

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

MEMBERS NOT PRESENT – Frank Woodfall (FW), Rick Carberry (PC)

CALL TO ORDER– RC motioned to open the meeting at 7:01 pm. AL second. Approved 4-0-0.

PUBLIC HEARINGS

2789 Flashner, 206 Carolyn Circle (After-The-Fact retaining wall/parking).....NEW (Art)

- RC Reads Legal Ad. Hearing Officer AL advises that taxes have been paid and abutters notified, but no DEP number has been received at the Conservation Office.
- AL makes a motion to continue the hearing to November 20, 2018. BO second. Approved 4-0-0.

2762 Smith & Sons, 795 & 887 Plain St (Landscape Supply Processing & Yard).....cont from 10/16/18 (Rob)

- Continued Hearing, RC Hearing Officer.
- Rick Grady (RG), Grady Consulting presents for applicant Dan Smith, who is also present. RG advises that soil testing has been done since last meeting, and the soils they observed were permeable. The samples were dug to 19 ft deep and they never hit groundwater. According to their calculations, the catch basin grates are adequate to convey runoff from the sediment forebays to the infiltration basin. They have added emergency spillways to each of the forebays that are also directed towards the infiltration basin, and added catch basins to the base of the infiltration basin. They have also provided a spill response plan and a revised operations and maintenance plan. Applicants are requesting a variance to allow for an impervious surface on the driveway, which will be within 75 ft of BVW; this is due to the limited access to the upland portion of the property. They are maintaining the 50-foot no disturb area. They are proposing mitigation plantings to remediate some of the damage done by Plymouth County Mosquito Control (PCMC), and will consult with John Zimmer, South River Environmental, regarding the location of the planting area.
- AL expresses concern about the dye being used to color the mulch. RG advises that the mulch is contained to a silo and would be kept on the paved surface; any runoff would be directed towards the infiltration basin. RC asks where is the silo? RG & DS state it is on the stacker/conveyer. DS adds that the coloring used is actually a rust product comprised of iron, and is non-toxic. He has a system that keeps the colorant on the mulch. AL would like to know if the product has any health warnings. BO asks if there are MSDS sheets associated with the dye products? DS states no warning labels. RC comments that applicant's work sites are kept very clean and he has no concerns.
- JK asks about the height of the proposed Cape Cod berm; RG states that the berm will be 3 inches high. JK notes that DEP had commented that this height may not be sufficient to contain runoff before it is relayed into the forebay, and would like to see the height increased to 4 inches. RG replies that the mulch piles are significantly higher than the berm and if ponding occurs then a higher berm will result in more ponded water, so they felt a better solution was to bring the mulch away from the berms, and maintain a gutter line around the site perimeter. DS feels the height is irrelevant, and that keeping the area clean and maintained will keep the sediment away from the berm. RG notes that they are proposing to keep the mulch piles at least 5 feet away from the edge of pavement so as to maintain the gutter line. RC is happy with the berm as proposed.
- In response to a question from BO, RG states that a section on maintaining the swath has been added to the stormwater management plan. They have also added the spill response plan to the report. BO would like to know who does the annual monitoring. BG suggests that the Commission be involved.
- BG states that DS needs to sign an illicit discharge storm water management system form; once the project is approved, he would like DS to provide an annual monitoring report to the Commission. He also notes that PCMC did some work along the 'A' Flags, and have exemptions to perform the work. PCMC will be relocating some logs

to allow the plants underneath to bounce back. BG would also like to move the conservation markers to the limit of the mulch pile; BO feels that is not a good idea due to the need for loader access to keep the area clean.

- All parties discuss the proposed planting plan. In response to a question from RC, RG says about 150 plants will be planted; he believes this number came from a conversation with John Zimmer. BG asks RG to provide a letter from JZ approving the plan and providing details as to the plant quantity, species, and locations. BG would like secondary plantings along the berms to slow down possible overflows; RC is satisfied with the housekeeping efforts in place but suggests a condition that if DS sells, the new owner must comply with the housekeeping efforts in place. RG feels that plantings on the berm could cause issues with vegetation encroaching onto the parking lot, but BG notes that such plantings could help keep invasives away.
- BG asks the Commissioners if they would like a condition requiring that the dyes be kept away from the proposed processing area. RG comments that the new area will allow the operation to be relocated further away from the wetland than it currently is, and also notes that the area in question is outside of the wetland buffer zone. RC feels the dye is safe enough, as it doesn't come with an MSDS sheet. Commissioner consensus is that this condition is not needed.
- RG comments that the proposed processing area is actually outside Commission jurisdiction; he thinks the Commission would be overstepping its boundaries to prohibit dyes from areas outside its jurisdiction. BG feels that there can alternatively be a condition that there be no hazardous material on the site; RC agrees.
- BG notes that the driveway is going through the setbacks to wetlands, and would like to know if applicants intend to continue the containment wall to keep vehicles away from the disturbed area. DS states they have recently added a sign to that effect. BG suggests that the containment wall be extended to the retaining wall, and RG agrees.
- BG points out that there are there two culverts, 36 and 12 inches, and these will require regular cleaning by Mass DOT. He would like DS to notify him when Mass DOT comes to clean out the culverts so he can make sure they minimize damage to the nearby wetlands. RC suggests a special condition requiring DS to notify BG of any future work by Mass DOT or PCMC.
- RC makes a motion to close the hearing and issue Orders of Conditions with special conditions drafted by BG. JK second. Approved 4-0-0.

2755 Digan Family Trust, 1327 Union St. (Vegetative Mgt.) WITHDRAWN.....cont from 10/2/18 (Jim)

- Continued Hearing, JK Hearing Officer.
- Applicant is withdrawing the after-the-fact NOI. Only the restoration plan required by the enforcement order will be discussed at this meeting.
- RC makes a motion to accept the withdrawal as requested. JK seconded. Approved 4-0-0.

2742 St. Ours, 84 Bay Avenue (Raze & Rebuild SFH).....CONTINUED.....cont from 9/11/18 (Art)

2754 Hanlan, 72 Bay Avenue (Raze & Rebuild SFH).....CONTINUED.....cont from 9/11/18 (Bert)

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

2772 Snyderman, 26 Littles Lane (Pier, Ramp & Float)..... CONTINUED.....cont from 10/2/18 (Jim)

2760 Papas, 133 Meadowview Street (New SFH).....CONTINUED.....cont from 10/16/18 (Rick)

REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS

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

RC makes a motion to issue a COC for 10 Brighton St, 0947. AL second. Approved 4-0-0.

2367 Cote, 26 Foster Ave. [COC] (Awaiting response to BG request for additional information) CONTINUED

2750 MacEntee, 17 Constitution Road

RC makes a motion to issue a COC for 17 Constitution Rd, 2750, with the ongoing conditions therein. JK second. Approved 4-0-0.

2590 McKinnon, 658 South River Street [EXT] CONTINUED

2621, Martin, 10 Craddock Circle

RC makes a motion to issue a COC for 10 Craddock Cir, 2621, with ongoing conditions noted therein and no release until the installation of conservation markers. BO second. Approved 4-0-0.

ENFORCEMENT ORDERS

Smith, 38 Liberty Street **(08/09/18 KS & BG Sept site visit)**
Mahaney, 46 Preston Terr **(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 **(10/17/18 BG issued Bylaw Citations)**

BUSINESS

B1 Conservation: Performance Standards -25 foot existing lot/existing structure & 75/50 foot new construction – Commission & Town Counsel – ON HOLD UNTIL 11/20/2018

- BG advises that Attorney Steve Guard has requested a continuation of the discussion in writing. Town Counsel Bob Galvin was also unable to attend this meeting. The Commissioners can contact TC with any questions.
- Tabled.

B2 Conservation: Chapter 505-5 Fees/ Add local ANRAD Fees – Bill Grafton

- BG distributes the proposed ANRAD fees, along with an e-mail from TC. He notes that currently there is no ANRAD fee under Chapter 505-5; he feels an ANRAD is a Category 6. BG would like to add the proposed ANRAD fee into the Commission's Chapter 505-5 fees to ensure no confusion, and proposes that the Commission adopt the fee structure set forth on Mass DEP's WPA Form 4A.
- JK makes a motion to accept the ANRAD fee as proposed. AL second. Approved 4-0-0.

B3 Conservation: RTC Member/ MACC Support – Bill Grafton

- RTC member Eric Goodwin (EG) would like Commission support to be involved with the Massachusetts Association of Conservation Commissions (MACC) and attend the seminars offered. BG comments that EG has given nearly 100 hours of work to the RTC and Commission properties, and he would like to extend him this courtesy. JK doesn't want to set a precedent of allowing non-commissioners to attend at Commission expense. RC comments there are currently sufficient funds in the budget. AL feels the matter can be considered on a case by case basis. BG adds that these funds are available because Commissioners aren't attending the seminars.
- AL makes motion to allow EG to attend MACC seminars. RC second. Approved 3-1-0, JK having voted no.

NEW BUSINESS (items not foreseen within 48 hours prior to the public hearing)

NB1 Enforcement Compliance: 1327 Union Street-restoration plan – Brad Holmes/James Kilcoyne

- Brad Holmes (BH), ECR, presents on behalf of home owners and states he hopes to resolve the enforcement order. He notes that at the last meeting, the Commission requested replacement of trees cut within the 50 ft no-disturb zone at a 3 to 1 ratio. Their latest plan complies with that ratio, proposing 12 trees in the vicinity of where the trees were cut.
- JK notes, per BH's October 3 correspondence, that there was confusion as to the number of trees between the 50 and 75 ft buffer zone. In considering the number of trees, BH considered the 75 ft line. There were four trees cut within the 50 ft buffer to the wetland line as defined under the Marshfield bylaw.

- In response to a question from RC, BH indicates the house was built many years ago but was renovated recently. BO believes it was built in the early 80s. JK believes the renovations done were substantial, and that the home should be considered a new structure, not existing; AL concurs. RC points out that the lot in question was pre-existing, with an existing structure. BG comments that this EO concerns the removal of trees in the no-disturb buffer.
- AL feels that to clear the matter up, the markers need to be shown on the plan, as well as the number of trees that were cut. He also feels the Commission and Town Counsel need to have unfettered access to look at the property and the trees since coordination with BH and the owners has been problematic. BG feels that reasonable access is all the Commissioners are requesting. JK adds that, due to access difficulties, the Commission still has questions that might have been resolved earlier.
- AL notes there were more than four trees cut on the property, but the conversation concerns should be which of the cut trees were in the buffer, and whether the 25 ft or 50 ft buffer is operative. BG indicates that 11 trees total were cut. JK feels the location of the wetland line is controlling, and its absence is making it difficult to make a concrete decision. He also comments that (1) the trees taken down, described as diseased, all seemed to be located in front of applicant's picture window, and (2) the mitigation proposed is ornamental and instead should be native species; AL concurs. BG agrees that some of the plantings could be considered ornamental but are also native.
- BH comments that the mitigation plan was developed in response to feedback received at the last meeting, at which the commission asked for a 3 to 1 replacement ratio for the trees based on the more stringent Town Bylaw wetland regulations. BH comments that Town regulations only require a 2 to 1 ratio when BVW or IVW are disturbed, but they nevertheless provided 3 to 1 replacement. The planting plan is made up of a variety of native species to try to establish some biodiversity. BH feels they are making a good faith effort to comply with the Commission's requests but that the goal posts keep moving. JK stands by his original comments; he respects BH's statement as to biodiversity, but feels the goal of the different plantings is to put in shorter, smaller trees to protect the homeowner's vista. RC notes that whatever tree is planted will not be blocking homeowner's window for several years.
- BH reiterates that the Commission voted to issue an enforcement order requiring a restoration plan based on a 3 to 1 replacement ratio, as well as an expanded wetland line and no-disturb buffer. He feels they have complied with all of these requirements, including the assumption of a 50 ft buffer which he still thinks is under question, and would like to see the EO resolved.
- BG agrees that a 3 to 1 ratio is project-specific in this case, but counters that TC has stated that the bylaw is clear, and that recent issues are due to a trend in interpretation whereby applicants and engineers believe they have a right to expand up to the 25 ft buffer. TC has also specifically said that no lateral expansion or forward expansion of structures towards resource areas is allowed. BG adds that, no matter which buffer applies, there has clearly been cutting at this property within the Commission's jurisdictional boundaries which required a filing. Under the building permit process, he specifically stated to the Digans that they would have to permit through the Commission if there was any vista pruning. He believes BH genuinely wants to resolve the matter, but wants another site visit to establish how many trees were removed and where they were in relation to the various buffers.
- RC asks whether permission is needed to cut trees in the 75 to 100 ft buffer. BH states the Bylaw says permission is needed from the Commission, either verbally or by permit or emergency certificate. BG comments that applicants did not obtain any prior permission.
- With regard to work within the 75 to 100 ft buffer, BH states he didn't want to propose restoration plantings beyond the no-disturbance zone that would be taken out as future work proceeded on the site. He comments in closing that he feels they have submitted a mitigation plan at the request of the Commission, and the Commissioners can vote whether or not to accept the restoration plan.
- BH feels there are numerous uncertainties as to which wetlands line (state or Town bylaw) and no-disturb zone (25 or 50 ft) applies, and that DEP does not recognize the Commission's After-the-fact Notice of Intent form, so therefore it would be in the Commission's interest to have a straight vote on the restoration plan. BG comments that he has already submitted these forms to DEP and never had an issue.

- JK asks whether applicants are still planning on doing additional vista pruning. BH mentions that in the future the Digans are planning additional work and are aware that they need to file a Notice of Intent and will do so in the future.
- BO asks if BG is satisfied with the restoration plan. BG that about 70% of the proposed plantings are good, but he would like to see some of the flowering plants changed out and replaced with white pine and American beech. These tree species might block their view in the future but are doing well on the property in general now. BG likes the proposed eastern red cedars as they provide good wildlife habitat but they tend to be slow growers. BG states the flowering plants are not a good fit for forest composition at this site. BH is okay taking out 2 eastern redbud and 2 Appalachian spring dogwoods and increasing the number of cedars, hickory, red oak, and white oak.
- All parties discuss the number of trees cut versus replaced. The restoration plan is based on a 3 to 1 replacement of four trees cut in the 0-25 ft no-disturb zone. JK would like to stay with a 3 to 1 ratio, but given where things stand now, feels this is probably the best compromise at this time. He confirms with BG and BH that the Commission is not accepting the wetlands delineation by approving the restoration plan, and comments again that the matter could have been resolved sooner if the Commission had better access to the property. No conservation markers as there is no approved wetland line.
- JK polls the Commission on whether to accept the restoration plan: JK, yes; BO, yes with change out of trees; AL, ok with change out of trees but not accepting the wetland lines; RC, yes. RC and JK would like three-year monitoring on the restoration plan. BG suggests two successive growing seasons with three years of monitoring.
- JK motions to accept the restoration plan as discussed, with three years monitoring. AL second. Approved 4-0-0.
- After the vote, BG asks BH about his timeline for implementation. BH indicates next spring given the lateness of the growing season. He will advise the Commission if there is any delay.

NB2: EO18-03 Sajjan, 915 Ocean Street, Wetlands Restoration – Commission & Brad Holmes

- Brad Holmes (BH), ECR, presents on behalf of business owner. BH advises that he is not currently under contract with Mr. Sajjan, but has visited the site, observed the wetland, and hung flags. He is looking for some feedback on possible restoration plans that he can take back to Mr. Sajjan.
- BH observed a wetland on the site that is degraded with a swale and a catch basin that he assumes is part of a poorly functioning drainage system from the past. He had two suggestions for a restoration plan:
 - Option 1: clean the swale and catch basin, revegetate so the area functions better as a wetland, and create a better stormwater management system.
 - Option 2: ignore the fixtures, and just replant the area.
- BH prefers option 1, but he would like to see how the Commission feels. BG advises he is unsure what species were originally out in the wetland, as the plants were clear cut. He likes option 1 BH is proposing, but wants a more detailed plan with a reporting component.
- AL feels that Sajjan has not cooperated with the Commission to date. Option 1 sounds good to him, but doesn't think Sajjan will agree to it if it's more costly.
- BG comments to BH that restoring the plants should be the priority, and fixing the stormwater system should be secondary. BH will present these options to Mr. Sajjan.

ADJOURNMENT – RC motions to close the meeting at 8:28 pm. AL second. Motion approved 4-0-0.

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