administrator be present at the time of the pruning to review eight select trees within the grouping marked in the field as 1467-1478 for a final cutting decision.
- CH motions to approve the proposed activity as a *de minimis* activity with Special Conditions for billboard vista pruning meeting public safety wetlands values within the limit of clearing to provide a highway line of site. Special conditions to include that the Conservation Administrator will be present to review eight select trees within the grouping marked in the field as 1467-1478 for a final cutting decision. JR second. Approved 5-0-0.

B3 Dyke Road Sluiceway, replace suspended water main and red line sewer line review as a candidate for WPA exemption vs. Conservation Permit – Bill Grafton/Rod Procaccino

- Town Engineer Rod Procaccino (RP) present to inquire whether pending repairs to a water main and sewer utility crossing at Dyke Road will require conservation permitting. RP considers the project to be emergency

work, as the sleeve containing the water and sewer lines has severely deteriorated and the lines themselves are under pressure. The sleeve is located on the upstream side of the Dyke Road Tide Gate Structure, underneath the highway bridge. They have put in temporary supports adjacent to the central support wall, which has also deteriorated. The work will include digging two pits in the road, on either side of the sleeve, and putting new water main and sleeve sections. They have received funding from the Select Board and have started design work; the final design will be approved by the State. RP would like to know what kind of permitting, if any, will be required from the Commission for the work.

- BG notes that the existing water main piping material is made up of asbestos and cement, and will require qualified abatement personnel to remove. The metal jacket around the piping is deteriorated as described. Photos and documentation of existing conditions and proposed work are available at the Conservation Office. BG suggests that the work qualifies for exemptions under the WPA for maintenance and repairs pertaining to (1) sewer and (2) water delivery services, and recommend that it be approved as such with special conditions requiring (1) notification of the Conservation Administrator 2 weeks in advance of the work and (2) utilization of containment and qualified personnel to remove the asbestos-containing cement cover.
- RP provides additional details regarding how the sewer line will be accessed through existing manholes and reinforced from the inside with liners. A temporary plastic bypass pipe may be needed so this work can take pace; little to no excavation will be required for this activity.
- CH agrees that the work needs to be done based on the photographs; BO agrees and would like to move the work along; the Commissioners concur.
- CH motions to approve the exemption, as the pipe is found to be existing before the WPA enactment and/or lawfully located. Special conditions include (1) notification of the Conservation Administrator 2 weeks in advance of the work and (2) utilization of containment and qualified personnel to remove the asbestos-containing cement cover. JR second. Approved 5-0-0.

B4 Tremont & Careswell Streets/Webster Point Village (NHESP CMP Status permit discussion and outreach) – Bill Grafton

- On December 10, 2021, NHESP sent correspondence indicating that the Conservation and Management Plan permit issued for the referenced 40B project near the Duxbury line was expiring on January 4, 2022, a date which includes the Covid-19 tolling period. BG reviewed with CH and advised NHESP that the Commission would discuss prospective extension of the CMP permit.
- BG notes that applicants were before the Commission for an ANRAD in 2007, but the submitted delineations were found to be inaccurate and no other steps were taken for permitting. In 2018, applicants discussed whether the Commission would be interested in managing a conservation restriction on 8.9 acres of the development; the Commission at the time did not agree to take on the CR, and no follow-up with the Commission was held. Based on discussions with CH, BG would like to advise NHESP regarding applicant's incomplete permitting status with the Marshfield Commission, which they can take into consideration in deciding whether or not to extend the CMP permit; he has already conveyed this verbally to NHESP staff based on TC's suggestion. BG notes that the resource area delineation of the property is incomplete/inaccurate, and new, more protective regulations have taken effect since the time of the filing. The Commissioners concur with BG's suggestion.
- CH motions to direct the Conservation Administrator to draft and send a response letter to the Natural Heritage and Endangered Species Program updating them about the permitting status with the Commission. AL second. Approved 5-0-0.

B5 Jackson Street 52-Substantial and 505 307.2 Open Pile Foundation regulation discussion – Commissioners

- On 11/30/21, Building Commissioner Andrew Stewart issued a stop work order for interior work at 52 Jackson Street, as the work was unpermitted and subject to a Substantial Determination. The property is located within a Flood Zone and mapped on Mass GIS as within Barrier Beach and Coastal Dune. As per the Ch. 505-307.2 regulations and Building Code, a Substantial Improvement typically requires the elevation of the house on open pilings without footings. However, this interior work does not require any Conservation permitting.
- AS, CH, and BG have discussed the matter and all agree that interior work triggering a determination of "substantial improvement" is not the same as exterior work impacting the subsurface. As interior work is not jurisdictional for the Conservation Commission, BG and CH suggest that the Commission make a vote affirming

that 505-307.2 is not applicable to the substantial interior work identified in the Building Commissioner's letter of November 30, 2021.

- BG reaffirms for the record that no conservation permitting was needed for the interior work that was performed at this property. AS notes that all that is required to bring the property into compliance with FEMA standards is to add flood vents and fill the existing basement up to grade; AS suggests that the Commission come up with a procedure to allow for properties like this to come into FEMA compliance without requiring elevation on piles.
- CH moves that the Commission confirm that Chapter 505-307.2 Foundation Requirements is not applicable to the interior work that triggered a substantial determination by the Building Commissioner on November 30, 2021. PC second. Approved 5-0-0.
- Regarding the 505 307.2 Open Pile foundation requirement, Commission consultant William Finn (WF) noted he is monitoring implementation of the Chapter 505 regulations. Based on further discussions with AS concerning a project at 226 Bay Avenue, SE42-2924, WF suggests that the Commission reopen the hearing and amend the OOC to add a WPA Form 6, Notification of Non-significance, applicable to all activities which occur inside the structure. This would be contingent upon receipt of written requests from applicant and AS to reopen the hearing and issue the amendment.
- BO asks if there is some sense of how common it is that an existing structure in Barrier Beach/Coastal Dune meets the current FEMA elevation requirements? AS indicates they do see cases in which structures are adequately elevated but the foundation is not compliant. All that is required for these structures to become compliant for the flood zone they are in is add smart vents and possibly fill the basement to ground level; the open pile requirement applies to the resource area rather than the flood zone. AS notes it is being argued that the significant activity required to place these elevation-compliant structures on open piles is far more disruptive to the resource area than adding flood vents to the existing foundations; this may also be the case at 226 Bay Avenue, which already has an open foundation on footings.
- BG notes that Form 6 has not commonly been used by the Commission, but it is available; revising Section 307.2 may be an alternative way to address the concerns raised by WF and AS, and all options merit further research.
- CH polls the Commission as to whether to reopen the public hearing for SE42-2924 and amend the OOC to add a WPA Form 6, conditioned upon receipt of written requests from applicant and AS. PC-yes; JR-yes; BO-yes, need a way to move these projects forward; AL-yes.

B6 Review of Complaint of work on Conservation parcel behind 54 Marshview Drive – Eric Flint

- Complaints were submitted to the Conservation Office and Select Board regarding cutting on Conservation land under the care and custody of the Conservation Commission behind 54 Marshview Drive. EF visited the site and observed evidence of clearing, topsoil and tree removal, as well as piles of green waste in the Conservation parcel. The homeowner at 54 Marshview Drive advised EF that residents have been using the end of the unimproved road as a green waste dumping site. EF suggests the posting of a blue & white "Town-owned" land sign may deter future dumping; other remedies could include requiring homeowner to remove the existing piles from the land and post conservation markers along the property line. BG adds that the silt piles shown around tree trunks will eventually decay the tree.
- PC notes that the dumping problem is not just the action of this individual homeowner. CH notes that using heavy machinery to remove the piles may create more disturbance than it resolves. BG suggests that the piles can be removed in a non-destructive manner, and the logs and branches in particular may be reusable as forest floor habitat on the Conservation Land. PC would support the posting of markers along the property line and removal of the pile. EF noted that property owner expressed interest in having the property surveyed to establish the line between her property and the Conservation land.
- AL asks whether mitigation/replacement plantings should be required for the trees that were removed. EF notes that this requirement typically applies when trees are removed in resource areas or buffer zones. In this case, the trees removed were not in a wetland or buffer zone. EF estimates that about 6-10 trees were cut, with diameters between 3-8 inches.
- Diane Leeming (DL), 54 Marshview Drive, reiterates that the area has had ongoing dumping issues and she has seen old tires and fences in addition to green waste. She hired a contractor to push back some of the green waste and cut some vegetation to clean up the area in hopes of discouraging future dumping. She was not aware the land was Conservation land, and is willing to cooperate with the Commission. JR and PC suggest that

cleaning up the green waste pile would be beneficial to the property. BG suggests that removal of the pile and posting of the markers would provide the greatest benefit in terms of mitigation and deterrence. CH concurs, but would also like a "Town of Marshfield" land sign to be posted along the paper road.

- CH moves to direct removal of the brush and debris piles behind 54 Marshview under the supervision of Conservation staff, and posting of Conservation markers along the property line between 54 Marshview and the town-owned land as well as one blue and white "Town-owned land" sign on the unimproved road. PC second. Approved 5-0-0.

B7 Discuss Mass DEP Guidance on Conservation Permit and Enforcement Notifications – Bill Grafton

- BG advises that the office has received guidance from Mass DEP, including verbally from Southeast Region Circuit Rider Andrew Poyant, that they prefer electronic to paper submittals, as much of their staff is working remotely; this would encompass copies of conservation permits, enforcement orders, and other documents that are sent to Mass DEP. BG suggests that the Commission adopt a policy defaulting to digital conservation permit submissions to Mass DEP unless requested otherwise, as this would save the Conservation office both time and budget.
- All parties discuss the advantages and disadvantages of reducing the amount of printed review materials provided to Commissioners. BG notes that individual Commissioner preferences vary, but some still prefer hardcopies. All documents are provided digitally to the Commissioners, and anyone who wishes to opt out of receiving hardcopies can notify Conservation staff.
- CH moves to direct Marshfield Conservation staff to provide digital versions of conservation permits, enforcement orders, and emergency certifications to Mass DEP unless a specific request for paper copies is received. JR second. Approved 5-0-0.

PUBLIC HEARING

21-40 Powell, 1 Earl Avenue (In-Ground Pool).....NEW (Bert)

- CH reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- Gabriel Padilla (GP), Grady Consulting, present for applicant. The proposed activity is the construction of an in-ground pool which will be outside the 100 ft buffer to a BVW and above the AE9 flood elevation. Silt sock erosion control is proposed between the limit of the work and the BVW. The work is near but just outside the riparian zone to the Green Harbor River.
- EF has no issue with the pool project as proposed. Applicant asked that the wetland boundaries be confirmed as part of the determination. BG and EF visited the site on 11/8/21 to review the delineation with John Zimmer (JZ), South River Environmental, and had no issues. During this site visit, BG and EF noted the presence of an unpermitted bridge across the Green Harbor River that had been the subject of a previous complaint. As the bridge is located on a parcel owned by the same property owner, EF suggests that removal of the bridge and pallets in the marsh leading to the bridge be required as a condition of approval. BG confirms that both parcels have the same owner and removal of the bridge would remove a navigation hazard in addition to improving the resource area.
- BO likewise has no issues with the project; the bridge seems to predate the current owner, but BO agrees it needs to be removed; the Commissioners agree. GP will talk to applicants but doesn't expect it will be an issue; BO advises that the alternative to removal as a condition of approval would be issuance of an enforcement order.
- BO asks for comments from the public; none.
- Special conditions of approval include removal of the bridge and pallets from the adjoining parcel within 90 days of issuance of the permit.
- BO motions to close the hearing and issue a pos. 2A, pos. 5, neg. 3 Determination of Applicability with special conditions drafted by EF. AL second. Approved 5-0-0.

21-41 Melia, 119 Monitor Road (Extend Front Landing Deck).....NEW (Rick)

- CH reads the legal ad. Hearing Officer PC confirms administrative requirements are complete.
- The proposed activity is the replacement of a 4' by 9' deck with a 6' by 9' deck over existing lawn in a property in LSCSF and AE9 flood zone. EF notes there is no delineation on the site plan, but it is clear from aerial imagery that the proposed deck is at least 50' from the BVW in back. EF has no issues with the project as proposed. PC likewise has no issues.

- PC asks for comments from the public; none.
- The standard conditions of approval will apply.
- PC motions to close the hearing and issue a pos. 5, neg. 3 Determination of Applicability with special conditions drafted by EF. JR second. Approved 5-0-0.

2754 A Hanlan, 72 Bay Avenue (Expand Concrete Slab).....cont. from 11/16/2021 (Bert)

- The hearing is continued until the public meeting of the Marshfield Conservation Commission on January 4, 2022.
- BG notes that no continuation request was received and suggests the Commission consider applying one count towards Denial Without Prejudice under the continuation policy. EF notes he has been reaching out to engineer Rick Servant but has not received a response. The Commissioners agree to apply one count towards the DWOP.
- CH motions to continue the hearing to January 4, 2022 and assign one count towards denial without prejudice under the continuations policy. AL second. Approved 5-0-0.

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

- Continued hearing. Hearing Officer PC confirms administrative requirements are complete.
- PC notes that the original proposal was for a pier, ramp, and float but has been revised to a pier and landing with no float but two access ladders. The pier is 2' wide, 528.6' long and the landing is 8' by 8' with a removable set of access stairs. Paul Seaberg (PS) from Grady Consulting, representing applicant, adds that the end of the walkway is 118 from the channel and 138 ft. from the closest mooring. Construction access will be through an existing footpath. No heavy machinery will be used on the salt marsh. The posts for the pier will be driven using a pneumatic hammer and compressor. Construction materials will be stored on the upland portion of the property
- EF questions whether the 8' by 8' landing was in line with the Commission regulations regarding a maximum of 4' of decking. BG notes that the paperwork for this project was submitted before the updated Chapter 505 regulations were adopted but there have also been multiple revisions since then, and questions whether the hearing should be continued to query TC as to whether the filing was in fact complete or not as of the date of filing and if the new regulations should apply. BG also points out the possibility of segmentation if applicant later files to add a ramp and float, and suggests the issue be addressed in conditioning; the conditions should also state that any amendments or new filings will be subject to the revised Ch. 505 Regulations. BG also suggests a condition specifying no overnight tie-ups to the landing. BG adds that Harbormaster comments requested accurate mooring location on the site plan.
- PC notes that the comments were received from the Harbormaster this morning which indicated no safety or navigational issue given the lack of a float, and no shellfish mitigation required. BG indicates that comments were received from Mass DMF that raised no significant issues. PS indicates that Mass DMF comments from November 8 raised concerns regarding shading caused by the platform. In response, they have extended the platform beyond the marsh; PS indicates that Mass DMF is okay with this modification; EF indicates that Mass DMF's e-mail to this effect is in the Commission file.
- PC asks PS what the motivation is behind building a walkway that is only 2' wide, as most piers are 3'-4' wide? Applicant Ken Lawson (KL) states the idea was to minimize impacts to the marsh and neighbors, and 2' is a sufficient width to access the waterfront. PC notes that the pier can be lower to the ground because it is so narrow. PC also asks if applicants are contemplating extending the pier, or adding a float and ramp, after the dredging in Green Harbor is completed. KL indicates their focus is on constructing the dock as designed and no further construction is planned. PC also notes that applicant filed for a ZBA variance just yesterday, and questions whether this means the original submitted application was not complete and the new Chapter 505 regulations thus apply. BG notes that ZBA could possibly order changes to the plan, which in turn would require a filing a Request for Amended Order of Conditions. PS feels that the majority of conditioning for dock projects is done by Conservation Commissions, and does not believe that ZBA could make substantial changes to the design of the dock. BG notes that 310 CMR 10.05 requires applicant to seek all pertinent permits during the NOI process, and asks that he do so in the future.
- PC indicates he would like clarification from Town Counsel regarding the applicability of the old or new regulations before closing the matter. BG points out the Commission, as the permitting authority, could work in special conditions to address this concern, and is willing to draft the proper conditions at the Commission's direction. AL suggests adding a special condition specifying that the new Chapter 505 regulations would apply to any

amendment or new filing. KL has no issue with such a condition. BO asked what part of the proposed dock would not meet current revised Ch. 505 regulations? PC replied the 8-foot wide platform would not be allowed.

- PC notes he had received feedback from Mass DEP discouraging the use of ladders in the marsh, but PS indicates that public access regulations require (1) at least 5' clearance under the pier at high tide, or (2) some other means of access over the walkway; as the pier does not provide 5' clearance, the ladders are needed. BO thinks this is related to Colonial-era ordinances to allow for fishing and fowling.
- Mary Murphy (MM), 252 Ocean Street, thanks the Commissioners for their efforts and asks for more information about the dredging in Green Harbor. BG advises that additional dredging is planned for GH which could potentially accommodate a float with this pier, but notes KL has said they are not interested in expanding the pier beyond its current design.
- The standard conditions of approval for dock projects will apply plus a special condition affirming that the most current Chapter 505 regulations will apply to any amendment to the project or new filing. Boats may be secured directly to the pier provided there is adequate water (2.5 ft) beneath, but no boats may be grounded on tidal flats or river bottom.
- PC motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. JR second. Approved 5-0-0.

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

- The hearing is continued until the public meeting of the Marshfield Conservation Commission on January 4, 2022. As applicant's representative requested continuation after the filing deadline, CH recommends assigning one count towards Denial Without Prejudice.
- CH motions to continue the hearing to January 4, 2022 and assign one count towards denial without prejudice under the continuations policy. PC second. Approved 5-0-0.

**Note A after WPA File Number indicates Request for Amended Orders of Conditions*

Scheduled Continued Hearings:

2951 Trocki, 12 Branch Street (Raze & Rebuild SFH).....cont. from 10/5/2021 to 1/18/2022 (Joe)

- The hearing is continued until the public meeting of the Marshfield Conservation Commission on January 18, 2022. Applicant's representative requested continuation in writing.
- CH motions to continue the hearing until January 18, 2022. BO second. Approved 5-0-0.

2958 Speakman, 274 Foster Avenue (Elevate Single Family Home).....cont. from 11/2/2021 to 1/18/2022 (Susan)

- The hearing is continued until the public meeting of the Marshfield Conservation Commission on January 18, 2022. Applicant's representative requested continuation in writing.
- CH motions to continue hearing until January 18, 2022. BO second. Approved 5-0-0.

2960 Sealund Corp, 202 Moraine Street (Roadway w/ Utilities).....cont. from 12/8/2021 to 1/18/2022 (Joe)

- The hearing is continued until the public meeting of the Marshfield Conservation Commission on January 18, 2022. Applicant's representative requested continuation in writing.
- CH motions to continue hearing until January 18, 2022. BO second. Approved 5-0-0.

REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS

1836 Fontana, 4 Howes Brook Road [COC]

- The Order of Conditions was issued in 2004 for an in-ground pool. As Built plans were received from Jed Hannon, Atlantic Coast Engineering, along with a cover letter citing "substantial compliance with the proposed drawings." However, the plan shows one corner of the pool apron coming as close as 20.65' from the wetland despite Special Condition F specifying that the pool and apron not be closer than 26' to the line; the encroachment is about 35 sq ft. CH agrees with BG's disappointment that the pool apron discrepancy was not called out in the professional engineer's cover letter for the record.

- EF visited the site and verified it conforms to the conditions depicted on the As-Built plans. EF notes that the Commission could consider requiring the posting of conservation markers along the chain-link fence at the edge of the marsh as mitigation.
- Jed Hannon (JH) notes that the project was completed in 2004 and states that since then, the wetland line has shifted 6 ft closer to the pool. Thus, the pool apron was in compliance with Special Condition F when it was first constructed. JH adds that new owners are currently in possession of the property and asks that the Commission issue the COC. BG would have liked these details to be provided in the letter, as it would have helped him provide additional context to the Commissioners.
- The Commissioners agree to issue the COC provided homeowners post three (3) conservation markers along the fence and provide an updated As-Built plan to the Conservation Office by noon on Monday, December 27th.
- CH motions to issue a complete COC for the property with the ongoing condition that there be no encroachment beyond the markers. JR second. Approved 5-0-0.

Commissioners BO recuses from the following discussion and vote.

2586 Marshfield Yacht Club, 11 Ridge Road [EXT]

- The associated OOCs were issued in 2015 and then extended to 12/9/2021. On 12/8/21, applicant's representative filed a request to extend the OOC one year, to 12/9/2022. BG has reached out to TC regarding the timeliness of the extension request, but notes that TC has generally encouraged Town boards to show some flexibility in light of the pandemic. CH reads portions of the tolling provisions of COVID-19 Order 42, which adds 462 days to the deadline of approvals issued prior to the Declaration; therefore, CH and BG believe an additional 462 days applies to this filing's 12/9/21 deadline. The Commissioners agree that no action is needed.
- Mary Murphy (MM), 252 Ocean Street, asks who is tracking the material that is put into the Town DSA so it can be capped. CH suggests that she check with DPW. BG notes that this question is not relevant to the matter at hand, and should be addressed at another time. AL suggests the matter is worthy of discussion at a future business session.
- Pam Keith (PK), 73 Standish Street, claims that the tolling provisions of Order 42 do not apply to municipal permits; CH states that Town Counsel has advised the Commission that the tolling at the state level applies. BG adds that the state and municipal permitting agencies run in parallel at the point of permit issuance. PK states that extension of permits is not appealable to the state, and claims that TC "gives advice to the town that the town wants to hear." CH notes that none of the Commissioners are lawyers, and are not in a position to discuss the finer points of the law with PK; they have received her correspondence in opposition to granting the extension. BG indicates he is willing to meet with PK and any other residents if they wish to express additional concerns. Commissioner consensus remains that the 462 day tolling period applies to the OOC, and no extension need be granted.
- CH moves that the Commission take no action on the extension. AL second. Approved 4-0-0.

BO rejoins the meeting.

2700 Russell W. Chandler Realty Trust (Now JCA Development, LLC), 201 Moraine Street [COC]

- An Order of Conditions was issued in 2018 for construction of a single-family home. As-Built Plan and cover letter stating substantial compliance has been provided by Jeff Hassett (JH), Morse Engineering. The As Built shows about 25 sq. ft. of the deck to encroach within the 75 ft. buffer. EF made a site visit and observed that only three of the five conservation markers were posted; applicant added the two missing markers the following day.
- BG recommended issuance of the COC with the ongoing condition that the five conservation markers remain in perpetuity with activity downgradient of them prohibited. EF and BG also recommend requiring the submission of a new As Built plan showing the location of the five markers.
- CH motions to issue a complete COC for SE42-2700 with conditions as noted. JR second. Approved 5-0-0.

CH recuses from the following discussion and vote.

2727 Digan, 1327 Union Street [COC]

- The Order of Conditions was for construction of a dock and float. This is the second request for COC, the first being denied because the float was observed to hit the ground during the RCOC site visit. Per Dave Hill, Mass DEP Chapter 91, this required a request for amended Orders of Conditions for an extended ramp, which was not received, and an extended ramp moving the float out about 10 ft appears to have been installed without permitting from the Commission and likely no notification of the North River Commission or Chapter 91. BG recommends that the request be denied and that applicant be required to file a Request for Amended Order of Conditions.
- PC agrees that the float needed to be moved out, but also agrees with BG that applicant did so without following the proper permitting process. BG adds that Mass DMF and North River Commission will ultimately need to see the updated plans. In response to a query from PC, BG indicates the As Built Plan submitted looks good, but the float position should be reviewed in the field at a zero tide.
- Jed Hannon (JH), Atlantic Coast Engineering, indicates that the float and gangway are up for the winter, but there is plenty of water depth for the float at its current location; he asks if they need to extend the OOC, as it expires in March of 2022. BG indicates that the 462 day tolling period applies, so a new request should not be necessary. BG then explains the paperwork and filing requirements for the Request for Amended OOC, adding that this is technically an after-the-fact filing but the Commission seems willing to allow the filing at the lower fee.
- BO moves to deny the request for COC for SE42-2727 and require the submittal of a Request for Amended Order of Conditions in conformance with Commission expectations. AL second. Approved 4-0-0.

CH rejoins the meeting

2772 Snyderman, 26 Littles Lane [COC]

- The Order of Conditions was issued for construction of a dock and float. As-Built Plan and cover letter stating “all materials and dimensions were installed per the proposed drawings” were received from the project engineer. The As-Built plan shows the pier to be 1’ longer than originally proposed. EF visited the site on 12/14/21 and did not note any issues.
- BG recommended issuance of the COC with the standard ongoing conditions for dock projects.
- CH motions to issue a COC for SE42-2772 with ongoing conditions as noted and drafted by BG. JR second. Approved 5-0-0.

ENFORCEMENT ORDERS

Smith, 38 Liberty Street (11/19/18 KS will set early Dec visit); White, Bednarz/ Nouza, 65 Ireland Road (Unpermitted Cutting <= 50 ft); Tamara Macuch, 237 Webster Avenue; Stifter, 102 Bartlett’s Island (unpermitted revetment wall)

B8 Enforcement Order-Gibbs / 77 & 98 Cherry Street Dissolution– Bill Grafton / Craig Hannafin

- The corrective action for unpermitted cutting ordered by the Commission has been completed, including posting of conservation markers and removal of an unpermitted brick patio. The disturbed vegetation is regenerating naturally. The encroachment of structures onto town-owned conservation land at 98 Cherry is being addressed as a separate matter. BG recommends issuing a Dissolution Letter for the Enforcement Order.
- CH motions to direct the Conservation Administrator to draft and issue a Dissolution Letter to Gibbs at 77/87 Cherry Street, SE42(21-03). AL second. Approved 5-0-0.

B9 Enforcement Order-Brait / 53 Kent Avenue Discuss – Robert Brait / Brad Holmes

- An Enforcement Order was issued in response to three complaints about unpermitted cutting in the coastal dune adjacent to the property. Property owner Robert Brait (RB) indicated that his landscaper cut beyond what they were told to do. Consultant Brad Holmes (BH), ECR, prepared a restoration plan which was reviewed by the Commission on the December 7 meeting. The matter was then continued to allow for a site visit and updated site plan. Additional details requested included a count of cut trees and diameters. The site visit was conducted, and additional feedback provided to BH. A revised restoration plan was received at the Conservation Office on 12/17/21; this increased the number of Red Cedar saplings from 16 to 25; the plan also includes a number of herbaceous species and shrubs. BG suggests substitution of the proposed Little Bluestem with American Beach Grass and moving the conservation markers up to the retaining wall.

- BG notes that most of the 125 plants that were initially cut were Red Cedars, so implementing the plan as proposed will result in far fewer trees than were present previously, but BH has argued that a 2:1 restoration planting will be too dense for the plants to thrive. BG also noted a significant amount of invasive Japanese Knotweed nearby, so vegetating the disturbed area will be important.
- AL would like to see more trees and plantings in general; BO agrees but also doesn't want the replacements to be too closely packed. BG suggests requiring the planting of 28 additional Red Cedars. CH would like to see a more robust plant listing that includes more trees, and agrees with BG's suggestions regarding replacing Bluestem with American Beach Grass and moving the conservation markers to the retaining wall.
- CH motions to require submittal of a revised restoration plan, working with Conservation staff, that shall include the Existing Condition Sheet 1 of 2 dated 11/4/2021 and a second set of revisions to Sheet 2, including a more robust planting plan and conservation markers on or against the retaining wall, to be submitted to the Conservation Office no later than 12 noon, January 7, 2022. JR second. Approved 5-0-0.

B10 Enforcement Order-Homsy / 987 Ocean Street Restoration Plan Review – Chris Homsy / Bob Rego

- The Conservation Office received six complaints regarding cutting at the property, which lies in an AE9 flood zone and partly in Riverfront area to Bass Creek, containing BVW and saltmarsh. BG and EF visited the site on 10/18/21 and observed that a significant amount of brush and small trees had been cut and removed. The matter was discussed at the November 16, 2021 Marshfield Conservation Commission Public Meeting, at which numerous abutters complained about the cutting and expressed concerns about the impacts to privacy, storm damage, and flood control.
- EF notes that BO and he met on the site today with Bob Rego (BR) of Riverhawk Environmental, Brad Holmes (BH), and the land owners. Homeowners Nicholas Homsy (NH) and Farhat Homsy (FH) had switched delineators/surveyors partway through the process, which accounts for the two sets of flags. The property will be re-delineated with one set of flags and this will be provided along with a surveyed plan depicting the vegetation cut. EF observed a lot of cut branches and mowed invasive vines, but not many stumps; he has asked homeowners to provide a count of all trees cut having a diameter of 3 inches or more. Homeowner's consultant discussed the possibility of a conservation restriction on the parcel that would set aside a buffer to the wetland in back and possibly address abutter concerns about further development in that area. They have asked for additional time to devise a fully detailed restoration plan; EF notes it is unlikely any plantings could be made by then, and suggests a submission deadline of 12 noon on January 11.
- BO notes that it seems homeowners are ultimately looking for an ANRAD so they know what can be done with the property. BG suggests that continuing with the EO process is the best way to resolve the violations on the site and restore the disturbed land; homeowners can then file for an ANRAD if they wish. BO notes that although much of the cutting was of invasive vines, it reduced the screen plantings between the abutters and nearby businesses, which is largely what upset the abutters. All parties briefly discuss additional cutting on an adjacent property, which would require enforcement on that property owner to resolve.
- EF also notes that the cutting was within mapped priority habitat, and NHESP is requiring that the Homsys complete a MESA Project Review Checklist, and that no further work be performed in the area until the Checklist has been completed and NHESP has responded; EF will follow up on this with BR and BH.
- CH motions to table the matter to the January 18, 2022 Public Meeting pending receipt of the revised restoration plan by 12 noon on Friday, January 14, 2022. JR second. Approved 5-0-0.

CH recuses from the following discussion and vote.

B11 Enforcement Order-Digan / 1327 Union Street 2nd Annual Monitoring Report – Bill Grafton/Rick Carberry

- All parties discussed the second annual monitoring report submitted by Brad Holmes for the enforcement order in place on the property. PC and BG met with BH on the property on 12/14. The majority of the 16 trees planted seemed to be doing okay, but two of the red maples closest to the house were scarred by buck rubbing. PC and BG asked BH to implement an appropriate deer mitigation measure. The top of one pig nut hickory was storm-damaged breaking the apical meristem, which will inhibit its future growth. PC comments that the breadth of mitigation plantings is not up to the standard of those recently done at other properties; AL concurs.
- BG agrees that a more robust planting plan should have been required, but notes that homeowners had argued that larger trees would require the use of heavy equipment in the area further damaging the buffer zone. He also

observed that one of the North River Commission signs was missing, and will advise NRC. A third red maple was covered by invasive vines that were removed by BH at the site visit, but the vines will likely regrow.

- PC motions to direct the Conservation Administrator to send correspondence to homeowner's consultants and legal counsel, requiring that the deer abatement measures be presented to the Commission and implemented within 60 days, and that a third-year monitoring report be submitted at the appropriate time. AL second. Approved 4-0-0.

CH rejoins the meeting.

ADJOURNMENT – CH makes a motion to close the hearing at 9:31 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