

MEMBERS PRESENT – Craig Hannafin (CH) Chair, Bert O'Donnell (BO) Vice Chair, Rick Carberry (PC), Joe Ring (JR), Arthur Lage (AL), Susan Caron (SC), Mike Seele, Conservation Agent (MS), Bill Grafton, Conservation Administrator (BG)

MEMBERS NOT PRESENT – None

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

MINUTES

- Tabled

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. 1137 Ferry Street (Buresh) Construct concrete generator pad– Commissioners

- The proposed activity is construction of a generator stand on a concrete pad; the design differs from the pre-approved stand design. Applicant provided a sketch of the stand location that places it in LSCSF and slightly within the 100 ft buffer to bordering vegetated wetland. The stand area is above the designed flood elevation. MS recommends approval with the condition that applicant seek all pertinent permits prior to the start of work.
- JR notes that this approval applies to conservation issues, and the actual design of the stand is a matter for Building Department review. BG agrees, noting this is the purpose of the condition to seek any additional needed permits.
- CH motions to approve the proposed activity as *de minimis* with conditions as noted. AL second. Approved 6-0-0.

b. 14 West Brook (Inglish c/o Theriault) – Remove impervious and replace with diamond piers for landing and entrance way– Commissioners

- The proposed activity is replacement of a dilapidated concrete landing with a pervious deck on diamond piers. The work area is located within LSCSF and barrier beach/coastal dune. MS characterizes the work as an improvement over existing conditions since there will be a reduction in the impervious surface and suggests 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*. JR second. Approved 6-0-0.

Commissioner SC recuses from the following discussion and vote.

c. 2154 Ocean Street, South River Park, Wetland/Buffer Zone Restoration – Commissioners

- Friends of the South River Park and Greenway propose to plant native shrubs within Riverfront (South River) and 25 ft. Buffer Zone to BVW. MS notes that this will discourage the dumping of green waste on the site; the plantings will be made by experienced volunteers with knowledge of wetlands issues. BG recommends approval with the condition that applicant seek all pertinent permits prior to the start of work.

- Sue McCallum, Friends of the South River Park believes the plantings will be a great improvement to the park; CH agrees and thanks the Friends for their efforts.
- CH motions to approve the proposed activity as *de minimis*. PC second. Approved 5-0-0.

Commissioner SC rejoins the meeting.

B2 Policy & Procedure Guide diamond pier footings to support ingress and egress. – Commissioners

- BG suggests that projects such as the *de minimis* activity just approved for 14 West Brook, where impervious ingress/egress landings and stairs are converted to landings/stairs on diamond piers, be presumed to be a *de minimis* activity approvable administratively by Conservation staff as they increase permeability and improve storm damage prevention and flood control.
- Building Commissioner Andrew Stewart (AS) agreed with this presumption for X and AE flood zones but recommended that the Commission consider such structures in an AO flood zone case by case. BG notes there are not many AO flood zones in Town, but points out these areas, by definition, are beyond the scope of wave action and thus may be candidates for administrative permitting. AS also reached out to the DEP Circuit Rider, who opined that such activity in a VE flood zone requires a conservation permit and is not a *de minimis* activity. BG agrees with the Circuit Rider regarding permitting in a VE zone.
- BO believes projects in the AO zone should be case by case, as recent flood map revisions created much more AO zone coverage than previously existed in Town; AL concurs; BG notes that the zones are constantly shifting and the ultimate decision is up to the Commissioners.
- CH moves that the Commission accept the presumption that the conversion of impervious ingress/egress landings and stairs to landings/stairs on diamond piers in FEMA X and AE flood zones are *de minimis* activities, require conservation permitting for such activity in VE zones, and consider such activity in AO zones on a case by case basis. JR second. Approved 6-0-0.

B3 9 Bryant Street (Stanley c/o Savard) After-the-fact DMA vs. RDA for a constructed generator stand – Commissioners

- Property owner constructed a generator stand on landscape ties filled with crushed stone. The property is located in AE12 flood zone and just outside the 100 ft Buffer Zone to BVW. MS recommends approval as a *de minimis* activity with the standard conditions, including that the owner consult the Conservation Office regarding any additional work.
- PC asks if the Commission-approved design for generator stands has been publicized. BG notes the design is relatively new and efforts are ongoing. He was able to convince at least one resident to go with the approved design through outreach.
- CH motions to approve the after-the-fact construction of a generator stand within LSCSF as *de minimis* with conditions as noted. JR second. Approved 6-0-0.

B4 215 Island Street (Estabrook c/o Flores) After-the-fact DMA vs. RDA for a constructed generator stand on a concrete pad in LSCSF and BZ to Salt Marsh – Commissioners

- Property owner constructed a generator stand on a concrete pad. The property is located in LSCSF and Buffer Zone to salt marsh. MS suggests approval as a *de minimis* activity with the standard conditions, including that the owner consult the Conservation Office regarding any additional work.
- CH motions to approve the after-the-fact construction of a generator stand within LSCSF as *de minimis* with conditions as noted. SC second. Approved 6-0-0.

B5 Rt 3 Center Meridian, billboard off Enterprise Drive/tree removal Conservation Permitting – Commissioners

- All present review a billboard construction project off Enterprise Drive near the Route 3 right of way; this will involve the removal of 22 trees in the median strip for visibility of the billboard, 13 of which are in Commission jurisdiction due to wetlands/Buffer Zone and Riverfront zone. BG notes that the billboard partially serves a public safety function, a wetland value protected under the Chapter 505 regulations.
- AL asks if the trees to be removed can be “stumped” at about four feet height to preserve habitat and possibly allow for rejuvenation; BG will inquire, as the trees may be able to rejuvenate in this setting. PC suggests that

the activity be approved as *de minimis*; AL concurs, noting there is no question of the request being approved. CH and JR agree.

- Conditions of approval will include that the trees be cut at 4 foot height to preserve habitat and allow for rejuvenation.
- CH motions to approve the removal of trees within Conservation jurisdictional boundaries as a *de minimis* activity with special conditions to be drafted by BG. PC second. Approved 6-0-0.

B6 Couch Beach/ enclosure for port-a-potties – Patrick McGonagle & Bill Grafton

- The Commission continued its discussion of protective enclosures for port-a-potties at Couch Beach. Builder Rob Nerger (RN), John Foster Lumber, present to discuss the project notes that the structures are getting flipped over and damaged, and discusses design options at various price points. As ADA accessibility is not required at the site, RN believes a structure that secures the units is top priority, as the site is not as frequently patrolled as the beaches. BG will coordinate as appropriate.
- BG notes that Patrick McGonagle (PM), who has been providing the units at Couch Beach, would like a roof to prevent vandals from climbing or throwing things on top of the units. There is an existing concrete pad around on which a single-unit enclosure could be built. Once built, the Commission would have the option of leaving the unit for the summer season or individual groups could continue to contract per weekend event. The proposed location is outside the Riverfront zone and any Conservation Buffer Zones but does lie within NHESP habitat. Building permit and NHESP comment letter may be required.
- CH motions to ratify the construction and permitting of a single-unit porta-potty enclosure with three walls and a roof, using the existing concrete slab location. JR second. Approved 6-0-0.

B7 Furnace Brook Conservation Land-new trail in wetlands and Buffer Zone – Ned Bangs & Jeff Wilson

- Recreational Trails Committee Vice Chair Ned Bangs (NB) present to discuss construction of a connector trail in conservation land behind St. Christine's Church. The trail would start off the church parking lot and connect to the existing trail network. This would provide safer trail access as the other trail head is directly off Route 3A. NB has scouted the trail with BG and Jeff Wilson (JW), a member of the Friends of Wompatuck who is involved with trail creation in the State Park. Members of the Church are also involved.
- BG notes that three parcels are involved; parts of the trail will be in Commission jurisdiction and some of the work area may include NHESP habitat. One of the parcels may have a Conservation Restriction. BG suggests that RTC file a NOI for the work, without surveyed plan but require the wetland delineation and any NHESP requirements. Other entities such as Select Board, Police, and Fire should be notified. BO notes that a trails report completed several years ago will show what trails and resource areas already exist in the area.
- CH motions to grant permission to establish a new trail in Town-owned Conservation land (Parcels E14-01-07; E14-05-07; E12-01-011) pending completion of Conservation permitting. AL second. Approved 6-0-0.
- CH motions to require a Notice of Intent without surveyed site plan; applicant to consult Conservation Administrator for guidance on permitting requirements. SC second. Approved 6-0-0.

B8 Webster's Wilderness/Troop 424 Bat House Initiative – Ned Bangs

- NB advises that RTC is working with Troop 424 on the construction of bat houses to be placed in favorable habitat in Webster's Wilderness. The Troop is working on a project presentation to be given at a future meeting, likely sometime this summer.
- BG suggests that the Troop consider constructing Wood Duck boxes, which would do well in Webster's Wilderness.
- CH motions to table the matter. JR second. Approved 6-0-0.

SCHEDULED CONTINUED HEARINGS

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

- The applicant's representative requested a continuation to the 08/17/2022 meeting.
- CH motions to continue the hearing until August 17, 2022. SC second. Approved 6-0-0.

2966 Six Birch Realty Trust, 0 Little's Lane (Ext. Pier, Ramp & Float).....cont. from 2/1/2021 (Rick)

- The applicant requested a continuation to the 06/01/2022 meeting.
- CH motions to continue the hearing until June 1, 2022. PC second. Approved 6-0-0.

PUBLIC HEARING

22-15 Arsenault, 50 Cove Street (Repair Driveway).....NEW (Susan)

- CH reads the legal ad. Hearing Officer SC confirms administrative requirements are complete.
- Applicant proposes to repair a 7' by 20' segment of an existing paver driveway in barrier beach/coastal dune. The existing paver stones will be used, along with stone dust to level the driveway and polymeric sand to secure the pavers. The driveway is currently sunken at the entrance, resulting in pooling of water and erosion of road materials into the driveway.
- MS notes that less than 3 cubic yards of stone dust will be used, and recommends approval with the standard special conditions. BG notes that applicant is looking to make the driveway as pervious as possible.
- SC asks for comments from the public; none.
- SC states the standard conditions of approval will apply.
- SC motions to close and issue a DOA, Pos. #5, Neg. # 2, with special conditions drafted by BG. AL second. Approved 6-0-0.

22-16 O'Sullivan, 130 School Street (Tree Removal).....NEW (Art)

- CH reads the legal ad. Hearing Officer AL confirms administrative requirements are complete.
- Applicant Brian O'Sullivan (BS) wishes to remove six trees in his backyard to allow more sunlight to reach the yard. Three of the trees are located behind a shed within 35 ft of the wetlands in back; he would like to remove three additional trees in order to put in some landscape plantings.
- BG notes that the placement of three conservation markers in back may forestall encroachment that has been going on in the area. AL asks if the trees to be removed can be "stumped" at about four feet height to preserve habitat and possibly allow for rejuvenation; BS is willing to stump the trees behind the shed but would like to remove the other three trees to allow for the plantings. They are proposing about 21 plantings in that area, including arborvitae and rhododendron, and will place the conservation markers.
- AL asks for comments from the public; none.
- Conditions of approval include "stumping" the trees behind the shed at 4 feet and placement of three conservation markers under the guidance of Conservation administrator or agent.
- AL motions to close and issue a DOA, Pos. #5, Neg. # 3, with special conditions drafted by BG. JR second. Approved 6-0-0.

2981 Sasserson, 12 Branch Street (Proposed Raze & Rebuild).....NEW (Bert)

- CH reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- Contractor Richard Burchill (RB) present for applicant. The proposed activity is the demolition of the existing SFH and construction of a new home in the same footprint. The property was previously before the Commission as part of a Notice of Intent, SE42-2951, filed by the previous owner and ultimately withdrawn. The new structure will be on a concrete foundation with flood vents.
- MS notes that the work area lies within the 100 ft buffer to salt marsh and LSCSF. Recent revisions to the Chapter 505 regulations allow for concrete foundations with flood vents in Buffer Zone to salt marsh. MS recommends approval with a condition requiring the posting of five (5) conservation markers in back of the house.
- BO asks about the status of the project with the Building Department. RB notes he is not involved with any work on the garage behind the house, but states Building Commissioner Andrew Stewart (AS) advised him the garage was a separate entity. BO notes that any future work on the garage would require an additional conservation permit. BG is not sure whether a Building or ZBA permit issued to the previous owner would transfer to the new owner, and suggests that the matter should not close if Building or Zoning permits are open. BO's understanding is that the Building Department has issued a cease and desist order for the lot. CH reads comments from AS stating the property is still subject to a stop-work order and he has not seen any updated plans. After further discussion, BG recommends a continuation so the permitting status with other departments can be verified.
- BO asks for comments from the public; none.

- BO motions to continue the matter to the June 1, 2022 public meeting. CH second. Approved 6-0-0.

2982 Coughlan, 310 Arrowhead Road (In-ground pool & patio).....cont. from 5/3/2022 (Art)

- Continued hearing; Hearing Officer AL confirms administrative requirements are complete.
- Josh Green (JG), Merrill Engineers, presents for applicant. The proposed activity is the construction of a pool and patio extending down to the 25 ft setback. A 25 ft no-disturb setback applies to this property, as well as mitigation in the form of six (6) conservation markers and 1890 sq ft of plantings. The BVW to the south of the property was delineated by Brad Holmes (BH), ECR, who also designed the planting plan. The pool will be 38' by 20' with surrounding patio and fence, with conservation markers on the fence. The mitigation planting area is located downgradient of the pool and markers. Silt sock erosion control will be utilized. Applicant indicates that an existing swing set will be removed and a shed will be moved outside the 50 ft buffer. AL notes that he, BG, and MS had a productive meeting with applicants and their representatives on the property in which conservation concerns were addressed.
- BG requested that wetland flags 14-16 be removed from the site plan so the area can be re-delineated in the future, and suggests that additional plantings be made in the area between wetland flags 10 through 13, as the existing vegetation is sparse and subject to overgrowth by invasive species. AL feels the area will rejuvenate if left alone.
- BG notes that ZBA and Building permits remains pending, and that the Commission has discretion to continue pending issuance of these permits, or to close and rely on the condition that applicants obtain all pertinent permits. AL notes that the Commission historically has not delayed closing for lack of all required permits, and would prefer not to hold hearings on such projects if the Commission is not going to rely on conditioning; CH agrees, noting that is the reason the condition to seek additional permitting exists. BG agrees but wished to point out the Commission has additional discretion in the area. He can issue a cease and desist at the pre-start-of-work meeting if the other required permits have not been obtained. BO believes the Commission can close if all is in good order; if another body requires changes to the plan, applicant must reappear to modify the permit. The previous situation with 12 Branch Street was unusual in that Building had placed a stop-work order. Commission consensus is to close tonight with the usual conditions that require applicant to obtain all pertinent permits.
- AL asks for comments from the public; none.
- Conditions of approval will include that applicant obtain all pertinent permits, post six (6) conservation markers as discussed, and implement the mitigation plan with two years of monitoring.
- AL motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. PC second. Approved 6-0-0.

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

- Continued hearing; Hearing Officer PC confirms administrative requirements are complete.
- PC notes that the proposed activity is construction of a pier, gangway, and floats to be shared by two families; the pier will traverse a 10 ft. easement across a neighbor's property in order to access the river. Project engineer Terry McGovern (TM), Stenbeck & Taylor, notes that having two neighbors share one pier will reduce overall impacts relative to two separate piers; they are requesting two floats, one for each family. A site visit was held in November 2021 and the float was moved 5 feet further into the river as a result. North River Commission and ZBA permitting is on hold pending the issuance of the Commission permit. NHESP commenting indicated no concerns. In response to comments from MassDMF, BG, and the Harbormaster, they have raised the dock to 6 feet above the marsh and spread out the pier supports from 10 to 12 feet. Two floats in front of the dock would be relocated at applicant expense. They have provided a draft easement agreement to construct the dock; a use easement and license is subject to approval and construction of the pier.
- PC notes that the performance standards for docks and piers were recently revised based on a review of dock regulations in other towns with tidal rivers and flows; these changes, among others, allowed piles to be used in the North River as needed to secure floats, required the use of more durable "Greenheart" piles, and instituted a 4:1 setback for boat(s) and float(s) from the edge of the navigable channel based on the depth at mean low water and 4:1 mitigation of any damaged salt marsh. The revised regulations were adopted on April 14, 2022 and apply to all pending and new projects.
- BG thanks TM for his detailed response to his February information request, and recommends that the use easement and license be provided to the Commission prior to the start of work but not made public. BG and

Harbormaster DiMeo note the plans make reference to securing the float to river bottom, and would like further details. BG also requests information regarding date of wetland delineation and delineator, as well as how soundings were taken.

- PC notes that the project narrative submitted with the April 25 plans addresses the performance standards in effect between 3/18/21 and 4/14/21 but do not address the standards adopted on 4/14/21, including standard E1, requiring a 4:1 setback from edge of channel. PC agrees that shared docks are beneficial overall but notes that standard E4 specifies a 200 sq. ft. maximum float size; TM has asked for a variance from this standard based on the dock being shared. PC also questions whether standard E(22) has been met given the dock passes over a perennial stream that is considered by the Harbormaster to be a “navigable waterway.” Harbormaster DiMeo also had safety concerns over the dock passing over the stream. PC would also like details regarding which how many floats would be moved, and would not vote to approve the project until all concerns of the Harbormaster have been addressed.
- JR notes that the project has been pending for some time and the applicants have been willing to make requested changes, but a lot of open issues remain; CH concurs. PC would be inclined to grant a variance for the float size if there were no other issues with the new regulations; foremost among these is the Harbormaster’s concern about the pier being built over the perennial stream. BO notes that bridges are built over waterways and suggests there are adjustments that would address the Harbormaster’s concern about obstructing the stream.
- Co-applicant Gary Gomes (GG) states that the parcel in question is separate from the one containing an abutting pier. They are willing to consult with Harbormaster DiMeo regarding navigability but feel the pier of sufficient height as redesigned. He has lived in the area 24 years and never seen anyone navigate the stream. BG notes, however, that the Gomes and Miers properties are two separate, non-contiguous parcels. Commission consultant William Finn (WF), 96 Dog Lane, speaking as a resident, asks if the revised plans have been reviewed by the North River Commission; TM indicates they have and had no comment. WF would like to know NRC’s views on any potential visual impact. The matter is continued to allow applicant to address concerns regarding performance standards E1, E(4), E(14), E(22), E(27), E(29), and Harbormaster DiMeo’s navigability issues.
- TM notes before closing that they had provided additional information to Harbormaster DiMeo and had not heard back from him. He thinks the project meets or can be adjusted to meet most of the new performance standards but notes in his experience that regulation changes typically do not apply to applications or projects already in process at the time they were adopted. TM adds that the new standards were not mentioned in the March meeting. He will circle back with the Harbormaster. BG and PC will provide TM with a list of remaining issues.
- PC motions to continue the matter to the June 15, 2022 public meeting. JR second. Approved 6-0-0.

2977 Marshfield Hills Realty Trust, 2205 Main Street (Replace Boat Ramp).....cont. from 5/3/2022 (Bert)

- Continued hearing; BO hearing officer.
- The proposed activity is replacement of an existing asphalt boat ramp with a new ramp comprised of 15’ by 15’ by 4’ precast concrete slabs. The matter was continued pending receipt of revised site plans, NRC feedback, and DMF comment letter. Applicants were not present for this hearing; BO believes the matter was continued to this meeting but has not checked the minutes. BG advises members of the public who may have been present for this hearing to send their comments to him or MS. CH recommends that BG check the May 3 minutes to confirm the continuation date. BG checks the May 3 minutes and advises applicant had requested a continuation to June 1.
- BO motions to continue the matter to the June 1, 2022 public meeting. AL second. Approved 6-0-0.

REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS

1763 Walker, 459 Highland Street [COC]

- Tabled, to allow time for the submittal of the After-The-Fact NOI. BG has followed with Rick Servant, Stenbeck & Taylor.
- CH motions to table the matter pending receipt of submittals from the owner. BO second. Approved 6-0-0.

2426 Marshfield Hills Realty Trust (Roht Marine), 2205 Main Street [COC]

- The Order of Conditions for SE42-2426 was issued in November of 2012 but never recorded. Amended OOCs were issued in March of 2013 and were recorded. BG recommends tabling until evidence can be provided that the original OOCs were recorded.

- CH motions to table the request for COC until the original OOC is recorded and evidence provided to the Commission. BO second. Approved 6-0-0.

2649A Verizon Wireless, 114 Eustis Street [COC]

- The original filing was for construction of a vehicle turnaround near a cell tower permitted under SE42-2551. BG and MS visited the site and recommended issuance of the COC on condition that the remaining erosion control and a white 5 gallon bucket be removed from the site.
- CH motions to issue a COC for SE42-2649. AL second. Approved 6-0-0.

2760 Papas, 133 Meadowview Street [COC]

- MS visited the site and observed the required plantings and conservation markers in place. Two monitoring reports prepared by a qualified wetland scientist were received. Two deviations from the approved site plan were observed: a small corner of a walkway and a corner of the front landing within the 100 ft buffer. However, pavers in the center section of the driveway were removed and replaced with pervious gravel offsetting the impervious additions.
- BG and MS suggest approval of the COC with ongoing conditions including five (5) installed conservation markers to remain in perpetuity, with no downgradient disturbance.
- CH motions to approve the minor deviations from the As-Built plans as *de minimis* and issue a COC for the property with ongoing conditions a drafted by BG & MS. JR second. Approved 6-0-0.

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)

B9 21 Hartford Road – unpermitted alteration and removal – Commissioners

- BG observed on May 12 that this previously vegetated lot had been cleared and the next day issued a cease and desist order to owner John Griffin (JG), 12 Hartford Road requesting that he prepare an After-The-Fact Notice of Intent with restoration plan prepared by a qualified wetland scientist. JG states that he recently purchased the lot; his intent was to plant arborvitae on the lot as a privacy screen, install a swing set, and make some additional plantings. The site was relatively barren due to wave over wash.
- JG would like to plant the arborvitae as soon as possible so they don't die off.
- BG suggests the planting plan can incorporate both native species and the arborvitae.
- AL suggests that the Commission allow the arborvitae to be planted ASAP, as the Commission would presumably approve them as part of the planting plan; the Commissioners concur.
- JG notes he is also constructing a deck on the property; BG suggests that this be incorporated into the after-the-fact Notice of Intent and that he work with Conservation staff to prepare the application.
- CH motions to permit the arborvitae planting but require the submittal of an After-The-Fact Notice of Intent by June 30th. JR second. Approved 6-0-0.

ADJOURNMENT – CH makes a motion to close the hearing at 9:14 PM. PC second. Approved 6-0-0.

Respectfully submitted,
Liz Anoja, Conservation Administrative Clerk

Marshfield Conservation Commission
Bill Grafton, Conservation Administrator
Mike Seele, Conservation Agent

Craig Hannafin, Chair
Art Lage
Susan Caron

Bert O'Donnell, Vice Chair
Joe Ring
Rick Carberry