

MINUTES – CONSERVATION COMMISSION
TUESDAY, FEBRUARY 7, 2017 7:00 p.m., HEARING ROOM 2
TOWN HALL, 870 MORaine ST., MARSHFIELD, MA

Approved 3-28-17 6-0-0

Members present: Robert Conlon, Chairman (RC), Frank Woodfall (FW), Chad Haitsma (CH), Bert O'Donnell (BO'D), James Kilcoyne (JK), Arthur Lage (AL) and Conservation Administrator Bill Grafton (BG). 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:
2638 Junior, 605 Plymouth Ave.
2641 Fidler, 188 Atwell Circle
2640 Bottiggi, 164 Riverside Circle
- Scheduled Meetings: February 28, 2017, March 14th
- Mr. Tarbox – Road conditions – Trouant's Island – no show
- Oliva – Highland Street – not heard tonight; filing a new NOI as per settlement agreement

EXECUTIVE SESSION

ENFORCEMENT ORDERS

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
SE42-2092 Galvin, 10 South Street
SE42-2442 Charles, 599 Summer Street
SE42-840 Marsh, 169 Macomber's Island
SE42-851 Marsh, 169 Macomber's Island
SE42-548 Villa, 97 Beach Street
RC motion to issue for last five, FW second, passed 6-0-0.

REQUESTS FOR EXTENSIONS

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PUBLIC HEARINGS

7:00 2643 Kirwan, 180 Enterprise Drive - Applicant has requested a continuance to 2/28/17 at 7:15. RC motion to continue, FW second, motion passed 6-0-0.

7:00 RDA 17-01 DPW, Spring Street - Pat Brennan, Amory Engineers presented. RC read notice of public hearing. Water main replacement project between Highland and 3A . 7,500 feet long. 12" duct water main within paved surface. All work will be within paved surface or disturbed surfaces. Areas of wetlands along route, start at southern end of Highland Street. Any place approximate to wetlands, proposing filter sock to prevent sediment washing into the wetlands. Most water main project, excavate and put material back as we go along. DPW realized a lot of the soil material is not good gravel material – going to truck it away and bring in new material. Number of catch basins, silt socks beneath proposed. Once past Horseshoe Lane, there's a drainage ditch – proposing silt sock along top of slope. Across from house 382, drainage ditch from woods to system – have filter sock going across that area. Stonewalls along most of Spring Street. Pass Riverside Circle, culvert crosses road about 800' from Main Street, proposing filter sock about 150' on either side of the culvert. Wetlands on north side of stone wall, most of that is raised up, filter sock where grade actually drops off. Replacing existing 12" water main. New hydrants and connections to the houses – go off the road about 5'. Is priority habitat - utility replacement project is exempt. Pat Brennan read the exemption from NHESP. Will pave every Friday. CH- will there be a public schedule for people that live in that area? Pat – DPW has one message board – to each end of the project. Do have requirements to notify all residents. From Highland Street to Horseshoe Lane, when drainage was installed very deep – some issues. Through that area will remove and replace existing water main. Looking at a month with the temporary pipes.

BG – pretty much one for one except for certain areas. Have done a good job on the erosion control.

FW – hay bales, etc. provided? Pat – will supply a contract. FW – staging area? Pat – contractor responsible for own staging area. May work with the neighboring developer. (Horseshoe Farms)

JK – same # of storm drains? Pat – not doing anything with storm drains – just protecting them.

JK – total length of time? August.

CH – this is a big project, 7000 ft. Is it customary to have an RDA for such a project. CH – don't see any wetland flags.

BG – concur about wetland flags. Need them on the property and on the drawings.

Pat – over the past 10 or 15 years, this is the 4th water main project. One on Highland Street, 4300 feet. That was done under an RDA.

BO'D – going out to contractor. Anybody from DPW on site? Pat – DPW has water inspector on site full time.

BG – could you update plans – want line, source of the line, the date and all the setbacks. FW – going to stretch that out? Pat – will make it clear – will be able to delineate that. FW good with this plan. BG recommends updating this plan and ask MCC to consider one more time. JK – exempt right? From NHESP. Get the flagging done and update the drawings. Pat – will submit before any construction.

No questions from the audience. FW motion Negative #3 with special conditions for flagging in areas required with updated plans. AL second, motion passed 6-0-0.

7:05 2627 Bedig, Richard Street - Rick Servant, Stenbeck & Taylor, presented. Project is in a Barrier beach and flood zone. Lenore White also present with Mr. Bedig.

LW – application filed for SFH on Barrier Beach and on LSCSF. Work proposed in the resource area, Variance is required. Was submitted at the end of January. LW said she has gone to the site and feels this project can go forward without any adverse impact to the Wetlands Protection Act. One of the most important interests is significant to storm control. Well above flood zone LW said. BG noted that the AE zone has changed. LW's opinion is based on the old flood maps. BG said the submitted plans referenced AE 2012 but should be AE 2016; really need to get a renewed analysis. Considering the project under AE15 would be appropriate. This project is similar to another that the Marshfield Conservation Commission denied and was up help by the State– might want to consider a third party consultant so the Commission will be fully informed. CH asked if there is wildlife habitat

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on that site. LW said there is a lot of vegetation there. Much of that vegetation will be removed where the dwelling is proposed; applicant is willing to replant wherever possible. Neighbors use it for dumping leaves, etc. LW said and stated she didn't see a whole lot of wildlife habitat out there. CH asked if she had gone out at a time where you'd expect to see wildlife habitat; LW said the only thing she observed was the bayberry. She stated this is one of the only lots that hasn't been built upon. Can't be used other than residential; has been taxed as a buildable lot. LW – primarily sand out there.

BG asked if there is a mitigation plan. Comment about septic on the plan. LW said there is mitigation - it's noted in her letter. CH asked if there are any square footage estimates; LW – not yet. BG said her letter is referencing that a plan *will be* developed. LW – yes. BG said former Conservation Agent Jay Wennemer's comments were barrier beach and land subject to coastal storm flowage. LW said JW had spoken to the applicant and stated he had "no problem" with the project. BG said he will investigate this comment. BO'D – prime area for flooding.

BG asked the Commission if they would consider having a third party. AL is good with that. Rick Servant – flood zones have changed since the submittal was turned in. LW said the only issue is whether or not the Commission is willing to grant a Variance; that's really the issue, not checking the flags, etc.

JK thought he saw some bayberry on the site. JW had seen poison ivy, significant beach plum and red cedar. LW stated maybe JW misinterpreted. FW – the shrubs we do have there – limited open areas, it's a congregation area. LW – reading the regulations – because there's only one lot left, there's nothing in the regulations that says you can look at it differently. FW – those other houses were built in the 1950's.

Susan Smith, 48 Richard Street – here to represent all the neighbors. Neighbors to the left and the right strongly object to the project. The neighbors have taken care of the land because poison ivy grows rampant; we cut it back and throw it back there. CH – there is trash on that property. SS – biggest concern is safety – cars go under water in bad storms, impacts all the lands on both sides of the street. SS said she spoke to the ACOE – "can't imagine why another house would be built in an area that floods".

AL asked when the last empty lot was built on in this area. Possibly within 10 years? CH suggested preparing the best mitigation plan LW can. RC – doesn't have a problem with a SFH being built, raised up, etc. FW – reminded the Commission about the Sanborn, Constellation Ave. denial of a similar project by the Commission.

Mr. Bedig stated before he purchased the lot he made sure it was buildable with a lawyer. Building Dept. said it was okay. Talked to JW and said he had no problem with the plan. So Mr. Bedig I purchased the land. Drew up the plan, ready for the permits, then we get blocked. Did consult with JW, he had no problem. JK – storm water damage, grandfathered, buildable lot – maybe habitat has changed. Have someone take a look at it; if it's consistent with what LW found. He suggested a third party consultant. JK and AL okay with hiring a third party. LW – not denying there is some value there, but saying it can be mitigated. BG noted JW wouldn't make these comments.

Ms. Smith stated, after they bought the house, there were FEMA meetings – different stations to get information. Spoke to JW and he said those houses never should have been built years ago. Will constantly be flooded. RC agreed that there shouldn't be any houses on Richard Street. CH proposed that we continue to the next meeting in order to hire a consultant. BG asked Mr. Bedig if he is okay with hiring a consultant. Want to continue to 3/14. CH motioned to continue to 3/14, RC second, passed 6-0-0.

7:10 2639 Haddad, 291 Ocean Street - Kevin Grady of Grady Consulting, and Chuck and Mitch Haddad present. Commission indicated that the Orders submitted not in compliance for site mitigation. Had a site meeting to discuss the site mitigation. Discussion resulted in an agreement on off-site mitigation in the amount of \$3,000. Storm water concerns that the rain garden provides some of the required removal. KG-Drainage calculations instead of being a rain garden it's acting as a filtration basin. Plants were not sustainable and perished under the conditions. BO'D and BG met with the Haddad's at the restaurant, reviewed the site plan, understood and given proof that over three years tried to keep to fulfill site mitigation requirements but everything was pretty much wiped out due to overtopping. Other areas - trees originally in place failed; were replaced with beach roses and looked at the rain garden that didn't work. Looked at the bridge made to protect the salt marsh – functioning well. Problem is phragmites – it's pre-existing mostly due to Town Pier Road. BO'D – three years of planting was done

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and tough conditions wiped it out. Suggestion was made to start a fund to go toward protecting the salt marsh. BG totally concurs. BG-this is a Rare & unique situation. A Revolving Fund dedicated to salt marsh restoration would provide much needed support for salt marsh within Marshfield. RC asked how the account would be administered. BG said through the Town Accountant and usage would be under the Care & Custody of the Conservation Commission. Chuck & Mitch stated they did not feel pressured to offer this. FW – how about replanting the roses, etc. RC motion to close and issue orders and add in the two CC's at that time. JK second, motion passed 6-0-0.

7:20 2644 Kelley, 0 Main Street - Greg Morse, Morse Engineering, presented two weeks ago. Commission was going to hire a third party consultant. No plan changes since last meeting. BG passed out letter to the Commission. GM – residential lot of record Town Counsel agrees and that it's a lot of record. Matt Creighton, BSC, visited the site today. Existing foundation was holding at least 3' of water. Contained within the foundation. Channel has been dug probably used to drain the foundation. Question is it accurate, does it connect to the area that's flooding. As far as your by-law – 625 sq. ft. over the 400 sq. ft. Foundation would be isolated land subject to flooding under our bylaw only. However, has to have primarily filled with wetland vegetation. Actually an error in the bylaw. Technically a regulated area under your bylaw. Looked at the wetland flagging and transit flag; do believe flag 10 ends and does not connect to foundation is an accurate flag. The soil itself is not hydric – dries out, getting only surface flow. Vegetation limited due to winter. Did not see dominant wetland vegetation. Brad Holmes did identify some wetland plants as dominant – upland vegetation. Can't go against that since there's no vegetation now. Flag 10 is accurate, 9, 11 and 12 need to be pulled out in each direction – little area that was not flagged. Would shift 20-25 feet outward; does not get closer to the foundation. New structure within 75', requires a Variance. If existing foundation is considered ILSF, then that is jurisdictional. Up to the Commission if you would consider foundation - would you want mitigation. Foundation mucky and muddy – just dug down into ground water. BG – 180 Enterprise – detention basin defined as a wetland. Isn't uncommon to have a man-made structure determined to be a wetland.

MC – essentially holding back sediments before they trickle down into the BVW.

JK – up where the septic system is proposed, there's a dug trench that runs north toward the next property. Jay felt could be some type of spring. Did you have a chance to see that? MC – didn't go to that area. JK – defined trench. North of the test pits.

GM – between house and foundation – walked whole area. Don't remember seeing anything defined as an intermittent stream. JK – personally went there and saw it. MC – down 18", 20", 24" some mottling (water table) so if something was dug you'd be seeing water.

BG – on the Variances – when one variance is asked for, how to prevent the finished result resulting with one or two more variances than requested. GM responded make sure there's a picket fence or markers.

GM – proposed fence along 50' buffer zone. MC – if it's ILSF, then we're filling the wetland. Might want to consider that. Grandfathered lot – don't have to comply with the frontage setback. Septic is what's pushing the house back. GM – serves very little environmental purpose; would be just digging up 620 sq. ft.

BG – not a lot of room to move out of the variance.

BO'D – land is in Chapter behind – remains in forestry. Town has the option to buy and want to protect it. This lot – septic is going to be marginal; back yard is non-existent. At what point is it not a good lot? MC- there are some invasive species out there. Only other question – assume it dries out in the summer? No way to know if there's anything there in the spring. BG – timing for observation?

Sharon McClary – representing her father - used to tad pole in that area.

JK – we usually deal with things here because they're existing. Agrees with BO'D. BO'D – what are we getting out of it if we allow it. BO'D – foundation has probably been there a hundred years. FW – not much you can do on the property for mitigation.

CH – how many square feet of the Variance are you asking for. GM – 57 to the foundation and 53 to the deck. BO'D – abutting the other woodlands which still have the invasives; how long will that be effective for this lot?

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JK – over time, picture house being sold 10 years later with a 6' back yard. That 53' becomes 25' and this abuts Chapter 61 land. FW – motion to approve with special conditions with fence at 50', markers, forest and mitigation plan, and invasive plant management plan. CH – why don't we get the plan first? RC seconds the motion, voted 2-4-0, JK, BO'D, AL & CH opposed. Motion failed to pass; project denied.

7:30 26__ Lemoine, 242 Ridge Road - Terry McGovern from Stenbeck & Taylor presented. RC read notice of public hearing. Septic repair, failed system. Surveyed last year. This property lies on the west side away from the river channel of the South River, marsh in back of property, stockade fence.

Most of the lot is developed – pool, shed, pool building. Lot created before 1986. Plan was approved by Health Agent. Meets minimum requirements for Title 5. New 1,500 gallon septic system, 4 feet of separation to ground water. Excavation for this is about 12' x 36'. Not a lot of excavation – backhoe used. Still needs to go before the Board of Health - the Health Agent signed off on the two Variances. All components outside 50' buffer to marsh. CH motion to close, AL second, passed 6-0-0.

7:40 2646 DiFolco, 11 Naomi Street - RC read notice of public hearing. Rick Servant presented. Passed out photographs. Existing home – proposing revetment, salt marsh in front of the house. Marsh is falling away at the front of his house. Wants to try to protect his home; proposing rock wall and marsh grass plantings – similar to the town's work a couple houses down. Larger rock proposed on these plans – Armor Stone. Shellfish Warden told homeowner, they're going to have to conduct a survey. Home owner will have to pay for moving the shellfish. BG – what is the overall goal of the homeowner – RS – to save his home. BG - Why the stairs? RS – afterthought. BG – not consistent with saving the salt marsh which is a zero impact resource area according to the Wetlands Protection Act. Also used the old FEMA map BG said. Have to have a full delineation (coastal wetlands, low and high tide) BG said. FW – not in favor of the project in general. MC – if you're armoring actual salt marsh, it's going to get torn up. The Corp will keep you 25' from salt marsh. RS – some stone there at a neighboring site. BG explained that is a public works project and it is not complete. Looking at alternative soft solutions at that site. State allows some geo-textiles, Corp doesn't. Corp has the last say. RS – did the Town go through all the same process? BG- They are in the midst of exploring soft solutions

RS-if armor not allowed, applicant will consider soft-solutions. RS will check with the applicant. FW motion to continue to 3/14, RS second, passed 6-0-0.

RC motion to adjourn at 10:10 p.m., FW second, motion passed 6-0-0.

Respectfully submitted,
Lois Keenlside
Marshfield Conservation Commission

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