

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

MEMBERS NOT PRESENT – Craig Hannafin (CH), David Good (DG)

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

MINUTES

- The minutes of the August 17 meeting were presented for approval.
- BO motions to accept the August 17, 2022 minutes as written. SC 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.
- BO will chair the meeting in CH's absence.

BUSINESS

B1 *de minimis* activity Roll/Review/Ratification

a. Nash, 2 Damon's Point Road (Generator Stand) – Commissioners

- The proposed activity is installation of a wooden generator stand in AE flood zone and just outside a buffer zone to BVW. MS recommends approval with the standard special conditions of approval.
- BO motions to approve the activity as a *de minimis* activity with special conditions as noted. JR second. Approved 5-0-0.

b. 969 Ocean Street (Cell Tower platform) – Commissioners

- The proposed activity is the installation of an additional 5' by 7' platform, with four (4) footings, to an existing radio tower, along with associated trenching and fencing. MS recommends approval with the standard special conditions of approval.
- BO motions to approve the activity as a *de minimis* activity with special conditions as noted. SC second. Approved 5-0-0.

B2 Salt Marsh UAS Project Extension Request-UMASS Amherst / Joshua Ward & Dr. Scott Jackson

- Dr. Scott Jackson (SJ), UMass-Amherst, present with Joshua Ward (JW) to discuss the results of a salt marsh study initially discussed with the Commission on June 4, 2019.
- SJ gives a presentation of the study and its methodology to the Commissioners, which is entitled "Using remote sensing techniques to assess and monitor salt marsh condition in Massachusetts." Most of the information collection has been done by UMass students Ryan Wicks (RW) and JW. Salt marshes in Massachusetts are under a number of threats, including coastal development and sea level rise, and there is an urgent need to be able to effectively assess their health and vulnerability to sea level rise. This can be difficult to conduct due to access issues, especially at high tide. This study concerns the use of drones and sensors to fly over the marshes and collect data remotely to evaluate plant diversity and peat density. They ultimately want to train their computers to recognize the features of healthy and unhealthy marshes using remote sensing data, starting with drones at various times in the tide cycle and ultimately using satellite data to identify which marshes are doing well and

which are not. The goal is ultimately to develop computer models that can be used to evaluate marsh condition, as well as the progress of sea-level rise.

- A variety of drones and sensors have been used over the course of the study. Infrared sensors have been found to be useful for detecting water content of the marshes. They have imaged the marsh area along the South River using “red-edge” and near- and shortwave infrared. Each data collection site in the state is about 100 acres in size and is overflowed at an elevation of 400 ft., at low, mid, and high tides. They placed 12 “ground control points” within the marsh, and subsequently reconfigured some to stay farther away from the houses bordering the marsh.
- KD thanks SJ for the presentation and asks if the data will be available to agencies such as FEMA, for flood maps? CJ states that the data will be shared with any entity that wants it. They are working with Massachusetts Coastal Zone Management and are being funded by the US EPA, which requires them to make all data available. As the results will not be published in the immediate future, SJ indicated that people can reach out to him for access to the data ahead of publication.
- BG inquires whether the equipment and methods used could be adapted to track the spread of phragmites in the marsh? SJ indicates that phragmites is one of the easiest things to see on the images.
- JO asks about how they dealt with resident complaints? SJ indicates that they moved GCPs further away from residences when they received complaints, and maintain open lines of communication with residents when they are working in the area. BG recommends that they emphasize they are monitoring the salt marsh and not specific structures or properties.
- BO asks when they will be able to give a report on the condition of the marsh? SJ thinks it will be about two years before the final report; they will give progress reports in the interim.
- Jeremiah Eck (JE), 227 Bay Avenue asks if the GCPs will be removed when the study is over? SJ states all will be removed.

B3 Allerton Road (Drainage Repair)-DPW Discussion about WPA Exemption – Rod Procaccino & Commissioners

- Town Engineer Rod Procaccino (RP) present to inquire about the eligibility of drainage repair work along Allerton Road for exemption from the WPA. RP notes that the area has been subject to flooding issues for several years due to a collapsed drain. They will be replacing 300-400 feet of drainage pipe in the road over a three-week period, and they would like confirmation from the Commission that the work is exempt.
- BG agrees that the area has flood issues based on field observations and has been the subject of resident complaints. BO confirms with RP that all work is within the layout of the road. BO asks where the drainpipe empties? RP states it empties just beyond Peabody Road.
- BO motions to approve the repairs to Allerton Road as an exempt activity under the Wetlands Protection Act. SC second. Approved 5-0-0.

B4 743 Ocean Street (Generator on Stand) DMA vs. Conservation Permit – Commissioners

- The proposed activity is installation of a generator stand in AE flood zone, barrier beach, and coastal dune. MS has confirmed with applicants that the stand will be installed on diamond pier footings, and recommends approval as a *de minimis* activity with the standard special conditions of approval. BG notes to the public that there is a preapproved generator stand design that, if used, will be approved by the Commission as a *de minimis* Activity.
- BO motions to approve the activity as a *de minimis* activity with special conditions as noted. JR second. Approved 5-0-0.

B5 1083 Ocean Street (Shed, Deck & Fence replacement) DMA vs. Conservation Permit – Commissioners

- The proposed activity is a replacement of a garage with a shed on an existing concrete foundation, replacement of a deck with a paver patio having the same square footage, and repairs to an existing fence. The shed is located in AE flood zone, and the fence and deck/patio are also in buffer zone to an isolated vegetated wetland.
- Applicant Andrew Dancoe (AD) notes that the garage and deck are dilapidated and in danger of collapse. They have already received flood plain and building permits. MS recommends approval with the standard special conditions of approval.

- JR suggests that the paver patio be pervious to avoid ponding issues; MS will send homeowners information on pervious materials. BG adds this will minimize flooding/water issues in the patio area.
- BO motions to approve the activity as a *de minimis* activity with special conditions as noted. JR second. Approved 5-0-0.

B6 249 Bay Avenue/SE42-2322 (Planting Plan Deviations) – Jeremiah Eck, Robert Grey & Commissioners

- The Commission reviewed changes made to the planting plan originally approved in 2010 in response to abutter concerns. Architect Jeremiah Eck (JE), 227 Bay Ave, representing property owner Robert Grey (RG), notes that the original OOC required mitigation plantings partly off-site, on adjoining land owned by the Town and State (parcel M05-09-13), and they encountered significant difficulty finding the proper state official to sign off on the plantings on that parcel. About a year ago, RG hired an attorney to resolve the matter. They have since found a state official willing to permit the plantings and have also been in touch with Marshfield DPW with respect to the Town-owned piece. They are moving some of the plantings a little to the west to preserve a neighbor's view. At BG's suggestion, they are also replacing the conservation seed mix in the original plan with American Beach Grass. The placement of a bench, bike rack, and historical marker discussing the Cut River on the Town-owned land is also part of the project; they are in discussion with Cindy Castro, of the Historical Commission, regarding the specific wording.
- BG indicates that DPW is the owner of the Town-owned parcel as well as the Commonwealth ownership of a second parcel. The proposed revisions will concentrate more of the shrub plantings on RG's property, which is likely beneficial to RG as well as the view scape and stability. BG notes that the submitted plans reference both 600 plugs and 1000 sq. ft. of American Beach Grass, and recommends the Commission require the larger of the two. BG recommends that the signage piece be tabled pending finalization of the language, but the other work on the Town property will make it more attractive for public use.
- Conditions of approval include two years monitoring by a qualified wetland scientist and 75% planting survival after the end of the monitoring period.
- BO motions to approve the modified planting plan as proposed, including 1000 sq. ft. or 600 plugs of American Beach Grass, whichever is greater, and adherence to the Commission's requirements for planting success and monitoring. JR second. Approved 5-0-0.

B7 10 South Street/Cutter (SE42-2915) deviation discussion DMA vs. RAOOC – Troy Cutter & Commissioners

- The Order of Conditions SE42-2915 was issued in May of 2021 for the elevation on concrete piers of an existing SFH near the cell tower in Brant Rock. Building Commissioner AS and Conservation Staff BG and MS subsequently discovered that an enclosure, decking, outdoor carpeting, and furniture had been added to the area beneath the house along with an outdoor shower with flagstone steps next to the enclosed area. At a discussion at the September 7, 2022 meeting, applicant Troy Cutter (TC) stated that the main purpose of the enclosure was to insulate his water pipes, and Building told him to consult a structural engineer in order to "validate" the enclosure; the matter was tabled to allow TC to obtain written confirmation from AS. TC has since asked for additional time, as he remains in discussions with AS. BG recommends that the matter be tabled to the October 5, 2022 meeting.
- BO motions to table the matter to the next meeting. KD second. Approved 5-0-0.

SCHEDULED CONTINUED HEARINGS

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

- The applicant requested a continuation to the 10/5/2022 meeting in writing.
- BO motions to continue the hearing until October 5, 2022. SC second. Approved 5-0-0.

2988 Ricciarelli, 1203 Ferry Street (Pier, Ramp & Float).....cont. from 7/6/2022 (Bert)

- The applicant requested a continuation to the 10/19/2022 meeting in writing.
- BO motions to continue the hearing until October 19, 2022. JR second. Approved 5-0-0.

2987 Bethanis, 1184 Ferry Street (Pier, Ramp & Float).....cont. from 7/6/2022 (Joe)

- The applicant requested a continuation to the 10/19/2022 meeting in writing.

- BO motions to continue the hearing until October 19, 2022. JO second. Approved 5-0-0.

30 Veiga, 12 Gilbert Street (Reconstruct Revetment).....NEW (Bert)

- BO reads the legal ad. Applicant has requested a continuation to the 10/5/2022 meeting in writing.
- BO motions to continue the hearing until October 5, 2022. JR second. Approved 5-0-0.

PUBLIC HEARINGS AND MEETINGS

22-33 Harbormaster, 200 Joseph Driebeek Way (Vegetative Management).....NEW (Joe)

- BO reads the legal ad. Hearing Officer JR confirms administrative requirements are complete.
- Harbormaster Mike DiMeo (MD) present. The application is to perform ongoing vegetative management of invasive and opportunistic species in the area of Town Pier Road, Joseph Driebeek Way, and Harbor Park. MD notes that his previous authorization to perform such management that expired in 2020. Trimming is necessary along Driebeek Way and Town Pier Road to prevent phragmites, staghorn sumac, and poison ivy from growing into the handrails and walkways. He also wishes to trim the area of phragmites along the west end of Harbor Park, extending up to the wastewater treatment plant, and a 10' by 14' section by the southern crosswalk that needs to be trimmed for traffic safety/visibility concerns as well as to preserve security camera line of sight. BG agrees that this last trimming is necessary for safety reasons. MS adds that invasive phragmites and opportunistic staghorn sumac are the dominant species in Harbor Park and along Driebeek Way. MM adds there is significant poison ivy in the area that he wants to keep away from the walkways and sidewalk.
- Eric Murphy (EM), 252 Ocean Street, states he is involved professionally in the wildlife management and is concerned about what he described as an upswing of rodent and coyote activity spilling over into adjacent neighborhoods; they have notified the Board of Health of the issue; he is concerned the proposed cutting will increase this activity further, and would like to know if there is any plan for rodent or animal abatement? BG states the cutting proposed is primarily limited to areas trimmed under a prior conservation permit and suggests that an increase in animal activity due to cutting of the DSA is beyond the scope of the filing. EM re-asks about animal abatement plans associated with this cutting? BG notes that there were no complaints of increased coyote/rodent activity when the original cutting permit was issued in 2017, and suggests that the Animal Control officer be notified.
- Diane Jordan (DJ), 15 Bancroft Street, states she lives behind the DSA, and when it was cut, it forced coyotes in the woods and marshes closer to her house. She does not believe Animal Control has the resources to address the issue. BG notes that Conservation Office staff don't have the training to address the issue either, and it is closer to Animal Control's purview. BG notes that Mass. Wildlife may monitor populations at the state level, but DJ states they don't do wildlife relocations.
- EM states that the Environmental Police (MEP) would handle wildlife monitoring/relocation, and further contends the cutting will push these animals into the neighborhood "with no regard of what it costs the neighbors to take care of them." BO reminds all that the area to be trimmed has already been trimmed in the past, and is a limited amount of habitat. DJ states the same thing happened last fall, and when the area was trimmed before the Lobsterfest. JR notes that wildlife management is not the Commission's area of expertise or responsibility; EM argues the Commission should deny the permit to cut so the animals aren't driven into the neighborhood. BG reiterates that a permit for this cutting was in effect for several years and this issue was not raised, and suggests that recent issues have more to do with the cutting of the DSA. BG is willing to reach out to the Environmental Police (MEP) about the issue but would like to see DJ's evidence to forward to MEP for their advice.
- Madeline Daly-Hauser (MD), 18 Bradford, states that conditions in the area have changed since 2017, with much more coyote activity, and suggests the Commission would be responsible if coyote activity increased further by permitting the cutting.
- Marlene LaBossier (ML), 75 Central Street, agrees that conditions have changed since 2015 and 2017, as she never had coyotes running down her street before, and she wants it looked into. Also, the area to be cut contains other species in addition to the phragmites.
- Joe Pecevich (JP), 25 Wilson Rd, asks about Commission jurisdiction of the cutting area; BG indicates the area is in jurisdiction due to bordering vegetated wetland, riverfront, and salt marsh and briefly discusses the characteristics of the area. JP asks if there are any other grasses in the area besides phragmites. BG notes that native grasses such as spartina patens do not survive well in phragmites areas due to the shading that results from the phragmites. JP has no issue with the safety trimming but states the trimming in the park should not be permitted

due to lack of information and potential impacts to wildlife or the riverbank area; it is not worth doing the cutting just to improve the view of the water. BG notes that saltmarsh can include invasive phragmites, but only up to the spring tide elevation. Phragmites is treated differently, under the regulations, based on where it is located. JR adds that without invasive species management, the invasives will crowd out the native species in the park.

- SC thanks DJ for bringing the coyote/rodent issue to the Commission's attention, as it is something they need to think about. JO suggests a continuation to allow time for the Commission to gather additional information about the coyote/rodent issues. BO notes that these issues are largely the result of a different cutting, and notes there has been vegetative management going on in the park since it was first opened in the 2015. He would like to keep this proposal and the effects of the DSA cutting separate.
- JR notes that animal control is beyond the scope of the Commission's responsibility further than trying to facilitate a solution with the appropriate agency. JR asks the Commissioners how they wish to proceed? SC suggests that the safety cuttings be approved tonight and the park cutting piece be continued pending further information; BO agrees. JR would prefer to permit the project in one piece.
- KD is sympathetic to the safety issues but would prefer to continue to try to address the concerns raised at this hearing. BG notes that a RDA must be voted on within 21 days, so tabling is not an option unless the applicant agrees. Harbormaster MD is okay with continuing the park cutting piece but not the safety cuttings, as it is a potential liability issue. BG reoffers to reach out to the Mass. Environmental Police regarding the coyote issues in the area, as he has a good working relationship with them, and then discuss the outcome of his discussions at a business session.
- MD reiterates he is not looking to do anything that wasn't done before, and the issues raised seem to have more to do with the DSA than Harbor Park. MD additionally notes that letting coyotes reside in the Harbor Park area could raise a public safety issue. He is OK with treating the safety cuttings and park cuttings as two separate permits. BG checks with MS and indicates that the safety cutting was included in the *de minimis* activity permit issued at the previous meeting. MD assents to a continuation of the RDA on the understanding the safety cuttings can proceed. BG will reach out to Mass. Environmental Police regarding the coyote issues.
- JR motions to continue the matter to October 5, 2022 and direct Conservation Staff to reach out to the Massachusetts Environmental Police. BO second. Approved 5-0-0.
- After the vote, JO comments it would be helpful to him if the residents could be very specific about the problem they are encountering and what connection it has to the work proposed, noting that when he looks at the area to be trimmed, he can't see how that's going to stop or not stop coyotes, so additional information at the next hearing would be helpful.

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

- BO reads the legal ad. Hearing Officer JR confirms administrative requirements are complete.
- James Garfield (JG), Morse Engineering, present for applicant. An Order of Conditions was issued in December 2021 for the construction of a dock system in the South River. Applicant would now like to add two piles at the proposed float location to enhance safety and structural integrity. They have received comments from MassDMF and NHESP indicating no additional concerns.
- BG notes that two of the existing pilings were placed in a different location than shown on the approved plans, and has requested that they be relocated. BG has no other issue with the request, and recommends approval with the standard special conditions plus dock special conditions d(2) and d(3).
- JR asks for comments from the public; none.
- JR motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. KD second. Approved 5-0-0.

2999 66 Edmund Road LLC, 0 Edmund Road (Pier, Ramp & Float).....cont. from 8/17/2022 (Joe)

- BO reads the legal ad. Hearing Officer JR confirms administrative requirements are complete.
- James Garfield (JG), Morse Engineering, present for applicant. The proposed activity is the replacement of an unpermitted dock in poor repair with a new dock system in the North River; this filing is subject to the updated dock and pier performance standards adopted by the Commission earlier this year. The new dock will include 4' wide by 334' wooden pier, 22' wide by 20' wooden pier, 3' by 3.5' gangway, and 16' wide by 8' float, with ¾" deck spacing. The float will have 2.8' water depth beneath it at mean low water. At a site visit on August 27, North

River Commission member Mary Anne Leonard (ML) requested that the float size be reduced from 20' by 10' to 16' by 8'. Comments from MassDMF requested that they raise the elevation of the pier by 0.7 ft.; they are willing to meet that request but must revise their plans accordingly. The floats for the existing dock are currently resting on salt marsh; these will be removed off-site, and JG expects the area will naturally revegetate once this takes place.

- JR believes that the dock plans give the deck spacing as 1" instead of ¾". JG hasn't checked the plan but is willing to update the distance to 1". BG notes that 1" spacing is required in Marshfield.
- JR also notes that dock system as designed appears to fall short of Performance Standards E(1), limiting dock length in the river to half a lot's water frontage (about 13.5 ft.); Performance Standard E(5), limiting dock extension from shore to 25% waterway width at the dock location; and Performance Standard E(8), requires a minimum 25 ft distance from each property line to the dock. Additionally, Ch. 505 requires that damaged marsh grass, such as that under the existing floats, be mitigated at a 4:1 ratio.
- BG adds that the Harbormaster has reduced the shellfish mitigation fee to \$3550. He disputes JG's claim that the float area will naturally revegetate, and recommends that the Commission require 4:1 mitigation plantings with restoration plan by a qualified wetland scientist. Additionally, there is a lot of marine and construction debris along the current dock system which should be removed. Further, BG received complaints from neighbors about construction vehicles parking on the marsh, and recommends a construction access plan controlling access.
- BO questions whether the dock predated the requirement for permitting? JG and BG are unsure of the exact age, just that it is an old dock. BO notes it goes back to at least the 1990s, as it appears in GIS maps from that time.
- JR notes that the project will require variances as to several performance standards given the narrowness of the lot; additionally, the Commission must decide on what mitigation to require. As such, JR recommends a continuation to allow applicant time to address the performance standard issues and propose mitigation. BG also suggests that the Commission require the mitigation plan to be prepared by a qualified wetland scientist, as saltmarsh is not easy to restore. JG indicates they are willing to offer mitigation in the debris area as well as in the existing walking path, and will engage a wetland scientist.
- In response to a query from BO, BG and JG indicate they have no issues with the new dock structure as proposed, and Harbormaster DiMeo has no issues with the structure or float location. JG assents to a continuation to the next meeting.
- JR motions to continue the hearing to October 5, 2022. JO second. Approved 5-0-0.

2996 Vacirca, 16 Wilson Road (Construction of Additions).....cont. from 7/20/2022 (Bert)

- Continued hearing. Hearing Officer BO confirms administrative requirements are complete.
- Rick Servant (RS), Stenbeck & Taylor, present for applicant. The proposed activity is the construction of additions to an existing SFH. The lot lies in barrier beach, LSCSF, and coastal dune. The original July 20, 2022 hearing was continued to allow review with the Building Department as to whether the plans constituted a "substantial" improvement. The plans were indeed found to be a substantial improvement, and they have worked with AS to reduce the scale of the project below the "substantial" threshold. The revised plan involves one second-story addition with primarily interior work.
- BO verifies there will be no grade changes under the revised plan; RS adds that the driveway will remain the same. BG notes that the impacts of the scaled-back project are essentially limited to one new diamond pier, and he has no issues.
- BO asks for comments from the public; none.
- The standard conditions of approval will apply plus conditions with respect to d(2) compliance with current building codes and NFIP FEMA regulations and d(3) submission of an elevation certificate.
- BO motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. JR second. Approved 5-0-0.

3003 Walker / Michaels, 459 Highland Street (ATF Activities).....NEW (Susan)

- BO reads the legal ad. Hearing Officer SC confirms administrative requirements are complete.
- Rick Servant (RS), Stenbeck & Taylor, present for applicant. The subject filing is an "after the fact" Notice of Intent for 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 installed by the previous homeowner and observed during a request for certificate of compliance site visit. The previous owners had directed roof runoff

into the wetland; they are proposing to redirect this runoff into rain barrels to be used for gardening and watering. RS notes that all unpermitted activities, except for a 10 ft section of the wood retaining wall, were outside the 25 ft buffer on the original approved plan. They are also proposing to place four (4) conservation markers along the edge of the existing brush line.

- SC indicates that she is willing to accept the plan and mitigation proposed by RS given that the work was done 19 years ago by previous owners, and notes that a suggestion by BG to place additional markers along the 1996 wetland line would result in the loss of 800 sq. ft. of lawn. BG notes that the Commission at the time approved the line and indicated no activity should take place inside the 25 ft. buffer, and suggests that his proposal is fair given the extent to which the Commission's directive was disregarded, and requires no plantings or annual monitoring. SC maintains that the loss of lawn is excessively impactful to the new property owners, who were not the offenders; BO concurs as does JR, who doesn't want to punish these owners for somebody else's work.
- BG suggests that the Commission request a revised site plan with 25, 50, 75 and 100 ft. setback lines; JR thinks this is a reasonable request that can be written into the conditions of approval. RS will revise the site plan and submit same to the Conservation Office by 12 noon, Friday, September 23, 2022.
- SC asks for comments from the public; none.
- The standard special conditions of approval will apply plus a special condition requiring submission of a revised site plan to the Conservation Office by noon on Friday, September 23, 2022. BG indicates that once these are met, the Commission can close out the previous OOC.
- SC motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. JR second. Approved 5-0-0.

3004 McHugh, 3 Minot Street (Elevated Deck).....NEW (Bert)

- BO reads the legal ad and, as Hearing Officer, confirms administrative requirements are complete.
- Builder Steve Leonard (SL) presents for applicant, who wishes to construct a 14' by 20' composite deck in back of the house on helical piles requiring little to no digging; they also will remove a poured concrete pathway and replace with patio blocks.
- BG notes that he asked for additional details including an impervious table and planting plan by a qualified wetland scientist; details regarding the materials were added to the construction narrative but no table was provided. Previous filings SE42-768 and RDA 20-16 have required the posting of conservation markers on either side of the property. None found in the field during the site visit on September 23, 2022. Additionally, BG indicates that the area is coastal dune based on the 1969 soil survey data and subject to its performance standards. BG characterizes the existing vegetation near the limit of work as robust and likely to be damaged by the reduced light reaching it, and hence the need for replication. BG suggests that the deck needs to be high enough to minimize impacts to the existing vegetation and notes that the COC for SE42-768 includes an ongoing condition requiring "the premises to remain vegetated as depicted in the As Built plan prepared by Stenbeck & Taylor on July 9 2019." BG would also like to know what is going to happen to the area where the concrete is removed.
- SL replies that when Brooke Monroe (BM) viewed the vegetation near the limit of work, it was sparse; the owners have since let the area revegetate; this area is already shaded for most of the day, and the shading has not impacted the plants. SL adds that the area they are going to be mitigating is going to be equal to the area under the deck.
- BO asks if the conservation markers have been posted? BG states they have not. SL is willing to re-place them. JR comments that applicant seems to be trying to do the right thing, but the drawings don't provide the details the Commission usually requires, such as a cross-section of the new walkway and impervious table, and suggests that applicant work with Conservation staff to provide the needed details. BG will provide a punch list of what needs to be provided and suggests that he and SL meet. Applicant Cheryl McHugh (CM) indicates they will get the Commission the information requested so the project can go forward, as it will drastically change how they use the property. BO believes the project can be approved once the plans are revised.
- BG also recommends that the Commission declare the area to be coastal dune, per the 1969 survey, but indicates the deck could potentially meet the standards for coastal dune.
- BO asks for comments from the public; none.
- BO motions to continue the hearing to October 19, 2022. JR second. Approved 5-0-0.

3002 UCI Realty Trust, 20 Dog Lane (New Single Family Home).....cont. from 9/7/2022 (Bert)

- BO reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- John Zimmer (JZ), South River Environmental, presents for applicant. The proposed activity is clearing and grading associated with the construction of a new single-family home, garage, and septic system. A portion of the work will be inside the 100 ft buffer to a BVW he delineated, but no work is proposed within the 50 ft buffer. The initial hearing was continued to allow for staking and site visits.
- JZ indicates that in response to questions raised by BG at the previous meeting, engineer Pat Brennan (PB), Amory Engineers, has made modifications to the contours on the site plan and measured the distance from the pavement to the 50 ft buffer as 184 feet. The rear of the residence will be at grade with walk-out basement, which will minimize the amount of fill needed around the house, and a double foundation will be used to minimize the amount of grading needed. Erosion controls will be installed at the limit of work. They are making modifications to the septic system, which is out of Commission jurisdiction, at the request of the Board of Health. Applicant will be asking for a variance from the Planning Board requirement of a 125 ft. building circle due to the lot's dimensions. If the variance is not granted, the front of the house will be made smaller.
- BG revisited the site with MS and JO and observed staking at the 50, 75, and 100 ft. buffer lines, and shows photos that depict the steepness of the slope.
- BO asks BG whether he is satisfied with the revised contour lines. BG agrees that the new plan is more accurate than before, but maintains that the grades appeared to be steeper in the field, and is reluctant to approve the plan without the Planning Board building circle. JZ maintains that the building circle has nothing to do with the contours, as it is used to measure compliance with a zoning requirement. The Commission has accepted the wetland lines, and thus the buffer zone location, which is not affected by contour, is going to remain static. JZ contends that the Commission's main consideration is that the erosion controls be sufficient for the amount of grading proposed, and they are willing to put in additional erosion control if necessary. BG would like to wait for the outcome of Zoning and other permitting hearings in case the house position shifts. JZ does not anticipate anything changing within Commission jurisdiction, and states the house will get smaller rather than move further down the slope.
- BG is also concerned that the grading as proposed, although away from the tree line, may impact the root systems of the outermost trees, leading to premature tree death and erosion of the slope; BG suggested shifting some of the markers up-gradient to address the possibility but applicant declined to do so. BG suggests the Commission either prohibit grade changes and/or retaining walls within the 50-75 ft. buffer and focus on securing proper mitigation.
- BG also indicates he has gathered additional evidence to suggest the stream at the bottom of the ridge is perennial, but JZ maintains that the data overwhelmingly show it to be intermittent. JR notes that this issue remains a question, but one that need not be pursued if proper mitigation is provided. JZ indicates this would ultimately be decided by MassDEP and he is confident the stream is intermittent
- BO is concerned that allowing grading directly up to the 50 ft buffer line will kill trees and ultimately result in downslope erosion or damage inside the buffer; BG's suggestion to move several conservation markers up-gradient of the 50 ft buffer could possibly address these concerns. JR is also concerned about potential damage to the tree line and would also like the markers to be moved up-gradient. JZ notes this shift would significantly reduce the size of the back lawn, and suggests that the root systems of trees on a slope tend to grow downward rather than horizontally, but is willing to consult with his client. BG maintains that grading up to the 50 will cause tree root damage. JZ will see if his client will assent to shifting the markers 5 ft. up-gradient, but states that the project, as proposed, complies with Ch. 505.
- JO asks if there is any timetable for applicant's variances to be considered by other departments, and if there is any likelihood the project could be denied or altered as a result? JZ reiterates that if the variance is granted, the house will still be built, just smaller in front. SC suggests that the trees near the 50 be flagged so the Commissioners can view in the field; JZ will flag.
- Speaking as a resident, William Finn (WF), 96 Dog Ln, notes it would be difficult to define the stream as intermittent or perennial during a drought and recommends the Commission not try to make that determination. WF discusses the history of the area, stating that when Pleasant Street was realigned to meet Summer Street, half of the stream bed was filled. The stream is primarily fed by groundwater, but also drainage from Pleasant Street and Deer Hill. WF shows and discusses two videos of the stream taken in early June, one taken in mid-June, and one taken recently. The stream and the valley below the ridge are important to protect because it is one of just

three sources of water for wildlife in the area, and this stream is accessible with a minimum of street crossings. WF recommends that the Commission minimize vegetation/tree removal from the ridge in order to protect the slope from erosion. WF would also like to know what JZ means when he says that part of the lot is going to be protected, and whether that will be written into the conditions of approval? JZ states his client is not proposing any type of deed or conservation restriction, but the nature of part of the lot as buffer zones renders it unbuildable. BG notes that the Commission has the discretion to condition some sort of additional restriction; BO points out that the Conservation markers will have that effect; BG concurs, which is why he would like to move them up from the 50 ft. buffer.

- Chris Roberts (CR), 10 Dog Lane, would like to know what will be in the back yard before the ridge. JZ indicates this area would be lawn; no decking or patios are proposed at this time. BG notes there is conditioning available that can specify that any additional structures in the 50 to 75 require Commission permitting and possible mitigation.
- Wendy Moriarty (WM), 41 Dog Lane, is concerned that another house on the lane will adversely impact vegetation in the area. BO notes that Commission jurisdiction is limited to impacts on resource areas, but other hearings will consider other aspects of the project.
- Shannon Fullerton (SF), 36 Dog Ln, asks who placed the current staking in the field; this was done by the applicant; SF would like their locations to be verified in the field. BO notes that the site plan has PB's stamp attesting to its accuracy. JZ is willing to verify on the site. BG suggests that applicant verify that he did the work, and attest to its accuracy, in writing.
- BO suggests that the matter be continued to allow the Commissioners to view the trees near the ridge and JZ to consult with the applicant. JZ assents to continuation to October 5, 2022 and indicates he will flag the trees before the site visit. BG agrees that a group visit would be helpful and asks JZ to work with Conservation Office staff on scheduling.
- BO motions to continue the matter to October 5, 2022. JR second. Approved 5-0-0.

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

- The applicant requested a continuation to the 10/19/2022 meeting in writing.
- BO motions to continue the hearing until October 19, 2022. SC second. Approved 5-0-0.

2990 Powell, 17 Oregon Road (Garage, Deck & Addition).....cont. from 7/6/2022 (Craig)

- The applicant requested a continuation to the 10/5/2022 meeting in writing.
- BO motions to continue hearing until October 5, 2022. KD second. Approved 5-0-0.

REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS

1500 & 2300 Minichino, 71 Constellation Road [COC]

- At a site visit, BG observed unpermitted activities, including HVAC unit, enclosure below the house, and outstanding enforcement order for unpermitted fill.
- BO motions to table the RCOC for SE42-1500 and SE42-2300. SC second. Approved 5-0-0.

1743 Walker, 459 Highland Street [COC]

- An after-the-fact Order of Conditions was approved for previously unpermitted activities at this meeting; BG recommends that this request be tabled pending issuance and recording of the OOC.
- BO motions to table the matter. JR second. Approved 5-0-0.

1917 Francis, 13 South Street [COC]

- The plywood in front of the flood vents have been removed, and estate attorney Mark Fournier has drafted a deed restriction with respect to non-habitability of the crawl space. At the August 3, 2022 meeting, the Commission voted to accept the deed restriction as satisfying special condition E of the OOC.
- Attorney Michael Baird (MB), representing buyer Liam Lowney (LL), indicates that after further review with Building Commissioner AS, they are looking at retaining a 3 ft. perimeter around the basement while having the remainder of the floor removed and filled in with gravel. He is not sure when an engineered plan for this can be prepared, as most engineers are working 8-12 weeks out.

- BG suggests tabling the matter to November or December to allow time for preparation of a plan. BO notes that ROCs can be tabled without a date certain. BG suggests a date certain is preferred.
- BO motions to table the ROC for SE42-1918. SC second. Approved 5-0-0.

2217 Paris Realty Trust, John Sherman Estates, Main Street [EXT]

- BO recommends a six-month extension to the OOC to encourage applicant to address the remaining punch list items.
- BO motions to grant a six-month extension for SE42-2217, to April 5, 2023. KD second. Approved 5-0-0.

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

- BG requests that the matter be tabled October 5, 2022 to allow more time for him and MS to coordinate a corrective action plan for the property.
- BO motions to table the matter to October 5, 2022. JR second. Approved 5-0-0.

2785 Phelps, 78 Cherry Street [COC]

- BG visited the site, noted minor deviations from the original approved plans including stairs in the front and back supported by diamond piers and reduction in fence size, and recommended issuance of the COC.
- BO motions to issue a complete COC for SE42-2785. JR second. Approved 5-0-0.

2843 O'Conner / Seacoast Builders, 211 Spring Street [COC]

- BG visited the site and requested that homeowner remove the erosion controls and shift one conservation marker's location; homeowner indicated they would address these issues, and BG recommended issuance of the COC and reads the following ongoing condition into the record as follows:
"The (8) eight permanent Conservation Markers inscribed with Red and White "Marshfield Wetland Resource No Disturbance on 4" by 4" rot-resistant pressure treated, cedar or equivalent posts depicted on the final approved As-Built Plan September 12, 2022 prepared by Webby Engineering Associates, Inc., signed & stamped by Joseph Webby, Jr., RPLS are to be remain posted in the field 30-40 inches above the ground surface in perpetuity; damaged or decayed conservation posts and markers shall be replaced; any activity such as mowing, fill, or vegetative management is prohibited beyond the conservation markers. This condition remains in perpetuity."
- BO motions to issue a complete COC for SE42-2843 with ongoing condition as noted. 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 Homsy, 987 Ocean Street (unpermitted removal in RF, BVW & buffer zone) – Chris Homsy & Commissioners

- Brush and small trees were cut and removed from buffer zone and resource area on this property and a neighbor's property. An enforcement order was issued, requiring preparation of a restoration plan, and the Commission indicated preference for a less comprehensive planting plan in exchange for Conservation markers at the 50 ft buffer and ongoing invasive management. A fourth revised planting plan was recently received along with NHESP comments indicating no concerns. Abutter Karen Donahue (KD), 991 Ocean, has chosen the plantings to be made on her property, and has no other concerns. The matter was tabled pending receipt of final revisions to the restoration plan.
- BG advised that the 5th revised restoration plan had been received which includes plant symbols and locations requested by the Commission. The plans included a minor error pertaining to plant one plant species on 991 Ocean Street which BG recommended be denoted by a memo from Brad Holmes and correct in the field.
- BO motions to approve the revised restoration plan, dated 9/16/2022, that includes the restoration plant symbols and locations, with the implementation to begin during the Fall 2022 Planting Season. JR second. Approved 5-0-0.

B9 Tobin, 45 Winslow Street (encroachment on conservation land J10-08-46) – Ed Tobin & Commissioners

- Chair Hannafin, BG, and MS met on site on August 5, 2022 to review an encroachment onto adjoining conservation land which includes clearing of vegetation, addition of bluestone and gravel for parking construction vehicles, and

storage of utility equipment, garbage bins, and fire wood. 45 Winslow owner Ed Tobin (ET) admitted to the encroachments but is under the impression that a deed exists allowing him to utilize the property. BG requested that the matter be tabled to allow time for further discussions with ET and consultation with Town Counsel.

- BO motions to table the matter to November 16, 2022. KD second. Approved 5-0-0.

ADJOURNMENT – BO makes a motion to close the hearing at 10:04 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	Bert O'Donnell, Vice Chair
Joe Ring	Susan Caron
John O'Donnell	Ken Dodge
David J. Good	