

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

### **CALL TO ORDER**

RC makes motion to open the meeting at 7:00 pm. AL second. Approved 6-0-0.

### **MINUTES**

BG advises that several sets of minutes are under review by Town Counsel Bob Galvin (TC), and will be ready for approval at the next meeting.

### **PUBLIC HEARINGS**

#### **19-04 Murray, 80 Rugani Avenue (Vegetative Management).....NEW (Art)**

- RC Reads Legal Ad, AL Hearing Officer. AL confirms administrative requirements are complete. BG notes that applicants had some interest carry-over related to taxes, but the Treasurer's Office advised him this would be picked up in the next quarterly payment.
- Applicant Craig Murray (CM) states that they bought the property in September. There was some storm damage on the property at that time, and additional yard maintenance still needs to be done. He would like to take down some dead/leaning trees and clean up others that are over or near the house.
- AL comments that he observed a couple of leaning trees by the water, and some large pine and oak trees near the house. In response to a query from AL, CM indicates they would leave the stumps of any trees cut.
- PC asks about storm damage to the house. CM states that the two leaning trees could possibly cause damage, but they're currently leaning on other trees. AL comments that an oak tree in front is still alive but had no issue with the other trees proposed to be trimmed or removed. CM notes that this tree seems to be leaning towards the back of the house and the deck. AL hates to see trees cut, but feels this is a case where it's probably necessary. CM notes that this is a wooded lot, and they're not looking to clearcut. AL feels that leaving the stumps is important to keeping the lot wooded and BG concurs.
- AL asks about CM's replacement plantings; they propose to put some oaks back by the pond. BG suggested some bushes to replace trees on the back left of the lot. There are several mature trees and a lot of existing vegetation near the oak in front that AL referenced. They are also proposing to add some eastern red cedars.
- BO comments that he visited the site when the septic was upgraded; he felt the area near the house was overgrown and has no issue with the plan as presented. AL also has no issues.
- AL asks for comments from the public; none.
- BG suggests special conditions allowing ongoing periodic maintenance with native plantings as needed, and ensure the arborist is aware of the permitted trees to be cut. He also asks that applicant keep the tree stumps as suggested.
- AL makes motion to close the hearing and issue a DOA, Neg. # 3, with special conditions drafted by BG. FW seconded. Approved 6-0-0.

#### **19-06 Shanahan, 34 Marginal Street, Rear (ATF Coastal Activities & Fence).....NEW (Art)**

- RC Reads Legal Ad, AL Hearing Officer. AL confirms administrative requirements are complete.
- Applicant Tim Shanahan (TS) advises they are seeking an after-the-fact permit for three existing conditions plus a permit for an existing fence along the property line.

- AL asks about the materials on the back side of the lot, near the wetlands. TS states that a lot of floats and other debris tends to find its way to that area. He has had to hire crews in the past to remove it, but it comes back. BG notes that the Commission agreed at the last meeting that removal of debris by hand from salt marsh areas could be done without a permit, as it was beneficial to the marsh.
- BG states that the property came to his attention from the harbormaster, who advised there was a boat temporarily anchored on the flats without a permit, but this has since been resolved. There is a sitting area plus storage corral for floats and other beach materials on the site that TS would like to permit; TS would also like to repair an existing fence, but BG feels that more details are needed as to the repair due to the high performance standards for a salt marsh 310 CMR 10.32(3).
- BG asks TS for details as to the fence repair. TS would like to put up a vinyl-coated chain link fence to replace an existing fence along the property line, and has received a quote from a fencing company. The fence would be held in place with posts and cross-bracing; there would be no top rail or concrete footing, plus six-inch spacing underneath the fence.
- AL asks BG whether the matter should be continued so these details can be provided in writing. BG feels this is a matter of Commission discretion, but the Commission needs to ensure that no wheeled or tracked equipment is brought onto the marsh to install the fence. TS provides additional written details to the Commissioners. BG comments that he doesn't believe there is anything in the performance standards for a salt marsh prohibiting a chain link fence, as long as it doesn't damage the marsh.
- JK feels it would be in applicant's interest to provide additional details in writing, including a drawing showing the fence location, for the file; this could prevent problems down the road. BO comments that he visited the site today, and feels the materials along the river to be low impact. BG indicates he has no issues with the existing pathway to the river, and TS understands he would need to obtain permits to moor his boat or install a tracked system to bring his boat from the upland to the water.
- FW suggests that a special condition requiring applicant to "replace the existing fence on the north side of the property with a 4 ft high fence raised six inches above grade" would help to document the fence for applicant's benefit. BG will add this to the proposed conditions, as well as conditions requiring that the installation meet the performance standards for salt marsh, ongoing periodic maintenance as needed.
- BG asks the Commissioners whether they wish to require the receipt of an updated site plan prior to the start of work; after discussion, the Commissioners agree that the details on file are sufficient.
- AL asks for comments from the public; none.
- AL makes motion to close the hearing and issue a DOA, Neg. # 3, with special conditions drafted by BG. PC seconded. Approved 6-0-0.

**2782 Ricciarelli, 1203 Ferry Street (Raze & Rebuild SFH).....cont from 1/22/19 (Bert)**

- Continued hearing, BO Hearing Officer. BO confirms administrative requirements are complete.
- Terry McGovern (TM), Stenbeck & Taylor, presents for applicant. BO notes the Commission was waiting on Board of Health approval of the septic system and asks TM for a status update. TM advises they received BOH approval for the septic. As requested at the previous meeting, they have added swales along the north and south property lines and slightly changed the shape of the driveway to accommodate the swales. Mr. Ricciarelli has also added about 60 sq ft of pervious pavers at the street, which will help with stormwater recharge in non-catastrophic storms.
- In response to a query from PC, TM states that the septic approved by BOH is the conventional treatment system discussed at the previous meeting, and not a tight tank.
- BO indicates he has no issues with the project, and asks for comments from other Commissioners. The Commissioners indicate there are no issues with the amended plan.
- BO asks for comments from the public; none.
- BG advises that the standard special conditions will apply, plus the placement of seven permanent conservation markers on wooden posts.
- BO makes motion to close the hearing and issue Orders of Conditions with special conditions as drafted by BG. AL second. Approved 6-0-0.

- 2776 Murphy, Brewster Road (New SFH).....cont from 12/04/18 (Bert)**
- RC advises that applicant has requested a continuation.
- 2783 Andersen / Kalandranis, 482 Ocean St (Part. Demo Garage & Breezeway; Addition...cont from 1/22/19 (Rob)**
- Continued hearing, RC Hearing Officer. RC confirms administrative requirements are complete.
  - BG notes that RC and AL missed the previous hearing; both have viewed the videotape of the previous hearing. Both Commissioners sign Mullins Rule affidavits for the file.
  - Chi Man (CM), Hardy & Man, presents for applicant. The project concerns the partial demolition of a garage and breezeway to construct a two-story addition. BG notes that an updated site plan that correctly depicts the VE flood zone was provided to the Conservation Office. He requests that in this case, the Commission waive its policy requiring receipt of new information by 12 noon the Friday before a meeting.
  - CM indicates there are no physical changes to the proposal in the new plans. They have updated the FEMA line and flood calculation on the plan. The project concerns the partial demolition of a garage and breezeway to construct a two-story addition.
  - BG clarifies that the property has a Letter of Map Revision (LOMAR) which puts the structure in an X zone but the property is in a VE zone.
  - RC asks whether the project would be considered a substantial improvement; CM indicates it would be, per his discussion with the Building Commissioner. The work is described as substantial in the revised NOI cover letter. RC follows up asking whether the house is still partially within the velocity zone; CM indicates the house is in the same location and is partly in the velocity zone. BG adds that the VE elevation is at 18 and the elevation of the house with addition will be at 21.3 ft.
  - RC believes that under the building code, construction has to be on open pilings; breakaway walls are required, and no slabs on grade or foundations are allowed. BG adds that the LOMAR takes the property out of the velocity zone based on the elevation. CM states that in other communities, they delineate the VE line based on elevations; in Marshfield, they use the Town GIS map.
  - BG indicates that the site plan update and his discussions with the Building Commissioner and Town Planner have addressed his initial concerns.
  - RC asks for comments from the public; none.
  - BG indicates that the construction of the new sidewalk should follow the guidance provided by the Town Engineer for 476 and 470 Ocean, including ADA compliance and meeting the existing sidewalk at the same grade. FW believes that the sidewalk will not exceed a 2% grade, so there is no need for a special condition.
  - RC makes motion to close the hearing and issue Orders of Conditions with special conditions drafted by BG. PC second. Approved 6-0-0.
- 2785 Phelps, 78 Cherry Street (Elevate SFH).....NEW (Jim)**
- RC confirms that administrative requirements are complete, and advises that applicant has requested a continuation.
  - JK asks BG why the matter was continued. BG recently asked for some additional details on the plan, and applicants had a conflict tonight.
  - RC makes motion to continue the matter to the next meeting. AL second. Approved 6-0-0.
- 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)**

#### **REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS**

#### **2599 Zaha/Gauger, 56 Cove Street [COC]**

- BG distributes a packet of information and photos for Commissioners to review, and notes that neighbors in the area had constructed revetments due to increasing storm and surf damage. This property owner did the same and received an OOC on January 21, 2016, with the standard conditions, including that there be no deviations from the plan of record without written permission from the Commission.
- BG advises that additional hardscape was added beyond what was approved. He adds that the property was VE15/19 at the time of permitting but is VE22 now, but notes that the performance standards for coastal dune/barrier beach prohibit interference with the ability of sand to migrate. BG adds that ownership of the area where the additional hardscape was added is unclear; if there is no clear owner, there may be an opportunity for beach re-nourishment in the area.
- BG has talked to applicant about some additional plantings; applicant responded that she had done planting in the past at considerable expense that got washed out. She is okay with trying some more plantings, but space is limited. He would like some guidance from the Commission as to how to work with applicant.
- PC asks BG how the deviation from the approved plan impacts the dune. The additional revetment stones further inhibit movement of the sand; however, given that the area went from a VE19 to a VE22 in a short period of time, BG would like to know whether the additional hardscape should be handled as a minor deviation. One option would be to issue the COC but add ongoing conditions to ensure that the remaining vegetated area is not hardened. This would also make any new owners aware of the need to preserve the area. AL believes the owner is looking to sell.
- AL comments that the only issue he sees is that a sand-fill area has been filled with riprap. However, he feels that taking it out would just cause more damage.
- BO asks if the Commission would have had any issue if applicant had included the additional hardscape in their original NOI; a majority of Commissioners indicate no issue.
- JK comments that there seems to be an ongoing issue with people ignoring their Orders of Conditions and getting a COC anyway. For lack of any better options, he would like to protect the strip of vegetation from being armored by the new owner. BG states that construction companies need to be approaching the Commission about any deviations from the plan, but JK comments this is unlikely to happen. BO feels there should be some leeway when riprap is added to a site, as boundaries are more difficult to be exactly adhered to with large boulders.
- RC questions the need for a special condition, since the as-built plan will become the plan of record, and applicant or any new owner would have to appear before the Commission anyways to make any new changes.
- RC makes a motion to issue a COC for the property. FW seconded. Approved 6-0-0.

#### **ENFORCEMENT ORDERS**

Smith, 38 Liberty Street **(11/19/18 KS will set early Dec visit)**

Mahaney, 46 Preston Terrace **(12/12/18 BG met with TC)**

Drosopoulos, 7 Lady Slipper Lane **(8/15/18 TC Final Notice)**

White, 180 Atwell Circle **(Escalation letter in Process)**

Digan, 1327 Union Street **(1/11/19 Rec'd App. Rest. Plan)**

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)

#### **Courchene, 18 Creek Road (1/28/19 Multiple written complaints/ wetland alterations)**

- Property owner Brent Courchene (BC) present. BG advises he had received several written complaints about wetlands near the property that have been altered. The alterations have not been extensive and consist mostly of paths and play structures. BC states that the house is on the market, and he requests an expedited resolution. He agrees there were some liberties taken but notes he has cleaned up much debris and

floatables. He states that the plants in the area were not cut down but the area is well-used by his kids. He adds that he is a marine scientist, and the alterations were not egregious or malicious. He is willing to do whatever necessary to restore the area.

- BG comments that this is a situation where he has to enforce, but he doesn't want to make the restoration work a NOI requiring engineering drawings. RC suggests that they require a restoration plan; BG states that an enforcement order is needed for the sake of precedent. After a brief discussion, the Commissioners agree that issuing an EO requiring a restoration plan but no NOI is appropriate.
- BC asks if kids playing in the adjacent wetland is in itself a violation. BG indicates it's the alteration of the area that controls.

## **BUSINESS**

### **B1 Conservation Restriction-Quirk Auto/Back of 830 Plain Street (Parcel D10-01-07A) – Attorney Steve Guard**

- Attorney Steve Guard (SG) presents for applicant, along with Terry McGovern (TM), Stenbeck & Taylor. SG advises that the site was developed years ago under a special permit. The parcel consists of a 7 acre piece in the Commercial District and 5 acres in the Residential District in the back. When they first developed the dealership, they borrowed some impervious surface allowed in the Residential District and put it into the Commercial District. The CR is part of the proposed mitigation for a recently approved plan to expand the dealership's parking lot, and to address the concerns of abutters. The CR applies to remaining residential property in the back of the dealership; they would like the Commission to hold the CR. The property consists of 5 acres of upland between the Commercial and Residential district; SG feels it could act as a buffer and vegetated habitat. The property can be accessed through a nearby power line easement. SG adds that they are unable to deed the property to the Town or the Commission because they need the property to remain in compliance with Zoning regulations, but they would like the Commission to hold the restriction and they would remain responsible for all maintenance and liability. They would also add conservation markers on posts as directed.
- RC asks if the public would have any access? SG doesn't think public access is advisable due to its small size, lack of parking, and location in back of resident homes; he feels it would better serve as a wildlife habitat and walking area for local residents. BG feels the area could potentially become an upland bird habitat, but he hasn't walked the site.
- RC asks SG whether they have offered the CR to any other organizations? They have not, and would prefer the CR to be held by the Town.
- SG adds that the Planning Board has imposed a condition requiring them to give the Commission a fund with \$10K, but would like to ask the PB to modify or waive that condition. JK asks SG where the \$10K would go. FW questions what the Commission would do with the money if Quirk is proposing to handle all maintenance. BG suggests they could possibly set up a Stewardship Fund through the Town Treasurer. BO suggests that the funds be used for tree damage. JK asks whether the funds would be unencumbered, for the Commission to spend as it sees fit; SG states the funds would be to maintain this CR.
- AL asks SG how the Town would get access. SG thinks they would grant the town access through a utility access easement. They are working with Town Counsel (TC) to draft the CR, and are also submitting a warrant article to see if the Town will vote to accept the CR.
- BG comments that this CR differs from the proposed Christmas Cove CR in that it is not driven by the Natural Heritage and Endangered Species in lieu of a Conservation Management Plan. He feels the upside to the proposal is that the Commission would get a good, upland property that could serve as wildlife habitat. An additional benefit could be the ability to impose prohibitions on activities such as clear-cutting. SG comments they are already obligated to keep the area in its current vegetated state under the ZBA's special permit.
- RC asks for comments from the public; none.
- RC polls the Commission on their interest: PC yes; JK yes; BO yes; AL yes; RC yes. BG suggests that SG work with TC to develop the CR. SG will report the Commission's interest to TC; BG notes for the record that only a poll was taken, and not a formal vote. FW and SG suggest that BG mention this discussion to TC.

## **B2 Harbormaster Comments about Barges/Handout – Bill Grafton**

- BG advises that the Harbormaster is looking at updates to the Bylaw relating to his office and certain fees, and asks the Commission to review comments made by the Harbormaster in a memorandum to TC.
- BO asks BG whether fees proposed are new. There are already fees for barges. JK comments that the Harbormaster is trying to collect an annual fee for commercial equipment, such as barges, moored in the rivers. BG adds that the Harbormaster would like to be able to assess or at least reference his fees through the Commission's special conditions. This has been done at least once before.
- FW asks BG how the Commission could impose a fee in a special condition. The proposed conditions would not specifically impose a fee but note that such fees may be assessed. FW feels this wording is too vague, and the proposal amounts to the Harbormaster requiring the Commission to collect his fees; RC concurs. BG comments on the good degree of cooperation between Conservation and the Harbormaster. He feels this could be a way to reinforce this relationship.
- The Commission discusses the possible implementation of the Harbormaster's proposal. RC notes that the wording states that fees "may be assessed" and thinks the Commission can take this into consideration on a case by case basis. BO confirms with BG that the Harbormaster would mention any fees due on a comment letter for a Commission filing. FW expresses a concern that this could potentially interfere with the Commission closing out an OOC. BG feels that the proposed fee will help address an ongoing issue with commercial equipment being stored at fixed positions. He adds that the proposal may reduce the need for enforcement orders due to grounded barges. FW reiterates that the proposal as currently worded is too vague. PC states that the Harbormaster has a specific fee schedule which he has at home for his dock permit. RC feels that the word "may" indicates the condition would apply on a case by case basis.
- PC asks why the Harbormaster wouldn't ask the Commission to add to any dock or marine construction project a special condition requiring applicants to pay for the equipment, length, and duration of time according to a fee schedule. FW notes that the applicant is already paying a fee for the equipment, the equipment owner is paying taxes on the equipment, and the proposal seems to assess an additional fee for owning and using the equipment on Marshfield waterways.
- JK asks whether the fees in question are new or existing. BG indicates that a special condition such as that being proposed was assessed by the Commission on one project to his knowledge. He feels that the proposal gives the Harbormaster the leeway to request that the Commission impose this condition going forward on a case by case basis. He is willing to respond to the Harbormaster that the Commission needs a specific fee schedule to reference.
- PC notes that fees have to be uniformly imposed in order to treat all project owners the same; he also feels that such requests should reference the Bylaw that has his schedule of fees, and the proposal needs more work. FW also feels he needs more information before he can vote on it.
- AL asks whether the Harbormaster could provide a more detailed proposal or come talk to the Commission directly. BG indicates the Harbormaster is trying to get a Town Meeting article in, and may be working under a deadline. AL notes that the current proposal consists of just three sentences, and feels more information is needed. PC agrees that the Harbormaster should come speak to the Commission.
- BO asks BG whether the proposal would add to his workload. BG feels this special condition would use standard language that could be pasted in and not add to his workload.
- The Commission discusses the proposal's implementation and whether it would apply to some or all of the fees on the Harbormaster's fee schedule. FW feels that these details have to be well-defined and written down in order for it to pass at Town Meeting. JK asks whether the word "may" means the special condition may or may not be in the OOC, or that some people have to pay and others won't. BG will reach out to Harbormaster Michael DiMeo and TC for more information.

## **B3 Marshfield Airport / 93 Old Colony Lane – Review & Sign Orders - Commission**

- BG distributes the draft OOC for the project and reads the conditions into the record. He also notes for the record that, since the hearing is closed, the Mullins Rule does not apply to the two Commissioners who missed the hearing.
- BG asks the Commissioners if anything is missing from the draft language. JK comments that the language as written seems to have captured everything and the other Commissioners concur.
- FW notes that the current spill prevention plan on file references the existing underground fuel farm only, and a new plan will be needed once the new farm becomes operational. BG updates the special condition language to “current spill prevention control and countermeasure plan that references the two proposed above-ground storage tanks,” and will make applicants aware that they need to provide a new SPCC plan.

**AJOURNMENT** – RC makes a motion to close the hearing at 8:49 p.m. FW second. 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