

MINUTES – CONSERVATION COMMISSION
TUESDAY, JANUARY 24, 2017 7:00 p.m., HEARING ROOM 3
TOWN HALL, 870 MORaine ST., MARSHFIELD, MA

Members present: Robert Conlon, Chairman (RS), Frank Woodfall (FW), Chad Haitsma (CH), Bert O'Donnell (BO'D), James Kilcoyne (JK) and Bill Grafton, Conservation Administrator (BG). Arthur Lage was not in attendance. RC motioned to open the meeting, FW second, motion passed 6-0-0.

MINUTES September 6, 2016, September 20, 2016

BUSINESS

- Approve, vote & sign Orders of Conditions for closed hearings: (none)
- Scheduled Meetings: February 7th, February. 28th
- Need signatures on last meeting's RDA's:
 - RDA 16-11 Halliday, 1028 Ferry Street
 - RDA 16-12 Hollstein, 100 Enterprise Drive
 - RDA 16-13 Glod, 259 Dyke Road
 - RDA 16-14 Verizon Wireless, 969 Ocean Street

EXECUTIVE SESSION

ENFORCEMENT ORDERS

- Adelaide, 108 Webster Street – Greg Gibbs present. BG – everything that got sprayed with erosion control is holding up. Silt fence put down. Silt sock by rain garden nice job. Because it's a violation of the original orders, going to issue compliance letter. Fees doubled for the after the fact NOI. Bob Gray's report – couple flags in question. Greg Gibbs – does this entail moving the existing silt fence? FW – not sure yet. FW – hold off on new plans until we get the wetland flag report. BG – next steps? FW – periodic erosion checks. Greg Gibbs inquired about timing of After-the-fact NOI filing. FW – 2-3 weeks.

REQUESTS FOR CERTIFICATES OF COMPLIANCE

Backburner: (until problems are resolved)

1. 1658 Heaney, 29 Farragut Road
2. 2324 Wallace, 110 Damon's Point Road
3. 1090 Peterson, 219 Ridge Road
4. 1827 L. L. Smith, 60 Macomber's Ridge
5. REQ-PCC-1925, Cushing Construction (Parsonage St.) Garden Gate
6. 2381 NSTAR, Pine Street
7. 1318 Darman, Chestnut Hill Trust, Holly Road
8. 2546 Hutchinson, 499 Union Street

Current:

- SE42-2389 Spruill, 4 Damon's Point Drive
- SE42-2541 Badore, 86 Macomber's Ridge
- SE42-2567 Wallace, 35 Water Street
- SE42-2433 Doyle, 88 Marginal Street
- SE42-2371 Haddad, 291 Ocean Street
- SE42-2406 Haddad, 291 Ocean Street
- SE42-1318 Chestnut Hill Subdivision, Holly Road – request for Partial CC's on lots 15 & 17

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REQUESTS FOR EXTENSIONS

PUBLIC HEARINGS

7:00 2638 Junior, 605 Plymouth Ave. - Continued for definition on plan. Plan turned in. Dana present and Atty. Creed. Dana – should be everything we talked about. BG agreed. Revision date listed and revisions midway on right. Added a planting area that we talked about. CH – if BG, RC are okay with it, he is. Six revisions Dana said. Area of up to 3 exploratory excavations, remove the fencing and asphalt and 2 to 3 inches of earth. New England seed mix will be used. 20 new bushes, five new trees, new seed mix. Bunch of eastern cedar on site– keep.

Conservation Commission sign installation FW noted. BG requests one final plan with FW's changes shown. Dana did confirm underground tank was taken out and inspected by the Fire Department. Atty. Creed will go to the Fire Dept. and write a letter if there's no report. CH doesn't care. All asphalt to be removed. BG – don't see conservation easement – need that to deal with the old conditions. CH – are we re-defining where the easement is? No build easement BG said. No CR - would be conservation easement as opposed to a conservation restriction.

JK – asked that Dana mark the permeable areas. Dana said he would. Put in Orders. Dana not happy with filing for the two houses and this order will now cover just “getting ready” for the houses, and he'll have to come back for them. CH said we can address that when the next two NOI's are filed.

JK – at first not in favor of this project. It went to court – but looking at what you're presenting is a better situation for wetlands. For orders – trees will be native species, remove knotweed, two easements to be crafted, completed and registered with Plymouth County Registry of Deeds, mark the line that has the wetland delineation markers, no permeable surfaces beyond where they're marked.

Can you explain three exploratory excavations? BG explained – for testing. Dana – point was to see what the fill was out there. JK asked who will make the inspection. BG – needs LSP. Will pick three random areas for testing. Atty. Creed – would be signs of contamination in the creek.

BO'D – what's the sequence of work? Dana – would have to remove asphalt first. Hoping to start this winter and spring to get cleaned up. CH motion to close and issue Orders. Add – long, challenging event. Recommend we make sure Orders are clear. FW second, passed 5-0-0.

7:05 2627 Bedig, Richard Street - RC motion to continue to 2/7, FW second, passed 5-0-0.

7:10 2639 Haddad, 291 Ocean Street - RC motion to continue to 2/7, FW second, passed 5-0-0.

7:15 2642 Burchill, 76 Mallard Road - CH motion to close, BOD second, passed 5-0-0.

7:15 2643 Kirwan, 180 Enterprise Drive - RC hearing officer. Bill Shaw, Associated Engineers present, along with Marc Garrett, Garrett Group representing. Project 20,000 sq. ft. expansion which is two stories = 40,000 sq. ft. Modified parking area and expanded parking required by zoning impacts 51,000 sq. ft. plus or minus. That encumbers designated habitat. Sent to Natural Heritage. All proposed work occurs within buffer zone and BVW under local and state jurisdiction. Slight error in the preamble – says no work, apparently there is some work in the previously disturbed area. Proposes no take under MESA/NHESP Letter dated September 6, 2016. Called to look at the site because there was a large wetland being used as a drainage facility for the industrial park. It was a wetland before it was a drainage area. Was flagged and reviewed by Jay Wennemer and signed off. Buffer zone is off that wetland area. Some vegetation is impacted by vegetation management by Eversource. BG – read disclosure on the cover sheet of plant set...”this project is to share information that makes”...purpose is confusing. “copy” – looking at 10 pages that are not sequential neither identified nor contain all the relevant wetland delineation and setbacks which further creates confusion. See JW's signature and a Planning Board signature on ANR but how does this document relate specifically to the work at 180 Enterprise.

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Bill Shaw – civil engineer – VRT owns the property will be divided. In order to sever, a Form A plan was completed. Wetlands had to be flagged all the way around. Walked the site with JW. Mr. Shaw handed out a smaller scale plan of the presentation. In 1972 when Enterprise was built, this property and wetland was re-graded, outfall was produced. Stone outfall. Over time three additional outfalls have been issued. Existing 36" pipe, pipe that comes down from up above and another one from Enterprise Drive and site drainage. When we started, our concern was what to. JW said anything proposed shouldn't have an impact on the wetlands. The plan shows the relocated site drainage, makes its way to a manhole – all the outlet water and storm water is now going through this area which treats the first inch of the entire site. No new outfall – drainage analysis – shows no increase. Two new parking areas are totally infiltrated on site. 100 gallons and 40 gallons. None of the pipes are being changed. Two green areas on plan are areas over outfalls where we're closer than the 25'. Rest of the area is outside the 25' no touch.

BG – proposed 65' wide relocation – is it going over the wetland...seems to pass over a number of flags on the site plan? Mr. Shaw – in order to have completed that would have had to fill 6,000 sq. ft. of wetland area. Planning Board indicated they would be receptive – nothing planned yet for alternative.

When the new subdivision was approved, Planning Board required showing access to rear parcel. Has less potential impact to the wetlands.

RC – would any of this drainage be allowed today? Mr. Shaw – any of the other three would have had treatment required. In retrospect, it's been there since '72, looks pretty good, vegetation is a meadow, water is just below the surface.

Perennial stream Mr. Garrett said – Boulder Brook? BG – asked for full Stormwater Report.

Mr. Shaw – DPW and Zoning has been looking at this for the past month. Would like Orders as soon as possible.

BG – do you want to close tonight? CH – wetland flags? Yes. BG – would like to confirm Stormwater with Pat Brennan. RC – can we just put it in the conditions? BG – we could, don't want to limit our options.

CH – is this project outside the buffer areas? Just a little bit – about 100 sq. ft.

Mr. Garrett – A) deny, B) request continuance to resolve issues, or C) we request the Orders We have signatures from Town officials. Was with JW, he approved and signed the plan.

Billy Last, Jr. – BRT Company. Was at Planning Board hearing – mylars were passed around and signed by everyone. Touched base with all, Form A was signed – that's their extent of their purview. BG mentioned that ZBA relies on other departments as subject matter experts and this is with Conservation at present. BG wants to continue. Applicants would like to close. RC motion to continue to 7:00 on 2/7/17, JK second, passed 5-0-0.

7:20 2641 Fidler, 188 Atwell Circle - Mr. Fidler present. Tree issue – clear cut all the trees and shrubs. Hired Brook Monroe of Pinebrook Consulting to do the plantings. BG will connect with Ms. Monroe. BG- all cut vegetation. Close to the 25'. CH – but they're outside the 25'. Garage requires digging, rest on posts. FW motion to close, BG planting plan acceptable to commission will be required in orders, FW – will put in dry well drainage. BG – 10.53 inland wetlands. Growing seasons. RC second, passed 5-0-0.

7:20 26__ Kelley, 0 Main Street - Greg Morse, Morse Engineering, presented. RC read notice of public hearing. Applicant was before the Commission a few months ago for a septic. New single family home proposed. Bordered by developed to the south and undeveloped to the west and north. Lot that pre-dates zoning. Wetlands are highlighted in blue by Brad Holmes. Report included in NOI.

Existing foundation in middle of site, no structure on top of it. Bottom intercepts the ground water; does hold water. It could classify as an isolated land subject to flooding. Proposing 2 bedroom, access off Main St., Septic in front yard, absorption system outside buffer zone. House located 57' away from BVW. Have submitted a waiver. 75' away puts you into front yard setbacks. Do respect the 50' no disturb zone to that wetland. Buffer markers for mitigation or split rail fence is proposed. No DEP number yet.

FW – DEP allows test pitting, but Marshfield doesn't. Looking at previous filings, there's a spring and wetland on the property – would like it identified by a consultant. Real close to where the house is. Question with the wetland line that FW would like confirmed. RC – Bob Gray possibly? GM agreeable to have consultant's opinion.

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GM – JW had walked it a while back.

BG – looked like line was good. Foundation water is coming from somewhere. Foundation is a danger. Also some trash to be gotten rid of. Selective grooming of opportunistic plants – suggests that.

BO'D – what qualifies this as a lot of record? GM – this property was sold and laid out on a deed and conveyed to a family. When that happens, property hasn't changed ownership. If it had it would be a merger. If it's kept in its own ownership prior to zoning change, it becomes a residential lot of record. JK – was on site; JW seemed adamant that there's a perennial brook – BG – not convinced of that. GM – certainly a perennial river.

JK – when I walked it, there's actually a depression, water comes out of it – it's definitely there. That would be between the house and septic area – concerned with that since JW was concerned. BG – there's on-line soils website that indicates a presence of hydric soils. However, in the front third, it's non-hydric soils. The last two thirds are more hydric soils. Maybe the line is going to move a little bit more but it seemed good based on the vegetation. GM – Brad Holmes did do soils transects. Water still fills in the basement, about 2' deep.

JK – the one I saw closer to the street, where the house is not the foundation, and it went towards the McLeary property. Also, when you have a no disturb zone that near the house, could be a problem. BG – fence might be more effective.

Sharon McLeary – know the pitfalls of this property. Won't be going before Zoning. Concerned about flowing over into their lot. FW – it does flow towards your back yard. BO'D – so the family wants to protect their interest?

Yes – use it for wood. BO'D it abuts 61A, Audubon and conservation land. BG – is the lot behind permanently protected? Yes. BG – would put up a split rail fence with conservation markers. JK – was a previous filing denied on this property? We will need to look that up. FW motion to continue to 7:20 at 2/7. Hope to have consultant's report by then. GM – would like to have his wetland specialist out there at the same time.

CH second, motion passed 5-0-0.

7:25 2640 Bottiggi, 164 Riverside Circle - Rick Servant from Stenbeck & Taylor presented. FW recused himself. Did add buffers to plan. Added 25', 50' & 75' to plan. Only change on the plans. Spoke to North River Commission. They want them to meet with the Town Boards before going before them. That's their standard way of doing things now. Would like to leave the meeting opened, meeting with NRC on Thursday. Flags are still on property. JK – when he filed, was told the first stop is NRC; maybe they're changing things. CH motion to close and issue orders, RC second, passed 4-0-0.

ENFORCEMENT ORDERS

Ladyslipper Lane – BG passed documentation to the Commissioners including Building Inspectors series of violation letters regarding the pool **deck** & shed built on Conservation owned land. Jerry taking the lead, he wrote several letters to home owners, son now owns it. Jerry has written a new letter with incorporated Conservations' concerns. Removing the concrete pool patio, relocating the shed, mitigating the vegetation loss and place conservation land markers is Jerry's request.

We could write a letter to the son – or see how Jerry's letter works it out. CH-Jerry's been working on this for quite some time. FW – agrees with Chad. BG – requires a consensus of additional action from the Commission as the guardian of the land. FW suggested getting Town Counsel involved since it's been going on so long.

RC – an enforcement order. JK – going to remove fence, pool deck and shed from conservation land.

BG – need to think about any future enforcement if Jerry and Town Counsel are not successful such as what would be the fines?

599 Summer Street – obtained his plan. BG passed out his "minor activity" form for the Commissioners.

JK – said take out the work 'permit'.

Notice of Violation form passed out. In enforcement mode, but not too negative. FW changed from "may have" to "have".

BG – passed out Comfort Letter for Mr. Haviland but the other interested parties had never seen a Comfort Letter.

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RC motioned to adjourn at 9:30, FW second, motion passed 5-0-0.

Respectfully submitted,
Lois Keenlside
Marshfield Conservation

Bill Grafton, Conservation Administrator
Robert Conlon, Chairman
Frank Woodfall
Chad Haitsma
Bert O'Donnell
James Kilcoyne
Arthur Lage