

**MEMBERS PRESENT** – Craig Hannafin (CH) Chair, Bert O'Donnell (BO) Vice Chair, Susan Caron (SC), John O'Donnell (JO), Jesse Platt (JP), Mike Seele, Conservation Administrator (MS)

**MEMBERS NOT PRESENT** - Ken Dodge (KD), Liz Anoja, Conservation Agent (LA)

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

**MINUTES - 11/4/2022**

**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.
- CH welcomes new Commissioner Jesse Platt.
- CH notes that Commissioner Joe Ring has resigned and thanks him for his service and expertise.

**NEW BUSINESS**

**B1 *de minimis* activity Roll/Review/Ratification**

**a. NONE**

**B2 41 South Point Lane, Pool equipment enclosure and propane tanks- Katie Gerstel and Commissioners**

- The Order of Conditions SE42-3009 was issued for construction of an in-ground pool, concrete patio, hot tub, 12' by 16' pool house, and fencing. Applicant would like to add a pool equipment enclosure and propane tanks for the heater. CH visited the site and notes part of the fence has shifted slightly inside the 50 ft buffer; the tanks will also be slightly in the 50. CH notes that additional permitting will be required for the propane tanks.
- CH motions to approve the addition of the enclosure and propane tanks as a De Minimis activity to be captured on the As Built plans during the Request for Certificate of Compliance submittal. SC second. Approved 5-0-0.

**B3 0 Main Street – Possible Amendment to the Order of Conditions – Steve Bjorklund and Commissioners**

- Builder Steve Bjorklund present to discuss his interest in the property. Permitting to construct a single-family home on the property was originally denied under SE42-2644 but then approved under SE42-2687 with special conditions requiring vernal pool replication, completion, and certification prior to construction of the SFH, as well as time of year constraints on the SFH construction. SB states the property has not been purchased to date because the previous agent had indicated to buyers that no building could take place on the property until two years after completion of the vernal pool. If this is accurate, SB would like the Commission to consider waiving this provision, as financing to purchase the lot cannot be obtained without a building permit. He has successfully replicated vernal pools at other properties in the area, is a former conservation commissioner in Scituate, and is willing to post a \$10,000 bond to ensure successful replication. He would utilize the existing plan for VP replication prepared by Brad Holmes. SB states VP replication is generally a simple project, and monitoring is typically tied to issuance of an occupancy permit rather than a building permit. SB will reach out to DEP and NHESP for their input and report back to the Commission.
- CH asks if the special conditions are related to NHESP or DEP concerns; BO notes that the original denial was overturned by DEP and the conditions were part of the superseding orders of conditions SE42-2687. He would want to review the conditions and decision paperwork before making any decision. CH will review the original permitting documents and the applicable town bylaws.

**B4 225 Bay Avenue – Concrete Pad at stair landings – Jack Clancy & Commissioners**

- CH states that a concrete pad supporting stair risers landing several feet from the river was added without any permitting; this cannot be permitted in this location and must be removed. MS states that Building Commissioner Andrew Stewart has been advised, and AS has issued comments to this effect. Homeowner must work with the Commission and Building on a different stair design.

**B5 Wildlands Trust 50<sup>th</sup> anniversary map update Support Letter – Craig Hannafin**

- Wildlands Trust is updating their trail maps as part of their 50th anniversary; they would like the updated maps to include town-owned lands governed by conservation restrictions managed by them. A letter of support authorizing them to do so has been sent to Wildlands, noting that “Marshfield is rich and open space, with many wonderful trails, and the addition of the trails on properties with conservation restrictions on your revised map will enhance the opportunity for everyone who enjoys the recreational opportunities the town has to offer.”

**B6 Hackett, 53 Ridge Road (Structures in Marsh) – Joe Hackett & Commissioners**

- The Commission discusses a citizen’s complaint regarding the placement of a bench, Adirondack chair, and signage in salt marsh near the edge of the South River. Property owner Joe Hackett notes the property abuts the Marshfield Yacht Club, and he has had trespassing issues in the area, including the resource area. CH notes that salt marsh is one of the town’s most delicate resource areas, and any activity in the area requires Commission notification and permitting; posting conservation markers along the property line may address the trespassing issue. JH is happy to post the markers, noting he already has a wooden fence along the MCH property line with “no trespassing” signs. BO suggests that JH notify MHC about the issue.
- CH advises that the bench cannot remain in its present location. JH replies that the bench is “probably the most attractive thing that I see along the river on people’s marshes.” He has had chairs, boats and other things in the area - “In my mind, it’s my yard for my use”, and whoever reported him may have a personal vendetta. CH advises she does not know the identity of the complainant, as they are not required to identify themselves. JH states he put a lot of labor into the bench, and it only involves the placement of two posts 18” into the ground. He would like to keep it there and inquires if it could be permitted after the fact. CH does not see a way to permit the bench where it is, as the shading beneath the bench, people walking back and forth to use it, and tidal scouring all adversely impact the salt marsh. JH notes that he walks through the marsh to swim in the river, and all his neighbors do the same or similar; do the regulations mean “I have no right to use my property”? MYC recently completed dock work in the marsh that was permitted but far more disruptive. CH points out that dock work is engineered to do the least harm to the resource areas they cross. BO notes that unpermitted permanent structures in the marsh are not permitted, and the Commission has enforced against them consistently. Properly engineered and permitted docks and piers can reduce impacts to the resource area over the long term by eliminating traffic over the marsh.
- JH restates he would like “an opportunity for me to get some kind of permit to do what I want.” CH maintains the bench placement is not permissible, and it will have to be removed or the Commission will enforce.

**OLD BUSINESS**

**B7 0 Ferry Street, Laur/Bauman (SE42-3020).....Commissioners**

- Tabled

**B8 62 Marginal Street, Lawson.....Commissioners**

- The Order of Conditions SE42-2916 was issued in 2021 for construction of a 2’ wide pier and landing with no float but two access ladders. Applicant Ken Lawson indicates they would like to widen the pier 5” on each side to 34” for safety reasons. CH notes that she and others commented on the narrowness of the pier at the permit hearing. KL indicates they have reached out to Kelly Harper at DEP, who has requested a letter from the Commission approving the modification. The pilings are in but not trimmed yet, so they are able to adjust the

height to maintain the current 1:1.5 height to width ratio. Builder Keith Walo indicates he can go to 4.5 feet height, which will in fact slightly improve the H:W ratio.

- KL adds they have been able to reduce the number of pilings by about one third, to 32 pilings. The Commissioners agree these modifications will help mitigate the impact of the wider dock. Comments from AS advise applicants to submit a floodplain permit. The Conservation Office will provide the requested letter to DEP.
- CH motions to approve the dock width modification as a De Minimis activity to be captured on the As Built plans during the Request for Certificate of Compliance submittal. BO second. Approved 5-0-0.

#### **PUBLIC HEARING (ON OR AFTER 6:40 PM)**

##### **23-12 Recreational Trails Committee, 172 South River St. (Shoulder Improvements).....cont. from 6/21/23 (Ken)**

- The applicant requested a continuation to the 7/19/2023 meeting in writing.
- CH motions to continue the hearing to July 19, 2023. SC second. Approved 5-0-0.

##### **23-15 Grubbs, 1081 Ocean Street (Addition).....NEW (John)**

- CH reads the legal ad. Hearing Officer JO confirms administrative requirements are complete.
- Applicant Eric Grubbs wishes to construct a 12' by 12.8' addition on diamond pier footings in previously disturbed lawn; the area beneath will remain pervious. BO visited the site with MS; both have no issues.
- Building Commissioner AS has advised he needs to make a "substantial improvement" determination for the project. EG indicates his current cost estimates fall well beneath the "substantial" threshold.
- There was no public comment; the standard conditions of approval will apply.
- JO motions to issue a DOA, Pos. #5, Neg. # 3, with special conditions drafted by MS. SC second. Approved 5-0-0.

##### **23-16 Rhodes, 12 Edward Road (2 Fence Sections).....NEW (Bert)**

- CH reads the legal ad. Hearing Officer JO confirms administrative requirements are complete.
- John Zimmer, South River Environmental, present for applicant Brian Rhodes (BR). JZ briefly discusses the history of the property, noting they obtained an Order of Conditions for various unpermitted activities including construction of a walkway, parking area, and initiation of an addition; its conditions of approval required removal of the parking area and peastone fill, placement of four conservation markers 10 ft upgradient from the 25 ft buffer, no change in contours on the site, removal of excavated earth offsite, and submission of a planting plan. This work has been completed except for the planting of some willow trees; these are on order and will probably be planted in September. Since that filing, DPW has looked at the area and believes the ongoing drainage issues are due to a blocked culvert under the roadway; they will be looking into possible solutions. MS has spoken with DPW and confirms this is their interpretation.
- JZ indicates the proposed activity in this filing is the installation of two sections of vinyl privacy fencing in existing lawn area, one 57' section on the western side and a 30' section on the northern side. They would like the clearing beneath the fence to be 3-4" instead of 6" - JZ notes the fencing is not contiguous so wildlife can walk around it.
- BO asks if the fill removal required in the previous filing has gone according to plan; JZ indicates this was completed in accordance with the approved plans; JZ states there have been no change to the elevations on the site. BO asks if DPW commented on that issue; MS indicates they have only looked at the stormwater piece. BO notes that the lowest elevation on the Rhodes lot is 13 ft, and the lowest elevation on the adjacent vacant lot is 12 feet; based on this, he doesn't see how the Rhodes lot could be contributing to additional flooding in the area. JZ states that the grading issues and drainage concerns were addressed in the previous enforcement action and are not the subject of this filing. SC notes that the conditions of the previous OOC required placement of conservation markers at least 10 feet up gradient of the wetland line, effectively creating a "no disturb" buffer. BO states he has no issue with the fencing as proposed; CH concurs and is also okay with allowing the 3" gap as it is not a floodplain.
- Florence Rubbo (FR), 313 Careswell, asks if a COC has issued for the previous OOC; it has not as the willow plantings remain to be completed. FR states applicant brought significant fill onto the property previously, and believes the conditions of the OOC state he is not allowed to do any other work on the property until the COC is

issued. BO replies the conditions require applicant to obtain additional permitting for additional work, which is what he has done. Maureen Foley, 15 McCarthy, also states that applicant should not be allowed to obtain an additional permit until the previous one is closed out. BO states it is not uncommon for residents to apply for additional permitting while a previous permit is still outstanding. MF claims the paperwork MS gave to them states “no other permits will be verbalized until all of this had been completed.” Several residents repeat allegations that applicant has brought “truckloads and truckloads” of fill onto the property in small increments. BO notes these issues were discussed at length at the previous hearing. CH states “everything that is on this property now is as per the permits that have been requested,” adding that an Order of Conditions is good for three years, and it is not unusual for permitted work to not be completed in full after two years. One resident states she has lived in the area 44 years and never had water on her property until Rhodes purchased and filled in the property. JZ suggests that any issues with the work permitted in the 2021 OOC be addressed when applicants requests a Certificate of Compliance, as “it has no bearing on the RDA that is in front of you.”

- Greg Morse (GM), 1474 Broadway, states the proposed western fence “looks beyond his property line.” JZ states in the RDA, applicant states the fence “would conform with all requirements from the town,” including property line setbacks; they have no issue with this being a condition of approval. GM maintains “this looks way past his property line,” but BO notes that the fence locations are drawn onto a surveyed plan that shows the property lines. JZ states the fencing will be placed fully inside applicant’s property line.
- Several residents allege that BR is pumping water from his addition into the wetland. JZ has no knowledge of this and suggests it would be something for MS to investigate; CH adds this has no bearing on the current request to install fencing. BO notes that direct pumping into a wetland is not allowed but residents can discharge into their lawn. MS and several commissioners have visited the property in the last two weeks and did not observe any piping.
- Linda Black-Dunn, 11 McCarthy, states she has had flooding in her garage for years and asks how it is going to be stopped. BO states DPW is looking at the culverts and catch basins in the area; based on the elevations on the assessor’s map, it is possible McCarthy Road could be draining into her yard, and that would not be Mr. Rhodes’ responsibility to solve. CH notes the Commission has encouraged DPW to investigate the drainage issues in the area as “that is your best chance at a solution.” There are multiple culverts and catch basins that, if unclogged, could solve the problem. JO asks if DPW has set a date to repair the drainage infrastructure; they have been out to the area at least twice in the past week but are still investigating. BO notes that this issue is beyond the scope of this particular hearing, and has no issue with the proposed fence installation.
- Applicant Casey Rhodes, 12 Edward Road, states that BR spoke with MS prior to installing the pump; it discharges into their property and “is facing the wetlands but is not going into the wetlands.” MS asks if the pipe extends past the conservation markers; CR states the pipe ends “well before” the markers. BO states this is an allowable use. GM asks if the fence will be placed beyond the conservation markers. BO states it will be before the markers but GM states “I heard otherwise.” JZ states “the fence will be located on the lawn side of the conservation markers. There will be no work occurring past the limit of the conservation markers. GM notes that a commissioner spoke in favor of removing all fill from the property at the 2021 hearing, but CH points out the other commissioners did not agree.
- The standard conditions of approval will apply plus a special condition allowing a 3” gap beneath the fencing.
- BO motions to issue a DOA, Pos. #5, Neg. # 3, with special conditions drafted by MS. CH second. Approved 5-0-0.

**2735 A Sheerin, 485 Pleasant Street (Raze & Rebuild SFH).....NEW (Craig)**

- CH reads the legal ad and, as Hearing Officer, confirms administrative requirements are complete.
- James Garfield, Morse Engineering, present for applicant. The Order of Conditions SE42-2735 was issued in 2018 for a raze and rebuild with mitigation planting plan, which itself was amended in 2021. Applicant now wishes to reduce the proposed building footprint, which in turn will decrease the impervious area within the Riverfront and BVW buffer zone. All mitigation plantings have been completed.
- MS suggests erosion control should be deployed at the limit of work to keep sedimentation out of the pond and planting area. CH notes that the plantings are doing well and the proposed changes will reduce the overall disturbance on the property. JG adds that an existing garage originally proposed to be rebuilt will be razed. CH

and MS noted a mown path beyond the conservation markers, circling the pond, that should be allowed to revegetate.

- Builder Steve Bjorklund notes he was involved with the original plan; the restoration work has been very successful and he looks forward to seeing the project move forward.
- The standard conditions of approval will apply plus the erosion control insert.
- CH motions to close the hearing and issue Amended Orders of Conditions with special conditions drafted by MS. SC second. Approved 5-0-0.

**2975 A Tedeschi, 160 Bay Avenue (Deck, walkways & elevate utilities).....NEW (John)**

- CH reads the legal ad. Hearing Officer JO confirms administrative requirements are complete.
- Paul Louderback, Merrill Engineers, present for applicant. The Order of Conditions SE42-2975 was issued last year to extend the porch structure in back of the house by 8.5 ft and add a new 9 by 7 deck off the porch, with stairs between them. The project was amended in December to shift the position off the stairs. Applicant would now like to add an at-grade wooden patio, similar to one previously existing on the property, and walkways on either side of the house. At the request of Building Commissioner AS, they would also like to raise a generator and HVAC unit above the flood elevation and fill the basement to elevation 10 in order to comply with FEMA regulations; this will require about 6" of fill. All activity will be captured on the final as-built plans.
- MS notes that raising the generator and HVAC will require a platform with footings. Comments from AS indicate that applicant had already started the patio construction but was stopped by a cease and desist; AS advised that the patio and walkways would have to be on footings to ensure water and sand can migrate; CH concurs and notes that the patio as designed could not be permitted in barrier beach/coastal dune. Applicant could alternatively use pervious pavers to have the walkways and patio at grade. SC suggests that pervious pavers may be preferable given the impervious coverage on the site.
- The matter is continued to allow applicant to consider redesign options for the patio and walkway. MS will provide guidance as to the necessary elevation.
- JO motions to continue the hearing to July 19, 2023. SC second. Approved 5-0-0.

**3051 Russo, 3 South Street (Deck Replacement).....NEW (Craig)**

- The applicant requested a continuation to the 7/19/2023 meeting in writing, and no DEP file number has been received.
- CH motions to continue the hearing to July 19, 2023. JO second. Approved 5-0-0.

**3047 Town of Marshfield DPW, 373 Plymouth Avenue (Pump Station Upgrades).....NEW (Bert)**

- CH reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- Project engineers Alston Potts, Environmental Partners, present. AP notes that the DPW station is about 50 years old and in need of upgrades; these will include replacement of all equipment, construction of a flood wall around the perimeter, and a new 18' by 26' generator room. A new filtering system will improve odor control in the area. The property lies in a 100 ft BVW buffer, and the location of the new generator room contains two storage tanks on a concrete pad which will be removed. The existing grades will be restored upon completion of the flood wall, and the work area will be reseeded with native grasses and shrubs.
- CH notes that the floodplain permit has not been completed, but DPW is aware this needs to be completed. AP notes they have been in touch with Building regarding the permit, and it will be completed ASAP. MS confirms all proposed work is in previously disturbed area; the work also involves removal of a walkway and replacement of an exterior staircase. The wetland delineation is current and accurate. BO asks if the diesel tank to be removed will be replaced; AP indicates the new generator will be powered by natural gas; there will be no new storage of fuel on the site. CH notes that the site is in NHESP habitat and asks if they have been contacted; AP indicates that NHESP has advised the project is exempt from MESA review.
- Valerie Franks, 359 Plymouth Ave, asks about the timeline for construction. The project will go to public bid in the fall; construction will take 18 to 24 months but may not be continuous. There will be a road closure from the Plymouth Ave/Second Road intersection to the 373 Plymouth property line, but not for the entire construction period; abutters will be able to access their homes. AP believes the work will be much less invasive

than the emergency force main replacement last year. Robert Terhune, 359 Plymouth, asks if the new generator will be quieter than the one to be replaced. AP notes they have had an acoustic engineer look at this issue, and they believe sound levels will be reduced with the new equipment.

- The standard conditions of approval will apply plus the erosion control insert.
- BO motions to close the hearing and issue Orders of Conditions with special conditions drafted by MS. CH second. Approved 5-0-0.

**3024 Maglio, 146 Dakota Street (Elevate & Reconstruct SFH).....cont. from 2/1/2023 (Craig)**

- The applicant requested a continuation to the 7/19/2023 meeting in writing.
- CH motions to continue the hearing to July 19, 2023. SC second. Approved 5-0-0.

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

- The applicant requested a continuation to the 7/19/2023 meeting in writing.
- CH motions to continue the hearing to July 19, 2023. SC second. Approved 5-0-0.

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

- The applicant requested a continuation to the 7/19/2023 meeting in writing.
- CH motions to continue the hearing to July 19, 2023. BO second. Approved 5-0-0.

**23-06 Doku Commercial R.T., 2000 Ocean Street (Paving of Gravel Parking Area).....cont. from 5/17/23 (Bert)**

- The applicant requested a continuation to the 7/19/2023 meeting in writing.
- CH motions to continue the hearing to July 19, 2023. JO second. Approved 5-0-0.

**REQUESTS FOR CERTIFICATE OF COMPLIANCE AND EXTENSIONS**

**1500 Minichino, 71 Constellation Road [COC]**

- MS has been in touch with the new homeowners; an elevation certificate is needed to close out the request.
- CH motions to table the request to July 19, 2023. BO second. Approved 5-0-0.

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

- Tabled

**ENFORCEMENT ORDERS**

**ADJOURNMENT** – CH makes a motion to close the hearing at 8:40 PM. SC second. Approved 5-0-0.

Respectfully submitted,  
Liz Anoja, Conservation Agent

Marshfield Conservation Commission  
Mike Seele, Conservation Administrator  
Craig Hannafin, Chair  
Jesse Platt  
John O'Donnell  
Bert O'Donnell, Vice Chair  
Susan Caron