

MEMBERS PRESENT – Robert Conlon, Chairman (RC), Frank Woodfall (FW), Bert O'Donnell (BO), James Kilcoyne, Chairman (JK), Art Lage (AL), Rick Carberry (PC), Bill Grafton, Conservation Administrator (BG).

CALL TO ORDER – RC makes a motion to open the meeting at 7:00 pm. AL second. Approved 6-0-0.

BUSINESS

B1 Conservation: Performance Standards - 25 foot existing lot/existing structure & 75/50 foot new construction – Commission

- BG notes that the Commission had asked to discuss this topic further at the previous meeting, as its applicability had come up in recent applications. He had received an e-mail from Town Counsel Bob Galvin (TC) providing his interpretation of the Bylaw Regulations stating that project segmentation should not take place. BG notes that lately the Commission has been seeing projects where people with previously developed lots assume they can construct new structures all the way to the 25 ft no-disturb zone.
- AL agrees with TC's e-mail and thinks it will be helpful. RC thinks lateral expansion would be possible for grandfathered structures 25 feet from a resource area. BG thinks this sounds logical but comments that this may result in a new square footage within the 25. JK supports RC's contention in situations where owners want to enhance an existing structure, as long as they don't go closer to the resource area. He would vote to permit such a project. BO interprets Galvin's e-mail to mean that owners could maintain whatever distance their existing structures were from the resource area.
- RC expresses concern that Galvin's interpretation would not allow for such structures to be altered or expanded. BO thinks, when Galvin spoke to the Commission, he indicated they could. FW agrees with JK and RC that structures could move laterally but not encroach further, and all Commissioners agree that this should be the interpretation.
- PC asks whether TC's e-mail is any different from what the Commission has been approving. BG states it provides more clarification and housekeeping, as they have seen projects where existing homes out of the 100 ft buffer have been expanding closer to adjacent resource areas, all the way up to 25 feet. He recalls Galvin stating that owners cannot expand any closer. He feels the Commission's interpretation of this Bylaw could have a big impact on the larger lots in town, where structures have more room to potentially move. He would like the Commission to make sure that structures generally don't encroach further on nearby resource areas and convey that message early and often. AL feels the issue came to a head with a recent trend of filings where structures kept moving in closer to resource areas after a house was built. BG clarifies this as project segmentation.
- FW asks whether the policy of allowing structures to move laterally but not closer to resource areas would be implemented tonight or over a period of time. BG notes there are two current hearings immediately affected and possibly more, and would like to institute the policy immediately to avoid setting an improper precedent. These regulations don't apply to septic systems because they don't require a building permit so not a structure.
- PC asks about notifying engineers about the policy decided in this discussion. BG will draft an announcement, with Commission and Town Counsel review and approval, to be posted on the Web site. JK feels this discussion was started at the last meeting, when Town Counsel gave his interpretation of the Bylaw Regulations. The Commission adopted his advice and should continue to apply this interpretation to all projects moving forward, and engineers should be notified as soon as possible. BG will communicate to applicants and their representatives effective immediately.
- JK feels anything erected after the Bylaw enactment would be considered a new structure with a 75 ft setback. Structures built under the previous 50 ft setback will be allowed to move laterally but not closer. RC asks whether structures built inside the 75 ft setback could be expanded up to the 50 ft. BG doesn't think this should be allowed and RC concurs. JK feels the Commission should adopt a common approach to apply to these situations. RC concurs and notes that homeowners can still ask for a variance in the case of hardship.

- BG raises a scenario where a house near a coastal dune gets razed or destroyed in a fire, and asks whether the remnant foundation would be considered a structure. FW thinks there is still a structure in such cases, and the owners can rebuild the house in the same form on the foundation. BO thinks it would depend on how long the lot sat vacant. RC notes that the zoning bylaws give a two year timeframe for rebuilding that can be extended if applicants can show a legitimate financial hardship. BG suggests that the Commission think about and craft a specific definition of “remnant structure”, and reads the bylaw’s definition of “structure” for a starting point. This could be incorporated into a future Bylaw Regulations update. JK asks if there is anything that needs to be done to adopt the Commission’s position. RC states that this has been discussed as part of the public meeting and the coverage is adequate. BO states that there really is no change. BG states it is more clarification and housekeeping.
- After further discussion, the Commission agrees that existing structures cannot be moved in any closer to a resource area. Structures built under the 25 ft no-disturb Bylaw Regulation can remain at their existing distances. New structures on new lots can be no closer than 75 ft to resource areas, but alteration can take place up to 50 ft from the resource area. BG will draft website posting for review by the Commission and Town Counsel.
- Business owner, Brian Taylor (BT) comments that there was a similar discussion when the regulations were rewritten in 2002, and concerns were expressed about the impact on water- and marsh-front properties in town. The conversation back then revolved around the 25-foot setback for pre-existing houses and lot and the 75-foot setback for new construction. He distributes a sample of atlas maps showing the potential impacted areas and comments that the Commission’s interpretation of the Bylaw could have a substantial impact on the number of building permits that are issued going forward, particularly for owners who may be looking to flood-proof their houses or make minor renovations. The atlas maps were similar to what he presented back in 2002. RC points out that existing structures can remain at the same distance from a resource area, and can expand laterally. JK adds that owners can expand away from resource areas but not closer. BG indicates that he will obtain further clarification from Town Counsel regarding lateral expansions. BT suggests that the Commission look further into consistency with zoning regulations.
- Attorney Steven Guard (SG) comments that he is struggling with Section 505-10.B and B(1). He understands the concern about project segmentation. This was adopted in 2002 due to public concerns about the potential impact on homes built with the 25 ft setback in mind, and there was no mention of property owners not being allowed to get closer to the 25 ft setback on lots with existing structures at the time of the adoption. He believes that lots with structures created prior to Section B(1)’s adoption in 2002 are only subject to a 25 ft setback. He maintains that 505-10B does not exclude B(1) nor reference it so he also contends that razed and rebuilt structures are not “new construction” but rather redevelopment of an existing home, and owners of small cottages should be able to expand them in order to invest in their own properties modernizing them and bringing them up to code. He believes that treating Section B as TC has opined then you are negating Section B1. However, he agrees that this exemption should not apply to new structures built post-2002, and that the provisions of 505-10.B are appropriate for new subdivisions or newly created lots.
- JK feels the intent of the Bylaw was not to prevent homeowners from improving their property but to address the continued encroachment of resource areas. The Commission further discusses the applicability of the regulations to situations where owners are proposing improvements for properties built prior to the Bylaw Regulation adoption. SG will submit his comments in writing so they can be discussed further with TC.
- FW asks for TC to return to discuss the presence of both B and B1 in the Bylaw Regulations. BG identifies a blurred area between B and B1 that needs to be addressed so to avoid project segmentation but notes that not all cases are clear cut. BG will not make the public announcement until TC provides additional input. BO states that TC was presented with several scenarios so he does not think TC change his position. AL states that the project segmentation is the crux. FW asked SG to put his comments in writing and submit to the Commission. SG agrees to submit his comments in writing as he feels it serves all parties to get this right.
- Frank Maglio, 52 Preston Terrace, asks whether the regulations discussed would apply to permitting the raising of an existing structure in the marsh on pilings and expansion with a new deck toward the wetlands? RC states that this is the basis for the conversation tonight. BG notes that in this scenario most structures are already on pilings, so the footprint of the existing pilings would be what was looked at along with moving closer to the resource area so both criteria come into play.

B2 Enforcement: EO18-03 Sajjan, 915 Ocean Street, Wetlands Restoration – Commission & Jogi Sajjan

- BG notes that this matter concerns a complaint he received about the cutting of trees and vegetation in the wetlands in back of the property. He has repeatedly been in contact with Mr. Sajjan since then to request a restoration plan, but no plan has been submitted. Mr. Sajjan attended the October 2 meeting but had to leave before the matter could be heard.
- BG asks if Mr. Sajjan or a representative is present in the audience, and receives no response. BG will follow through on the Commission's direction to issue citations, which he will issue tomorrow.
- BG advises he received an e-mail from Brad Homes advising he has re-flagged the property, but notes the Commission already has an ANRAD that was accepted on a prior filing and states he does not want the wetland line on the property to be changed. JK asks whether the Commission had locked the wetland line on this property. BG confirms that the Commission approved the ANRAD, which locks the line.
- BO comments that, with sea level rise, he doesn't see how wetland lines can be locked; FW agrees that lines move. BG agrees that lines can change, but would not recommend making a practice generally to change lines. JK feels the Commission should strive to accept precedent and accept the decisions of prior Commissions, but at the same time should reserve some flexibility to account for natural changes. AL notes that sea level rise would tend to expand wetland areas, creating more jurisdictional areas.

PUBLIC HEARINGS

TBL 18-01 Larkin, Wright's Way, Lot 9 (New SFH).....NEW (Art)

- RC reads the legal ad. Hearing Officer AL confirms administrative requirements are complete.
- Chris Mulrey (CM), Morse Engineering, presents for applicant. The property in question is a wooded vacant lot in the Wright's Way subdivision. There is an isolated wetland on Lot 10. The project concerns the construction of a single-family home. The driveway will wrap around the 100 ft buffer, but they would like to run in the utilities in between the 75 and 100 ft buffers, and clear up to the limit of work. Erosion control will be placed down the right property line and at the limit of work. The work inside the 100 ft buffer is minimal, concerning just some clearing and utility work. They would like to clear to the limit of work to provide some lawn space in that area of the yard.
- AL comments that the erosion control has been poor on the site to date, and silt has washed down onto the road. He wants to see better erosion controls going forward.
- FW asks if the proposed drywells and gutters are in percable soils. CM states that they have run a drainage analysis of the subdivision and feel that drywells will help the drainage in the area.
- AL asks for comments from the public; none.
- BG advises that the standard conditions of approval will apply, and reads them into the record. Special conditions include that applicants supplement their erosion controls at Conservation Administrator request. BG agrees with AL that erosion control in the subdivision has been an ongoing issue.
- AL makes a motion to close the hearing and issue Orders of Conditions with special conditions drafted by BG. FW second. Approved 6-0-0.

18-44 Ares, 55 Central Street (Fence).....NEW (Rick)

- RC reads the legal ad. Hearing Officer PC confirms administrative requirements are complete.
- PC advises the subject filing is an RDA for a fence. Applicant Ruthann Ares (RA) advises they wish to install a straight-line fence for privacy. They abut the marsh in the back, and a site plan from a recent project is on file. There is already an old fence by the marsh; the new fence will run from there, about 6-8 feet to the road.
- PC advises that he and BG visited the property yesterday and found the conservation markers posted by applicant's surveyor. RA provides photos of the markers for the Commissioners to review, and adds they have removed some old lobster traps by their garage. PC and BG thank RA for proactively communicating with the Commission.
- PC comments that the fence will need some space underneath to allow flood water to pass; RA agrees and states they have advised their installer.
- PC asks for comments from the public; none.

- BG reads the standard conditions into the record plus special conditions allowing periodic maintenance of the fence to original construction when damaged, specifying at least a 6 inch gap between the bottom of the fence and the ground to allow flood water to pass, remove all obstructions to the salt marsh, and to not store personal property on the marsh.
- PC makes motion to close and issue a Determination of Applicability, Negative # 3, w/conditions drafted by BG. RC second. Approved 6-0-0.

18-45 Carberry, 1190 Ferry Street (Raise Dock 2 Feet).....NEW (Bert)

- RC reads the legal ad. Hearing Officer BO confirms administrative requirements are complete. Commissioner PC recuses and leaves the hearing room, as the proposed work concerns his property.
- BG advises that applicant is proposing to raise a newly constructed dock by 2 feet so as to reduce its vulnerability to winter ice and storm surge. BG indicates this will have no impact on the resource area.
- BO and FW indicate they have no issues with the project as presented. BO adds that applicant provided him a letter regarding Chapter 91 notification.
- BG advises that the standard conditions will apply plus special conditions that applicant (1) see BG for guidance regarding permitting for work beyond the approved work activities within jurisdictional boundaries and (2) request a Chapter 91 minor modification.
- BO asks for comments from the public; none.
- BO makes a motion to close and issue a Determination of Applicability, Negative # 3, with conditions as drafted by BG. FW second. Approved 5-0-0, PC having recused.

Commissioner Carberry returns to the public meeting.

18-46 Maglio, 52 Preston Terrace (Raze & Rebuild Garage).....NEW (Rick)

- RC reads the legal ad. Hearing Officer PC confirms administrative requirements are complete.
- PC advises the subject filing is an RDA for a raze and rebuild of a garage on the left front section of the property. Applicant Frank Maglio (FM) advises that the site was surveyed by Brendan Sullivan, Cavanaro Consulting.
- Documentation provided in the filing include a section of a septic system plan that identifies the slope contours in the area, and a FEMA map used to determine the edge of the flood area, as well as a letter from Dwight Dunk, PWS. They have determined that the 100 year flood elevation is the same as the limit of coastal storm flowage, and this line is the basis of the 100 ft setback shown on their plan. Based on this line, the proposed work area is outside the 100 ft buffer. FM advises that he used MA DEP policy 92-1 to calculate the top of the coastal bank; in this case it coincides with the high water mark.
- PC advises that he and BG visited the property yesterday, walked the coastal bank, and looked at the proposed work areas. It appears to him the work area is outside the wetland jurisdiction and review area, and is 18 ft beyond the 200 ft riverfront area. BG agrees that the proposed project is fully out of the jurisdictional boundaries of the riverfront, coastal bank, and saltmarsh.
- PC makes a motion to close and issue a Determination of Applicability, Negative # 3, w/conditions drafted by BG. FW second. Approved 6-0-0.

2756 Hammond, 7 Richard Street (Ongoing Maintenance).....cont from 10/2/18 (Art)

- RC reads the legal ad. Hearing Officer AL confirms administrative requirements are complete, and notes that the filing is a continued NOI. BG advises that PC missed the previous hearing on 10/2 but has watched the video of the hearing and filed a Mullin affidavit.
- Applicant not present. BG advises that applicant has a history of effective and permitted revetment and coastal dune maintenance. The dune is particularly well-vegetated. Three previous filings for maintenance had been permitted by prior Commissions and received Certificates of Compliance. Applicant would like to be able to perform periodic maintenance with ongoing conditions. BG advises that a small portion of the property that is within NHESP jurisdiction, and NHESP is requiring a MESA filing.

- BG is in receipt of NHESP's correspondence to that effect and feels that the Commission is in a position to issues its OOC consistent other proposed project submittals within NHESP habitat. Ongoing activities will include maintenance to the coastal dune, associated plantings, and revetment wall with existing materials. BG has drafted proposed special conditions with specific instructions and procedures as to these activities. The Commissioners concur with the proposed conditions.
- AL advises he has visited the site and concurs with BG's observations.
- AL asks for comments from the public; none.
- AL makes a motion to close the hearing and issue Orders of Conditions with special conditions as drafted by BG. JK second. Approved 6-0-0.

2758 McLaughlin, 160 Sawyers Lane (Pool & Patio).....cont from 10/2/18 (Art)

- Continued hearing. Hearing Officer AL confirms administrative requirements are complete.
- BG notes that PC missed the previous hearing on 10/2 but has watched the video of the hearing and filed a Mullin affidavit.
- David Newhall (DN), Merrill Engineers, presents for applicants Erin and Eric McLaughlin. The property consists of a SFH, driveway, shed, and swing set outside of the 25 ft buffer. Their updated site plan depicts the 25, 50, 75, and 100 ft buffers to the wetland and the 100 and 200 ft buffers to a perennial stream. They have redesigned the plan in response to feedback from the last hearing and discussions with BG. DN notes that currently the deck is the closest structure to the wetland, at 57 feet, and they have moved the pool to be no closer than 57 feet from the wetland. They have also moved the shed outside the 75 ft buffer. They are requesting a variance for work within the 50 ft buffer. The closest point of disturbance in the 50 ft is 28 ft, and the limit of work will be maintained at that distance, with a continuous silt sock around the limit of work. They are also proposing to add five conservation markers on posts and 1:1 mitigation plantings in several locations.
- In response to a query from AL, DN indicates that the swing set and shed will be removed from the site. AL also requests that DN specify the variance request. DN indicates the variance is for alteration within the 25 to 50 ft buffer, and the pool being inside the 75 ft no-structure setback.
- AL asks for Commissioner feedback especially since the variance is being requested. FW asks whether there will be a sidewalk around the pool. DN advises there will be a patio around the pool that is outside the 50 ft buffer. FW asks whether the sidewalk would be considered a structure. BG advises that a driveway has been found to be a "structure" in a recent filing, and he feels this would also apply to a sidewalk. However, he also notes that the modified planting plan is much more robust than previously submitted and includes the removal of invasives. Additionally, the proposed Eastern Red Cedar plantings will limit the re-growth of invasives due to introduced shading impacts. BG feels these benefits will outweigh the potential impacts.
- AL questions how the consensus reached in Business item 1 of this meeting impacts this project. JK asks when the house was built. DN believes the house was built in 1994. JK notes that this after adoption of the Bylaw. DN notes that the proposed pool would not encroach further towards the wetlands than structures already existing on the property. AL wants to know if this is segmentation. DN states that they are moving lateral not closer the wetland. FW reviews the site plan and concurs. RC notes that this applicant is requesting the variance the correct way where other proposed work has been submitted by right. AL agrees with RC. AL asks FW to detail his observations from the site plan. FW states that from the wetland delineation to the existing structure is 57 feet and the revised plan shows the pool pulled back to 57 feet so it is a lateral move. There is no new encroachment on the wetland buffer zone. JK notes that applicants have asked for a variance but questions whether applicants, under the Bylaw Regulations, have a right to build up to the extent of existing structures. JK notes that the house was built after the Bylaw was enacted and built up to the 57 foot setback with all permits. JK states that this falls under 75 feet no structure and 50 foot no disturb and requires the variance request. RC feels that since this applicant is asking for a variance, he does not feel this decision will be precedent-setting. AL notes that the Commission has previously discussed that they should be sparing in the granting of variances and issued in special occasions. JK states that in this instance and as BG pointed out that they have moved the structure as much as possible and are enhancing the property with more and better quality plantings based on what is currently there. BG concurs, but feels that the goal of variances is to ensure that adverse impacts of a project are being offset.

- AL comments on applicant's willingness to work with the Commission and modify their site plan, and indicates he has no issue with the project as long as it isn't precedent-setting. BG feels that this project isn't precedent-setting because there is no net encroachment of structures on the resource areas, and the mitigation plantings justify the granting of the variance. He also notes that the removal of several large trees that will take place as part of the project will prevent a potential future liability to the Commission.
- In response to a query from AL, Commission consensus is that the project does not constitute segmentation. BO feels applicants have made some good improvements with the project and the proposed mitigation.
- AL asks for comments from the public; none.
- AL makes a motion to close the hearing and issue Orders of Conditions with special conditions drafted by BG. FW second. Approved 6-0-0.

2761 Ryan, 248 Ridge Road (Septic).....NEW (Bert)

- RC reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- Joe Webby (JW), Webby Engineering, presents for applicant Tim Ryan(TR). The filing is for a septic upgrade. The back side of the property abuts a tidal creek and tidal marsh, with associated BVW. They would like to install a new tank and run a leaching field along the side of the house.
- BO and PC advise they have visited the site. BO comments that he observed green waste that had been thrown into the marsh area. Also, the raised footpath to the pier doesn't appear on the delineation.
- BO asks TR how long the walkway has been on the site. TR states he's been told it goes back to the early 1950s, and was put in by the original owners. JW comments they would be willing to remove the green waste and to cease dumping there going forward.
- BO states that if applicant can provide photos or documentation showing the historical extent of the lawn, as this would enable him to continue to maintain that lawn. TR indicates he will look for some photographs. BG advises that photographs would help the Commission establish the historical uses and activities, and comments the Commission didn't know about the dock and stairs.
- The Commission discusses filing or documentation options for the unpermitted dock and stairs observed on the site. JK suggests that this project's site plan be modified to show the dock and stairs so as to create a record of the structures being there. A special condition could then be added stating that any further changes to the dock and stairs would require the filing of a NOI. BG concurs with JK that the dock and stairs should be added to the site plan. Since the site is previously disturbed going back many years, he feels that an after-the-fact RDA would serve to permit the dock and stairs as constructed, and that any further changes would require a NOI as well as filings with other agencies. This will also allow a COC to be issued for the septic upgrade without delay.
- After further discussion, it is proposed that an OOC be issued for the septic upgrade with a special condition that within 30 days, applicant provide evidence, if available, that the dock and stairs predated the Massachusetts WPA and file an after-the-fact RDA to permit the dock and stairs as constructed. BO polls the Commission: PC yes; JK yes; FW yes; RC yes; AL yes; BO yes.
- BO makes a motion to close the hearing and issue Orders of Conditions with special conditions drafted by BG. AL second. Approved 6-0-0.

2759 John J. Peterson Trust, 219 Ridge Road (After-The-Fact Deck).....NEW (Bert)

- RC reads the legal ad. Hearing Officer BO confirms administrative requirements are complete.
- Bob Crawford (BC), EET, presents for applicant. BC advises that sometime between 2006 and the present date, an unpermitted 318 sq ft deck was added to the side of the house within the 100 ft buffer to a coastal bank. The deck is 4 ft from the top of the bank and about 13 ft from the edge of the salt marsh. The resource areas were flagged by John Zimmer, South River Environmental, in September. There was previously a rock wall across the width of the lot when BC visited the property in the 90s that is mostly gone. He is requesting a variance to permit the deck, as it sits within the 25 ft buffer of the coastal bank and salt marsh.
- BO advises that he visited the property, and it looks like the deck has been there for awhile. There is evidence of other structures closer to the water, so he considers the area to be previously disturbed. The house is for sale, and he would like to see some conservation markers added to prevent further encroachment/disturbance by the new

owners. RC asks whether the Commission should consider permitting the project on the basis of its being previously disturbed area, or granting a variance. BC states that the area is previously disturbed by virtue of the rock wall.

- BG notes that the applicants are back for a COC for the previous septic upgrade; this was requested in 2011 but denied when the unpermitted deck was noticed. AL asks when the deck was built; BC reiterates the deck must have been built between 2006 and the present; the house was built sometime in the 1950s. JK feels that without the prior disturbance, the deck would have to come out. Since the area was previously disturbed, he thinks the deck can stay and a variance is not needed. RC agrees that a variance is not needed.
- BG reads the proposed standard conditions plus a special condition requiring the posting of two conservation markers along the coastal bank at the corners of the property, and the submission of an updated site plan to the Conservation Office.
- BO makes a motion to close the hearing and issue Orders of Conditions with special conditions drafted by BG. FW second. Approved 6-0-0.

2760 Papas, 133 Meadowview Street (New SFH).....NEW (Rick)

- RC reads the legal ad. Hearing Officer PC confirms administrative requirements are complete.
- PC advises that this filing is a NOI for the raze and rebuild of a SFH. Attorney Steve Guard (SG) present for applicant along with Bob Rego (BR), Riverhawk Environmental, LLC. SG advises that the existing structure is in disrepair, and the property was tied up in probate for several years. They are proposing to raze the structure and build a new SFH on the property. There is a marsh near the lower property line, and work will take place in the 100 ft buffer to the BVW. The existing structure is (26 by 29) ft and the new structure will be (26 by 42) ft. The house is already in the 75 ft no-build zone, and none of the work contemplated will be in the 25 ft no-disturb zone. There is also a small paved driveway. BR notes that there is existing BVW along the western side of the property which was flagged by Brad Holmes, ECR. The site is about 500 ft from the South River, outside the riverfront area. The new structure will conform better with the zoning requirements. The area west of the existing structure is overgrown with invasive species. The driveway will be constructed of permeable pavers, and they are agreeable to some beneficial plantings, including high bush blueberry, along the western boundary of the site. SG notes this area would be a good spot for such plantings.
- SG adds that the location of the house is somewhat fixed due to Conservation and Zoning requirements, and notes in particular that they had to maintain the front yard setbacks. The new house has been sited so that it complies with the setback requirements for both Meadowview and Field Streets.
- BR distributes updated documentation showing the square feet of disturbance. JK objects to receiving new information at meetings, noting this has been a continuing issue. BG takes responsibility for the late submission, and states he asked for this information late.
- PC advises that he visited the site with BG the previous day and notes that the lot presents multiple challenges. He thinks a variance may be needed, as the work encroaches closer to the resource areas. He and BG had some discussion regarding modifications that would reduce or eliminate such encroachments. BG states that the total area of encroachment (house expansion, deck, and driveway) is about (425-625) sq ft. He agrees that the zoning setback requirements for Field Street may fix the house where it is, but thinks the driveway can be moved out of the 75 ft buffer.
- SG thinks moving the driveway would be a challenge given the topography of the lot, and may require a retaining wall, which would be more obtrusive than the driveway as proposed. However, BG thinks it can be done without flood impacts if engineered correctly. Cantilevering the deck may be another way to reduce impacts.
- Dorman Clark (DC), 75 Field St, notes that the existing house has been in disrepair for many years and presents a fire hazard in its current state. It would be nice to see the lot cleaned up and turned into a nice property. BO asks whether the lot was cleared when the house was occupied; ZC states the lot was clear for the most part. There were some big trees along the Meadowview side, turning onto Field; the yard was regularly mowed for years, extending from the house almost to the property line, but this stopped (5-10) years ago, at which point the lot became overgrown with invasives. He would like to see the property restored.

- AL advises he visited the site yesterday and agrees the house is in significant disrepair. He would like to know if there was an outbuilding on the site of the proposed driveway; SG advises this is on an adjacent lot. JK asks FW whether it is possible to cantilever a 12 ft deck; FW thinks it can't be done.
- JK notes that the existing house predates 1988 and comments that, under setback requirements as interpreted by Town Counsel, applicant can maintain a 55.2 ft setback to the resource area and can expand laterally while maintaining that setback with a variance. However, BG notes that a lateral move is not possible in this case due to additional zoning setback requirements. JK does not see how it is possible to encroach further into the resource area under the Bylaw Regulations. RC thinks the project as proposed constitutes reconstruction, not new construction, and the 25 ft setback should apply. Therefore, he doesn't think it matters where on the lot the new building is located.
- SG reiterates that to him, Section 505-10.B(1) {B(1)} was adopted to preserve the rights of property owners with existing buildings and existing structures to a 25 ft setback, and requiring that there be no further encroachment on such lots effectively negates B(1). RC thinks the ambiguity exists around whether to consider the new SFH an existing or new structure. SG acknowledges the Commission has the authority to permit work on such lots to ensure the protection of resource areas, but contends that such property owners are entitled to the 25 ft setback.
- BG refers back to Town Counsel's e-mail regarding B(1), which states that project segmentation is not allowed, and feels that may be happening here. He suggests that the Commission use the issues presented in this project to clarify its approach in enforcing the Bylaw Regulations, while still expediting the project's permitting as much as possible, but counsels against setting a precedent that goes against TC's guidance. He also feels the Commission needs more guidance on possible exceptions before it begins interpreting the Bylaw Regulations without TC input.
- Discussion ensues among Commissioners, weighing previous practice against the just-received guidance from Town Counsel. BG suggests that the matter be continued for additional information, but that the Commissioners make an effort to close at the next hearing. RC agrees that additional consultation with Town Counsel is needed.
- SG notes for the record that he objects to BG's characterization of this project as segmentation, and points out that the existing house was built in 1958. RC and AL concur that segmentation applies to more recent projects. BG comments that project segmentation can be both intentional and inadvertent.
- Paul Bertoli (PB), 140 Meadowview, expresses support for the project, stating that the existing structure is a safety hazard, and he has observed neighborhood kids play in and around it despite being taped off. He reviewed the new plan for the property and supports its approval.
- SG polls the Commissioners as to support for approving the project as is: RC yes; FW yes; JK variance; AL variance; PC variance; and BO wants further clarification from TC. SG believes they could meet the criteria for a variance if necessary, citing the removal of invasive species. BG agrees there is potential for mitigation in the form of a more robust planting plan, conservation markers, and pervious materials.
- PC makes a motion to continue the hearing; AL second. Approved 6-0-0.

2762 Smith & Sons (Copeland Lumber), 795 & 887 Plain St. (Landscape Supply Processing & Yard).....NEW (Rob)

- RC reads the legal ad. Hearing Officer RC confirms administrative requirements are complete.
- Rick Grady(RG), Grady Consulting, presents for applicant; Dan Smith (DS), business owner also present for Smith & Sons. They were before the Commission previously for an RDA permitting the construction of some buildings to the front of the property. This new filing concerns 10 recently leased acres adjacent to their property, abutting Route 3. There are two wetland areas in this new section. Applicants would like to extend their mulch processing area into the upland portion of the new section, between the two wetlands. RG states that a 50 ft no-disturb buffer will be maintained around the perimeter of the wetlands; the closest point of work will be in a 24 ft wide access from the Copeland Lumber property to the leased area. They are proposing block walls on either side of the driveway, as well as 12 inch wide, 4 inch high Cape Cod berms around the paved portion of the processing area. Drainage will be collected into sediment forebays on both sides of the mulch processing area, with an infiltration basin parallel to Route 3. No work is proposed inside the 50 ft buffer; silt sock erosion control will be added around the limit of work. They are also willing to add conservation markers around the limit of work at 100 ft intervals.

- BO asks what is involved with mulch processing. RG states it involves grinding remnant wood, brush, and stumps into mulch that is then sold to the public; this activity is already taking place on their existing property.
- JK asks how they will keep the mulch sediment from clogging basins. RG notes that the parking area will be relatively flat to keep runoff rates down, and stormwater will be directed into sediment forebays on either side of the lot, which will capture most of the sediment. Applicant will need to clean out the forebays regularly.
- RC asks about a basin maintenance plan. DS indicates they plan on having the basins irrigated and drained on a regular basis. BO asks if there are any basins for the existing offsite mulch processing operation, and DS replies there are no runoff issues with the existing operation. In response to a follow-up question from BO, RG indicates that sediment forebays are standard stormwater management fixtures. There is not much mulch processing activity in the area, and the mulch itself assists with erosion control. RG adds that there is not much visible carryover from the existing mulch processing area to the retaining wall or wetland behind it.
- BO notes that the site will be on leased land, and questions who bears ultimate responsibility for activity on the property. RG indicates that any enforcement action would be taken against the land owner. DS states that they plan on purchasing the land after a year, and hope to have the processing area in operation by next spring.
- JK questions whether the proposed Cape Cod berm will prevent runoff from washing down the steep slope in major storms. RG believes the proposed 4-inch height will be sufficient.
- RC asks for comments from the public; none.
- BG advises that he visited the site and notes that the entire upper area is upland. He agrees with the placement of the B flags except for B-4, which he feels could move 20 ft upgradient. He is trying to reach John Zimmer for his input. The area along the A flags appears to have been altered by Plymouth County Mosquito Control (PCMC). He would like to re-visit the site with PCMC to see about restoring this area. The stormwater basins may be difficult to maintain, and he discussed stormwater control plantings with DS. He recently received a stormwater review from the Town Engineer, which he distributes to applicants and the Commissioners.
- FW likes the project as presented, but feels that the stormwater report raises some issues that need addressing. He would like this to be addressed by either a revised site plan or a special condition in the OOC. BG notes that the soils seemed to be loamy sand, and suggests that Commissioners take a site visit to observe the conditions in the area.
- RG asks how the Commission would like the stormwater concerns to be addressed. FW suggests that RG discuss the comments with DPW, to see what issues need to be further addressed.
- BG also feels that the alterations by PCMC should be addressed, and asks if applicant would allow him to access the site and work with PCMC on restoration, as there are many upgradient invasives close by. He would also like to follow up with John Zimmer about wetland flag B4.
- All parties discuss the access corridor to the proposed mulch processing area. RG indicates the accessway will be paved; it is outside the 50 but within the 75 ft buffer. BG feels this will require a variance. AL notes that the accessway will see heavy use and agrees that a site visit would be a good idea.
- FW suggests that applicants agree to a continuation so they can address the stormwater issues, update the site plan, and request a variance as to the 75 ft setback for the accessway. JK expresses support for the project but agrees there are questions that need to be resolved. RG and BG will work to schedule the site walks.
- RC makes a motion to continue the hearing. FW second. Approved 6-0-0.

2742	St. Ours, 84 Bay Avenue (Raze & Rebuild SFH).....	cont from 9/11/18 (Art)
2754	Hanlan, 72 Bay Avenue (Raze & Rebuild SFH).....	cont from 9/11/18 (Bert)
2727	Digan Jr., 1327 Union Street (Pier & Dock).....	cont from 6/5/18 (Jim)
2755	Digan Family Trust, 1327 Union St. (Vegetative Management).....	cont from 10/2/18 (Jim)
2772	Snyderman, 26 Littles Lane (Pier, Ramp & Float).....	cont from 10/2/18 (Jim)

REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS

0947 Martin (Chateauvert), 10 Brighton St. [COC]

- Awaiting response to BG request for additional information. Not ready. Tabled.

1090 Peterson, 219 Ridge Road, [COC] (Awaiting Commission response about After-The-Fact NOI see above)

- Hearing Officer BO confirms administrative requirements are complete.
- BG circulates the COC for the septic upgrade filing SE42-1090 for Commissioner signatures. The COC will be held at the Conservation Office until filing SE42-2759 is shown to be recorded with the Plymouth County Registry of Deeds.
- BO asks for comments from the public; none.
- RC makes a motion to issue a COC for the septic upgrade, filing 1090, and hold the document at the Conservation Office until receipt of proof that filing 2759 is on file with the Plymouth County Registry of Deeds. FW second. Approved 6-0-0.

2367 Cote, 26 Foster Ave. [COC]

- Awaiting response to BG request for additional information. Not ready. Tabled.

ENFORCEMENT ORDERS

Smith, 38 Liberty Street **(08/09/18 KS & BG Sept site visit)**

Mahaney, 46 Preston Terrace **(08/15/18 TC & BG to meet)**

Drosopoulos, 7 Lady Slipper Lane **(08/15/18 TC Final Notice)**

White, 180 Atwell Circle (Escalation letter in Process)

Digan, 1327 Union Street **(10/2/18 ATF-NOI Continued)**

Tamara Macuch, 237 Webster Avenue

Levangie, 3 Cove Creek (Communication in Progress)

New Owner, Winslow Avenue Ext.

Stifter, 102 Bartlett's Island (unpermitted revetment wall)

Bednarz/Nouza, 65 Ireland Road (Unpermitted Cutting <= 50 ft)

Jogi's Liquor Store, 915 Ocean Street **(10/2/18 Con Com Discussion Ext to 10/16)**

BUSINESS (continued)

B3 Conservation: Chapter 505-5 Fees/Review-Adopt Changes – Bill Grafton

- BG advised he has posted the recently proposed fee changes and discussed them with Town Counsel.
- BG recently had a situation where a P.L.S. told him that Marshfield doesn't have an ANRAD under the Bylaw, and therefore he didn't have to pay the Bylaw fee. BG talked to Town Counsel, who advised the Commission could adopt an ANRAD Bylaw fee under Chapter 505. He recommends that the Commission do so when it evaluates regulation changes.
- JK makes a motion to adopt the proposed increase in fees. AL second. Approved 6-0-0.

B4 Conservation: Chapter 505-5 Fee Submittal Policy/Review-Statement – Bill Grafton

- BG advises that the Town Accounting Director has told him that all fees should be processed immediately. There are a lot of COCs that have been lingering. He is going to send some back to give applicants a chance to resolve issues with their applications, but going forward, all checks must be processed every Friday.

B5 Wetlands Exemption: Plymouth Cty Mosquito Control/ Salt Marsh Ditch Work Adj to 77 Keene Road – BG

- BG advises that PCMC recently did some work on a salt marsh ditch at 77 Keene Rd after notifying him. They are being more proactive in their communications.

B6 Wetlands Violation: Septic/Perc Test-Conservation Permits/Exemption- Cohasset Avenue incident – Bill Grafton

- Peter Armstrong (PA) present. BG advises he received a written complaint about Board of Health perc testing in a wetland along Cohasset Avenue. He noted that the subject wetland is in a peculiar location. He contacted PA,

who was unaware that the area was a wetland. BG would like to see better coordination between the Commission and BOH on septic permitting and perc testing.

- PA suggests that when BOH files for a perc test, they also go right to the DPW and get a trench permit; this will allow them to see where the wetland lines are. BG suggests making Conservation files documenting wetland areas available to BOH to search.
- All parties also discusses handling septic projects as RDAs versus NOIs. FW feels it depends where the proposed system will be located. PA notes that septic projects in the 100 to 200 ft buffer to riverfront are exempt from filing under 310 CMR section 10.58. BG would like to write regulations that would allow him to permit these projects as a minor activity after verifying location. He feels this would give him a chance to check the location of the project at minimal burden to BOH/applicant.
- JK would prefer that the Commission come to a consensus rather than writing more regulations. He suggests that septic projects inside the 100 ft buffer be a NOI, and projects in the 100 to 200 ft outer riparian zone will be an RDA.
- BG asks about septic projects in the buffer zone to multiple resource areas. FW thinks a septic project in a flood zone would require a NOI. RC notes that there are no performance standards for flood zones and feels an RDA is appropriate.
- After further discussion, consensus is that septic projects in flood zones should be RDAs; projects in the 0-100 buffer to any resource area should be a NOI. Septic projects in the outer riparian zone (100 to 200 ft) are exempt, but outer riparian projects also in a flood zone should be a RDA.
- With regard to perc testing, PA states that the town engineers generally know where the wetland areas are, and he has learned to stop digging when conditions don't look right.

ADJOURNMENT – RC motioned to close the meeting at 10:01 pm. AL second. Motion approved 6-0-0.

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