

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

CALL TO ORDER – CH motions to open the meeting at 6:30 PM. DG second. Approved 7-0-0.

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.
- The procedure for hearings is that applicants or their representative(s) will have 5 minutes uninterrupted to present their project. This will be followed by BG's comments (1 minute), Commissioner comments/questions (10 minutes, with extensions by motion and vote), public comment, and vote. Public comments are to be addressed to the Chair or Hearing Officer. Pre-vote polls may be conducted to gain the perspective of the Commission.

BUSINESS

B1 *de minimis* activity Roll/Review/Ratification

a. Koertje, 64 Macker Terrace (Generator Stand) – Commissioners

- The proposed activity is installation of a generator stand with trenching in LSCSF and buffer zone to BVW. Four Commissioners have reviewed and approved the activity.
- The stand was originally to have been constructed of a concrete slab on top of wooden landscape ties. Applicant Rick Koertje (RK) states that the electrician doing the installation discussed the matter with the Building Commissioner and now wishes to use the Approved Generator Platform Design approved by the Commission and Building Department. The standard conditions of approval will apply.
- CH motions to approve the proposed activity as a *de minimis* activity with special conditions as noted. DG second. Approved 7-0-0.

b. Lucas, 18 Foster Avenue (Footings) – Commissioners

- The proposed activity is the replacement of two concrete footings for a second story deck and egress located in buffer zone to Coastal Bank and Coastal Beach. They have also cleared storm debris lodged under the stairs. Two Commissioners have reviewed and approved the activity. The standard conditions of approval will apply.
- CH motions to approve the proposed activity as a *de minimis* activity with special conditions as noted. JR second. Approved 7-0-0.

B2 48 Boxboard Road/Gervasi (Hazard Tree Removal on Conservation land [Parcel C12-01-65]) – Commissioners

- Applicant wishes to remove a hazard tree just beyond his fence, but it is unclear whether the tree is on Parcel C12-01-65, which is Town-owned land under control of the Commission, or an adjacent parcel belonging to Woodland Builders Trust. The tree is not located in any known resource areas or buffer zones.

- BG recommends granting permission to remove the tree if it is on the Conservation parcel, in which case the removal must be done by the Town. It is applicant's responsibility to determine the exact location of the tree, and this approval does not apply if it is located on the Woodland Builders Trust parcel.
- The standard special conditions of approval will apply plus a special condition requiring that the tree be stumped at 4 ft height and the root system be left in the ground.
- CH motions to approve the removal of the hazard tree if located on Town-owned land under the care and custody of the Conservation Commission, parcel C12-01-65. DG second. Approved 7-0-0.

B3 74 Blue Heron Way/Courchene (SE42-2864) deviation discussion DMA vs. RAOOC – Brent Courchene & Commissioners

- The Order of Conditions SE42-2864 was issued in June of 2020 for construction of a pool. The pool has been constructed, and Homeowner Brent Courchene (BC) would like to add a 16' by 16' wood pool house outside the 75 ft. buffer to wetlands and outside a sewer easement in back of the property.
- In response to a question from CH, BC indicates they plan to add electric service to the pool house; he is uncertain as to how the service will be extended, but it will probably be by electric conduit. BG recommends that this trenching be added to the request so all the associated work is approved.
- BO opines that this activity can be approved as a *de minimis* activity and captured on the As Built plans when the Request for Certificate of Compliance is filed; all Commissioners concur.
- CH motions to approve the construction of a pool house and utility trenching as a *de minimis* activity to be captured on the As-Built plans during the Request for Certificate of Compliance submittal. SC second. Approved 7-0-0.

B4 310 Arrowhead/Coughlan (SE42-2982) deviation discussion DMA vs. RAOOC – Josh Green & Commissioners

- Order of Conditions SE42-2982 was issued on May 18 for construction of a pool and patio. Homeowner Andrew Coughlan (AC) advises that the contractor has indicated they needed to slightly shift the position of the pool and retaining wall. BG notes that the change moves the activity slightly closer to the 25 ft buffer but does not go beyond it. The mitigation, in form of a planting plan and posting of conservation markers, is adequate, and applicant has been cooperative with Conservation staff.
- CH notes that the project needs a ZBA hearing as well as Building and Board of Health permits. Building Commissioner Andrew Stewart (AS) indicated that nothing has been filed with him to date. CH advises applicant to see to this permitting, as this is a special condition of approval of the Order of Conditions. AC indicates he will, noting that no construction has started yet.
- CH motions to approve the relocation of a portion of the approved pool and retaining wall as a *de minimis* activity to be captured on the As Built plans during the Request for Certificate of Compliance submittal. JR second. Approved 7-0-0.

SCHEDULED CONTINUED HEARINGS

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

- The applicant requested a continuation to the 9/7/2022 meeting in writing.
- CH motions to continue the hearing until September 7, 2022. BO second. Approved 7-0-0.

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.
- CH motions to continue the hearing until October 5, 2022. BO second. Approved 7-0-0.

PUBLIC HEARINGS AND MEETINGS

22-31 Dunford, 14 Twelfth Road (New Glass 4 Seasons Porch).....NEW (Susan)

- CH reads the legal ad. Hearing Officer SC confirms administrative requirements are complete.
- The proposed activity is the construction of a 14' by 21' glass-walled room over an existing, previously permitted deck, with 11 new footings to be placed under the existing structure. Existing egress will remain as is, and electric

service will be added. The deck is located in LSCSF (A03 flood zone), barrier beach, coastal dune, and buffer zone to coastal beach. The project has received a building permit and ZBA approval. Applicant Ellyn Dunford (ED) indicates that the footprint of the deck will not change, and the area beneath will remain open.

- MS notes that the area beneath the deck is currently crushed gravel and stone, and recommends approval with the condition that this area remain open and pervious in perpetuity. BG adds that the deck was constructed under OOC SE42-2205, which has received a complete COC.
- SC asks for comments from the public; none.
- The standard of conditions will apply plus a special condition requiring the area beneath the deck to remain open and pervious.
- SC motions to issue a DOA, Pos. #5, Neg. # 2, with special conditions drafted by BG. JR second. Approved 7-0-0.

2999 66 Edmund Road LLC, 0 Edmund Road (Pier, Ramp & Float).....NEW (Joe)

- CH reads the legal ad. Applicant requested a continuation to the 9/7/2022 meeting in writing. DEP file number is still pending; BG indicates all other administrative requirements are complete.
- CH motions to continue the hearing until September 7, 2022. BO second. Approved 7-0-0.

2991 Grey, 249 Bay Avenue (Maintenance Dredging).....NEW (Bert)

- Continued hearing. Hearing Officer BO confirms administrative requirements are complete.
- Chris Sanderson (CS), Merrill Engineers, present for applicant. The proposed activity is comprised of maintenance dredging activities on the property, which is adjacent to the Federal navigation channel entering Green Harbor, to ensure safe access to an existing dock. The proposed dredge area is 43,221 square feet, and they are proposing to dredge to a -5 elevation below mean low water. The volume of sediment to be removed is 5725 cubic yards. The material will be excavated using clamshell bucket dredge and barge, and spoils will be disposed of as dictated by the permitting. Based on feedback they received from the MA Division of Marine Fisheries, they have reduced the dredge area and maintained a 25 ft offset to an existing salt marsh. Chapter 91 permitting and 404 Water Quality certification is pending. They will be offering shellfish mitigation in an amount and location to be worked out with the Harbormaster.
- BG notes that the revised plan will have less impact on shellfish habitat. At his request, applicant has added a table showing work impacts on the revised site plan which references the July 9, 2022 FEMA FIRM. BG recommends adding a special condition to “provide shellfish mitigation as approved by the property owner and Harbormaster,” and would also like more information regarding a proposed silt/turbidity barrier; CS indicates this will act like an erosion control barrier and prevent silt from leaving the work area. BG has spoken to Project Manager Tom Pozerski (TP) at Merrill, and they would like flexibility regarding dredge spoil destination; options include on land at a designated site, Dredge Spoils Area (DSA) or the offshore. 34 Marginal Rear is another option, as this owner is interested in re-nourishment at his property, but this would depend on the dredge analysis results. MassDMF has suggested no dredging between February 1 and June 30 to avoid impacts to winter flounder during the spawning season.
- BO asks if there has been dredging at this location before? CS believes there has based on his reading of the narrative, as the area is subject to sedimentary deposits due to boat traffic and storms. BG agrees but is unsure of the exact permitted source; dredging of Green Harbor may be another factor as it may overlap the limit of work associated with this Notice of Intent. There are no Conservation permits on file for previous dredging at the property. BO also asks whether the materials is primarily sand and cobble, or sediment as is found by the marina? CS anticipates primarily sand and cobble under a layer of silt. BO would like the spoils to be made available for beach nourishment if they are the right mix of materials; CS believes this will be explored in the testing process.
- All present discuss an ongoing condition allowing for periodic maintenance dredging. BO is not opposed to one if it is carefully drafted. BG suggests this can be allowed with specific conditions and a sufficiently detailed plan. JR suggests that the condition also require that applicant provide a new plan of what they are going to dredge to the Conservation Office; SC agrees. BG updates the proposed conditions to require a current plan depicting the dredge area, not to exceed what is shown on the approved plan linked to this NOI. BO asks about workload for

Conservation staff if new plans are provided for each new event; BG suggests that staff can review the plan and current licensing expeditiously, and has no concerns.

- KD asks how the permitting for personal dredge projects is different for commercial or municipal ones? BG states the process is similar; he believes OOCs issued to SHM Green Harbor Marina and Green Harbor Yacht Club also allow for maintenance dredging, but would have to confirm. BG suggests it is in the interest of the Commission and residents to streamline the permitting process for maintenance dredging where possible. BO asks consultant William Finn (WF) whether SHM or GH YC are authorized to perform maintenance dredging as part of their ongoing conditions. WF believes the makeup of the dredge materials drives what should happen, and the Commission will want to know what the material is every time dredging is proposed. WF suggests that sufficient data regarding the dredge material be provided in advance of each dredge event regardless of whether formal permitting is required; BG notes this is already requested in the proposed ongoing condition. BG adds that dredge projects are subject to Chapter 91 and other permitting at the state and Federal level by entities with greater technical and scientific expertise. JR suggests that the ongoing conditions specify that all documentation be submitted to the Conservation Office prior to the start of any maintenance dredging. WF suggests the documentation be submitted “for review by the Commission” at a business session. BG will incorporate both suggestions.
- BO asks for comments from the public; none.
- Conditions of approval include submission of Chapter 91 License and 401 Water Quality certification, “shellfish mitigation as approved by the property owner and the Harbormaster” prior to the start of work. “For each dredge event, provide the Conservation Administrator with the destination of the dredge spoil location, the Sampling and Analysis Plan and evidence confirming completion of all testing requirements, special conditions and permitting. This condition remains in perpetuity.” MassDMF comments regarding consultation with shellfish constable, avoiding barge grounding, and time-of-year restriction avoiding the period between February 1 and June 30, also apply. Post-construction maintenance dredging conforming to the time-of-year restriction is allowed provided that before start of work, applicant submit current Chapter 91 License and 401 certification, current plan depicting dredge area, dredge spoil destination, Sampling and Analysis Plan, and evidence of completed testing to the Conservation Administrator.
- BO motions to close the hearing and issue Orders of Conditions with special conditions drafted by BG. SC second. Approved 7-0-0.

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

- The applicant requested a continuation to the 9/7/2022 meeting in writing.
- CH motions to continue the hearing until September 7, 2022. BO second. Approved 7-0-0.

2989 Bethanis, 1184 Ferry Street (Pier, Ramp & Float).....NEW (Joe)

- The applicant requested a continuation to the 9/7/2022 meeting in writing.
- CH motions to continue the hearing until September 7, 2022. BO second. Approved 7-0-0.

2996 Vacirca, 16 Wilson Road (Construction of Additions).....cont. from 7/20/2021 (Bert)

- CH reads the legal ad. Hearing Officer SC confirms administrative requirements are complete.
- The applicant requested a continuation to the 9/7/2022 meeting in writing.
- CH motions to continue the hearing until September 7, 2022. BO second.

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

- The applicant requested a continuation to the 9/7/2022 meeting in writing.
- CH motions to continue the hearing until September 7, 2022. BO second. Approved 7-0-0.

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

- Continued hearing; BO Hearing Officer.

- Applicant has requested to withdraw the current Notice of Intent. CH notes that a Determination of Applicability for the property was issued on May 3 to repave the existing parking area; this work exceeded its scope and the Commission allowed this to be captured on the new scope of work in the As Built Plan for the current NOI. Since the NOI is not going forward, CH recommends that the request be tabled to determine the scope of future work, if any, and how to incorporate the paving work “as done” into the record.
- CH motions to table the withdrawal. JR second. Approved 7-0-0.

REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS

0549 French, Carolyn Circle for drainage for Lot 1 (now 25 Carolyn Circle) only [Partial COC]

- The subject property is currently for sale. The attorney for the buyer performed a title search and discovered the property had a recorded OOC SE42-549 (subdivision/drainage & road work). BG and MS researched and determined that previous Administrator Warren Harrington issued a letter indicating the road work was complete. BG confirmed with the Town Planner Greg Guimond (GG) that the work was performed according to Planning requirements. BG suggests that the Commission issue a Partial Certificate of Compliance to close out the recorded OOC for the subject property within the subdivision.
- BG notes that six other lots in the subdivision have the subdivision OOC recorded on their deeds, as it has not been closed out by the developer.
- CH motions to issue a partial COC for 25 Carolyn Circle (Lot 1 under SE42-549). JR second. Approved 7-0-0.

1012 O’Neil, SFH Lot 1 Carolyn Circle (now 25 Carolyn Circle) [COC]

- The work approved under SE42-1012 was never completed; all work is currently permitted through SE42-2984. This can be cured by approval and issuance of a Certificate of Compliance with Invalid Order of Conditions as the work never commenced under SE42-1012.
- CH motions to approve and issue an Invalid Order of Conditions, as the approved SFH work will be pursued under the recently approved Order of Conditions/SE42-2984. JR second. Approved 7-0-0.

1763 Walker, 459 Highland Street [COC]

- Tabled pending submission of After-The-Fact NOI for unpermitted structures. The new owner has advised BG he would follow up with Stenbeck & Taylor for a progress update.
- CH motions to table the matter to the September 7, 2022 meeting to allow for submission and approval of ATF NOI. KD second. Approved 7-0-0.

1917 Francis, 13 South Street [COC]

- Issues regarding noncompliance with Special Conditions D and E have been cured. Attorney Michael Baird (MB), representing buyer Liam Lowney (LL), requested a continuation to August 17 to allow them time to consult with the Building Department regarding compliance with Special Condition G, which requires removal or breaking up of a mud slab pad beneath the house.
- MB present along with LL and Attorney Mark Fournier (MF), representing seller. MB indicates that Building Commissioner Andrew Stewart (AS) advised that removal of the slab beneath would trigger a building permit modification, flood plain permit, review by a structural engineer, and possibly FEMA involvement if gravel were added to raise the grade of the subsurface. As an alternative, they would like to install a drainage system under the house to direct flood water into the ground as quick as possible. MF adds that there is an existing 2’ by 2’ hole with a sand bottom but no concrete; they would like to add a few other holes to which floodwater could be directed. They are hoping this alternative would not trigger the same volume of permitting and would like to hear the Commission’s feedback.
- CH notes that in a prior e-mail, AS stated that the slab beneath the house was a “mud slab” that is thinner than a typical concrete slab and does not act as a structural support; now he seems to be reversing himself by saying that the slab does provide structural support, so a structural engineer’s review is required. MB thinks it may be due to the slab’s proximity to the flood plain. MF suggests AS may be concerned about potential impact of vibrations from a jackhammer on the structure. CH would like some clarification from AS, as Town Engineer Rod Procaccino

(RP) stated was recommended and not required. BG adds that RP “sees no reason” why the slab can’t come out since it is in violation of a special condition.

- MB indicates that Town Counsel (TC) also suggested reopening the order and adding a condition specifying that any change to the structure would require removal of the slab, but BG indicates that the OOC has expired and there are no avenues to reopen it.
- BO indicates he would be satisfied with the addition of drainage holes proposed by MB provided there were a drainage analysis proving it would work; DG concurs with BO. JR talked to a structural engineer, who indicated he saw no reason why the slab couldn’t come out. BG notes Town Counsel is concerned at the precedent set by allowing any kind of impervious subsurface in barrier beach / coastal dune, and suggest that the Commission be cautious about approving this alternative, as the performance standards for barrier beach / coastal dune are clear. BG suggests that MB, CH, and TC speak further to clarify TC’s recommendations. CH would also like to hear from the structural engineer that proposed the drainage holes, which in turn may guide their discussions with TC. MB suggests that AS be included in the discussion.
- CH motions to table the Request for Certificate of Compliance to allow time for the applicant’s representative to research alternative solutions for the removal of the mud slab. JR second. Approved 7-0-0.

2460 Mase, 110 Elm Street [COC]

- This Request For Certificate of Compliance (RCOC), for installation of a drain with mitigation plantings, was originally submitted to the Commission in November 2021, along with RCOCs for two other Orders of Conditions linked to the property. At that hearing, the Commission issued complete COCs for the other two Orders but denied this RCOC due to deviations from the Approved Plans, including a small addition between the house and garage (addressed in a 2014 RDA), a small deck expansion, and deviations from the required restoration plan. John Zimmer (JZ), South River Environmental, has evaluated the plantings and opined that a 100% survival rate was achieved.
- BG suggests that conservation markers be placed 5-10 feet up gradient of both sides of the wetland that crosses the property as mitigation for the deck expansion, and that a revised As-Built be submitted to the Conservation Office depicting the deck expansion, conservation marker placement, and labeling the 50 and 100 ft buffer lines. BG also suggests that the matter be tabled to allow him time to convey these recommendations to project engineer Rick Grady, which in turn would allow for a COC to issue with ongoing conditions which will be recorded on the deed.
- CH motions to table to allow the Conservation Administrator time to speak with the applicant about a solution to the small deck that was not permitted. JR second. Approved 7-0-0.

2808A Town of Marshfield, 46-50 Bay Avenue within 14-162 Bay Avenue/SE42-2808 [Partial COC]

- DPW is requesting a partial COC for seawall repair between 47-50 Bay Avenue under SE42-2808 Amended, while keeping the OOC for other work done in the 14-162 Bay Ave region open. This will allow DPW to obtain FEMA reimbursement for the work performed in the vicinity of 46-50 Bay Avenue.
- CH motions to issue a Partial COC for work performed in the vicinity of 46-50 Bay Avenue to be approved under SE42-2808 Amended. SC second. Approved 7-0-0.

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)

B5 Homsy, 987 Ocean Street (unpermitted removal in RF, BVW & buffer zone) – Chris Homsy & Commissioners

- A significant amount of 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 after the November 16, 2021 public meeting, requiring preparation of a restoration plan. A revised restoration plan was submitted and discussed at the March 15, 2022 meeting, and the hearing was continued pending receipt of a revised plan reflecting Commission comments and NHESP response letter. At that meeting, the Commission indicated preference for a

less comprehensive planting plan in exchange for Conservation markers at the 50 ft buffer and ongoing invasive species management, additional activities detailed in the proposed restoration plan.

- BG advises that a fourth revision was recently received along with NHESP comments indicating no concerns. BG believes the revised plan addresses all concerns and recommends approval.
- BO asks if abutter Karen Donahue (KD) has seen the current restoration plan? BG indicates she has not. BO would like something in writing from KD indicating she is satisfied with the plan. CH would also like the plant locations added to the site plan. The matter is tabled pending review by KD and addition of plant locations to the restoration plan.
- CH motions to table the matter to September 7. BO second. Approved 7-0-0.

ADJOURNMENT – CH makes a motion to close the hearing at 8:09 PM. JR second. Approved 7-0-0.

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
David J. Good

Bert O'Donnell, Vice Chair
Susan Caron
Ken Dodge