

MEMBERS PRESENT – Craig Hannafin (CH) Chair, Bert O’Donnell (BO) Vice Chair, Susan Caron (SC), John O’Donnell, Joe Ring (JR), Ken Dodge (KD), Mike Seele, Conservation Agent (MS)

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

CHAIRMAN’S ADDRESS

- Recently passed legislation allows for the continuation of remote or hybrid municipal meetings through March 31, 2025. 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.
- Commission consultant William Finn (WF) thanks administrative assistant Liz Anoja for her assistance in preparing a Municipal Vulnerability Program (MVP) grant application, which requests \$1,900,000 to remove the dam and conduct other restoration at the Veterans’ Memorial Park. The submittals from Woods Hole Group and Fuss & O’Neill were also very helpful in the process.

BUSINESS

NEW:

B1 de minimis activity Roll/Review/Ratification

a. Lori Fopiano, 1210 South River Street, Tree Cutting

- The proposed activity is the cutting of hazard trees in buffer zone to BVW. MS notes the trees are in poor condition and recommends approval with the standard conditions of approval. Twp Commissioners have reviewed and approved the activity by e-mail.
- CH motions to approve the proposed activity as De Minimis with the standard conditions. JR second. Approved 6-0-0.
- After the vote, applicant Laura Fopiano notes that the Zoom audio was muted when the Commission discussed her request; CH indicates they will redo the vote.
- CH motions to approve the proposed activity as De Minimis with the standard conditions. JR second. Approved 6-0-0.

b. Justin Previte, 110 Pleasant Street, Tree Cutting

- The proposed activity is the cutting of hazard trees and a fallen limb. MS recommends that the trees in Commission jurisdiction be stumped to at least 4 feet height, or to the extent that they are no longer hazardous. Two Commissioners have reviewed and approved the activity by e-mail.
- CH motions to approve the proposed activity as De Minimis with the standard conditions. KD second. Approved 6-0-0.
- The Zoom audio was muted when the Commission discussed the request; CH indicates they will redo the vote.
- CH motions to approve the proposed activity as De Minimis with the standard conditions. KD second. Approved 6-0-0.

B2 Bridgewell Dura-Base Mat System for use on Salt Marsh.....Paul Armstrong

- Builder Paul Armstrong, 12 Sea Street, notes that the standard conditions of approval for dock projects prohibit use of tracked/wheeled equipment on the salt marsh; this makes construction difficult, as often a barge cannot be positioned close enough to the work area. PS believes the Bridgewell mat system, comprised of interlocking mats placed over the marsh, would allow for the use of such equipment on the marsh with “very little impact,” allowing builders to complete dock projects “twice as fast”. He would like the Commission to allow for the use of such mats in future projects on a case by case basis.

- CH asks PS about his experience with the system. PS just used the mats on a cranberry bog, where they supported 60,000 pounds of machinery, leaving the fruit beneath undamaged. JR asks if the product saves money; there are savings in terms of labor cost and a better finished product, as the piles can be driven deeper. BO notes that similar matting was used successfully in a project replacing electric poles by Trouant’s Island.
- Consultant WF suggests that applicants wishing to use matting systems submit a request for a variance with their NOI, as he is not sure it can be approved after the fact. PS thinks the Commission can consider the request during the public hearing process. JR suggests the intent of the bylaw is to avoid damage to the marsh, and the Commission could modify its standard conditions to allow equipment shown not to be harmful to be used. BO does not believe a variance was issued for the Trouant’s Island project but there were conditions requiring the mats to be removed after a certain period of time. JR suggests that MS look into options for allowing the use of matting systems, including changes to the standard conditions.

B3 Bill Pappastratis, 1125 Ferry Street (DMA vs. RAOOC).....Bill & Commissioners

- The Order of Conditions SE42-2997 was issued in August, 2022 for construction of an addition. Applicant would like to add a 24’ by 20’ paved turnaround to the driveway with a two-foot retaining wall. MS notes that the existing driveway is currently paved, and the work area is in previously disturbed area just outside the 50 ft buffer.
- CH motions to approve the addition of the turnaround as a De Minimis activity to be captured on the As Built plans during the Request for Certificate of Compliance submittal. SC second. Approved 6-0-0.

B4 Mary Murphy / Brant Rock Residents, digging out Lovers Rock on Brant Rock Beach.....Mary & Commissioners

- Mary Murphy, 252 Ocean, present. She and her neighbors in Brant Rock would like to dig out Lovers Rock, which was covered over when the jetty out to Brant Rock was constructed. MM shows the Commissioners a photo of the rock before the jetty’s construction, at which point it was large enough for two adults to sit on. The work would be done by hand at some point in the summer. They would only dig 2-3 feet around the rock, and she is aware that the rock may be covered over again. MM would also like to know what kind of activity could be done on a vacant town lot between the seawall and observation tower and if any permitting would be required. She would also be interested, long-term, in making the jetty handicap accessible.
- CH does not see the digging as an activity that requires a permit; her and BO’s only concern is where the rock is in relation to an outfall pipe on the beach, and CH recommends that MM check in with DPW as to where the pipe is. CH also recommends that MM determine the actual ownership of the vacant lot (Select Board or Conservation); MS can assist in this.

B5 Brian Tedeschi, 162 Bay Avenue (DMA vs. RAOOC).....Brian & Commissioners

- The original Order of Conditions was issued in 2021 to raze an existing SFH in coastal dune and construct a new one on open piles. Several issues have been raised by Building Commissioner Andrew Stewart (AS), including the addition of a staircase, 12’ by 5’ concrete slab, and enclosure beneath the house.
- AS has been told by Coastal Zone Management and the state Appeals Board and Board of Building Regulations and Standards that the state building code must be followed regardless of what a local Commission may have approved; this includes no enclosures of an open pile foundation. AS would like some additional guidance as to what kind of privacy screening, if any, owners can have beneath their structures as he has been unable to receive this at the state level. AS and applicant would also like to know what should be done with the concrete slab.
- MS has printed out comments from CZM and the state regarding privacy screening and lattice underneath such structures for the Commissioners to review, as this is a common request. CH believes CZM is amenable to some privacy screening beneath structures behind seawalls provided 50% of the area beneath is left open and there is space beneath the screening.
- BO asks if the enclosure was included on the original site plan; it was not but was later added to the plans as the house was designed. JR notes that flooding on this property is more likely to come from the marsh as opposed to the ocean if the seawall is maintained as planned.
- AS states that the enclosure has to be removed and believes the stairs would have to be open with no risers to not be considered an additional enclosure - “The Building Code says no enclosures in new construction in a coastal dune...at all, below the structure” to avoid damage to the foundation. AS would like clarification from

the Commission as to whether (1) the slab can remain, and (2) three diamond piers can be added beneath the house to support the posts that will protect the waste pipes. The Commissioners agree that the slab can remain and the addition of diamond piers is permissible as a De Minimis activity. BO notes there is still much less impervious space on the lot than previously.

- CH motions to approve the placement of three diamond piers beneath the house as a De Minimis activity to be captured on the As Built plans during the Request for Certificate of Compliance submittal. JR second. Approved 6-0-0.
- After the vote, AS suggests that he and the Commission discuss permissible types of screening for flood zone properties at a future meeting, so applicants and builders can be made aware during the permitting process.

B6 Bill Jewett, 174 Fairways Edge Drive (DMA vs RAOOC).....Bill & Commissioners

- An Order of Conditions was issued in February for removal of a deck and construction of an in-ground pool and patio. Applicant BJ advises that the pool will be smaller than permitted - 35' by 16 instead of 40' by 25'. He would also like to install a hot tub in part of the patio area, resulting in "less patio, more grass." He would also like to extend the retaining wall in back. JR suggests the changes be approved as De Minimis as the area is previously disturbed and there is no encroachment on the 25 ft buffer; all agree.
- CH motions to approve the smaller pool and patio, extension of the retaining wall, and addition of the hot tub as De Minimis activities to be captured on the As Built plans during the Request for Certificate of Compliance submittal. JO second. Approved 6-0-0.

PUBLIC HEARING (ON OR AFTER 6:40PM)

23-06 Doku Commercial R.T., 2000 Ocean Street (Paving of Gravel Parking Area).....NEW (Bert)

- CH reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- The proposed activity is the paving of an existing gravel parking area so it can be plowed in the winter. The lot lies in Riverfront to the South River, and part of the parking area is already paved. MS notes this would be a large increase in impervious area and there is no stormwater management plan, but a previously implemented planting plan will absorb some of the increased runoff. The area is currently a mix of gravel and reclaimed asphalt, so it is already somewhat impervious. Site plan review by ZBA will also be required.
- BO thinks the area will need some sort of stormwater management, such as crushed stone gravel along the edge of the area to be paved. He would also like to see additional mitigation plantings and suggests that applicant consult with their project engineer as to options for stormwater management and mitigation. JR and CH concur, as otherwise the increased stormwater will run into the South River.
- BO asks for comments from the public; none.
- BO motions to continue the hearing to May 17, 2023. JR second. Approved 6-0-0.

3037 Mathieu, 10 Charlotte Street (Raze & Rebuild SFH).....NEW (John)

- CH reads the legal ad. Hearing Officer JO confirms administrative requirements are complete.
- Rick Servant, Stenbeck & Taylor, present for applicant. The proposed activity is a raze and rebuild on a lot located in barrier beach/coastal dune and VE 13 flood zone. The new structure will be elevated on timber piles well above the flood elevation, in approximately the same location as the existing structure. The project will result in a 52 sq ft net increase in impervious coverage; the new structure adds 200 sq ft of coverage but this is balanced by the removal of some deck area and other structures. Silt sock erosion control is proposed. There will be a set of stairs beneath the house but they will remain open.
- JO visited the site and notes utilities will be located on the landward side of the house on the pilings; he has no concerns; RS notes that the area beneath the new structure is proposed to be open. Building permit and ZBA special permit will be required. Building Commissioner AS raised a question regarding a possible future elevator that RS will have to address with Building. KD asks if ADA requirements would supersede conservation regulations regarding structures beneath a house. CH and JR recall an earlier project in a similar area where an elevator was proposed but are not aware of the outcome. Applicant Sherry Mathieu is hoping an elevator will not be needed in the near future. BO notes there is nothing shown on the site plan about an elevator, "so we're not approving or not approving an elevator."
- There was no public comment. The standard conditions will apply plus special conditions regarding erosion control and submission of an elevation certificate.

- JO motions to close the hearing and issue Orders of Conditions with special conditions drafted by MS. JR second. Approved 6-0-0.

30 Marshfield Airport Commission, 93 Old Colony Lane (Vegetative Management Plan).....NEW (Craig)

- CH reads the legal ad. The matter is continued pending receipt of a DEP file number.
- CH motions to continue the hearing to May 17, 2023. JR second. Approved 6-0-0.

3038 Ruel, 30 Old Beach Road (Shed & Landscaping).....NEW (John)

- CH reads the legal ad. Hearing Officer JO confirms administrative requirements are complete.
- John Zimmer, South River Environmental, present for applicant, who proposes the addition of a shed on blocks in the back right corner of the lot; vegetative management, including the removal of poison ivy and red cedars; as well as addition of a layer of loam and grass seed. They would also like to relocate the driveway and install two decks (one lower deck on concrete piers and one upper-level deck) along the eastern side of the lot. They are also offering mitigation plantings, including beach grass, beach rose, and bayberry along the front of the lot and cedars and other screen plants in back of the shed. They hope to relocate some of the existing cedars and a patch of beach grass as part of the plan. The lot is in LSCSF but complies with the performance standards for coastal dune.
- Comments from AS state that the shed footings must “prevent lateral movement, uplift, collapse, or flotation,” and must have a minimum of two opening on opposing sides of the shed. AS subsequently advises MS that the openings are a NFIP requirement. JZ will be in touch with the Building Department regarding footing and venting for the shed.
- JO notes he was unaware of the deck addition until this hearing; JZ states it was in the site plan but may have been left out of the narrative; he is willing to revise the NOI application. CH adds it was not referenced in the legal ad. JR suggests that a new ad may be needed in order to comply with public notice requirements. Consultant William Finn suggests that the hearing be continued and a new legal ad referencing the decks be submitted. JZ indicates they are willing to continue and repost; CH will verify the proper course of action with Town Counsel.
- JO motions to continue the hearing to May 17, 2023. JR second. Approved 6-0-0.

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

- The applicant requested a continuation to the 5/17/2023 meeting in writing.
- CH motions to continue the hearing to May 17, 2023. JR second. Approved 6-0-0.

3024 Maglio, 146 Dakota Street (Elevate & Reconstruct SFH).....cont. from 2/1/2023 to 5/17/2023 (Joe)

- The applicant requested a continuation to the 5/17/2023 meeting in writing.
- CH motions to continue the hearing to May 17, 2023. JR second. Approved 6-0-0.

3015 Medlin, 60 Foster Avenue (Addition, Garage & Porch).....cont. from 12/21/2022 to 5/17/2023 (Susan)

- The applicant requested a continuation to the 5/17/2023 meeting in writing.
- CH motions to continue the hearing to May 17, 2023. SC second. Approved 6-0-0.

2958 Speakman, 274 Foster Avenue (Elevate SFH).....cont. from 11/2/21 to 6/21/23 (Susan)

- The applicant requested a continuation to the 6/21/2023 meeting in writing.
- CH motions to continue the hearing to June 21, 2023. SC second. Approved 6-0-0.

OLD BUSINESS:

B7 Policy and Procedure Changes.....Commissioners

- All present discuss a proposed change to Commission policy and procedures requiring applicants for a Conservation permit to first fill out a floodplain permit. Advance notice was given at the previous meeting, as required. CH reads the procedure for implementing policy/changes into the record.
- JR suggests the proposed policy would put residents in a catch-22, as Building requires residents to have “acquired” all other permits before they can apply for the floodplain permit, and this policy would require them

to apply for the floodplain permit before applying for their conservation permit. JR also states that the floodplain permit, at 6 pages long, is much longer than similar applications in other towns - "We should be finding a way to make it simpler for our residents to comply with the rules...instead of making it complicated so that they can't." BO asks if Building's policy requires residents to have received the permit or just applied for it.

- JO notes there seems to be a disconnect between Building and Conservation as to the proper sequence of permitting, and suggests the process should be addressed at from the town-level as opposed to individual departments. BO's understanding of floodplain permitting is that applicants would start there and get referred to all other departments as needed but JR sees it as standalone. The Commissioners further discuss a push for "concurrent permitting" and how conflicts between departmental procedures can be resolved. CH notes "there seem to be some technical glitches that need to be addressed." JR agrees with JO that the resolution should come more from the town administration level.
- Building Commissioner AS is taken aback by the criticism of the floodplain permitting process, stating he has offered in the past to explain the process and its purposes; it is supposed to work in concert with Conservation and other permitting. "It is a townwide process to help residents through the very difficult process of permitting any type of construction or development activity in a flood zone." It is designed to be a roadmap for applicants and encourage departments to share information - "everyone sees the same stuff, we all read the same comments" - and not supersede any individual department's authority. AS would like the Commission to table the discussion so he can explain his view of how the process should work.
- WF supports the intent of the floodplain process and suggests the Commission and AS discuss the matter at a future meeting. WF's understanding of the current process is applicants only have to have applied for a floodplain permit before going to the Conservation Department, and he feels the process has mostly gone well. JR agrees with the concept of floodplain permitting but maintains the proposed procedure does not tackle the issues at hand, "is not compliant with the bylaw," and would put residents of perjuring themselves by having to represent all necessary permits have been acquired before that has happened. AS states the process "is not violating a single town rule or a single town bylaw."
- JO notes that AS recently indicated he would not comment on projects before the Commission unless applicants had completed a floodplain permit. AS states he was advised to do this by Town Counsel; he does the same for ZBA. JO notes he supports in principle requiring Conservation applicants to first apply for a floodplain permit but notes the requirement that "application shall contain completed checklist demonstrating that all necessary permits have been acquired" strikes him as an internal inconsistency. AS states this is direct language from the floodplain bylaw passed at Town Meeting and required by FEMA in order for towns to participate in the NFIP. The way the process is supposed to work, "each board is concurrently making comments and sharing information." The checklist itself was developed working with WF, BG, and other Town departments and officials; AS is willing to amend parts of the language if needed.
- BO suggests "there is a differentiation between application and permitting," and all the Commission policy would do is require applicants to have first applied for, but not necessarily received, a floodplain permit; this by itself wouldn't cause any further delays. JO suggests the language in the floodplain permitting procedure requiring that "all necessary permits have been acquired" seems to be the sticking point. Most residents probably have not done so when they appear before the Commission. CH thinks all are in agreement that concurrent and streamlined permitting is the goal, but "there are bugs in the system." JR believes it is essential that the "all necessary permits" be changed. CH and KD suggest that the Commission discuss amendments with AS at a future meeting. Until such changes are made, CH and SC suggest that the Commission continue to require applicants to have first applied for a floodplain permit, as has been done since January. JR would like the signed statement requirement be waived in the interim. CH will consult with Town Counsel.
- *CH moves that the policy and procedure discussion be tabled, and that Commission continue to require Conservation permit applicants to have filed for a floodplain permit pending further revisions. BO second. Approved 5-1-0.*
- After the vote, JR notes that the reason for his "no" vote is the language of the signed statement requirement in the floodplain permit. He has no other objection.

REQUESTS FOR CERTIFICATE OF COMPLIANCE AND EXTENSIONS

1233 Condon, 46 Island Street [COC]

- MS notes that no as-built plan was submitted with the request for COC, but he visited the property and all seems in conformance to the site plan approved in the OOC. MS observed the addition of a small paver patio that appears to be pervious. The back yard directly abuts salt marsh, which conservation markers on posts could help protect. The Commissioners agree to waive the as-built plan requirement but require the markers.
- CH motions to issue a COC for the property with the condition that two conservation markers be posted along the edge of lawn. SC second. Approved 6-0-0.

2985 Zablocki, 208 Foster Avenue [COC]

- MS advised that all work had been completed as originally approved.
- CH motions to issue a COC for the property. JO second. Approved 6-0-0.

2976 White, 106 Preston Terrace [COC]

- MS advises that the building commissioner has conducted and approved the final inspection, and no open permits or violations remain.
- CH motions to issue a COC for the property. SC second. Approved 6-0-0.

1500 Minichino, 71 Constellation Road [COC]

- An HVAC unit needs to be elevated and an enclosure needs to be removed; Conservation staff has given applicant a punch list to complete. MS has conveyed this to the previous owner and the contractor at a site visit; they are to contact him once the issues have been addressed.
- CH motions to table the matter until May 17, 2023. JR second. Approved 6-0-0.

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, and relocation of a fence and PVC post upgradient of the wetlands. MS reached out to the new owner and has had no response.
- CH motions to table the matter until May 17, 2023. SC second. Approved 6-0-0.

ENFORCEMENT ORDERS

ADJOURNMENT – CH makes a motion to close the hearing at 8:58 PM. KD second. Approved 6-0-0.

Respectfully submitted,
Liz Anoja, Conservation Administrative Assistant

Marshfield Conservation Commission

Mike Seele, Conservation Agent

Craig Hannafin, Chair

Joe Ring

John O'Donnell

Bert O'Donnell, Vice Chair

Susan Caron

Ken Dodge