

**MEMBERS PRESENT** – Robert Conlon, Chairman (RC), Chad Haitsma (CH), Frank Woodfall (FW), Bert O'Donnell (BO), James Kilcoyne (JK), Bill Grafton, Conservation Administrator (BG).

**MEMBERS NOT PRESENT** – Art Lage (AL)

**CALL TO ORDER** – RC motioned to open the meeting at 7:00 p.m. FW seconded. Motion approved 5-0-0.

**MINUTES**

RC motioned to accept the minutes of 2/20/18 as edited. JK second. Approved 5-0-0

**PUBLIC HEARINGS**

**18-17 Duggan, 476 Ocean Street (deck) .....(Chad)**

- RC Reads Legal Ad; CH Hearing Officer. CH confirms administrative requirements are complete.
- Contractor Anthony LaPuma (AL) presents for applicant. Applicant proposes to replicate the deck from storm damage this past March. No excavation, as existing footings are pinned and will be re-used. Just replication of what is there now.
- CH asks if the deck is connected to the seawall; AL indicates there are no connections to the seawall.
- JK asks if the same footings will be used; AL indicates yes.
- CH asks for comments from BG. BG indicates feels AL's description of the project is accurate, mentions that the front footings are pinned to the seawall in front of the revetment wall, and circulates photos and regulatory excerpts prohibiting attachments to seawalls. BG would like to add a condition that if the footings have to be replaced, a NOI should be filed, but would like to give applicant a chance to see if the existing footings are usable.
- CH asks if the Draft Policy has been signed by the selectmen and the policy is in effect. BG indicates document had been handed to him by the Superintendent of DPW, who indicated it had been signed and approved, but did not have a signed copy nor the effective date.
- RC asks about the condition of the footings. AL mentions that the footings are in good condition and if there any repairs that need to be made, they will be made to two footings by tying them back together. He feels this would be the worst-case scenario. AL met with the Building Commissioner to verify the footings were serviceable.
- RC asks the distance from deck to the seawall; AL indicates about three feet. BG asks AL to make sure the deck is not installed over the seawall, which is now prohibited, and use best practices.
- CH asks for comments from the public. None.
- CH motioned to close & issue a neg #3 DOA w/ special conditions as noted. RC second. Approved 5-0-0.

**2614 Viamari, 172 Arlington Street (septic).....(Bert)**

- RC Reads Legal Ad; BO Hearing Officer. BO confirms administrative requirements are complete.
- Brendan Kling (BK), Grady Consulting, presenting for applicant. Project is an upgrade of a pre-existing septic system; wetland delineations done by John Zimmer, South River Environmental, on May 25. Lot includes setbacks to salt marsh and land subject to coastal storm flowage. System has been located as far away from the wetlands as possible. Erosion control barrier proposed at the limits of work.
- BO asks for BG comments. BG mentions that the DEP number is old because they originally filed in 2016 but just now filing to do the repairs with conservation, because house is being sold. BG comments that wetland line seems consistent with the original delineation from 2016. He recommends approval with the standard special conditions, as well as posting the MA DEP sign on the work site.
- BO mentions the shed could possibly be on conservation land. BG asks BK whether the shed belongs to the property owners. BK is not sure. BG thinks the shed is on town-owned land, and suggests putting green and white conservation markers on the property line with the town-owned land on each corner; BO suggests one marker on each of the corners.
- JK suggests, because there have been issues with putting up the signs, the Commission should consider making it a condition to install the markers before commencing work. BG concurs. RC notes that homeowners can't get a COC without the markers. After discussion, the Commissioners agreed to add this to the special conditions.
- BO motioned to close hearing and issues an OOC with special conditions as noted. RC second. Approved 5-0-0.

**2657 (Amended) Flashner, 206 Carolyn Circle (Amended NOI)(retaining wall & parking pad) .....(Rob)**

- RC Reads Legal Ad, RC Hearing Officer for AL.
- Rick Servant (RS), Stenbeck and Taylor, representing homeowner. They previously proposed to install a garage as proposed in original NOI, at the site of an existing gravel parking space and retaining wall. They are filing an amended NOI for the work that has already taken place that was not permitted in the original NOI. The constructed parking pad and retaining wall are outside the 75 ft buffer.
- RC asks what changed to make them put up a retaining wall and parking pad. RS mentions they did an as-built plan, and the wall and space were already installed; possibly the steep slope was the reason. RC states that this should have been part of the original notice of intent and RS agrees.
- RC asks BG for comments. BG notes that after-the-fact NOIs have been increasing and the Commission should think about what to do about unpermitted work going forward. He doesn't want to be burdensome but applicants need to get their ideas together and include in the file submittal when they are supposed to and in advance of performing the work. Possible consequences include fines of up to \$300 a day. RC suggests a standard condition of ongoing meetings with the conservation administrator rather than just the initial meeting, so changes can be caught as they are made, and a new NOI required as needed, which he feels would be sufficiently punitive. CH inquires if the work is after-the-fact. RS states yes. CH notes that other than financial costs we do not have leverage. JK asks RC how do we know if the changes have taken place? JK asks how BG would know changes were made. RC states if during the review of As-Built if this type of after-the-fact work is observed then they will file a new Notice of Intent all over again. RC states that going through the process all over again would be sufficient. BO states that instead of an Amended NOI they file a new NOI. RC states that the new NOI provides the avenue for the Commission to add new special conditions such as mitigation. CH feels the Commission should stop allowing amended NOIs and require new filings if unpermitted changes are made. JK agrees and states that financial penalties may be necessary to halt unpermitted work activities. After further discussion, a majority of Commissioners agree that effective immediately, if there are any deviations from the original Orders of Conditions, the applicant is required to file a whole new NOI. BG concurs there is a sufficient compliance component to this.
- RC motioned to close the hearing and to require that applicant file a new NOI showing these unpermitted changes. JK second. Approved 5-0-0.
- BG will work with RS on the new after-the-fact NOI filing.
- RC moves to close the hearing. JC seconded. Approved 5-0-0.

**2710 Brown, 7 Branch Street (addition and deck).....(cont from 4/17/18) (Frank)**

- Continued at applicant's request, will be heard on 6/19/2018

**2724 Ethier, 165 Winslow Cemetery Road (addition).....(Chad)**

- RC Reads Legal Ad; CH Hearing Officer. CH confirms administrative requirements are complete.
- Rick Servant (RS), Steinbeck and Taylor representing homeowner. They are proposing an 22' x 24' addition, extension of a farmers porch in front, and a new deck to the rear of a SFH. BVW to rear of the property; area previously delineated by Pinebrook Consulting. Closest point of deck is 54 feet to the wetlands. There is currently an existing lawn between the house and a fence enclosing the property. All work will be on existing lawn area. RS states the limit of work is within an AE14 Flood Zone. Site plan shows erosion control barrier.
- RC asks what is the cost of the proposed work wondering if this would be considered a substantial improvement. RS feels it is not a substantial improvement, the addition is one story with a crawlspace; there is already an existing deck on the lot. RC agrees.
- BG asks if the area in the back is a cranberry bog or a vernal pool? BG states that the adjacent lot is filing as well and their qualified wetland scientist determined that it is a potential vernal pool. RS states he saw old plans that showed it as an abandoned bog; the area was flagged as a BVW. BG suggests it may be functioning as an potential vernal pool. It has saturated leaves and is rapidly losing its water level currently.
- RS mentions there is a culvert also shown on the plan that feeds underneath the road. BG notes that the vernal pool/old bog is not shown on the site plan and is not flagged at the site.
- CH would like a determination if the area in question is a vernal pool or cranberry bog. If the area in question is a vernal pool, the setback is 100 ft as opposed to 25 ft. BG cites vernal pool definition in Chapter 505.
- CH asks for comments from the public. None.
- JK asks current sq ft of home and the size of the addition. RS: 1536 sq ft for main home both floors and 528 sq ft for addition. RC feels this is not a substantial improvement. BG indicates this is determined by the Building Commissioner and asks the Commission whether applicant should reach out to the Building Commissioner to make that determination. RC indicates this is not necessary.

- BG mentions to RS that the home is within land subject to coastal storm flowage not bordering land subject to flooding, and suggests that he submit an updated NOI. He would like the swing set to be added to the site plan as well.
- RS will contact a qualified Wetland Scientist to look at the vernal pool / cranberry bog and determine its status.
- CH motioned to continue the hearing until 6/19/2018 until qualified wetland scientist delineates the vernal pool. JK second. Approved 5-0-0.

**2729 McCall, 35 Nathaniel Way (coastal bank stabilization).....(Chad)**

- RC Reads Legal Ad; CH Hearing Officer. CH confirms administrative requirements are complete and recognizes No DEP number has been issued yet, so the hearing cannot be officially closed.
- Brad Holmes, ECR Consulting, representing homeowner s, Bill and Colleen McCall, also present. The subject property abuts a salt marsh. They have been dealing with yard erosion on the upper part of the salt marsh from recent storms. Although the property was established before 1978 and thus they could pursue a stone revetment, the homeowners felt that a soft solution with Coir logs would be a better fit to protect the yard and prevent erosion, as the yard is not subject to extreme wave impact. They are looking to establish a double row of Coir logs to protect the yard. Instead of bringing back the lawn in full, they will add a native planting strip to provide a small buffer to the marsh with coastal salt tolerant plants. There has been some removal of invasive Dodder and other species. A completion report was provided in the filing. Additionally, they addressed previously an invasive management of a plant called, dodder under a separate permit process so the area is substantially improved.
- CH asks if there are any abutters present; none. CH asks for questions or comments from Commissioners; consensus was that the plan looks good.
- BG advises that no synthetics are permitted and he needs the salt marsh impacts for the OOC. BH indicates they are not proposing any impacts to the marsh, and will provide documentation to that effect.
- BG requests that the buffer lines and the current FEMA references be added to the plan; he would also like a RLS or PLS to sign and stamp the site plan.
- BG discusses the property owners' efforts to remove the Dodder and circulates pictures to the Commissioners. BH notes that the dodder plant is parasitic and it chokes out the other plants. It was good to get these invasives out first, before the start of work.
- BG suggests issuing some interim orders so the work can get started; he notes that this project will have a positive rather than negative impact on the resource areas. RC advises that the standard Orders of Conditions would apply; if this is agreeable to the applicant, they will continue the hearing and close it at the next meeting. BH indicates agreement; he will provide the DEP number as soon as it is issued.
- CH motioned to continue the hearing to 6/19/2018 due to no DEP number being issued. BO second. Approved 5-0-0.

**2722 Milton Corporation, 1180 Ferry Street (pier & dock) .....(Jim)**

- RC Reads Legal Ad; JK Hearing Officer.
- RC makes motion to continue the hearing to 6/19/2018. JK seconded. Approved 5-0-0.

**2727 Digan Jr., 1327 Union Street (pier & dock).....(Jim)**

- RC Reads Legal Ad; JK Hearing Officer. JK confirms administrative requirements are complete.
- Jed Hannon (JH), on behalf of Jack Hanon, Mayflower Engineering and applicants. They are proposing to construct a residential pier in salt marsh and land subject to coastal flowage along the North River. The pier as proposed is 84 ft long; outer width is 4.6 ft, inner width is 3.6 ft. Pier will be kept 5 ft above mean high water. The railing will be 1.5 inch nylon rope; there will be a 15 ft gangway ramp leading to 15 x 15 wood float. 6 x 6 wood members will keep the float off the substrata and protect marine life. JH notes there is an issue regarding the setbacks; they drew concentric circles on the site plan as opposed to showing the actual coastal bank and its setbacks. They will adjust the site plan for the next hearing. The North River Commission has reviewed this pier design previously back in April. The NRC is ok with the plan at this point.
- JK notes that Mass Fisheries recommends a minimum 5.5 ft height, and mentions that they could run into an issue with Chapter 91 if the recommendations are not met. They are offering 5 ft above mean high water.
- The Commission discusses additions to the site plan, with JK asking that mean high water and mean low water be added and adds that the plan should show the depths below the proposed float. BG reiterates that elevations below the float are important for determination of potential adverse effects from prop wash and other impacts. JK also suggests that the plan show specific elevation above the salt marsh for Chapter 91 purposes. These additions will be helpful in construction and preparation of the as-built.
- JK asks if there are any questions from abutters; none.

- BO asks about access to the pier. JH indicates that the access will be by barge for the work near the river, and foot for the work near the house. No heavy equipment will be used on the work near the house. JK mentions there is a natural opening between the trees that will allow the materials to be brought out. JK stated that any trees that need to be cut for the access path should be included on the site plan. JH adds there will be no trees being cut. BG notes that he observed vehicle tracks on the site previously and tree cutting and suggested that no tree removal should be included as a special condition. He would also like a true wetland line on the plan, and would like to talk further with applicant's professional wetland scientist (PWS) regarding his observations; this will protect against tree removal in the future and subsequent impacts such as erosion and sedimentation on the resource areas such as the salt marsh. BG also observed several areas of the wetlands delineation for further review based on the wetland delineation definition within Chapter 505. JH states that he will arrange for the PWS to meet with BG to review the wetland delineation.
- JK reads the Mass Fisheries recommendations for piers constructed in shellfish habitat which is 2.5', they note that pilings and posts will create depressions and hydraulic excavations from waves and wakes, and suggests the use of piles with pile stops. JH agrees.
- BG requests that color coding be added for the wetland flagging for both the wetlands and riverfront; JH agrees.
- JK asks how the barge will be able to get under the Bridge Street bridge to access the site. JH will consult with the contractor; possibly through flexi-floats that are disassembled and reassembled.
- JK motioned to continue the hearing until 6/19/2018. BO second. Approved 5-0-0.

**2721 Kathryn Campbell, TR., 3 Marion Street (sfh).....(Chad)**

- RC Reads Legal Ad; CH Hearing Officer. CH confirms administrative requirements are complete.
- Bob Crawford (BC), EET, represents lot owner. They are proposing to tear down an existing home and build a new home on the lot. Existing home is about 880 sq ft; proposed home will be about 1280 sq ft. exclusive of decks and lands. Current grades range from 7.5-6.5 from north to south. Lot is in flood hazard zone AE 16. They are proposing to construct a concrete foundation with top of first floor at 16.25' elevation. Lowest floor would be 8.75 ft elevation with 7 engineered flood vents. A shed on the lot will be relocated. A bituminous driveway is proposed to access the lot from Marion Street. They have received a special permit from the Zoning Board but have not received the building permit yet.
- CH asks about the definition of the special permit; BC indicates one was issued because the lot is substandard.
- CH mentions that the lot is flat, and he noted no specific concerns.
- BG unlike other lots, there is no lawn and there are wetlands plants in the area. He has provided pictures for the file, and would like a PWS to check if they agree that there are wetlands on the property; the lot is outside of the salt marsh setback but wetland plants are thriving on the property.
- CH asks for comments from abutters. Sandy Fricke (SF), 96 Beach Street, expresses concern about the height, and asks if the structure has to be that high to meet the flood plain requirements. She feels that the home is large and does not fit in with the neighborhood. CH notes this is a common issue. RC states the Commission has no jurisdiction over aesthetics or height; this would be a zoning issue and should have been raised at the special permit hearing before Zoning. SF mentions she had provided written comments to Zoning. BC mentions that the height, at 28 ft, is less than the 35 ft. allowable under the Zoning Bylaws.
- Jack Blondin, family member overseeing construction of the home, states that the home has always had lawn. There is some overgrowth now and some rainwater pools on the lot, but there has never been any marsh grass.
- BG states that he had observed other wetland species, not marsh grass, on the lot. PWS verification that there are no wetlands on the site will resolve the issue. If the PWS finds a wetland, this would trigger a 25 ft setback requirement, and then they would have to ask for a variance if any part of the project is within the 25 ft buffer. BG notes that the lot has depressions so grading changes would need to be considered as well.
- CH asks BG whether there will be any special conditions; BG indicates the standard special conditions will apply, and applicants should focus on having a PWS review the site.
- CH motioned to continue the hearing until 6/19/2018 to allow a PWS time to review the lot. JK second. Approved 5-0-0.

**2713 Krusell, 0 Careswell Street (sfh).....(cont from 5/1/18) (Bert)**

- Continued at applicant's request, will be heard on 6/19/2018.

**2725 Sullivan Marshfield Trust, 70 Circuit Ave West (sfh & vegetative management) .....(Chad)**

- RC Reads Legal Ad; CH Hearing Officer. CH confirms administrative requirements are complete.
- Dana Altobello (DA), Merrill Engineering representing homeowner. Lot is 17,000 sq ft, considered upland. Wetlands across Circuit Ave. delineated by Brad Holmes in March, 2018. Buffer zones are provided on the site plan. Currently the lot is vacant; they are proposing a SFH and driveway, and associated grading and utility

connections. Two small corners of home fall within the 100 ft buffer zone. They are also proposing 80-100 feet of roadway improvements to Circuit Ave. to provide emergency vehicle access. Erosion control by silt sock will be provided for both the roadway improvement and home/driveway construction aspects of the project. DA states there was a misunderstanding with the realtor, resulting in clearing of about 310 sq ft within the 50 ft buffer zone. Previously, invasives were dominant in the area. Brad Holmes, ECR, has proposed a restoration plan for this area to include native species (bayberry and wildlife seed mix) and the installation of three conservation posts on the 50 ft buffer.

- CH asks if there was a reason that the area was cleared. DA stated the clearing was a result of a misunderstanding having to do with the road improvement plan by EET, which did not mention that the area falls within the jurisdictional boundaries.
- CH suggests that Commissioners consider a 2-for-1 replication as a result of the clearing. He feels there should be a consequence in these situations.
- JK asks about the driveway material; DA mentions the driveway will be gravel. In response to a query from JK, BG reads the regulations and confirms with the Commission that the driveway is considered a structure. JK notes that the driveway, a "structure," is in the no-structure zone. CH notes that BG has concerns about the area that was cleared.
- BG states that the realtor, Jonathan Mark, had contacted him and thought he had received verbal permission for the work, which he didn't. BG set up a Due Diligence review. A filing for the clearing has been prepared. He also mentions there was an old filing SE42-2348 at 34 Standish Ave while Jay Wennemer (JW) was the Conservation Administrator for which the wetland line was delineated by Warren Harrington (WH) in 1980. BG contends that the 1980 wetland line under WH and 2011 wetland line under JW is still applicable. BG found two high-brush blueberry bushes on the site, and would like to explore if there is an isolated vegetated wetland on the cleared site
- DA mentions that Brad Holmes did what analysis he could on the disturbed site, including soil samples, and shows the commission the plan from 1980. He reviews the 1980 wetland delineation and notes that it might be an estimated line and not a field delineated line. He also mentions there was a major update in the way wetland was delineated in 1995. BG contents that the Commission approved the 1980 line again in 2011 despite the fact that the methodology changed in 1995.
- RC would like to know the difference between delineations before and after 1995. DA states that, starting in 1995 the soils can be taken into account. The process now is more fine tuned and takes more variables into account.
- FW notes that the WH delineation is now nearly 40 years old, and the Commission often asks for updated delineations in hearings. He feels the Commission should ask for an updated wetland line. BG contends that only the Commission can approve an updated wetland line, and it has only done so in cases where a growth or shrinkage of wetland was obvious. BG reiterates that he found wetland plants on the disturbed site so he is wondering if the wetland line is bigger.
- BO brings up a recent case on South River Street, where the Commission did change a previously delineated wetland line. BO states that the wetland delineation was challenged and changed. BG stated that the wetland line in that case actually held after review by the Conservation Administrator, but an isolated vegetated wetland was found on site that required examination.
- BG feels the 1980 wetland line is applicable; by reviewing the changes to the 1980 line it is notable that it pulls the setbacks back away from the entrance so there is no need for a variance which gives the Commission leverage to require a robust planting plan along the 50 in exchange for a variance allowing the driveway. CH notes that his previous statement regarding replication was not predicated upon accepting the 1980 line. FW feels the wetland line can change over time as species may move up or down the slope. RC wants to know how this affects the driveway. CH states that the location of the line affects the Commission's base line for a determination. BG suggests that if the applicant had addressed the planting plan in advance of the hearing and as part of the filing that it would have been preferred. JK asks for the location of the blue berry bushes. BG notes the locations on the site plan and that the entire lot is clear cut so there may have been more wetland indicator plants that cannot be identified now. BG reiterates that all but 10% of the vegetation has been cleared on the property yet he was able to locate two high bush blueberries. DA states that BH reviewed the lot. BG reiterates that the Town's regulations for wetland delineation is based upon vegetation not soils and the lot is now clear cut.
- The Commission discussed the validity and potential impact of the presence of an isolated vegetated wetland near the property. CH indicates he would accept Brad Holmes' delineation, as it was recently done but notes that BG has observed evidence that needs to be considered. FW notes that the percentage of "wetland" vegetation in an area is also a factor, and two blueberry bushes alone do not make an area a wetland. JK asks why the presence of the bushes was not noted in BH's report. JK wants to know why BH did not observe the two wetland plants that are left?

- RC states, under the circumstances, he would be in favor of either closing conditioned upon a more robust planting plan, or continuing for another look by a PWS.
- CH asks for comments from the public. None.
- CH motioned to continue the hearing to 6/19/2018 to allow a PWS to review the site. JK second. Motion did not carry by roll call vote: JK yes; BO abstain; CH yes; FW abstain; RC abstain (2-0-3).
- BG suggests that the matter be closed conditioned upon a more robust planting plan. After some discussion, the Commission decides to request increased bayberry and shadbush plantings both from 3 to 6, increased planting area in accordance with Brad Holmes' recommendations to be submitted before commencement of the proposed work; and three conservation markers along the fringe.
- RC reads the standard special conditions, and BG adds special conditions about additional plants, conservation markers and submittal of revised planting plan to be referenced in the issued orders which will also apply. BG also requests that applicants post their Mass DEP number.
- CH motioned to close with conditions as noted. FW second. Approved 5-0-0.

**2726 McCarthy, 46 Bay Avenue (After the Fact NOI) (patio, ramp, veg. restoration).....(Rob)**

- RC Reads Legal Ad; RC Hearing Officer. RC confirms administrative requirements are complete.
- Rick Servant (RS), Stenbeck and Taylor, representing homeowners. They were advised by BG and JW, the previous Conservation Administrator to file a Notice of Intent. They were instructed to file an After the Fact NOI for activities done on the site, including the construction of a concrete patio between the house and seawall, a concrete driveway, blocks and soil, and a walkway on the Brighton Ave extension to the south with a concrete ramp.
- RS would like to know how to proceed from here, particularly what to do on Brighton Ave. He and BG had discussed some restoration planting options there.
- RS adds that the Driveway was previously paved and is now concrete. The concrete patio was installed in 2005 and had been maintained.
- RC asks for comments from the public. Comments as follows:
- George Brewster (GB), the neighbor to the north, states the patio has been there for as long as he can remember. He would like to put a similar patio on his property, as he feels it protects the seawall and the home. He thinks the deck gives a nice appearance to the neighborhood, and he is hoping for a resolution so all parties can move forward. The homes to the north also have patios to the seawall and those homes were protected.
- CH asks GB how a cement patio provides protection. GB notes he is not an engineer but thinks without it, seawater seeps down into the foot of the seawall and causes damage. His section of seawall was recently restored and is already cracked. RC indicates he didn't necessarily agree with that analysis.
- John Fitzgerald (JF), another neighbor, 37 Bay Avenue, agrees with GB. Based on his experience, the homes with natural sand and dirt get undermined. He also feels a concrete patio protects the wall and gives the area a good appearance. CH suggests that this may just be an illusion of protection because they don't actually see what's going on underneath.
- Joe Collins Jr. (JF), 55 Bay Ave, states that the front patio has been in place since he was a child in the 1970s. He feels the McCarthy's have improved the area with the work on the Brighton Street beach entrance and made it more accessible.
- Tom Duffy (TD), 6 Brighton Street. He feels the recent storms have been tragic and the work Mr. McCarthy has done has improved the area and also provided protection to the neighbors. He notes he is not an engineer, but feels that having just sand around seawalls undermines the walls and the sand washes away onto neighboring properties. He states that the steps that Mr. McCarthy has taken over the years has diminished the storm related impacts. He recommends a common sense solution. He states the McCarthy's are great people and do good things for the neighborhood.
- RS agrees with the abutters that a hardened surfaced behind the seawall is better solution, and feels the failures in seawalls tend to occur where sand is slurried out from underneath the wall. RS expresses his personal opinion that mitigating solutions such as additions of native soils or plants will just get washed out. CH reiterates that this may simply be illusory.
- JK asks if are there any bylaws or regulations that state there can be no structures attached to seawalls. BG mentions bylaw section 217, concerning seawalls, which prohibits structures on or over seawalls without the express written approval of the Board of Selectmen. He also states the Building Inspector has indicated the patio was "on" the seawall for the purposes of the bylaw. JK suggests that the McCarthy's could appear before the Board of Selectmen if they want the patio to abut the seawall.
- BO mentions the policy might have been put in place because the new seawalls are higher than previously. BG stated that in the past, filings that had decks were not allowed to attach to the seawall and had to have a 3 foot

space between the deck and the seawall (SE42-2587/166 Foster Avenue) or not be attached to the seawall (SE42-2316/104 Bay Avenue).

- BG also states he observed several cases in which vegetation behind seawalls has been more robust and absorbed the shock from wave activity. He also notes the DPW needs to have access to the seawall to make various repairs, and this may be the actual reason for the seawall bylaw. All this tells you the same thing nothing can be attached or over a seawall. FW states that the deck is not attached. BG states that it is attached.
- BG also states that no work has been done towards the restoration plan ordered in the original EO. He feels there may be opportunity for such restoration in the side yard along the beach access path. Further, as a result of the concrete driveway, seawater is redirected off their property and onto neighboring properties.
- TD feels there is no evidence of this redirection of the wave action, and shows the Commission a video of a storm to show the water flow on the neighbor's property. TD feels any planting will not help. BG states the more hardscape there is in the area, the higher the water velocity. GB states that he does not agree that the deck is attached.
- JK notes that we had work performed that was not permitted and that they did not respond to that requires so this required an Enforcement Order and they just want to put it back the way that it was so if we permit this then others will want to do the same. So, there is existing and new structures that are treated differently, and suggests this patio is existing and wants to know how the Commission plans to manage existing FW defines "existing" as installed before the enactment of a regulation, and feels the patio is existing.
- RC notes that the Commission has required that new structures near seawalls be pulled away from the seawall.
- JK suggests that new will be treated differently. JK asks if the approach that is being presented is so effective then why it is damaged so often. Ron McCarthy stated that he has been down to the DPW to report a crack in the town seawall, which was not repaired. RM feels this crack and the resulting seawall breakage/damage caused the damage to his property.
- JK asks whether the Commission going forward proposes to allow concrete patios in resource areas near seawalls as long as they do not touch the seawall. BG mentions that the DPW would like to see pervious pavers or removable wooden decks near seawalls to allow them to conduct maintenance on the seawalls. DPW needs access to the seawall substructure in order to make repairs. RC indicates removal of the deck and replacement with permeable pavers may be an acceptable compromise.
- BG suggests that the Commission require the homeowners to install pervious pavers near the seawall. FW feels the structure already exists and the work has been done. BG notes that the work was done without permits, and expresses concern that without some consequence, other homeowners will attempt similar projects unpermitted.
- JK explains to all present that people in the town have been taking the liberty to conduct work without proper permitting, and then coming in after the fact for forgiveness. TD feels residents are only seeking to repair their property, which is a reasonable request.
- RM states the day they bought the home there was a storm, and upon arriving to the property the backyard was destroyed / gone. He had never lived on the water before and never knew anything about the conservation regulations, and he was in the concrete business, so that's what he brought in to the yard. RM stated he had a meeting with Jay Wennemer (JW) regarding the deck and its maintenance, and that JW never gave him paperwork to file for a permit. BG contends that JW asked RM verbally for a filing, and BG asked for the filing in writing.
- GB mentions that every two years he gets significant property damage at cost upwards of \$100,000. He has sand on his property and he is next door to the McCarthys and RM suggested that GB pour concrete. He feels the McCarthy's do not get similar damage due to their having a concrete patio and they are right next door. RC indicates that part of the problem is this perception may make other residents want to install concrete structures unpermitted. RS states that new concrete patios would not be allowed.
- RC notes the Commission, based on its discussion, will not be permitting concrete patios up to seawalls on new filings.
- FW would like to discuss the mitigation plantings. RS indicates he had started some plantings but acknowledged they were probably not sufficient. Sue McCarthy (SM) wonders if BG would like them to hire a landscape architect. BG states the planting plan must come from a professional who can come up with a viable planting plan for the area. He feels Eastern Red Cedars may work.
- RS would like to know the location of the plantings and states the site plan shows the area BG would like the plantings on to be Town property. RC doesn't believe the Commission can order mitigation plantings on town property.
- JK would like to know what the Chair (RC) would like to do for mitigation. CH feels there is no opportunity for mitigation on this property. FW agrees. JK suggests that if the mitigation plantings won't work then perhaps a fine would be appropriate. RC proposes to close the hearing, and issue a fine for the unpermitted work.
- JK states that new patios around seawalls will have to be pervious.

- RC motioned to close the hearing and issue orders of conditions for work already completed and a fine of \$500.00 to be paid within 30 days. FW second. Approved 5-0-0.

**2723 Rum Island Condominium Trust (Trouants Island Causeway) .....(open but do not hear) (Jim)**

- RC Reads Legal Ad;JK Hearing Officer.
- RC motioned to continue the matter to 6/19/2018. FW second. Approved 5-0-0.

**2684 Bethanis, 1184 Ferry Street (found. rest. driveway recons).....(cont from 10/03/17) (Jim)**

- Continued at applicant's request, will be heard on 6/19/2018
- RC motioned to continue the matter to 6/19/2018. FW second. Approved 5-0-0.

**REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS**

**ENFORCEMENT ORDERS**

Smith, 38 Liberty Street (Email Response 05/06/18)	Mahaney, 46 Preston Terrace
Drosopoulos, 7 Ladyslipper Lane (TC Letter 11/18/17)	White, 180 Atwell Circle (Escalation letter in Process)
New Owner, Winslow Avenue Ext.	Levangie, 3 Cove Creek (Communication in Progress)
Tamara Macuch, 237 Webster Avenue	Stifter, 102 Bartlett's Island (unpermitted revetment wall)
Jogi's Liquor Store, 951 Ocean Street (unpermitted cutting)	

**NEW BUSINESS**

- Duxbury Seawall Work Access  
BG advised that the Duxbury DPW would like to use a Marshfield beach access for permitted work on a seawall in Duxbury. Commissioners had no objections.
- 222 Canal Street, SPC Construction (raze & rebuild) SE42-2547  
BG performed site walk noticed minor grade modifications, reduced and different addition, stairs on deck and front door that we not included in Plan of Record. BG request PE letter. Dana Altobello, PE for Merrill Associates provided letter stating substantial conformance.  
BG suggests that the Commission approve and sign the Certificate of Compliance. Commissioners sign.

**BUSINESS**

**Webster Point Village**

- Bob Sheldermine (BS), Attorney, representing the developer. Also present is land owner Frank Giosio.
- BS notes that one third of the development is in Duxbury (16 lots) and two thirds is in Marshfield (24 lots). There is a condition that requires that 8.9 acres in Marshfield be encumbered by a conservation restriction, as well as a similar restriction in Duxbury covering 6 acres.
- The comprehensive permit requires that a suitable grantee be found for the 8.9 acres; this can be a municipal body or a non-profit. They have approached Audubon, the Trustees of Reservations, and Wildlands Trust, who have all declined since they have no other land in the area.
- BS states the landowner will give an up-front \$20,000 stipend for stewardship. The homeowner's association will then pay a \$1000.00 a year for stewardship.
- BG advises that the Duxbury Conservation Commission refused the CR, as it did not provide the open space values they take with a CR; they also cited difficulty of access, as well as liability and maintenance issues.
- BG also points out the liability risks the town would be assuming with the CR, such as from falling trees. The town has been selective about new land acquisitions because of these risks. He feels the site is too small and inaccessible to offer much value to the town or Commission.
- FW asks BG why the Zoning Board decided on the CR as mitigation. BS states in part it was to provide a buffer to the neighbors, and some of the area being Priority Habitat.
- BS states there is request pending with the Duxbury and Marshfield ZBAs to see if they will help with some relief as to the CR, as they have been unable to find a grantee. He is looking for the Commission to accept the CR on the property. They had previously met with BG and the Commission, but the request was denied. They have now come back with an offer of funds to cover stewardship costs.

- CH asks BS if they would be willing to assume all legal liability in exchange for the Commission accepting the CR. BS would have to discuss this with Town Counsel Galvin.
- The Commission agrees they need more time to review the information that has been presented at this meeting.
- FG states that the homeowner's association will be monitoring the land, which would reduce liability; he suggests that the Commission accept the CR and let the HOA manage the site.
- RC asks whether a second denial by the Commission would help them get relief from the ZBA. BS notes there are permit expiration dates to contend with. All things being equal, his client would prefer to give the CR.
- BS points out there are four vernal pools in Marshfield and one in Duxbury. In their discussions with Duxbury, the idea of a fee interest in the BVW was raised as an alternative to a CR. CH asks what a fee interest is. BS states that a deed would be created to convey outright ownership of the BVW to the Commission.
- JK notes that the CR has been turned down by multiple entities and feels, as the Zoning Board created the problem, they should try to resolve it. He suggests that the Commission reject the CR outright to help in this process. FW feels that ownership of the BVW may be of some value to the Commission. CH feels the developer should assume liability in order to make it worthwhile for the Commission to accept the CR.
- BS notes that, under the Comprehensive Permit, there are significant restrictions on what they or the homeowners can do with the land. JK does not want the Commission to have to monitor the land for compliance with these restrictions; BG concurs.
- BG notes for the record that ZBA typically checks in with the Commission regarding CRs related to 40B projects.
- Attorney Dennis Murphy speaks on behalf of the Prince Circle/Duck Hill Road Neighborhood Association; he is here this evening to make sure the information presented is what was agreed upon between the abutters and the developer. He feels Attorney Galvin needs to review the information presented and advise both the Commission and ZBA.
- BS clarifies that, if the Commission accepts the CR, they will withdraw their request to the ZBA for relief from this requirement. The Commission agrees to take no action at this time. BG will contact Town Counsel Bob Galvin for advice.

#### Columbia Gas – Acorn Street Hybrid Filing

- BG inspected the flagging on the site done by Brad Holmes.
- Catch basins will be protected with silt socks.
- BG wonders whether the basins in resource areas should be marked more clearly on site, possibly by spray paint. Commissioners felt this is not necessary.

#### Eric Goodwin Update

- Per Town Counsel Galvin, the Conservation Commission cannot issue a permit for Mr. Goodwin to use conservation land for his business; the only guidance the Commission can give is to advise he has to follow the rules and regulations.

#### Emergency Certification Update – BG

- BG discusses the status of all emergency declarations and certifications. 28 properties are involved on Bay Ave., Rexhame, and Grandview. He is working with DPW to group the NOIs by geographic area, and avoid the need for multiple permits for seawall and revetment wall activities.
- BG wants to rescind his right to unilaterally write emergency certs, except for the one concerning jetty work, due to time constraints. Commissioners had no objections.

The Commission briefly discussed the scheduling of summer meetings prior to adjourning.

**ADJOURNMENT** – RC motioned to close hearing at 10:14 pm. FW seconded. Motion approved 5-0-0.

Respectfully submitted,  
Liz Anoja, Conservation Administrative Clerk  
Marshfield Conservation Commission

Bill Grafton, Conservation Administrator  
Robert Conlon, Chairman  
Frank Woodfall  
Chad Haitsma

Bert O'Donnell  
James Kilcoyne  
Art Lage