

MEMBERS PRESENT – James Kilcoyne, Chairman (JK), Frank Woodfall (FW), Bert O'Donnell (BO), Patrick (Rick) Carberry (PC), Art Lage (AL) Bill Grafton, Conservation Administrator (BG). FW arrived at 7:13 pm.

MEMBERS NOT PRESENT – Robert Conlon, Chairman (RC)

CALL TO ORDER – JK motioned to open the meeting at 7:10 p.m. BO second. Approved 4-0-0.

MINUTES

BG asks if Commissioners have any comments regarding the 11/7/17 minutes; there are none. He notes that the in minutes for the Main Street hearing, BSC Group indicated that there was a vernal pool; upon further review, what actually was said was that there was the possibility of a vernal pool. BG would like to add the statement “to be determined” in brackets to this section but would defer to Commissioner judgment. Commissioner consensus is to leave the section alone. JK motioned to accept the 11/7/17 minutes as submitted. BO second. Approved 4-0-0.

FW arrives.

PUBLIC HEARINGS

18-27 Eder, 40 Bay Ave (Veg. Management).....NEW (Frank)

- JK Reads Legal Ad, FW Hearing Officer. FW confirms administrative requirements are complete.
- Konrad Eder (KE), 40 Bay Ave, advised the Commission that three trees were damaged in the March storm. He would like to replant three trees and clean up debris from public walkway to the side of his house. KE adds that there was a hearing regarding the work done at neighbor's adjacent property; he was present for the hearing but had to leave early due to a health issue. He states that the concrete the neighbor added resulted in additional wave damage to his house, which is why he is filing for a permit for the work he would like to complete.
- FW asks for verification that the work is primarily restoration or maintenance of the sides of the house; KE indicates mostly one side; BG adds he is also asking for the ability to do periodic maintenance, as this is a recurring issue.
- BG recommends approval neg 3, standard special conditions, plus a provision allowing for periodic maintenance to replace storm-impacted plants and beach-compatible materials. Any work beyond this scope would require an additional filing.
- FW asks for comments from the other commissioners. JK has the same view of concrete armoring as KE in that it only redirects the water elsewhere; thus, such armoring might not be the best option. KE states he has never had problems on that side of his house until the neighbor's installation of the additional concrete.
- FW asks for comments from the public. None.
- FW motioned to close and issue a DOA, Neg # 3, with special conditions drafted by BG.
PC second. Approved 5-0-0.

18-28 Lage, 14 E Street (Fence).....NEW (Bert)

- JK Reads Legal Ad, BO Hearing Officer. BO confirms administrative requirements are complete.
- Commissioner Art Lage recuses himself and leaves the room due to his ownership of the subject property.
- Susan Lage (SL) advises their project involves trying to protect a back parcel of land. A new home was built on the lot, and they would like to place a 6 ft privacy fence along the property line, with a 6 inch height from the ground for floodwater, sand and wildlife movement, transitioning to a 42-inch picket fence. They are trying to protect some of the vegetation growing on the empty lot / dune.
- BO visited the site, and confirms that the fence is open and allows animal and water movement. No other comments from commissioners or the public.
- BG suggests a special condition allowing for periodic maintenance in perpetuity. JK would like to add a special condition specifying the fence must be six inches off the grass, and BG concurs.
- BO motioned to close hearing and issue a DOA, Neg. # 3, with special conditions as drafted by BG.
FW second. Approved 4-0-0.

Commissioner Art Lage returns to the meeting.

- 18-29 Friends of South River Park, 2154 Ocean Street (Granite Stone).....NEW (Bert)
- JK Reads Legal Ad, BO Hearing Officer. BO confirms administrative requirements are complete.
 - Susan Caron (SC) Friends Of South River Park and Greenway (FSRP&G) presenting for applicant; they would like to place a 1.6 ton granite stone on the upper riverbank, with a National Natural Landmark plaque. There will be no alteration to the riverfront area. Bill Finn has been working on getting this plaque for 42 years, showing the North and South Rivers are a national natural landmark.
 - Bill Finn (BF) advises that the stone is Weymouth granite out of the Weymouth Quarry, and DPW will be responsible for care of the stone. On September 23rd there will be a unveiling of the stone and breakfast hosted by the Marshfield Yacht Club. The Town of Marshfield will be the keepers of the plaque, but the National Parks Service owns the plaque and reserves the right to take the plaque back at any time.
 - BO is familiar with the plaque's location and thinks it's a good spot. No comments from other commissioners or the public.
 - BG suggests a special condition allowing for periodic maintenance and notes that such stones are often good reptile/amphibian habitat.
 - BO motioned to close and issue a DOA, Neg # 3, with special conditions as drafted by BG.
AL second. Approved 5-0-0.
- 18-30 MacEntee, 17 Constitution Road(Fence / Retaining wall).....NEW (Art)
- JK Reads Legal Ad, AL Hearing Officer. AL confirms administrative requirements are complete.
 - Andrew MacEntee (AE) 17 Constitution Road, advised he purchased the home in November. He proposes to replace a retaining wall and fence; all excavation was done by hand, and then put into a bobcat located on the driveway. The old retaining wall was cracked, and the old fence was destroyed in recent storms. He had started work on the retaining wall, as he was unaware he needed a permit to complete the work; the wall was built in the same location as the old one. AE advises that he has discovered portions of the new fence and wall were installed on his neighbor's property. He is proposing to move the fence and wall back on to his property, and will make sure the fence will be 6 inches off the ground to allow for water and animal flow. All work will be done by hand. The retaining wall is the same height but is made of masonry block. The east-west wall will be moved in about a foot onto his property.
 - JK verifies that AE is replacing and moving existing structures.
 - Robert J. Stone (RS), 18 Constellation (directly behind 17 Constitution) states that after the winter storms, AE and RS had a conversation about replacing the fence. AE subsequently went on an extended vacation, and RS put a picket fence on his property. AE subsequently installed a larger fence near his picket fence, on his property. RS notes that he has two homes on the property, and there is erosion on the site that continues to get worse. RS mentions that there was removal of sand and beach grass when the north-south retaining wall was repaired; the fence is on his property in places, and at the property line in others. They have complained to various town boards but have had limited response. RS provides a copy of correspondence to him from AE for the Commission's file; he notes that the erosion on his property is continuing, and hopes the Commission's decision can help mitigate this.
 - PC asks RS what he would like AE to do. RS isn't sure but suggests the Commission visit the site to inspect what has already been done. He will abide by whatever the Commission's final decision is.
 - AL notes that this type of situation is not atypical, and many people do this unfortunately. He visited the site, and it looked like everything will proceed to a resolution, but is unsure of what action the Commission can take currently.
 - FW mentions that RS put up a fence without a permit, and asks RS to explain where the erosion on his property is coming from and going to. RS states it is coming from beneath the concrete pad on his property, and flowing down to AE's property. He put his fence in the same spot as the previous fence, and states his contractor assured him that he would not need a permit to replace the fence. BG indicates the contractor was incorrect.
 - AL asks RS if the erosion is resulting from the digging for the retaining wall, and whether he feels this will be resolved once the new wall is installed. RS states that his contractor hasn't been able to complete the work on his fence due to the work that was done on AE's property. He is unsure if the completed retaining wall will resolve the erosion issue. He doesn't know if the material of the retaining wall will allow him to do what is needed to stabilize the fence on his own property.
 - BG advises he has visited both properties. He mentions that there is a nice dune-esque area in the front of the properties and suggests the Commission consider some planting mitigation between the properties, as this could stabilize the soil, but both owners would need to come up with the planting plan to avoid liability to the town.
 - AE mentions the contractor will be adding gravel to the inside of the retaining wall.
 - Scott Stone (SS) states the reason for the erosion is from the initial removal of the sand and stone from the area. AE feels the erosion is minimal, and does not feel that is was substantial, as all the work was done by hand. The sand taken out initially is still on his property.

- BG notes that the Commission is concerned with the impacts to resource areas as opposed to the property rights issues, and states that both properties are jurisdictional. There may be some mutual benefit to resolving the matter cooperatively, but this is beyond the scope of the Commission.
- FW notes this matter concerns two issues on two properties whose owners don't agree, and feels that each owner should file a NOI; BG concurs. PC feels this situation occurred because AE and RS did not coordinate sufficiently at the outset. BG indicates the area is a sensitive habitat, and thus requiring the filing of NOIs by both parties may be appropriate. Commissioners discuss how to proceed.
- RS reiterates that the fence that he erected is entirely on his property, but AE's fence on the west side is on his property line and the east side of the fence is 8 inches over the line onto his property. He invites the Commissioners to visit his property to view what has been done. He is willing to hire a project engineer if needed, but his contractor had assured him this was not necessary.
- BG mentions to RS that there a prior filing on his property, SE42-1754, from 2013, that could give him a plan of record his engineer could draw from. He recommends a finding of pos 1 & 5, which will force a NOI.
- JK suggests that both parties work with an engineer to submit a site plan, with all information on it, that both neighbors can agree on. BG does not feel the parties will be able to cooperate sufficiently, and recommends that they submit two separate NOIs.
- AL motioned to close the hearing and issue a DOA, Pos # 1 (Act) and Pos # 5 (Bylaw).
FW second. Approved 5-0-0.

27xx Carbone, 18 E Street (Deck).....NEW (Rick)

- JK Reads Legal Ad, PC Hearing Officer. PC confirms advises taxes are paid and abutters notified, but DEP number has not been issued yet, so hearing cannot be closed tonight. He suggests that the project be heard by the Commission tonight and then continued.
- JK feels that the hearing should not be heard since there is no DEP number. He feels there was a previous agreement among commissioners to this effect, in order to reduce the incidence of multiple hearings. BG thinks it was discussed but not necessarily agreed to. The commission is polled: PC hear, AL hear, BO hear, FW hear.
- PC, AL, and BO, indicate that going forward, cases without a DEP number should not be heard. FW notes that abutters typically come to the posted meeting date, and it can be a hardship for applicants to get attorneys and engineers to come to a second hearing; he would like to leave the process as is. BG notes that the timing of DEP number issuance from Boston can vary, and they may need to increase applicant awareness, but these situations are relatively rare. Commission consensus is that going forward, cases without DEP numbers will not be heard.
- AL recuses himself from the hearing due to his being a neighbor and the perception of a conflict.
- Terry McGovern, Stenbeck and Taylor, represents applicant. They propose to replace an existing deck with a new deck in the same location, slightly smaller by 15 sq ft. The existing deck stands 2 ft off the ground. The new deck will have the same elevation, will have a covered roof, and be on helical piles. They anticipate no disturbance on the site or to adjacent resource areas.
- PC mentions applicants had a nice discussion with BG about the use of helical piles and other design aspects.
- FW asks whether the existing deck is 1x4; TM says yes. FW would like to know if there will be a gutter system. TM states there will not be a gutter system because the roof is not substantial enough to create much runoff.
- PC asks for comments from the public; none.
- PC notes that BG had suggested that there may be an opportunity for the Conservation Administrator to meet with the applicant to help connect with the Home Owners Association (HOA) in that area about proper permitting procedures with the Commission to help alleviate conflicts like just witnessed during the 17 Constitution Road meeting. BG notes this needn't be a condition but it may be helpful for him to speak to the HOA to provided education and guidance. BG suggests and reads the standard special conditions of approval.
- PC motioned to continue due to lack of DEP # and, at the next meeting, issue an order of conditions with special conditions as drafted by BG. JK second. Approved 4-0-0.

Commissioner Art Lage returns to the meeting.

2727 Digan Jr., 1327 Union Street (Pier & Dock).....cont from 6/5/18 (Jim)

- Continued hearing, JK Hearing Officer. JK confirms administrative requirements are complete.
- Paul Mirabito (PM), Ross Engineering; Brad Holmes (BH), ECR; and Jack Hannon (JH), Mayflower Engineering, representing applicant. BH advises he will be discussing wetlands on site and issues with tree cutting in the buffer zone. The NOI was originally filed by JH, and he will continue with his presentation. BH asks if this is acceptable to the Commission?
- BG thought JH, the PE on the dock was the lead and BH was the qualified wetlands scientist. BG would like clarity and inquires as to PM's role in the project. BH mentions there are two separate issues. There is a Notice

of Intent dock filing on the western portion of the site and BH is assisting JH with the wetland delineation for that filing. He has reviewed the wetland line with BG in the field and concerns about the tree cutting in the buffer zone. BH states that this has nothing to do with the dock permit request. BH states that BH and PM are present to talk about the tree cutting. BH inquires if this is the time to address the tree cutting or if another time would be better. There are two separate issues- the tree cutting and the dock. PM is here as he did the original survey of the lot and did an additional survey to locate some of the cut trees. BH is not trying to complicate the hearing and is looking for guidance on how the Commission wants to proceed.

- JK has been out on site and other Commissioners have also been onsite. JK feels the filing has devolved into a fairly complicated situation. The hearing is for the dock and part of the dock process was the need for wetland delineation lines on the whole property. The two issues are separate but they do coincide with each other. In JK's mind, it is a simultaneous project. Once the wetland demarcation line was established, it triggered a review and other activities were observed within the wetland setbacks as well as the North River Commission jurisdiction. JK and BO walked the property along the marsh and river and down a meandering pathway that JH indicated is proposed as access to the dock. They saw another line of flags leading from the dock location and the flags were marked as pathway. JK would like to know if the pathway had moved or is there a plan for a second pathway. JK reiterates that the Commission was told that the meandering path was the proposed pathway. He notes that the Commission has asked twice now for the trees that will be cut on the path to be marked in the field and those trees have not been marked. Now there is a new path that is flagged but not the meandering path. It seems like the applicant is struggling to properly flag the site, and now there is the issue of the tree cuttings to contend. Once you start putting all this together, it leads JK to see this as a simultaneous issue. JK notes that it seems to be the same problem with the house and the dock.
- JK asks BG whether he had an opportunity to field review the wetland line shown on the site plan. BG stated that he did and discussed observation of other activities during the official business on the site and the Commission response options. He notes that the state and town have different methodologies in establishing the wetland lines, and this can lead to discrepancies at certain times of the year. As an example, during the majority of the year when plant life is active, review of the wetland delineation with the local methodology may yield entirely or partially a more conservative line while a wetland delineation performed in the winter time when plant life is less active may result in a wetland that is consistent with the state methodology. He and BH walked the site, and they agreed to show both "state" and "town" wetland lines on the site plan and let the Commission decide which lines to use for this project. BG points out that the difference in the methodologies is apparent on the site plan before the Commission. BG has pictures of plants that meet the wetlands delineation definition such as skunk cabbage and sweet pepperbush. BG stated that BH and BG carefully reviewed sections of the wetland line and agreed that the state delineated line had sections that under represented the local delineation method. BG said that BH offered to provide both delineation methods on a site plan to be presented to the Commission so that the Commission decide which line will be approved. BG agreed that this was a reasonable approach. The yellow on the site plan represents the wetland line using the town method, and green represents the line using the state method. BG discusses the setback impacts to the house activities if the town methodology is approved. BG asks BH if the setbacks are off the green or yellow lines depicted on the plan? BH states that they are the most conservative line that includes the yellow. BG reiterates that the yellow depicted wetland flags are under the local Bylaw versus the green which is under the state Act.
- BO asks BH if the green line was delineated last year. BH states correct. BH states that it is important to discuss the wetland delineation because that sets the starting point for the setbacks. BH submitted a letter on June 26, 2018 to express his issue with the Town versus State wetland delineation method. He detailed the Bylaw sections that pertain to the wetland delineation methodology and provided insight. The Town methodology creates a dilemma for BH as well as BG. BH reads the wetland delineation definition in the Town regulations. BH notes that the Marshfield wetlands Bylaw looks at vegetation, and the yellow line shows areas above the bordering vegetated wetlands (BVW) defined with the state methodology that are more than 50% wetland plants, but the soils in these areas as if observed by auger sampling are bright orange dry and show no indications of hydrology. Therefore, it cannot be a wetland as it cannot function as a wetland because it has no source of hydrology but it has enough of the vegetation to meet the Bylaw wetland delineation definition. He showed both the state and Town wetland line so there can be a discussion. BH would like to know which line the Commission would like to use to define the wetlands on the site? He states due to the fact that the Town Bylaw does not have a definition for BVW, it reverts back to the state definition. He states that he brought this up to address this dilemma as it is something that is going to come up in the future.
- BH mentions that flags A1-A36 represented a full delineation he did in 2017 for Ross Engineering which was contracted by the home owners. Since then, JH had contacted him notified him about the new project for the dock, so he visited again and re-flagged the site and also flagged a 6 foot wide meandering pathway through the buffer zone to the dock. This pathway was GPS located to avoid large trees. He is unaware of other pathways on site. JK states he walked the path with the homeowner, she showed him the pathway, and it already exists and is usable. BH states that his flags were simply intended to demonstrate where a meandering 6 ft pathway

could be done without removing trees. BO asks if the pier is at the end of the pathway and BH states yes between flags A27 and A28. BH states that any pathway can be established without removing a lot of trees.

- JK asks to clarify that the green line on the site plan is the state line while the yellow is the local line. BH states yes but the yellow does not meet the definition for a BVW under the state. JK states that he understand the difference exists but the Commission is appointed to enforce the Bylaw. BH quotes the Bylaw stating that definitions not provided in the local regulations will incorporate the state wetlands definitions. Meaning that if you do not have a specific definition in the local regulations then you go back to the state regulations. JK summarizes green is the state and yellow is the Town. BH states potentially. JK states whether they are or are not. JK asks BG if the Bylaw is supportive or not for the yellow line?
- BG states that he agrees with a good portion of BH's argument but looks at the Town Bylaw differently. He agrees with the focus on definitions and notes that Chapter 505-16 provides a definition for wetland delineation that includes the process by which delineations can be done in any and all resource areas. BG states that the Bylaw provides the definition of "wetland" and process of delineation that the Commission needs to uphold. Therefore, we do not need a definition of specific wetlands or resource areas because 505-16 provides the process by which to delineate each and every one coastal or inland. BG states that this is what the Commission was appointed to uphold and the Bylaw supersedes the Act. JK reads 505-16 to the Commissioners for their consideration and the record. JK states that the BVW meets the Town criteria despite BH's argument that we do not have hydrology.
- FW asks why the Commission asks for soil borings if they are not needed under the Bylaw to establish a wetland. BG states that soils can be used in disturbed areas, and cites a project at 0 Highland (Spring Street) as an example that included high bush blueberries and disturbed soils so soil samples were taken and hydric soils containing iron were observed thus moving 2 wetland flags. On the same site in a different location, BG observed a winterberry and asked for an auger punch and that soil sample came up dry so the wetland flags were not moved. This is the process within the Bylaw definition and the results in the field had to be lived with. FW states that most of the time we use the wetlands. BG states most of the qualified wetland scientists use vegetation and soil sampling because they want to be sure about the line. There is a school of thought that the hydric soils are the key. BG has heard this argument from a number of qualified wetland scientists and conservation professionals.
- BO notes that we are not going to solve the discrepancy through this hearing. He states the wetland is being questioned not in the vicinity of the dock but it does apply to the tree cutting. BH calls out that even within the green line setbacks the tree cutting has occurred. BH notes that he had submitted correspondence to the Commission with an analysis of the Marshfield Wetlands Bylaw to bring this to the attention of the Commission. He agrees with BO that bringing up the issues of the wetland bylaw is a conversation for the future
- BH states that the wetland line has no impact on the dock but affects the tree cutting. BH shows a plan to address the tree cutting and notes that PM's survey team field surveyed the tree locations. JK interjects and asks BG why he does not have any information or a site plan pertaining to the tree cutting?
- BG advises that the conversation will deviate from the dock conversation. BG informs the Commission that a building permit was filed. BG contacted PM and felt they needed to file a Notice of Intent. He contacted PM, who mentioned to BG that the home fell into the scenic river exemption, which BG researched and determined to be true. His comments on the building permit indicated that the proposed project was outside Commission jurisdiction but that any subsequent work, such as the tree cutting that was done, would require a filing with the Commission. BG also notes that applicant's permit with the North River Commission prohibited tree cutting within 100 ft of the natural bank without submission of a cutting plan to the NRC and their approval of such plan. BG contacted the NRC, who indicated they were not in receipt of any such plan, and they are also going to inspect the site. BG summarizes that BO's comments about cutting within the 100-foot green line as well as the NRC natural bank both apply. BG also reiterates that the Buffer Zone and Riverfront were added in Chapter 294 under Article 24 approved at Annual Town Meeting. Riverfront is exempt due to scenic rivers exemption.
- PM shows the commission the trees in question on his site plan, and states the homeowner told him that the trees in the buffer that were removed were damaged or dead from the storms. PM advised the homeowner that the stumps should be located in the field. PM describes the conditions of the trees as leaning, diseased, storm damaged and poorly leafed. JK notes that all such trees just happened to fall in a vista area to the river. PM further describes the field conditions including erosion control associated with the house work. JK asks how the wetland line would look if the Marshfield wetland line was followed. PM defers to BH. BH states that the buffer zone would extend further landward which would be the case if yellow areas are added. AL asks BH to point out the areas that BH describes on the site plan. BH shows the areas on the site plan and notes that the 100 foot setback comes through the house more and takes into account additional trees. AL states the buffer zone would go through the house.
- BG notes there are photos of the trees cut in the file. He states that most of the trees cut were healthy; there are also photos of skunk cabbage and pepperbush located on site. He stated the area of the cutting appeared to be vibrant but was progressively getting thinned out including small and large caliper trees, and he saw no evidence

of storm damage in the area. BG hands out pictures of the site conditions in June and July of 2018 including the stacked tree trunk sections with only one tree showing signs of rot in the middle. BG also states that the property owner did not contact either him or the NRC about the tree cutting on the property. BG states that the homeowner was under the impression that there was a state Emergency Declaration in effect in 2018. BG replied that this was clearly over and BG had not been contacted about any tree cutting or vista pruning within the 100 despite the language in the building permit approval with condition in 2017. JK states he reviewed the pictures sent by e-mail and during his site visit he observed one tree rotting in the middle, but all other trees were clean, beautiful cuts. JK states that all he gets to look at is what they cut as the Commission was not brought in to see the proposed cutting before the trees were removed. PC notes that these are big trees. JK notes that the activity has already occurred and it makes it difficult for the Commission to make a determination. BG states that it is an unpermitted activity in the 100.

- JK notes that the walkway staked out by BH is different from the pre-existing walkway JH and the property owner said would be the actual walkway. AL asks for the path to be flagged in the field. BG speaks to BH that he believes BH has tried to show on the plan that a pathway can be established without cutting trees but that pathway did not get flagged in the field. BH concurs. BG states that he conveyed to JH that the path needs to be flagged in the field. The homeowner has been cutting in the 100, our jurisdictional boundaries without a permit. JK would like the walkway clearly staked on the site to avoid further confusion, and prevent the property owners from removing further trees where they shouldn't be. BH states that maybe locating the pathway on the site plan was wrong because he has already demonstrated that a path can be located on the property without cutting trees so the actual location in the field does not matter. JK states that the Commission has asked three times for the path to be flagged in the field. JK states we want the walkway staked. BG states the Commission needs a clear and convincing showing that they will not cut trees to establish the path. BH will stake out the pathway. He suggests that it be a special condition that no trees be removed to create the pathway, as it has been shown that the removal of trees is not necessary. BH states that the location of the path is irrelevant because you can field locate the path in the buffer zone without removing trees. JK states the Commission wants the path staked.
- JK feels applicants have a history of disregarding Orders of Conditions and permits, such as that issued by the NRC that states no cutting in their buffer zone without obtaining a permit so they cut without an NRC permit, so he does not favor any OOC that allows for a meandering pathway because it could lead to more cut trees. He would like to know the location of the septic system relative to the wetland delineation line as set forth by the Marshfield Bylaw. PM shows the location of the current system on the site plan, and says that the house was moved out. AL asks what do you mean that they moved it out? PM states that they added an addition. AL states the homeowner said they used exactly the footprint of the existing house. PM states they added a bay area to the garage for a motorcycle and relocated the pump chamber and tank, and doing so only required a permit from the Board of Health. JK states the question is where the location of the septic system relative to the wetland delineation line as set forth by the Marshfield Bylaw since it had to be moved to make room for motorcycle bay? JK asks PM whether the new system is within the 50 ft buffer as defined by the Marshfield bylaw? PM and BH states it is not. BH has been commenting on the Marshfield Bylaw wetland delineation definition as suspect and we need to figure that out so it depends on whether the state or Marshfield wetland delineation. BH adds the Board of Health regulations do not specify reference state or Marshfield definition of wetlands. JK replies that the Commission is charged with enforcing the town bylaws. BH states that the Marshfield delineation method is in question. JK states that we may have an issue with the Marshfield wetland delineation method but we have a method and the Commission is appointed to uphold it.
- In response to a query from FW about the site plan and the associated wetland delineation, BG states that when he signed off on the building permit that does not approve the wetland delineation. BG does not have the Commission's authority to approve a wetland delineation. He specifically stated in the building permit that any further work in the 100 ft buffer zone would require a filing with the Commission. BG notes that they performed work activities within the 100 foot setback without a permit and did the same with the North River Commission.
- JK would like to know where the phase 2 pool is located, noting that the landscape architect's drawings show it. the site plan references a swimming pool. PM states he has not seen a landscape plan, and is not aware of any plan for a pool. JK states that there are landscapers there now so there is some landscape plan. JK notes that he and BO observed extensive landscaping work being done when they visited the property. JK wanted to know if the plantings species were going to be native or ornamental. PM states that he is not aware of a landscaping plan. JK states they are on the property just doing whatever they want and there is a huge amount of landscape work underway including flag stone and plantings so there is a landscape plan. On that plan, there is a depiction of a pool. PM states that based on what he saw today it is obvious that someone drew up a plan. JK states that had this come before us under the Marshfield Bylaw as a Notice Of Intent that we would have seen where the septic is going, where the plantings were to be located, what can and cannot be cut, where the pathway down to the pier is located, we would know if there is going to be a swimming pool or if the locations were to be swapped between the swimming pool and the septic system to accommodate the pool location. JK now that's all gone. JK

believes that if the line on the site plan for the building work had been delineated according to the Marshfield bylaw, the applicant would have had to file a NOI with the Commission and this was not done.

- PM notes that the leaching field is 2-3 thousand feet which is a common system for Rocky Reach. The area in question is a pump chamber.
- BH notes there are 3 issues at hand: (1) the wetlands delineation Bylaw issue and he is trying to educate the Commission so we can get some clarity, (2) some unpermitted cutting in the buffer zone of trees, and (3) the current dock project application. BH notes that the unpermitted cutting is beyond the 25 foot no disturb which can be permitted by the Commission and mitigated.
- JK asks for comments from the other Commissioners. PC states applicant seems not to be operating in good faith, and notes the trees taken down all seem to be between the house and the river. This does not give him a lot of confidence in what is going on here. He also is hearing about a swimming pool and nobody seems to know anything about that. He does not see trust and a good working relationship be built with this homeowner. PC notes we still have a dock project to address. AL states that he is not convinced about the final dock location and the pathway has yet to be flagged in the field. AL agrees there seems to be a trust issue with the homeowner and the wetland flagging which sets up the line for the project. He feels the wetland line needs to be established before going forward. AL feels that we have to follow what our Bylaws say so somebody is going to have to pick a line that we can live with. He further finds the activities that have gone on with no conservation input to be amazing. BO notes that applicant went forward based on the wetland line the Commission accepted last year, but BG clearly stated that any activity within the 100 needed to be reviewed by Conservation. Even using the state-defined wetland line, the tree cutting clearly occurred within the buffer. BO states that we have to take a look at the tree cutting situation and as far as the two lines go, he is not sure how we can resolve this. They proceeded with the work approved by BG under the building permit and the NRC's approval based on their line.
- BO asks BH what line the North River Commission goes by in their permitting. BH states the NRC goes by the natural bank of the river, which they define as the edge of the river where the salt-water vegetation turns to fresh water vegetation so basically the edge of the salt marsh. From the end of the natural bank, they have a 300-foot jurisdiction. This is a separate delineation from the Marshfield Bylaw and state wetland delineations and is shown on the plan as a pink line because it is a dual purpose plan. BG states that it was on the plan presented with the building permit because the plan was covering dual jurisdictions. BG stated that Conservation was cleared through the building permit because of the Scenic Rivers Exemption that eliminates Conservation's 200-foot riverfront on the North River that applies here and the 100 foot setback to wetland delineation not the natural bank.
- JK asks for comments from FW. FW would like to proceed with the dock NOI and then ask for an after the fact NOI for all the other activity. The dock will have one special condition that there will be one designated path down to the pier and dock. JK asks if FW is satisfied with all the dock drawings, where the dock is located, how the float stops are being constructed, the elevations below the float? We have to go back and look at this.
- PM states that the house on the site is pre-existing, not new and they did some remodeling. JK characterizes the work done on the house as pretty substantial. PM concurs.
- JK asks for comments from the public; none.
- JH states that this has been enlightening for him. He was hired to design a dock system; he has worked cooperatively with BG and JK so far, but the unpermitted work and collateral issues have made the dock filing more complicated. JK agrees that JH has worked hard to make sure things were done right, and states that he has two issues with the dock submittal including the point made by other Commissioners that there is a trust issue with this applicant and he wants a clear staking of the pathway so he knows how they actually plan to get there. He understands the confusion and that BH was attempting to show it is possible but JK wants the pathway staked in the field and perform a confirmation site visit. He also wants stakes showing where the dock box will be located and then he feels he can close the dock NOI.
- JK asks whether the special permit from the NRC has been filed with the Plymouth Registry of Deeds; PM believes so but is not sure. JK also notes that the OOC from the NRC has almost expired and asks whether the property owner has filed with NRC for an extension; PM is not sure. JK notes that all work will have to stop within a few days if an extension is not in hand under the NRC. BG has been in touch with the NRC and they will be resolving this as it is under their jurisdiction.
- The Commission discusses whether to incorporate all activities on the site into an ATF NOI or keep the dock NOI separate. FW would like to keep the dock NOI separate. BO notes that the Chapter 91 permitting for the dock will take time, and the ATF NOI for the other activities will likely be settled before that is completed. AL would like everything together on one NOI. PC doesn't feel that the dock should be permitted if there are other issues that need to be resolved.
- Due to the trust issues with the owner, BG suggests that any restoration work for the unpermitted cutting be sequenced in with the work on the dock, and that applicant file an Amended NOI including the dock work and all other unpermitted activities.

- BH states that DEP prefers that enforcement issues be handled through the issuance of enforcement orders rather than NOIs; this ensures the restoration work is done, whereas a NOI can get tied up in appeals or litigation. An enforcement order is a mechanism for restoration and does not have to be a negative thin and it allows restoration work in the resource area or buffer zone without a Notice of Intent that can take some time and can get appealed. If the Commission wants to go after additional wetlands line or work that has been completed or is proposed then require an after-the-fact notice of intent He proposes that the Commission let the dock work NOI proceed but issue a “friendly” enforcement order that addresses the unpermitted work. It is cleaner breaks it out into steps not mixing all these different activities. It is BH’s opinion that this is the way that the Commission should handle all enforcement.
- JK summarizes that moving forward with an Order of Conditions with Special Conditions including that the pathway would be marked with stakes with no trees cut and if it changes then the work would stop. This allows them to go through the Chapter 91 process. Enforce on the tree cutting, fines, whatever. Ask for an after-the-fact NOI on the property, for the house activities as the Commission did not have a say and that would allow the Commission the opportunity to review the wetland line to determine where the Commission’s jurisdiction stops. BH states correct. We can have another discussion on where that wetland line actually is. It is cleaner that way.
- PC and AL want to know why the dock would be allowed to advance when there has been a blatant disregard for original Conservation conditions. JK notes that the applicants brought this upon themselves. JK believes that there is a need to keep the activities combined until it is all ironed out. AL states that he agrees with JK and that we are dealing with a mess. It does seem effective to break off one part of a project like a dock when you have all these other issues. Let’s put them all together and get them solved. JK notes that the wetlands delineation is around the bend is part of the dock.
- BG discusses the advantages and disadvantages of the options on how to proceed. He would like the dock NOI to continue, but notes it needn’t be closed out tonight. After further discussion, the Commissioners agree to continue the dock NOI and issue an enforcement order with regard to the unpermitted work. PM will also stake out the location of the path and depict it on the site plan.
- JK motioned to continue the matter to August 7 to allow for staking of the path to the dock, issue a cease and desist on all work in the 100 ft buffer, and issue an enforcement order for same. AL second. Approved 5-0-0.

2722 Milton Corporation, 1180 Ferry Street (Pier & Dock).....CONTINUED.....(cont from 6/5/18 (Jim)
 2684 Bethanis, 1184 Ferry Street (Found. Rest. Driveway Recons).....CONTINUED.....(cont from 10/3/17) (Jim)
 2723 Rum Island Condominium Trust (Trouant’s Island Causeway).....CONTINUED.....(Jim)

REQUESTS FOR CERTIFICATES OF COMPLIANCE (COC) & EXTENSIONS (EXT)

1303, Carriage House Acres, Lots 7 / 21 Paddock Way – BG suggests issuing partial COC.
 2608, Dickinson, 938 Summer Street – BG suggests issuing completed COC.
 2615, McDonald, 316 Canal Street – BG no gutters so special condition for down spouts is not applicable; minor modifications to deck size including stairs. BG suggests issuing completed COC.
 2589, Leatherbee 22 Acorn Street – BG worked with applicant to resolve issues at property. Will file a separate RDA to resolve basement floodwater discharge into dry well within Conservation jurisdictional boundaries.

- BG requests that JK make a motion to issue COCs for the four properties referenced above.
- JK motioned to issue COCs for the four subject properties. BO second. Approved 5-0-0.

2499, Calkin, 58 Littles Lane – awaiting documentation from applicant
 2568, Taggart, 47 Central Street – awaiting applicant fixes / post site visit
 0231, Kelsey, 158 Foster Ave – awaiting applicant fixes / post site visit
 1342, Wunschel, 153 Bay Avenue – awaiting applicant fixes / post site visit
 2664, Dacey / Six Circles LLC, 62 Marginal Street – did not satisfy special conditions of orders d(1)&(2); awaiting fixes

ENFORCEMENT ORDERS

Smith, 38 Liberty Street (Email Response 05/06/18)	Mahaney, 46 Preston Terrace
Drosopoulos, 7 Ladyslipper Lane (TC Letter 11/18/17)	Jogi’s Liquor Store, 951 Ocean Street- E.O.(18-03) Submitted
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)	

BUSINESS

BG requests that Matt Creighton be added to the Commission's Suggested Wetlands Scientist List. After a brief discussion regarding his previous work for BG, the Commissioners agree to the addition.

BG updates the Commission regarding COC for 241 Foster Ave. Property owner has fixed the stairway, was starting to plant the grass but transplanted from another area, and installed footings in violation of the COC. BG notes owner seems to be trying to comply, and requests Commission guidance on how to address. JK feels a small fine and an EO are appropriate. BG states that the only way to vacate the previous COC conditions is to require the filing of an ATF NOI. Commissioners are polled and agree to require the filing of an ATF NOI.

BG has reviewed the proposed Christmas Cove CR with Town Counsel Bob Galvin (TC) and Attorney Matt Watsky, representing the developer. Attorney Watsky has provided two access ways to the CR: one by an ongoing easement from New England Forestry Foundation (NEFF) and the other from a cul-de-sac in the development. Attorney Galvin advised that the Commission should not accept any development infrastructure, such as stormwater treatment fixtures, as part of the CR. BG requested that the Commission review his correspondence with Attorneys Galvin and Watsky and advise by e-mail how to proceed. BG indicates with the access issue resolved and Commission property nearby, this CR may be desirable to accept.

BG would like to implement a policy requiring that requests for COCs be submitted two weeks before the hearing, the same as with other filings. Additional information would need to arrive by 12 pm the Friday before the hearing. BG notes he is getting a lot of last-minute submissions. The Commissioners had no objections to implementation of the policy.

Ocean River, a nonprofit organization, would like the Commission to establish a canned special condition that would limit the use of pesticides and other chemicals in areas near wetlands. After a brief discussion regarding enforceability, the matter was tabled.

ADJOURNMENT – JK motioned to adjourn the meeting at 10:01 pm. BO second. Approved 5-0-0.

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

Bill Grafton, Conservation Administrator
Robert Conlon, Chairman
Frank Woodfall
Rick Carberry

Bert O'Donnell
James Kilcoyne
Art Lage