

MEMBERS PRESENT – Craig Hannafin (CH) Chair, Bert O'Donnell (BO) Vice Chair, Joe Ring (JR), John O'Donnell, Ken Dodge (KD), Mike Seele, Conservation Agent (MS), Bill Grafton, Conservation Administrator (BG)

MEMBERS NOT PRESENT – Susan Caron (SC)

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

MINUTES

- The minutes of the May 3, May 18, June 1, and June 15 meetings were presented for approval. The May 18 minutes were reapproved, as edits were made to the initial draft.
- CH motions to accept the May 3, 2022 minutes as written. JR second. Approved 5-0-0.
- CH motions to accept the May 18, 2022 minutes as written. JR second. Approved 5-0-0.
- CH motions to accept the June 1, 2022 minutes as edited. JR second. Approved 5-0-0.
- CH motions to revoke approval of the May 18, 2022 minutes as written. BO second. Approved 5-0-0.
- CH motions to accept the May 18, 2022 minutes as edited. JR second. Approved 5-0-0.
- CH motions to accept the June 15, 2022 minutes as edited. 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.
- CH welcomes new commissioners John O'Donnell and Kenneth Dodge and thanks them for volunteering their time and expertise. A third new commissioner will be joining shortly. They have signed Mullin affidavits allowing them to vote on the one continued hearing on tonight's agenda.
- CH thanks former commissioner Arthur Lage for his service; his term expired on June 30. CH notes that he served several terms and cited his fairness, honesty, and reasoned deliberation.

BUSINESS

B1 *de minimis* activity Roll/Review/Ratification

a. Ryan, 21 Salt Meadow Waye (Hazard Tree) – Commissioners

- The proposed activity is removal of a dead tree on his property line that has already caused damage to a fence. He wishes to cut the tree so it falls on the neighboring property and not damage other trees, and has received written permission from the neighbor. MS recommends approval with the condition that applicant seek all pertinent permits prior to the start of work, cut the tree to 4' off the ground to preserve roots and habitat, and minimize impacts to surrounding vegetation. Several Commissioners reviewed and already endorsed the proposed activity.
- CH motions to approve the proposed activity as a *de minimis* activity with conditions as noted. JR second. Approved 5-0-0.

b. Rider & Meredith, 10 Idaho Street (Tree cutting & vegetative Management) – Commissioners

- The proposed activity is the cutting of two dead standing trees and vegetative management of invasive plants in LSCSF and buffer zone to BVW. Property owners have received a DOA (file 20-21) for similar work in the past. MS recommends approval with the condition that applicant seek all pertinent permits prior to the start of work, cut the tree to 4' off the ground to preserve roots and habitat, and minimize impacts to surrounding vegetation.

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

c. Skinnon, 1049 Ocean Avenue (Replace Egress) – Commissioners

- Building Commissioner Andrew Stewart (AS) advised the Conservation Office regarding the construction of a set of stairs without Conservation permitting, suggesting it may qualify as a *de minimis* activity; CH concurs, as the stairs will be attached to previously existing footings. The stairs will be part of the primary of two required egress doors at the property. MS recommends approval with the standard conditions. Several Commissioners reviewed and already endorsed the proposed activity.
- CH motions to approve the emergency egress replacement as an after-the-fact *de minimis* activity with conditions as noted. KD second. Approved 5-0-0.

d. Conservation Land (Parcel Id No: J10-08-46 (Hazard Tree Removal) – Commissioners

- The proposed activity is the removal of three hazardous trees on Conservation land that present a hazard to structures on the adjoining property, 35 Winslow Street. Two trees pose a threat to the house, vehicles, and utility lines; the third tree threatens the house and shed in back.
- Dave Carriere (DC), Chair of the Board of Public Works confirms that the trees appear to be on Conservation land. They have received a quote of \$1450 to remove the trees posing a threat to the utility lines; the alternative would be to wait for Eversource to schedule a removal. To remove this threat without taking out power to the house requires a specialist. DC also notes that there appears to be an encroachment onto the Conservation land from 45 Winslow; this would require a survey to confirm.
- BG thanks DC and DPW for the timely response to the issue. DC notes he was asked by Town Administrator Mike Maresco (MM) to attend in the place of DPW staff.
- Joanne Guilfoyle (JG), 35 Winslow, notes that she has been trying to get this issue resolved since January; she cannot park cars in the driveway given the imminent hazard.
- Jillian Guilfoyle, 35 Winslow, reiterates that the trees present a safety hazard that inhibits use of the property.
- CH confirms with DC that DPW is now in a position to move forward on the tree work. DC notes that DPW is working with a backlog of removal requests due to recent storms. JG asks DC if DPW will be removing the other two hazard trees. DC will take a look at the tree overhanging the shed. In response to a question from CH, JG notes that she recently asked some Eversource tree workers to look at the tree but they wouldn't touch it at the time. There are branches at the beginning of her driveway that are intertwined with her cable and utility lines that neither Eversource nor Comcast will touch. BG suggests that this is an example of the need for the Commission to have a specific tree policy and procedures regarding the removal of hazard trees on Conservation land.
- BG notes that several Commissioners have reviewed and approved the request, and was able to loop in DPW to this hearing. BG encourages JG to contact the Conservation office if DPW does not resolve all the tree issues on her property. DC reiterates that removal of at least the one tree posing a hazard to JG's utility lines is in DPW's queue of pending jobs.
- CH motions to approve the cutting of hazard trees on Conservation land that present a hazard to 35 Winslow Street. JO second. Approved 5-0-0.
- CH motions to approve the cutting of the hazardous trees as a *de minimis* activity with special conditions. JO second. Approved 5-0-0.

B2 WPA Exemption/Plymouth Avenue (Second Road connector sewage collapse)/DPW – Town Engineer

- Town Engineer Rod Procaccino (RP) advised BG that a section of the sewer main on Second Street has collapsed due to corrosion; this main connects to a main on Plymouth Avenue that is currently being repaired under an exemption approved by the Commission in April. RP has requested that an exemption be approved for the repair work on the Second Street main.
- BG indicates that the repair work qualifies for an exemption under Chapter 131, Section 40 of the state Wetlands Protection Act and recommends approval of the exemption. With Town Engineer, Rod Procaccino

experiencing technical difficulties, David Carriere, Board of Public Works, notes that a temporary repair has already been made but they wish to go forward with the permanent repair.

- CH moves that the Commission approve an Exemption under The Wetlands Protection Act, Ch. 131 Section 40, for the additional sewage main repair under Second Street associated with the previously approved Plymouth Avenue sewage main repair. BO second. Approved 5-0-0.

B3 Mill Creek (Modera II) 40B/Town owned Conservation land (fence & path) – Greg Guimond & Commissioners

- Town Planner Greg Guimond (GG) present for a discussion regarding a proposed footpath through Town land under the care and custody of Conservation adjacent to the Modera II 40B development off Commerce Way. GG shares site plans for the development and discusses some characteristics of the area, noting that it includes two water protection zones. The development itself is proposed to be very high density, with significant impervious surface; there is a second proposal that is somewhat less dense. The land is near the Duxbury town line, where there are additional wetlands. GG suggests that the Commission consider the following: the density of Modera II is twice as much as the existing Modera development, with very little open space; the location is next to the Town Forest; there are already issues with unauthorized dumping and fire pits nearby; the Commission may wish to request fencing, regrading, and access points to the Sprague Forest. GG also suggests that the Commission provide comments to ZBA regarding the proposed development.
- CH notes that GG, BG, and herself discussed the matter initially in February, and suggests further discussion once Commissioners have been brought up to speed and comments have been provided to ZBA. BO asks if there is a deadline for comments to be provided to ZBA. GG notes there is pressure on ZBA to wrap matters up, but their peer review engineer is still studying the proposal, so he estimates there is up to a month before they close. BG, GG, and CH will follow up within a week. CH thanks GG for his detailed presentation.
- Kathryn Gasper (KG), 63 Snowy Owl Lane, asks if the Commission oversees the wildlife on the property in question. CH wouldn't characterize the Commission as overseeing wildlife directly, but they have care and custody of some of the property, with other Town entities such as DPW and the Water Department having care and custody of other parts of it. KG expresses concern about the eastern box turtle population; CH points out that the land is NHESP priority habitat for the turtles, and they are responsible for monitoring the population. BG adds that there is a detailed conservation and management plan for the turtle habitat that the developer was required to provide as part of their subdivision order of conditions, including wintering, breeding, and foraging habitat. CH adds that any encroachment on the NHESP habitat would need to be offset by setting aside land elsewhere for use as habitat. KG also expresses concern at the scope of development being proposed, but CH notes this is beyond the Commission's area of responsibility. BG encourages KG to visit the Conservation Office to review the protections currently in place.
- CH motions to approve the preparation of a final sketch prepared by Chair Hannafin, Conservation Administrator Grafton, and Town Planner Guimond depicting the fence and path for advancement to ZBA, such sketch to be reviewed by the Commission for ratification prior to advancement to ZBA. JO Second. Approved 5-0-0.

B4 1190 Ferry Street/Carberry (Utility trenching and control box) DMA versus RDA review – Commissioners

- MS notes that this review involves after-the-fact and proposed activities associated with the installation of a utility box on a 12" by 20" platform on four posts, with 7' long 12" wide trench for a waterproof electric conduit from the house to the box, through previously disturbed land. Resource areas include LSCSF, Riverfront, and buffer zone to tidal flats. MS considers the activity and structures to be *de minimis*.
- Property owner Rick Carberry (PC) notes that the platform will be at elevation 12 and the powerline will be routed through a watertight conduit at elevation 13, both above the AE10 flood elevation for the property. The intent is to run an extension cord and water hose seasonally from the utility box to the end of the dock.
- BO notes that the activity has already gone through ZBA permitting and he has no issues.
- CH moves to approve the utility box and associated utility lines, platform and trenching as a *de minimis* activity with Special Conditions. JO second. Approved 5-0-0.

B5 36 Dog Lane- Review stream status/Conservation jurisdictional boundaries – Commissioners

- Strike, as a Notice of Intent is pending.

B6 MassDMF Stream Maintenance Policy – Brad Chase/MassDMF & Commissioners

- MassDMF Diadromous Fisheries Project Leader, Brad Chase (BC) present to discuss the newly formulated MassDEP Policy 22-1 governing the maintenance of fish runs. BC notes that in 2016, he worked with BG and the Commission to prepare a stream maintenance plan for the South River that ultimately led to the removal of decaying vegetation, tree branches, sediment berms, and other obstacles to fish passage from the river. The recently issued policy allows plans for stream/fish run maintenance to be developed and implemented by Conservation Commissions, and affirms that such plans are in the interest of the WPA. BC suggests that the Commission update its stream maintenance plan to reference the new policy; there would be essentially no changes to the existing objectives or processes.
- BG discusses the history of Commission activity to improve fish passage in the South River, noting that it was a laborious process in places due to the buildup of tree falls and vegetation. BG recommends that the Commission update its plan as suggested with the condition that anyone wishing to conduct stream maintenance activity, provide BC and/or BG advance notice.
- CH motions to ratify MassDEP Policy 22-1 for stream maintenance of Marshfield fish runs after notification to the Conservation Administrator and/or MassDMF Diadromous Fisheries Project Leader. KD second. Approved 5-0-0.

B7 Review Conservation Suggested Consultant List for revisions and ratification – Commissioners

- A number of consulting firms have undergone changes and mergers. Cavanaro Consulting has merged with Merrill Engineers, and EET has closed. BG suggests that these firms be removed from the list of suggested consultants, and that BSC Group be added based on their recent work for applicants in Town.
- CH motions to revise the Commission's list of suggested consultants as noted. JR second. Approved 5-0-0.

SCHEDULED CONTINUED HEARINGS

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

- The applicant requested a continuation to the 07/20/2022 meeting in writing.
- CH motions to continue the hearing until July 20, 2022. BO second. Approved 5-0-0.

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

- The applicant requested a continuation to the 08/17/2022 meeting in writing.
- CH motions to continue the hearing until August 17, 2022. BO second. Approved 5-0-0.

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

- The applicant requested a continuation to the 07/20/2022 meeting in writing.
- CH motions to continue the hearing until July 20, 2022. BO second. Approved 5-0-0.

2987 Bethanis, 1184 Ferry Street (Pier, Ramp & Float).....NEW (Joe)

- CH reads the legal ad and notes that the applicant has requested a continuation to the 08/03/2022 meeting in writing.
- CH motions to continue the hearing until August 3, 2022. BO second. Approved 5-0-0.

2988 Ricciarelli, 1203 Ferry Street (Pier, Ramp & Float).....NEW (Bert)

- CH reads the legal ad and notes that the applicant has requested a continuation to the 08/03/2022 meeting in writing.
- CH motions to continue the hearing until August 3, 2022. BO second. Approved 5-0-0.

PUBLIC HEARINGS AND MEETINGS

22-20 Traverse, 42 Cove Street (generator stand).....NEW (Joe)

- CH reads the legal ad. Hearing Officer JR confirms administrative requirements are complete.
- The filing is for the installation of a generator on a 48" platform on diamond piers using the previously approved generator stand design. Applicant Mark Traverse (MT) had previously received a *de minimis* activity permit for the

work, but feedback from the MassDEP Circuit Rider requires that structures in the VE zone require a Conservation permit.

- MT thanks conservation staff for their assistance completing the forms and notes that the stand will be 17' above sea level, 3' above the base flood elevation. BG shares photos of the generator location. Building Commissioner Andrew Stewart (AS) asks about the elevation where the stand is going to be installed; MT states that they intend to install the stand at 17' above sea level, with the generator roughly 4' above at 21'.
- JR asks for comments from the public; none.
- The standard conditions of approval will apply.
- JR motions to issue a DOA, Pos. #5, Neg. # 2, with special conditions drafted by BG. CH second. Approved 5-0-0.

22-21 Cyrus, 101 Olympia Road (Replace Shed).....NEW (Joe)

- CH reads the legal ad. Hearing Officer JR confirms administrative requirements are complete.
- The proposed activity is installation of a 12' by 16' shed on paver blocks to the west of the house. MS notes that this will be the second shed on the property; it is located in LSCSF, and the pavers will allow for the flow of water beneath. Building Commissioner Andrew Stewart (AS) notes that the shed must be elevated above the base flood elevation or include vents that allow for the flowage of water.
- JR asks for comments from the public; none.
- The standard conditions of approval will apply.
- JR motions to issue a DOA, Pos. #5, Neg. # 2, with special conditions drafted by BG. JO second. Approved 5-0-0.

22-22 Ware, 17 Constitution Road (Remove Fence, Replace Fence & Install New Fence).....NEW (Bert)

- CH reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- The proposed activity is replacing portions of existing fencing in front of the yard and installing new fencing directly abutting an existing retaining wall in back. MS recommends approval with an additional condition requiring that the fence be constructed with breakaway panels or spacing between pickets to allow for water flowage.
- BO feels the project to be straightforward, and is familiar with the property from previous projects. BG adds that applicant is familiar with the need for the fence to allow for water flowage.
- BO asks for comments from the public; none.
- The standard conditions of approval will apply plus the aforementioned special condition regarding water flowage.
- BO motions to issue a DOA, Pos. #5, Neg. # 2, with special conditions drafted by BG. JR second. Approved 5-0-0.

22-23 McSweeney, 109 Constellation Road (Replace fence, remove driveway & various debris).....NEW (Bert)

- CH reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- The filing is for the installation of replacement fencing and replacement of an asphalt driveway with crushed stone. The new fencing will have ¼" gaps to allow for water flowage. He will also remove some old debris along the property line to adjoining Conservation land. Applicant was not aware that a Conservation permit was needed prior to the start of work.
- MS suggests that the new fencing have a 6" gap at the bottom and/or spacing between each panel. Building Commissioner Andrew Stewart (AS) indicates that a flood plan permit will also be required.
- BO asks for comments from the public; none.
- The standard conditions of approval will apply plus the aforementioned special condition regarding fencing gaps and spacing.
- BO motions to issue a DOA, Pos. #5, Neg. # 2, with special conditions drafted by BG. KD second. Approved 5-0-0.

29 Powell, 17 Oregon Road (Garage, Deck & Addition).....NEW (Craig)

- CH reads the legal ad and acts as Hearing Officer. BG advises that a continuation will be required, as a MassDEP number has not yet issued. John Zimmer of South River Environmental, representing applicant, asks to present the project so it can close more quickly at the next meeting. CH allows JZ to speak briefly.

- The proposed activity is construction of an addition, deck, and garage on previously disturbed land currently used as a parking area and sports court. The deck would be constructed on sonotubes and the addition would be on a solid foundation with smart vents; the garage will be on a slab with smart vents, and the driveway into the garage will be constructed of permeable pavers. The project would increase the impervious surface on the property by 2790 sq ft, but they will install two drywells to capture the increased runoff. JZ notes that a USDA NRCS soil survey identified sandy soils in the area, but MassDEP mapping did not flag the property as barrier beach or coastal dune.
- BG states the USDA NRCS soil survey data suggests the presence of a dune environment and adds that similar soils were found at 0 Constellation (SE42-2194), 1200 ft from the property that a third-party soil expert found to be coastal dune. BG suggests that a soil survey would resolve the issue at the subject site. Additionally, two previous permits for the property, SE42-852 and SE42-1715, referenced the site as barrier beach; BG and JZ agree that this classification is not accurate, but in a conversation with BG the MassDEP circuit rider suggested in this case that the burden of proof was on the applicant to show the site was not dune. BG also suggests that the significant addition of impervious surface warrants mitigation but none is offered presently beyond the two drywells.
- KD asks whether the plan has been approved by ZBA? JZ indicates it has. KD opines that the catch basins are a good addition and has no other issues. Building Commissioner Andrew Stewart (AS) advises that applicants filed the project prior to the launching of the flood plain permit, so one is not required but he would like one for their file. Building will not be requiring a soil survey on their end, as the lot is not located in a barrier beach or VE zone. They have not determined whether the project would qualify as a substantial improvement but AS believes the addition, as proposed, was compliant with the current regulations.
- Builder Dick Rockwood (DR) states that the project has been designed to meet all the requirements for an AO flood zone, including 3 feet of clearance beneath the living area. JZ references a project on 32 Surf Road on a lot that is part of the same soil series that was allowed to move forward with a solid foundation with breakaway panels, but BG notes that since then the Commission has received additional guidance from MassDEP regarding foundation requirements in barrier beach, coastal dune and the recent unpermitted site preparation and site restoration at the 0 Constellation property restored the institutional knowledge and pertinence of this case.
- JR expresses concern over the possibility of the lot being coastal dune; CH agrees and suggests it would be appropriate for everyone concerned to have a soil survey done. She would also like to see additional mitigation for the proposed increase in impervious surface, as there is plenty of space for mitigation plantings, and would like the site plan to show all walks, patios, and other proposed hard surfaces as well as cross-sections for any claimed pervious surfaces. BO agrees with CH's suggestions. JZ requests a continuation to July 20 and will supply the updated information by 12 noon, next Friday, July 15, 2022.
- CH motions to continue the hearing until July 20, 2022 to allow time for receipt of the MassDEP number and for applicant to respond to the Commission's request for additional information. JR second. Approved 5-0-0.

2986 Rogan, 14 Bank Road (Elevate Single Family Home).....NEW (Craig)

- CH reads the legal ad and as Hearing Officer confirms administrative requirements are complete.
- Attorney Jeff DeLisi (JD) present for applicant Paul Rogan (PR) and Simone Rogan (SR) along with Brad Holmes (BH), ECR. The proposed activity is the elevation of the existing SFH above the FEMA flood elevation using a three-sided concrete wall and pier foundation, with flood vents in the wall to allow for floodwater movement. There will be no increase in the size of the house. The elevated house will require two new stairways plus an access deck around the house. Once the house is elevated, they will reconstruct an existing patio and walkway using pervious materials, and the project will result in a significant decrease in the amount of impervious surface. The existing septic system will also be replaced with a Title V compliant system.
- CH asks whether the area under the house is going to be pervious? BH states that it will be gravel-based and pervious. BG asks for a cross-section of the patio materials; BH will provide by 12 noon, Friday, July 15, 2022.
- BG notes that the submitted site plan shows two unpermitted areas of riprap and expresses concern that acceptance of this site plan could be interpreted as an approval of this armoring; JD states that the riprap was shown on the plan in order to accurately depict the existing conditions, and no work to it is proposed as part of this NOI. JD further states that Special Condition A of an OOC issued in 2011/12 required the owners to install riprap on the south side of the property "to minimize erosion on the adjacent property due to end effect of the wall." Plans for a minor modification that was approved showed the riprap, as did several later filings and monitoring reports. JD suggests that this matter can be discussed further in the RCOC discussion for SE42-2390 that occurs later this evening.

- BG notes that at a RCOC discussion for SE42-2390 on November 3, 2020, the Commission voted 6-1 to deny the request and order removal of the unpermitted riprap. JD states that his clients were not present for the hearing and, had they known, they would have explained that the excess riprap had already been removed and that Special Condition A required its installation. BH notes he was present for the hearing and states he was unable to speak until after the vote to deny had been taken, and agrees with JD that this issue is better discussed in the RCOC discussion rather than this hearing for the new NOI. CH agrees that the riprap discussion can be set aside to the RCOC discussion later.
- Regarding the NOI, BO visited the site and has no issues with the project as proposed. JR suggests that a statement be added to the OOC paperwork or conditions that the approval does not apply to the riprap shown on the site plan; CH concurs.
- Building Commissioner Andrew Stewart (AS) states the proposed foundation meets and exceeds the FEMA and Building Code requirements for flood-proofing; he met with the Rogans several times and found them to be cooperative. He would like them to file for a floodplain permit for tracking purposes.
- CH asks for comments from the public; none.
- The standard conditions of approval will apply plus special conditions (1) noting the approved plan does not include the riprap, (2) requiring submission of updated site plan showing pervious material cross-sections by noon on Friday, and (3) allowing the option to plant native, salt-tolerant plantings.
- CH motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. BO second. Approved 5-0-0.

29 B.G.H.M. Inc, LLC, 239 Dyke Road (Repair Bulkhead).....NEW (Craig)

- CH reads the legal ad and notes that the applicant has requested a continuation to the 07/20/2022 meeting in writing.
- CH motions to continue the hearing until July 20, 2022. BO second. Approved 5-0-0.

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

- Continued hearing; Hearing Officer reassigned to CH. CH notes that JO and KD have reviewed the previous hearing audio and signed Mullin affidavits, allowing them to vote.
- Rick Servant (RS), Stenbeck & Taylor, present for applicant. The proposed activity is the extension of an existing dock at 64 Little's Lane in order to get the float into deeper water. The existing gangway and float will be reattached to the end of the extended dock, and stabilizer beams will be used to stabilize the float. The previous hearing was continued to allow RS time to add performance standard calculations to the plan and allow the ZBA hearing to take place.
- RS states that since the last hearing he has consulted further with Harbormaster DiMeo (MD), who restated that he had no issues with the project as proposed. With respect to Performance Standard E1 in the Chapter 505 bylaws, which holds that *No dock or pier shall extend further from the shore (mean high water mark) than a point equal to one half the lot's water frontage measured as a straight line between the lot's waterfront corners*, RS states the dock extension was designed the way it was in order to meet the minimum depth requirement for the float, which exceeds the requirement; as mitigation, they are offering to post a "No Wake" sign and make a contribution to the saltmarsh restoration fund at a 4:1 ratio of \$224.00.
- BG agrees that the dock as proposed exceeds the length prescribed by Performance Standard E1; RS and BG discussed mitigation options and came up with the possible donation. BG also states that the 30" of water beneath the float is properly measured from the lowest point of the float: "the calculations have typically been by the deepest portion of the float, not the water level"; based on this standard, Corner C is short by 4 inches. This could be addressed by moving the float slightly further out, but that would bring the dock further out of compliance with Performance Standard E1. BG also notes that there have been numerous filings for this dock, extending back to 2002, and notes for the record that segmentation is not allowable but the entirety of the project or its sections would need to exceed the thresholds of MassDEP variance, MESA, Water Quality Certification and Section 401.
- BO notes that the current dock does not meet the performance standards either, and suggests that the Commission should consider whether the proposed dock will be better for the resource area than the existing one. CH agrees with BO that the new plan is better for the resource area. BO also suggests it is late in the game to raise

an issue regarding Corner C of the float, as there were a number of measurements taken and the actual depth likely varies from day to day; to require another measurement seems onerous.

- RS states that the regulation regarding the 4:1 ratio isn't written well; MD indicated its intention was to ensure the float was far enough away from the navigable channel. BG states it is based on depth at the middle of the channel; he is willing to work with applicants on this calculation but agrees with RS that the project does not present significant navigation issues. Applicant Dave Armstrong (DA) notes the significant time spent on staking out and amending the float location throughout the winter and spring, and feels they have met every requirement based on the feedback from MD. BO is comfortable with MD's findings. RS notes that the only possible adjustment is to push the float further out into the river. BG suggests that applicant obtain a letter from MD stating he is satisfied with the float location, but CH states this is already in the file. At CH's request, applicant agrees to remove an existing swim platform and the entirety of the existing float platform. CH and BO consider this to be additional mitigation.
- CH asks for comments from the public; none.
- The standard conditions of approval for dock projects will apply plus special conditions requiring removal of the existing swim float, removal of footings that support the current float platform, \$224.00 contribution to the saltmarsh mitigation fund, and posting of a "No Wake" sign.
- CH motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. JR second. Approved 5-0-0.

REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS

1743 Walker, 459 Highland Street [COC]

- BG visited the site and noted a number of apparently unpermitted structures, including retaining walls, a runoff pipe, brick patio, deck, expanded pool footprint, pool fencing, and fill and grade changes; he also observed debris in the wetlands and setback. These issues were to have been addressed through an after-the-fact NOI, which has not been submitted to date. BG recommends that the request be tabled, as no additional information has been received.
- CH motions to table the matter to the August 3, 2022 meeting to allow for submission and approval of the ATF NOI. JR second. Approved 5-0-0.

1917 Francis, 13 South Street [COC]

- MS visited the property on 6/13 and noted 11 flood vents covered up with plywood. It was additionally noted that the crawl space floor is made of concrete and is not level. Attorney Mark Fournier (MF), representing the estate of the property owner, provides photographs showing that the flood vents have been uncovered. MF states that the slab was not permitted and speculates it was probably installed to lock the sonotubes in place. The property is currently up for sale, and MF suggests it would be an undue hardship for the Estate to remove the slab, and doing so would possibly weaken the foundation. BG notes that crawl spaces are meant to be non-habitable, and suggests that a recorded deed restriction to this effect would address the issue under Special Condition E. BG agrees that removing the concrete floor could create foundation issues and suggests that applicant obtain comments from the Building Commissioner or an engineer regarding this. MF notes he has been in touch with the Building Department; they have been unable to locate the original permits from 2005 but he presumes a permit issued with the concrete slab. CH recommends that MF consult with Building Commissioner Andrew Stewart (AS), who is the floodplain manager, and obtain a written statement from Rick Servant (RS), who is assisting the Estate, regarding possible foundation issues if the slab is removed. BG notes that obtaining an opinion from Town Counsel is also an option.
- Attorney Jeff DeLisi (JD) suggests that requiring an affidavit regarding the non-habitability of the crawl space might be preferable to requiring a deed restriction, which he finds to be onerous, but BG notes that this requirement has been in place for years under Conservation Administrator Harrington, Wennemer and Grafton. JD suggests that the applicant provide an affidavit regarding the concrete slab; all agree this might be a potential solution; MF will consult with TC and AS.
- CH motions to continue the matter to the July 20, 2022. JR second. Approved 5-0-0.

2390 Rogan, 14 Bank Road [COC]

- Attorney Jeff DeLisi (JD) present for applicant along with Brad Holmes (BH), ECR. All parties continue the discussion of the riprap installed on the northerly and southerly edges of the property. BH advises that he intends to replace some of the toe stones of the south-facing riprap and plant high tide bush behind the coir log. BG states that the southerly riprap is not removed but relocated landward behind the retaining wall. CH was under the impression that more riprap was to be removed, but thinks the important thing is to get the plantings in to stabilize the area; BO agrees, and points out that the Commission asked for the stone to be taken out two years ago. BH's proposal seems to be acceptable. BG believes the northerly riprap should remain, as it protects a drain pipe, but suggests that all the southern riprap should come out, as he has fielded numerous complaints from abutters about the current armoring and beach re-nourishment of the property. JD suggests that removing all the southern riprap would destabilize the area. Regarding the 2020 denial, JD states that the proper mechanism for requiring removal of the riprap would have been an enforcement order, in which case, JD and BH would have been able to present their contention that the riprap was required under the 2011 OOC Special Condition H and approved in the subsequent minor modification. BG states that the minor deviation approved the addition of beach re-nourishment not the additional riprap. Further, he states that hardscape solutions are generally not appropriate for tidal rivers, and states that leaving any amount of the southerly riprap will result in additional complaints from abutters.
- BO asks BG about Special Condition H of the 2011 OOC; BG would have to discuss the intent of the special condition with then-agent Jay Wennemer, as the condition is ambiguous as to what type of material to install and how much. JD agrees that the condition is ambiguous, which makes it difficult to evaluate whether or not it is out of compliance.
- After further discussion, CH indicates she is willing to accept the removal of some of the southerly riprap, along with the planting of high tide bush; BO and JO agree. BG suggests a special condition to ensure the plantings are made. BH indicates the plantings can be made by the fall.
- CH motions to issue a complete COC for the property; high tide bush plantings to be completed by Fall 2022 Planting Season. JR second. Approved 5-0-0.

2711 McLaughlin, 4 Trouant's Island [COC]

- The Order of Conditions requires two years of annual monitoring reports, none of which have been provided thus far. BG suggests denying the request, which can be resubmitted after the reports have been provided.
- CH motions to deny issuance of a complete COC for the property. Annual monitoring reports as per Special Conditions need to be completed. JR second. Approved 5-0-0.

2773 Escobar (now Monahan), 1185 Ferry Street [COC]

- BG recommends tabling the matter; applicant has been provided the required submittal package, but no documentation has been provided to date.
- CH motions to table the matter to August 3rd, 2022. KD second. Approved 5-0-0.

Chair Hannafin recuses. Vice Chair O'Donnell assumes role as Chair.

2727 & 2727 Amended - Digan, 1327 Union Street [COC]

- An order of conditions issued for construction of a dock, and an amended order of conditions was obtained to install a longer ramp, pushing the float into deep enough water. Both OOCs have been recorded as required.
- Applicant's consultant requests that the fees for this RCOC submittal be refunded based on the fees they paid for previously submitted RCOCs; BG and the Commissioners have no issue with the request.
- The standard ongoing conditions for dock projects will apply. Any deviations to the dock design depicted on the As-Built Plan dated October 13, 2021 will require Commission review.
- BO motions to issue a complete COC with Ongoing Special Conditions for the property. JR second. Approved 4-0-0.

Chair Hannafin returns to the meeting and resumes role as Chair.

2855 Kirwan, 93 Bourne Park Avenue [COC]

- MS visited the site on 7/5/2022 and observed several minor deviations from the approved plan, including dock built to 9.6 rather than the approved 10.4 elevation, which still meets the DMF requirement; dock width is 48

inches instead of 46 inches; setbacks to the property lines are also slightly different than approved but within the threshold of acceptance.

- The standard ongoing conditions for dock projects will apply. Any deviations to the dock design depicted on the As-Built Plan dated June 10, 2022 will require Commission review.
- CH motions to issue a complete COC with Ongoing Special Conditions for the property. JR second. Approved 5-0-0.

2911 Williams, 49 Mayflower Lane [COC]

- MS visited the site on 6/29/22 and recommended issuance of the COC, as no deviations were observed.
- CH motions to issue a complete COC for the property. 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)

1744 Enforcement Order (21-07)/46 Preston Terrace (Mahaney) progress report – Commissioners

- The matter involves unpermitted fill of an unimproved road in Commission jurisdiction dating back to 2003. BG prepared an enforcement order dated December 8, 2021. After an initial deadline for the restoration plan was missed on March 15, 2022, the deadline for receipt of a restoration plan was extended to April 19, 2022 and then extended again to allow for applicants to hire a new consultant as their former consultant retired. The property had since been sold, and the owner has moved out. After the June 1, 2022 MCC Public Meeting, the Mahaney's indicated they would work with Morse Engineering on a restoration plan. This was received on June 14, 2022, and proposes an L-shaped 2.5' by 2.5' crushed stone trench drain along the eastern edge of the former Mahaney property, jutting slightly eastward along Preston Terrace. The June 15, 2022 MCC Public Meeting was continued to allow Town Engineer Rod Procaccino (RP) to review the plan, and for Morse to revise the plan to include the coastal bank delineator, delineation date, reference to MassDEP 92-1, add the 25, 50, and 75 ft setbacks, and provide the calculations for the crushed stone trench. Morse Engineering has provided a revised site plan dated June 24, 2022 that includes the Town Engineer's comments.
- BG has no issues with the updated restoration plan and recommends approval with the following conditions:
 - Obtain all subsequent permits before implementing the restoration work. The restoration work/activity if undertaken does not require a conservation permit as it is located up-gradient of the delineated resources.
 - Any new work/activity performed within the resource areas shall require submittal of a new conservation permit.
- CH motions that the Commission approve the revised restoration plan dated June 24, 2022, prepared by Morse Engineering and signed and stamped by Jeff Hassett, RPE incorporating the Town Engineer's comments, with conditions as noted. JO second. Approved 5-0-0.
- CH motions to direct the Conservation Administrator to prepare and issue a dissolution letter. BO second. Approved 5-0-0.

ADJOURNMENT – CH makes a motion to close the hearing at 9:36 PM. JR second. Approved 5-0-0.

Respectfully submitted,
Liz Anoja, Conservation Administrative Clerk

Marshfield Conservation Commission

Bill Grafton, Conservation Administrator
Mike Seele, Conservation Agent

Craig Hannafin, Chair
Joe Ring
John O'Donnell

Bert O'Donnell, Vice Chair
Susan Caron
Ken Dodge