

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

MEMBERS NOT PRESENT – None

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

MINUTES

- The minutes of the December 7 meeting were presented for approval.
- CH motions to accept the December 7, 2022 minutes as edited. SC second. Approved 7-0-0.

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.

BUSINESS

B1 De Minimis Activity Roll/Review/Ratification

a. Martin, 261 Ridge Road (Generator Shed)

- The proposed activity is installation of a prefabricated steel generator shed. CH notes the shed is proposed to be on blocks and asks whether this design will sufficiently protect the resource area. MS indicates that Building Commission Andrew Stewart approved the design without further comment. The standard conditions of approval will apply.
- CH motions to approve the proposed activity as De Minimis with conditions as noted. JR second. Approved 7-0-0.

b. Brady, 450 Ocean Street (Replace 2 footings on deck)

- The proposed activity is the replacement of two concrete deck footings with helical piles and repair of the existing deck. MS recommends approval with the standard conditions of approval.
- CH motions to approve the proposed activity as De Minimis with conditions as noted. JR second. Approved 7-0-0.

c. Recreational Trails Committee, Furnace Brook (Replace/Repair of big bridges and benches)

- Ned Bangs present for the RTC. The proposed activity is repair of the benches and bog bridges along the Furnace Brook trail system. Phase 1 will be the repair of three benches and four 12' by 3' and one 6' by 3' bog bridges that have rotted and present a tripping hazard. The repairs will be made using hand tools, and RTC has secured funding. They would like to make the repairs after the 1st of the year, weather permitting.
- Phase 2 will involve relocating the trail head from its current location off Route 3A to the St. Christine's Church parking lot, creating two new trails, and installing new bog boards. They are working with Jason Zimmer to prepare a Notice of Intent for this work.
- CH motions to approve the Phase 1 work as a De Minimis activity with the standard conditions of approval. BO second. Approved 7-0-0.

Commissioner DG recuses from the following discussion

B2 Howley, 225 Bay Avenue (Retaining Wall Deviation) DMA vs. RAOOC – Steve Howley

- MS talked to applicant Steve Howley, who is considering making changes to the retaining wall design that may impact and require approval from his abutters. He is waiting to receive plans from his engineers. CH suggests that the matter be tabled until the plans are ready to review.
- CH motions to table the matter pending receipt of updated plans. SC second. Approved 7-0-0.

Commissioner DG rejoins the meeting.

B3 Marcella/Ruggs, 47 Foster Avenue (Pergola) DMA vs. RDA – Commissioners & Bryan Macella

- Homeowner wishes to install a 120 sq. ft. pergola on diamond pier footings. MS notes that the work area lies in barrier beach but not in land subject to coastal storm flowage, which ends in front of the property. The work would require flood plan and building permits, and was approved with the condition that applicant obtain all additional permitting.
- CH motions to approve the construction of a pergola as a De Minimis activity. JR second. Approved 7-0-0.

B4 DPW, Plymouth Avenue (Flooding) Emergency Cert – DPW & Commissioners

- DPW is requesting an emergency certification in order to address flooding issues around the area of 301 Plymouth Avenue; this flooding is posing a hazard to motorists, and the area is subject to icing in the colder weather. The ditches that normally drain stormwater from the area are overgrown with vegetation and require clearing. The house at 307 Plymouth is also flooded, causing unsafe structural and sanitary conditions. DPW plans on working with airport personnel and Plymouth County Mosquito Control to clear the ditches with an excavator. They would like to start work the week of January 9th.
- MS shows photos of flooding in the area, and notes that a Notice of Intent will be forthcoming to allow for ongoing maintenance. Dave Carriere, Board of Public Works, advises that last night the Board directed the Engineering staff to analyze potential solutions, including maintenance of the existing ditches or perforated piping, and costs of each solution. Commission consultant William Finn adds that the Airport will try to work maintenance of the ditches into their own ongoing maintenance practices.
- CH motions to approve the emergency certification for flooding mitigation work as proposed, beginning 1/9/2023 or earlier, per DPW direction. BO second. Approved 7-0-0.

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 1/4/2023 meeting in writing.
- CH motions to continue the hearing to January 4, 2023. BO second. Approved 7-0-0.

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

- The applicant requested a continuation to the 1/4/2023 meeting in writing.
- CH motions to continue the hearing to January 4, 2023. SC second. Approved 7-0-0.

3015 Medlin, 60 Foster Avenue (Addition, Garage & Porch).....cont. from 12/7/2022 (Susan)

- The applicant requested a continuation to the 1/18/2023 meeting in writing.
- CH motions to continue the hearing to January 18, 2023. JR second. Approved 7-0-0.

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

- The applicant requested a continuation to the 1/18/2023 meeting in writing.
- CH motions to continue the hearing to January 18, 2023. SC second. Approved 7-0-0.

2990 Powell, 17 Oregon Road (Garage, Deck & Addition).....cont. from 11/16/2022 (Craig)

- The applicant requested a continuation to the 1/4/2023 meeting in writing.
- CH motions to continue the hearing to January 4, 2023. JO second. Approved 7-0-0.

PUBLIC HEARINGS

22-38 Powell, 14 Olympia Road (Generator Stand).....NEW (Ken)

- CH reads the legal ad. Hearing Officer KD confirms administrative requirements are complete.
- The proposed activity is the installation of a generator stand on diamond piers. MS adds that the proposed stand location is in VE flood zone and buffer zone to coastal beach, but there is a sea wall between the home and beach. Alex, representing the company looking to install the generator, states they are following all regulatory requirements in terms of location and design. CH instructs Alex to check in with the Building Department.
- KD asks for comments from the public; none.
- The standard conditions of approval will apply.
- KD motions to close the hearing and issue a positive 5 and negative 2 determination with special conditions. JR second. Approved 7-0-0.

3017 O'Donoghue Rupp, 56 Gilbert Street (Raze & Rebuild S.F.H.).....NEW (Susan)

- CH reads the legal ad. The matter is continued, per application request, to allow for abutter notification.
- SC motions to continue the hearing to January 4, 2023. BO second. Approved 7-0-0.

3018 Dickinson, 938 Summer Street (Raze & Rebuild Pool House).....NEW (John)

- CH reads the legal ad. Hearing Officer JO confirms administrative requirements are complete.
- Brendan Sullivan, Merrill Engineers, presents for applicant. The proposed activity is the raze and rebuild of a pool house, expanding the footprint slightly from 935 to 1130 sq. ft. 635 sq. ft. of the new structure lies in the 100 ft buffer to a bordering vegetated wetland. All work is outside the 50 ft. buffer. The structure will be tied into the new septic system for the property and will have a full foundation underneath. Silt sock erosion control is proposed around the limit of work.
- JO visited the property last week with SC and MS, and he has no issues.
- JO asks for comments from the public; none.
- The standard conditions of approval will apply.
- JO motions to close the hearing and issue an order of conditions with special conditions drafted by MS. SC second. Approved 7-0-0.

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

- Continued Hearing. BO Hearing Officer.
- John Zimmer, 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 last hearing was continued pending the outcome of variance requests that would allow them to pull the house further away from the 50 ft buffer line.
- JZ states that ZBA advised them to go back to the Commission, as they would not entertain a variance until they knew there was a project that could be built on the property without one. JZ therefore asks the Commission to consider the project as proposed in the NOI, which he states meets the performance standards of the bylaw. JZ notes that the house will be built on a "double" foundation that minimizes the need for excavation; they are willing to use a reinforced silt fence for erosion control at the limit of work and would agree to construction monitoring. If the Commission does approve the project as proposed, they will go back to ZBA and re-request the original variances; if granted, they will amend the OOC to relocate the house outside the 100 ft buffer.
- BO asks if they have the latest site plan on file, as the one they have appears to be dated back to April. JZ states that the plans were revised in September; CH states the last thing the Commission received in its file was dated August 31st. MS pulls up a site plan dated September 13 on the Conservation Office drive. BO wants to ensure the Commission is approving the same plan ZBA is going to see.
- BO watched the ZBA hearing and believes they wanted to see how the house would fit within the 125 ft building circle required by the Planning Board. BO would like to know whether the house shown on the site plan fits within the circle; JZ is not sure if it does or not. BO wants to ensure that the plan the Commission approves is the same plan that ZBA sees and acts upon. JZ indicates that if ZBA denies their variance request, they would proceed under the OOC issued by the Commission.

- BO agrees that construction monitoring would be a good idea, and asks about the need for fill between the 50 and 75. JZ indicates there would be some fill brought in around the edge of the foundation to make a level lawn, which would start at 74 ft. from the back of the house and taper down to 70 ft. at the 50.
- CH is concerned about protecting the slope, in particular three large oaks along the 75 ft. buffer line that she believes keep it stable. If the Commission were to approve the current plan, she would want a special condition requiring the trees to remain and believes Chapter 505, 103.3 of the bylaw allows the Commission to consider the impacts of a project even if they originate on or beyond the 75 ft. buffer. JZ states that leaving the trees “basically kills the project,” as they would have to be removed for the siting of the house and the driveway. CH maintains she is concerned about the impact of removing the trees on the slope.
- JR asks about previously raised questions about whether all of the proposed work could fit within the 75 ft buffer. JZ believes this was resolved when the wetland boundary was confirmed. BO believes the question raised concerned accuracy of the contours on the original site plan, and notes the contours were revised and the site plan bears a registered engineer’s stamp. JR notes that engineers have missed things in site drawings on his property. JZ reiterates that in affixing the stamp, the engineer is legally attesting to the site plan’s accuracy.
- BO and SC share CH’s concern about removing the trees. JZ notes that applicant bears the responsibility for ensuring erosion controls are functioning and the site is stable; if it is not stable, the Commission can take the appropriate action at that time. However, JZ believes the construction monitor and reinforced erosion controls will ensure the site is stable. SC notes that the impacts of removing the trees may not be immediately felt but lack of the root systems may harm the slope over time. This is a steep slope, and she has seen too much erosion in situations like this to not give serious consideration to the issue. JZ notes they would be willing to plant additional trees, and the site must be stabilized in order for the COC to be issued. He is also not sure the Commission should deliberate projects based on future hypotheticals. BO points out that conservation markers will be posted along the 50 and notes for the record that the Commission would issue an enforcement order if anything happens beyond those markers now or in the future.
- BO suggests that JZ consider a planting plan to stabilize the slope if the trees are removed. JZ suggests the addition of trees of varying sizes along the 50 ft buffer. BO also asks JZ if he is sure all three trees need to be removed. JZ is not completely sure but believes they likely would have to go; if they did stay, they would probably present a hazard to the house.
- After further discussion, CH requests that JZ add the three trees and PB building circle to the site plan. SC asks whether a third party review of impacts to the slope is warranted. MS suggests that jute netting may also be useful as part of the erosion controls; JZ is willing to add this to stabilize the slope. JZ will update the site plan and devise a planting plan to stabilize the slope.
- Speaking as a resident, William Finn, 96 Dog Lane, would like to know how much fill would be going in, how it would be stabilized, and what kind of a slope is the fill being put on. JZ notes that the fill would go in back of the house up to the 50 ft buffer, in order to level out the grade; he does not know the exact square footage but can get an estimate. The fill would be stabilized temporarily with vegetation, possibly winter rye, and ultimately lawn. WF would like to ensure that monitoring and stabilization activity continues post-construction, and suggests that the Commission request details as to type and quantity of fill.
- JZ motions to continue the hearing to January 18, 2023. SC second. Approved 7-0-0.

3007 Pizziferri, 21 Olympia Road (Raze & Rebuild S.F.H.).....cont. from 11/2/2022 (Craig)

- The applicant has requested in writing to withdraw the Notice of Intent without prejudice.
- CH motions to approve the withdrawal request without prejudice. JR second. Approved 7-0-0.

REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS

2915 Cutter, 10 South Street [COC]

- An order of conditions was issued for elevation of the home; at the time of the original COC request, it was found that homeowner had added walls and screening at the ground level to enclose the area beneath the home. MS visited the property and observed that the walls and screening have been removed. The floor materials are pervious. Building Commissioner AS has indicated that the remaining items on the ground level are permissible. The originally proposed vinyl fencing has been replaced with wire/wood fencing. MS adds that the remaining structures are all sitting on pallets. A shower existing before the home elevation has a pervious surface.

- CH motions to issue a COC for the property. JR second. Approved 7-0-0.

0236 Hof-Nash Realty, LLC, 1 Union Street, Marshfield / 330 Oak Street, Pembroke (Town Line) [COC]

- The property is a self-storage facility on the town line in Pembroke; a nearby wetland system extends into Marshfield, and a small portion of the access road encroaches into Marshfield. MS visited the site and recommended issuance of the COC.
- CH motions to issue a COC for the property. SC second. Approved 7-0-0.

2698 Fopiano, 1210 South River Street [COC]

- The plantings have achieved the required percentage of success and all conservation markers are installed. There is some evidence of minor deer grazing. MS visited the site and recommended issuance of the COC.
- CH motions to issue a COC for the property. BO second. Approved 7-0-0.

1074 Zailskas Family Nominee Trust, 36 Old Ocean Street [COC]

- MS noted some deviations from the approved plans, including a larger than approved pool, and unpermitted paved parking lot 12' and shed near the wetland. There has been no action on the part of homeowner since these issues were noted.
- CH motions to table the matter to January 18, 2023. JO second. Approved 7-0-0.

1500 Minichino, 71 Constellation Road [COC]

- This OOC concerns construction of the house. A HVAC unit needs to be elevated and an enclosure needs to be removed; Conservation staff has given applicant a punch list to complete. There has been no action on the part of homeowner since these issues were noted.
- CH motions to table the matter to January 18, 2023. JO second. Approved 7-0-0.

1917 Francis, 13 South Street [COC]

- CH reads an e-mail from attorney Michael Baird, representing homeowner, proposing that the mud floor be broken into pieces and left in place. Their contractor will then communicate with AS to ensure a sufficient amount of gravel be put in place to bring the area into compliance with local and FEMA regulations. "If the Commission is in agreement with this proposal, parties will engage their contractor to begin work."
- CH spoke with Town Counsel this afternoon, who suggested a similar suggestion. JR wants to ensure that the concrete cover is broken up enough to ensure adequate drainage. WF suggests that the Commission substitute the term "crushed" for "broken into pieces". JO notes there is a performance standard regarding drainage rate that will applicant will meet regardless of language. Initial consensus after discussion is to specify that the concrete be broken up "to the satisfaction of the Building Commission/Floodplain Administrator."
- MS reads comments from AS stating the Commission, not him, should decide how and to what degree they want the floor to be broken up. AS also specifies that the area beneath the house needs to be elevated to the level of the outside grade. All agree after some further discussion to specify that the mud floor be broken up "to provide adequate drainage." AS suggests that breaking the floor into 4 to 6 inch pieces would meet this criteria; MS adds that this could be verified by photo documentation.
- CH moves that the Commission allow homeowner to break up the mud floor into 4 to 6 inch pieces, fill the subspace to grade level with compatible fill, and notify the Conservation Administrator so he can verify the floor has been broken up to Commission specifications. BO second. Approved 7-0-0.

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

- Outstanding issues include the need for signed and stamped as-built plans showing the three conservation markers, relocation of a fence and PVC post up-gradient of the wetlands. There have been no updates recently.
- CH motions to table the request until January 18, 2023. Seconded by JO but no vote taken. A motion at the December 7 meeting tabled the request "until further information is received."

ENFORCEMENT ORDERS

Smith, 38 Liberty Street (11/19/18 KS will set early Dec visit); Drosopoulos, 7 Lady Slipper Lane (08/15/18 TC Final Notice); Mahaney, 46 Preston Terrace (12/12/18 BG met with TC); White, 180 Atwell Circle (Escalation letter in Process); Bednarz/ Nouza, 65 Ireland Road (Unpermitted Cutting \leq 50 ft): Tamara Macuch, 237 Webster Avenue; Stifter, 102 Bartlett's Island (unpermitted revetment wall)

ADJOURNMENT – CH makes a motion to close the hearing at 7:49 PM. JR second. Approved 7-0-0.

Respectfully submitted,
Liz Anoja, Conservation Administrative Clerk

Marshfield Conservation Commission
Mike Seele, Conservation Agent

Craig Hannafin, Chair	Bert O'Donnell, Vice Chair
Joe Ring	Susan Caron
John O'Donnell	Ken Dodge
David J. Good	