

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

MEMBERS NOT PRESENT – Patrick (Rick) Carberry (PC). FW left at 9:40 pm, at the conclusion of the public hearings.

CALL TO ORDER – RC makes a motion to open the meeting at 7 pm. FW second. Approved 5-0-0.

PUBLIC HEARINGS

18-36 Garrity, 115 Planting Fields Road (After-The-Fact Pool Cabana).....NEW(Bert)

- RC reads Legal Ad. Hearing Officer BO confirms administrative requirements are complete.
- Robert Rego (RR), Riverhawk Environmental, presents for applicant. RR states that an NOI was approved in 1997 for a pool and fence, and a cabana was also constructed that was not on the original NOI. The Cavallas purchased the property in 2002, after the cabana was in place; they are filing an ATF RDA for the cabana. The cabana is constructed on pilings and is roughly 26 ft away from BVW; the area around the cabana is stabilized but heavily vegetated. BO mentions that he visited the property, and the cabana is as described.
- BO asks for comments from the public; none.
- BG suggests that the Cavallas contact him before performing any other work, for a due diligence review.
- BO makes a motion to close and issue a DOA, neg # 3, with special conditions drafted by BG. RC second. Approved 5-0-0.

18-34 McKenna, 10 Trouants Island (Veg. Management).....NEW(Jim)

- RC reads Legal Ad. Hearing Officer JK confirms administrative requirements are complete.
- Applicants not present. JK describes the project to the Commission; trees were taken down due to storm damage. Applicant has worked with BG to come up with a replanting schedule.
- JK notes there are invasives on the property, and suggests a special condition allowing for ongoing periodic maintenance.
- JK makes a motion to close and issue a DOA, neg # 3, with special conditions drafted by BG. FW second. Approved 5-0-0.

18-35 Leatherbee, 22 Acorn Street (Drainage Trench).....NEW(Bert)

- RC reads Legal Ad. Hearing Officer BO confirms administrative requirements are complete.
- Applicants not present. BO states he was present at the office when BG discussed the project with applicants. Applicants are preparing to sell the house and recently installed a new septic system. It was discovered that the sump pump discharged into the wetland area. They have terminated the pipe, and this filing is to put in an underground dry well drainage ditch for the sump pump discharge.
- BO makes a motion to close and issue a DOA, neg # 3, with special conditions drafted by BG. AL second. Approved 5-0-0.

18-37 Reynolds, 109 Salt Meadow Waye (After-The-Fact Addition-never completed).....NEW(Art)

- RC reads Legal Ad. Hearing Officer AL confirms administrative requirements are complete.
- Property owner Dan Reynolds notes that his original OOC, SE42-2131, has expired. He is not altering his plans; he would like to just complete the work originally permitted.
- AL visited the site and has no issues.
- AL asks for comments from the public; none.
- BG visited the site and suggested that applicant put in four (4) conservation markers; he has added this into the proposed special conditions. BG reminds applicant that erosion controls will be part of the conditions.
- AL makes a motion to close and issue a DOA, neg # 3, with special conditions drafted by BG. FW second. Approved 5-0-0.

18-38 Phinney, Ferry Street (Coastal Bank Restoration).....NEW(Frank)

- RC reads Legal Ad. Hearing Officer FW confirms administrative requirements are complete.
- Homeowner Charlotte Phinney (CP) states she would like to stabilize the bank and replant shrubs removed by DPW when they repaired a drainage pipe. Photos are provided for the Commissioners to review. FW asks CP whether the pipe is coming from the street; it is coming from Preston Terrace. There was a leak in the pipe which created a small sinkhole. DPW went out to repair it, but they removed all the shrubs in the area. The pipe has been repaired, and she would like to restore the area around it.

- FW asks for comments from the public; none.
- JK comments that he visited the site and agrees with CP's description.
- BG suggests special conditions allowing for ongoing periodic maintenance with notification to the Conservation Office, and that CP see the Conservation Admin if any additional work needs to be completed.
- FW makes a motion to close and issue a DOA, neg # 3, with special conditions drafted by BG. JK second. Approved 5-0-0.

18-39 DPW, Richard Street (Coastal Dune Restoration).....NEW(Jim)

- RC reads Legal Ad. Hearing Officer JK confirms administrative requirements are complete.
- BG presents for DPW; he was approached by Sterling Hammond, the owner of 7 Richard Street, who advised that a coastal dune had eroded during the March storms. At the request of Mr. Hammond, DPW is repairing the end of the road and place beach-compatible material to protect a dune on his property. Mr. Hammond will then replant the dune with beach grass.
- BG suggests a special condition allowing for ongoing periodic maintenance with notification to the Conservation Office.
- JK comments favorably on the cooperation between DPW and Mr. Hammond, and asks for comments from the public; none.
- JK makes a motion to close and issue a DOA, neg # 3, with special conditions drafted by BG. FW second. Approved 5-0-0.

2739 Oronte, 170 Carolyn Circle (Deck).....NEW(Art)

- RC reads Legal Ad. Hearing Officer AL confirms administrative requirements are complete.
- Homeowner Stephen Oronte (SO) would like to extend an existing deck to provide wheelchair access from the existing driveway. SO adds that the narrative suggests that he will be making the area ADA compliant, but in actuality SO would like to simply make the deck accessible for his wife. He would also like to relocate the silt fence to above the trench area and relocate some trees at the edge of the deck.
- AL comments that he visited the property; he has no issues but notes that the deck is 36 ft from the wetland. BG comments that this area was already minimally disturbed, and notes that applicant is trying to use low-impact construction techniques.
- BG suggests the Commission consider asking for conservation markers and possibly giving SO options to plant. AL would like to see markers added to the special conditions. JK confirms that the area is outside the 25 ft no-disturb buffer and is previously disturbed.
- AL asks for comments from the public; none.
- BG reads the proposed special conditions into the record, including the use of erosion control and the placement of four conservation markers on the property lines and edge of the lawn.
- AL makes a motion to close the hearing and issue Orders of Conditions with special conditions drafted by BG. FW second. Approved 5-0-0.

2655 Phelps, 71 Central Street (Amended NOI to Relocate SFH).....NEW(Frank)

- RC reads Legal Ad. Hearing Officer FW confirms administrative requirements are complete.
- Jeff Hassett (JH), Morse Engineering, presents for applicant. They have filed an amended NOI for a property 6700 sq ft in size. The front portion is upland and the majority of the rear portion is salt marsh. The current home sits entirely within the salt marsh.
- Applicant previously received an OOC to demolish the existing house and construct a new house on piles at the same location. Applicant subsequently hired geotechnical engineers, who found a layer of cobbles and stone, which is not stable enough to drive piles into. Therefore, they are proposing to construct the new home in the front of the property on a concrete foundation. JH feels that moving the home out of the salt marsh is an improvement to the site, as there will be less impact to the wetland, and notes that adjacent homes have concrete foundations.
- JH adds that they are proposing a cantilevered deck attached to the new home, but its 10 ft height will allow for sufficient sunlight to reach the area beneath. The new foundation will be equipped with flood vents. The location of the current home will be re-vegetated with salt-tolerant plants, and conservation posts will be added to the area. 932 sq ft of area will be restored to salt marsh.
- In response to a question from FW, JH indicates there were two borings done. FW would also like to know if there is a need for piles, and was there a depth that the contractor would have to go to. JH replies to FW that the top 5 ft of the area cannot be counted on because it is considered an area that erodes so the piles would have to be to a much further depth. FW then asks JH what the depth of the foundation would be. JH replies that the foundation would be dug 4 ft deep. FW comments that if the first 5 ft of ground cannot be counted on then there is a potential that the area could erode under the footings if they are dug to a depth of just 4 ft.

- Applicant Chris Phelps (CP) comments that the pilings would have to be pretty deep because they can't have any cross-bracing as per the original OOC. The geotechnical engineers felt it was (13-15) feet to get past the stony layer.
- FW asks if the area is subject to significant erosion such that would erode 4 ft or greater. JH comments that the area is not a velocity zone.
- JK sees the project as a net positive, but expresses concern that construction of the new home and foundation project may fall under zoning & building rules/ regs. AL mentions he has a neighbor that used an auger screw pile foundation for their home. JK believes it is far preferable to have the new home out of the marsh.
- BG references a filing for 75 Central, where applicant had similar issues and type of foundation. BO agrees that the project would seem to be consistent with the other recent projects in the area. FW has no issues but suggests that JH look at a deeper foundation; JH will look into this further.
- Steve Lynch (SL), 50 Central Street, built the existing home and states the area is glacial till. He does not have a problem with the home being located next to his home, but has an issue if there will be grade changes causing damage to his property. SL would prefer that the grade be raised 24 inches, as he feels this could solve the drainage issue and protect the retaining wall on his property. He also thinks a four-foot wide footing may be needed based on his experience in the area. JH has no objection to raising the grade as proposed.
- BG comments that the applicant would be filling the salt marsh on a portion of the property and that is an alteration the Commission might want to weigh against the removal of the home. SL comments that raising the grade would be a benefit to all homeowners in the area and the street.
- JK would like to know the local and state setbacks for the area. BG says the lines are locked in tandem and have already been approved. BG adds that the applicant would have to ask for a variance for work in the 0-25, and the Commission has to decide if the proposed work is an adverse impact. Filling would be an adverse impact which would have to be weighed against mitigation. BG suggests that the Commission ask for a new planting plan as possible mitigation.
- JK would like to know where the retaining wall is located; JH indicates the wall is between flags SM6 and 7, and runs up the property line. BG states the wall is not in the salt marsh but is within the setbacks.
- FW does not feel they need to ask for more mitigation given the restoration of 932 sq ft of salt marsh on the site of the existing home, and suggests going with a grade of 3-to-1. The planting plan for the previous proposal may not work if the plantings are out in the salt marsh. BG has mixed feelings about allowing the fill, but likes what FW has suggested in terms of tapering because the grade will act like a bank. He suggests that applicants add a protective vegetated area to serve as an additional floodwater buffer/filter; CP is willing to add native plantings to the slope.
- BG likes the slope as proposed but feels it may cause some displacement of flood water; SL feels that backfilling will not create any higher water level on anyone else's property because salt water goes to the height of the tide and can't be displaced.
- BG reads the proposed special conditions into the record, including the placement of two conservation markers on posts, erosion controls, replanting the site of the old home with salt marsh, and raising the site approximately 2 ft in grade over a 10 ft horizontal distance, to the elevation at SM3, and restoring the area next to the marsh with native plantings
- FW makes a motion to close the hearing and issue Orders of Conditions with special conditions drafted by BG. AL second. Approved 5-0-0.

Connolly, 80 Rugani Road (Septic Repair).....NEW (Bert)

- RC reads Legal Ad. Hearing Officer BO confirms administrative requirements are complete.
- Bob Crawford (BC), EET, presents for applicant. Work site is on the eastern side of Rugani Avenue, with wetland on the north and east sides. The house is for sale, and the existing septic system failed Title V inspection and has to be replaced. They propose to install a new 1500-gallon septic tank with 403 sq ft of leaching chambers. The work to be completed is not within the FEMA flood zone but the limit of work is within 68 ft of a vegetated wetland.
- BO feels the new system is located in the best possible area on the lot. He would like some erosion around the old system to be cleaned up before it reaches the pond, as well as conservation markers for the benefit any subsequent owners.
- BG asks BO to look at the SERO file number for any notes from the DEP; no comments.
- BG reads the proposed special conditions, and mentions that Jay Wennemer had standard language in his orders the Commission might want to re-adopt; these include revegetating of disturbed soils and erosion control if revegetation is not immediately possible. The Commissioners agree to the addition of these conditions to this project.
- BO would like to confirm there are conservation markers on the site plan; the special conditions call for seven (7) markers on posts.
- BO asks if there are any comments from the other Commissioners and the audience; none.
- BO makes a motion to close the hearing and issue Orders of Conditions with special conditions drafted by BG. FW second. Approved 5-0-0.

2741 Rollins, 39 Island Street (Elevate SFH).....NEW(Frank)

- RC reads Legal Ad. Hearing Officer FW confirms administrative requirements are complete.
- Dick Rockwood (DR) presenting; he did the architectural work, while John Zimmer (JZ) did the NOI filing. DR states that applicant's home was flooded in the January storms, and they would like to elevate the home to meet the FEMA requirements. They propose a concrete foundation with smart vents; the location of the house is not changing.
- JK did not have opportunity to go out to home but would like to know if there is a driveway; DR states they will be keeping the gravel driveway on the left side of the home.
- BG states there is a lot of encroachment in the Island Street area, with paved driveways being installed without permits, etc. FW proposes special conditions that the drive and parking be made of pervious gravel or materials, and that the first floor elevation be 18.50, since top of foundation is 10.35. DR states that the finished floor of the home will be at 18 ft.
- FW opens comments to the Commissioners; none.
- FW opens comments to the audience; none.
- BG reads the proposed special conditions into the record, including the installation of conservation markers on posts as set forth on the site plan.
- FW makes a motion to close the hearing and issue Orders of Conditions with special conditions drafted by BG. JK second. Approved 5-0-0.

2747 Skinner, 20 Hanley Court (3-Season Porch).....NEW(Bert)

- RC reads Legal Ad. Hearing Officer BO confirms administrative requirements are complete.
- Michael Skinner (MS) presents. BO feels MS described the project well when presenting the RDA previously, but would like an update in regards to the shed location. Joanne Oxner (JO) states that the shed location has been noted on the plan by John Zimmer (JZ). JO and MS would like to move the shed 7 ft forward, getting it out of the conservation land.
- BO mentions a note from the fire department about allowing access to the property. BG feels this does not affect the proposed shed location.
- JK asks who owns the shed in the middle of Hanley Court. JO states it belongs to them, but is actually a temporary plastic structure and is closer to the corner of the house than shown. BG notes that the location gets complicated when a street is not officially published with the town. With respect to the shed location, he suggests that the homeowners speak with the building department about setbacks that might apply under the building code. FW comments that the building department may waive the setback requirement if applicants are bringing the shed back onto their lot.
- JK inquiries about the existing paver patio; MS notes that there are garden beds alongside the patio, and they will be removing the beds located on conservation land.
- BG reads the proposed special conditions into the record, including the addition of four (4) green and five (5) red conservation markers as added to the site plan. BO adds the new shed location, and endorses the marked-up plan as the plan of record; BG and the Commissioners discuss making this the procedure for minor additions going forward.
- BO makes a motion to close the hearing and issue Orders of Conditions with special conditions drafted by BG. AL second. Approved 5-0-0.

2744 Lentine, 44 Monitor Street (Drainage Improvements).....NEW(Bert)

- RC reads Legal Ad. Hearing Officer BO confirms administrative requirements are complete.
- Paul Seaberg (PS), Grady Consulting, presents for applicant. The subject lot contains a SFH Home with isolated vegetated wetland; they would like to remove 12 inches of poorly drained soil and replace it with stone rip rap to better drain the area and increase groundwater recharge. They would also like to add coir logs around the perimeter of the property for stabilization and erosion prevention. They have provided a planting plan approved by John Zimmer (JZ), including American Beach Grass and other native plants.
- Property owner Stephen Lentine (SL) states that the area of concern is a marsh area which has spread into a previously disturbed lawn area, since he purchased the property, due to the drainage issues. The original home was razed and rebuilt in 2017. His lot gets runoff from neighboring properties, and his home has just one gutter that directs all runoff to the wettest corner of the lot. The purpose of this project is to put in a more pervious surface to improve drainage and recharge. JZ proposed replacement of the phragmites on site with pussy willows, but SL does not mind the phragmites and would like the flexibility to leave them alone; he is a seasonal resident and will not have the time to stay on top of them. BG feels that the phragmites in this case may be beneficial in terms of creating a physical barrier. The Commissioners agree to give SL the option of not disturbing the phragmites.
- JK would like clarification on the location of the proposed rip rap; PS and SL show the Commission the location and note that they will be removing smaller size stones and replacing with larger stones. SL is hoping to make the yard more maintenance-free.

- BG notes that applicant's property is in a low-lying area and is prone to stormwater and floodwater buildup. He had issued an Emergency Certification to clean up after the March storms.
- FW opens comments to the audience; none. SL states that some neighbors were present earlier; he showed them the plans, and they had no issues.
- BG polls the Commission on the need for conservation markers; all agree that markers are not needed. The Commission discusses a suggestion from BG that some of the proposed gravel area be seeded instead. BG adds a provision allowing for ongoing periodic maintenance to the special conditions.
- BO makes a motion to close the hearing and issue Orders of Conditions with special conditions drafted by BG. FW second. Approved 5-0-0.

2745 Wallace, 738 Ocean Street (In-Ground Pool).....NEW(Art)

- RC reads Legal Ad. Hearing Officer AL confirms administrative requirements are complete.
- Paul Seaberg (PS), Grady Consulting, presents for applicant. They would like to remove an existing deck off the back of the house, just south of the retaining wall, install a (12 x 24) ft pool in the back portion of the lot, and revegetate the remaining area with lawn.
- AL has been on site and the area has been cleaned out, and states applicant is going to keep the roof over the deck and just replace the deck; PS confirms. AL also notes that the application states they will revegetate, and feels there should be native plantings instead of lawn; PS indicates applicants would prefer a lawn, but they are open to guidance. AL has no issues with the project if native plantings are used. He also notes that the fence is a little low, and suggests that if they replace or repair the deck, the fence be raised up to allow for floodwater flow.
- JK would like to know if there will be pool decking, as the plan does not show any around the perimeter of the pool. PS indicates there will be a 3 ft apron around the pool, which is not shown on the plan. BG feels they don't need a 3 ft apron all the way around the pool. FW feels that 3 ft is a standard apron size to prevent mulch from getting into the pool.
- BG would like a new plan of record showing the 3-ft apron on the pool. FW feels that the existing plan can be marked up and signed by the Hearing Officer. BG feels that not requesting an engineered drawing with this kind of change could lead to project segmentation, and would prefer an updated site plan. In response to a question from RC, PS states they will be submitting an as-built plan to the Building Department.
- FW and RC would like to add a special condition allowing a 3 ft apron around the three sides of the pool instead of asking for a new site plan. BG agrees that this will provide a record that the apron was discussed and permitted.
- The Commission discusses the proper threshold for changes that require new site plans. JK comments he has concerns about hand-marking additions to site plans and feels it may cause confusion down the road. BG feels the Commission should make a decision on what can and can't be marked up on site plans at meetings.
- BG reads the proposed special conditions into the record, including a condition allowing a 3-ft pad around the perimeter of the pool and ongoing periodic maintenance of the mitigation area.
- AL makes a motion to close the hearing and issue Orders of Conditions with special conditions drafted by BG. FW second. Approved 5-0-0.

2743 Mastergeorge R.T., 22 Damon's Point Road (Raze & Rebuild SFH).....NEW(Bert)

- RC reads Legal Ad. Hearing Officer BO confirms administrative requirements are complete.
- Paul Seaberg (PS), Grady Consulting, presents for applicant. Filing is for the raze and rebuild of a SFH on a small lot entirely in riverfront area, AE flood zone, elevation 15. The new home will be elevated, and smart vents will be installed in the foundation. The proposed home and deck are both smaller than what currently exists. The homeowner would like to pave the existing gravel driveway.
- BO verifies that the driveway is mostly outside the 100 ft buffer but within 200 ft of the riverfront, and that the proposed new home has a slightly smaller footprint than the original.
- BG comments that wetlands were not delineated due to the potential for encroachment on private property, but he has no issue with the resource areas as depicted by John Zimmer (JZ). In response to a question from BG, PS indicates that JZ did not review the proposed planting plan. BG notes that the planting plan was provided by Bart Lipinsky (BL), a landscape architect that works with Grady, and asks the Commission if they are okay with accepting the plan without a qualified wetland scientist's review. FW has no issue. BO questions whether the Commission can require a planting plan if the scope of work is smaller than the original home; BG feels it can, as the work is in the 100 ft buffer. JK feels the plan will mitigate the paving of the driveway.
- PS comments that applicants have filed with ZBA. BO inquires if they will need a permit from North River Commission; applicant is working on a filing with NRC. BG notes that NRC told him they like applicants to permit with their local Commission first before permitting with them.
- BO asks for comments from the public; none.

- BO makes a motion to close the hearing and issue Orders of Conditions with special conditions drafted by BG. FW second. Approved 5-0-0.

2742 St. Ours, 84 Bay Avenue (Raze & Rebuild SFH).....NEW(Art)

- RC reads Legal Ad and notes that applicant has requested a continuance.
- RC makes a motion to continue the hearing to September 11, 2018. JK second. Approved 5-0-0.
- AL states he has several questions regarding this filing but is unable to attend the September 11 meeting. BG advises AL to send the questions to him. Later in the meeting, AL comments that there appears to be a concrete pad right against the seawall.

2746 Sleeper, Pine Street (Driveway & Utilities).....NEW(Jim)

- RC reads Legal Ad and notes that applicant has requested a continuance.
- RC makes a motion to continue the hearing to September 11, 2018. FW second. Approved 5-0-0.
- Later in the meeting, an abutter expresses concern about runoff from the proposed driveway flooding his property. RC suggests that he e-mail BG so it will be part of the record. BG suggests that he also come to the Conservation Office and take a look at the site plan.
- Later in the meeting, JK notes that he won't be present on September 11; he would like to make sure that stormwater drainage and the use of permeable/impermeable materials are discussed.

2750 MacEntee, 17 Constitution Road (Fence & Vegetative Management).....NEW(Jim)

- RC reads Legal Ad. Hearing Officer JK confirms administrative requirements are complete.
- Bob Crawford (BC), EET, presents for applicant. BC states the project was under construction, and it came to his attention that the neighbor was contending that the fence and retaining wall under construction were encroaching onto his property in the resource area. Resource areas include LSCSF, AO flood zone at depth 3 ft, and coastal dune. There are two areas of dunes near the property; one near the back easterly side of the wall, about 26 ft long, and the other is on the south side of the property. The NOI is to relocate the fence and move a 40-ft section of concrete block wall.
- JK recalls that it was decided at the July 24, 2018 hearing that applicant would need to file an NOI, and there were issues with the neighbor; he would like to know if the neighbor issues have been resolved, and if the applicant has filed for any other permit; BC does not believe the applicant has to apply for ZBA or with any other authority.
- JK recalls the neighbor's fence was part of the problem, and that fence was never permitted. BG states he has met with both parties since July 24, and the neighbor is also filing an NOI. Both applicant and the neighbor, Robert Stone (RS), attempted to use the same engineer to file their respective NOIs, but they were unable to do so. Both parties have hired their own professionals to assist, and he anticipates a NOI from RS in short order.
- JK asks if BC sees any potential conflicts between the two forthcoming engineered plans. BC states that when they surveyed the property, he agreed within a half inch of where RS's engineers had placed markers.
- AL would like there to be good water flow under the fence. FW explains to BC that if the space is about 4 inches above the ground, floodwaters won't take the fence down.
- Vin Trubiani (VT), 20 Constitution Road, states he has been in his home for 36 years, and the wall and fence have been there in all the time he has lived there; he feels applicant is just trying to put it back the same way it was, and the neighbor is acting unreasonably.
- BG reads the proposed special conditions into the record, including a requirement for a four-inch gap between the ground and bottom of the face, allowance for ongoing periodic maintenance, and the planting of supportive vegetation. FW doesn't feel a condition requiring erosion control is necessary.
- JK makes a motion to close the hearing and issue Orders of Conditions with special conditions as drafted by BG. AL second. Approved 5-0-0.

2740 McGowan, 18 Paddock Way (Pool & Gardens).....NEW(Jim)

- RC reads Legal Ad. Hearing Officer JK confirms administrative requirements are complete.
- Dave Newhall (DN), Merrill Engineers, presents for applicant. Lot is already cleared to the tree line, which is all outside the 25ft buffer. Applicants would like to install an in-ground pool with patio and fencing. The closest point of the pool is 30 ft from the buffer zone; an additional 400 sq ft outside the 25 ft buffer would be disturbed, and stockpiles will be outside the 100 ft buffer, with silt sock erosion control around the stockpiling and limit of work. Applicant will post four (4) conservation markers. At BG's suggestion, they will try to keep an existing beech tree and will put in mitigation plantings in two areas.
- JK would like to know the likelihood of saving the American Beech tree. BG notes that the tree is located in the mitigation area, behind the sandbox. The tree serves as a physical barrier to invasives, so he would like to either save the tree or

plant something else, possibly Eastern Red Cedar, that will provide down shade and prevent invasives from spreading to the disturbed area.

- BO asks whether the home is subject to a 25 ft or 50 ft no-disturb buffer. BG notes that this is something the Commission has to think about, as applicants are working within 50 ft of the wetland. BO adds that the home is about 20 years old, but is located in a subdivision as opposed to a densely populated coastal area. He would like to know if the 50 ft buffer was operative when the subdivision was built. BG believes there was a condition on all the lots in this subdivision within 100 ft of a wetland requiring the owners to file a NOI; he has researched and was unable to find a previous filing for this property.
- BO is not sure whether this particular property counts as an “existing” home subject to the 25 ft buffer. BG states that the house is existing and Town Counsel would agree that the home is existing, but the Commission should think about work done in the 25 to 50 ft buffer on this and similar properties. In response to an additional question from BO, BG indicates that no variance is required for this project, and notes that applicants are proposing mitigation for the work inside the 50 ft buffer.
- JK asks applicant whether she has any issue with trying to save the Beech tree; she has none. DN is concerned that the roots may become damaged during construction; if the tree doesn’t survive, he is willing to plant another native tree in its place. The Commissioners agree that, should the American Beech tree die, applicant can plant a replacement tree.
- JK asks for comments from the public; none.
- JK makes motion to close the hearing and issue Orders of Conditions with special conditions drafted by BG. FW second. Approved 5-0-0.

2752 John Foster Lumber, 829 Webster Street (Commercial Dry Storage Building).....NEW(Frank)

- RC reads Legal Ad and notes that the hearing must be continued due to lack of a DEP number.
- RC makes a motion to continue the hearing to September 11, 2018. AL second. Approved 5-0-0.

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

- Applicant’s representative requested continuation; needs more time to respond to the request for additional information.

2684 Bethanis, 1184 Ferry Street (Found. Rest. Driveway Recons).....cont from 10/03/17(Jim)

- Applicant’s still working with FEMA regarding modifications introduced during first hearing with Conservation last year.

REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS

1184 Keough (Cavallo), 115 Planting Field Rd

- BG comments that the Commission’s earlier approval of the After-The-Fact RDA satisfies the requirements of the original OOC, and recommends issuance of the COC. The COC and DOA are then circulated for Commissioner signatures.
- RC makes a motion to issue a COC for 115 Planting Field Road. AL second. Approved 5-0-0.

2525 Pfaff, 1173 Ferry Street – Work never completed/Invalid Conditions

- RC makes a motion to issue a COC for the subject property. AL second. Approved 5-0-0.

2730 Bardizian, 150 Sawyer’s Lane – Septic

- RC makes a motion to issue a COC for the subject property. AL second. Approved 5-0-0.

2695 Bhaskar, 208 Damon’s Point Road – Septic

- RC makes a motion to issue a COC for the subject property. AL second. Approved 5-0-0.

2512 McKenna, 10 Trouant’s Island – Septic

- RC makes a motion to issue a COC for the subject property. AL second. Approved 5-0-0.

2576 Silva, 51 Island Street – Raze & Rebuild

- RC makes a motion to issue a COC for the subject property. AL second. Approved 5-0-0.

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)
Jogi's Liquor Store, 951 Ocean Street (07/25/18 BG submitted EO)
White, 180 Atwell Circle (Escalation letter in Process)
Digan, 1327 Union Street (07/30/18 BG submitted EO)
Levangie, 3 Cove Creek (Communication in Progress)
Tamara Macuch, 237 Webster Avenue
Stifter, 102 Bartlett's Island (unpermitted revetment wall)
New Owner, Winslow Avenue Ext.

BUSINESS

BOH Meeting Update/(July 5th) better communications – Bill Grafton

- Tabled

Conservation Lands under Coordinated Oversight/ Selective Archery Hunting – Jim Kilcoyne

- JK proposed amendments to Marshfield Conservation Land Regulations allowing selective archery deer hunting within assigned specific properties only, special licensing required to be carried at all times while hunting and Conservation will closely monitor the application process following specific regulations. JK would like to open up the process for a recreation hunting amendment through this discussion with the Commission tonight.
- BO is the hunting regulations based on neighboring Towns. JK stated that examples include Blue Hills and others.

Fees & Fines Discussion – Bill Grafton & Jim Kilcoyne

- BG introduced that the Marshfield Conservation filing fees and fines are low based on the volume of permits and by comparison to other Towns. RC asked if the changes need to go through Town Meeting. BG said no as this is part of the Regulations (Chapter 505). BG would like to move through this swiftly to get this in place. BG suggested working with a few Commissioners to address the fees, possibly AL, BO or JK if they are willing.
- BG stated that the Accounting Director had spoken to BG about the need to deposit all fees by the end of each week. BG will institute effective immediately.
- BG stated that there is a large amount of unpermitted activities. He proposes that the fines may be adjusted to curb the level of unpermitted activities. RC states that perhaps a fine per incident. He suggests a fixed fine approach. This avoids court interactions. Quincy Building Department accumulated nearly \$90,000 in fines under a similar approach. BG will contact TC to get his advice.

Christmas Cove CR – Bill Grafton & Matt Watsky, Esq.

- BG advises that Attorney Matt Watsky (MW), Town Counsel Bob Galvin and he had discussed issues related to the Commission accepting the proposed conservation restriction. BG thinks the pros include its adjacency to town-owned land, two clear accessways to the CR land, and no need to mow. There is a walkway into the property from the Christmas Cove cul de sac, as well as an existing accessway through adjacent land used by the New England Forestry Foundation (NEFF). He has received some new information from abutters to which MW had replied.
- The Planning Department advised BG that the owner of the property used by NEFF is unknown. MW comments that the original plan listed the parcel as "owner unknown" as a by-product of the way the lot was divided; the lot lines for the ANR plan creating the lot didn't show that the existing right of way had been conveyed to NEFF. He did some additional research into the ownership of the lot and reached the conclusion that the property boundary to this parcel is directly abutting the pre-existing NEFF right of way; by operation of the "derelict fee statute," when land had been conveyed that is bounded by a right of way, and there is no mention otherwise of the right of way, then the presumption of law is that rights to that right of way are preserved. If the Commission is willing to accept the CR, he is willing to grant an easement to the CR land using that right of way.
- RC comments that his understanding was the Commission didn't see much benefit to the town with this CR. JK normally favors accepting CRs, but this CR is fairly complicated, and he is concerned they would be encumbering the citizens of the Town with a financial burden. MW believes there is no associated financial burden. JK feels the potential financial burden is associated with maintaining the CR as open space and managing stormwater issues. MW notes that the homeowner's association would retain the obligation to take care of all maintenance, but JK notes that HOAs sometimes cease functioning and meeting their responsibilities; he doesn't want the Commission or the Town to have to pursue legal action in this event.

- RC thinks it unlikely the HOA would keep up with the proposed maintenance obligations beyond maintaining the common septic system. MW doesn't believe much would be required to maintain the CR property; he is anticipating a "no take" letter from NHESP, and mowing may only need to be done once or twice a year, or not at all. He feels there is no specific obligation related to the CR property other than not building on it.
- JK asks about the HOA's motivation is in offering the CR. MW states the Town's zoning bylaw related to open space residential developments (OSRDs) calls for smaller roads and house lots along with the creation of open space parcels, and the bylaw requires that there be a restriction on the open space. MW adds that the proposed CR would link to adjacent NEFF and Town property, creating a large contiguous area of permanent open space.
- Susan Wolfe (SW), 375 Union Street, notes she is an abutter to conservation land, and is aware of the potential issues and liabilities, including encroachments onto the property by abutters, and encroachment onto private property by visitors. She feels if the proposed CR is out of view, encroachments or unpermitted uses by Christmas Cove residents could go unnoticed, and this would require the Commission to devote resources to enforcement. MW comments that the Planning Board has expressed a similar concern, and bounds and fencing will be erected along owners' backyards to prevent encroachment. The HOA has the specific obligation to maintain these bounds and the fencing.
- BO comments that one major concern is that the septic system is going to be on the open space lot that is part of the CR. He is not aware of anything like that on any other Commission property. BG states he has reviewed with TC, who indicates the Commission wants to be able to get across the section with the drainage infrastructure without owning the infrastructure. BO wonders if the Commission would be liable in the event of a septic system failure. BG agrees that the Commission shouldn't own the 2+ acres on which the septic/drainage fixtures are located.
- BO asks if the CR will be amended to not include the septic/drainage infrastructure. MW indicates that the leaching system is within the open space parcel, and the question of liability to the Town was discussed with TC. He states the HOA will always maintain ownership of the title to the land, and therefore any liability associated with failure of the septic would remain with the HOA. The Commission would be holding the open-space restriction but not the actual title and associated liabilities. JK is concerned about possible disagreements between future Commissions and the HOA when repairs need to be made.
- JK asks if the CR can simply be held by the HOA. MW advises that a permanent CR must be held by either a governmental entity such as the Commission or a nonprofit landholding entity. He has offered the CR to NEFF as well as the Wildlands Trust that owns the land to the west of the town's parcel, and all have declined. He feels the Commission is the logical choice to accept the CR given the proximity to other Town land. SW asks if the Commission is obligated to accept CR offers from developers; the Commission is not so obligated.
- Kathleen Carr (KC), 100 Samuel Curtis Way, feels the Commission should be cautious in taking on obligations on behalf of the Town. She would like to see some financial help from the developer if the Commissioner were to take this CR, and this one seems excessively complicated. On-going concerns about storm-water management. JK asks MW if he wants to comment. MW states that the project has been designed to the correct storm-water management standards and actually exceeds those standards
- JK seeks guidance from RC & BG on next steps. BG states that the applicant has the right to exhaust all possible options available to them. One option is to not accept it and provide guidance on what remains of concern to the Commission to be presented in a new form, another is to accept it as is or end the process as presented.
- JK makes a motion to reject the CR offer as presented. RC second.
- Discussion: AL states that this is a dilemma for him as he wants to protect as much open space as possible but sees the problems inherent and will support the motion. JK they may come with an alternate that is more acceptable. BO is opposed to accept the offer in its present form. He is concerned about the uncertainties associated with the septic system. Not sure what the Commission gains.
- JK requests a vote. Motion approved to reject the offer in its present form 5-0-0.
- Discussion: BG stated that the following impressed him as needing attention: feedback from Natural Heritage and Endangered Species Program (NHESP), clear access, requirements for mowing, stewardship fees if maintenance is required and remove uncertainties about the septic system (depict separation of septic and drainage from open space). MW states that they have gotten no responses from all of the usual entities. He states that he might be able to craft the Conservation Restriction is a way that does not require the Commission and is acceptable NHESP. If that does not work, then perhaps they can find a way to propose the work that follows a conventional subdivision design and utilize all of the land. MW is looking for guidance from the Commission. RC states that storm water and septic are two important issues to address. BG states that the Commission wants to eliminate all uncertainty before they will approve the CR. JK states that Town Counsel (TC), Bob Galvin stated that the Commission needs to make the final decision. MW states that it seems like one of the hesitations is the exposure to maintenance expenses. BG states that the access to the other Conservation Land was a benefit but the Commission does not have the resources to maintain the Conservation Restriction. MW is anticipating an NHESP decision to leave it to the home owners to determine if the property is to be maintained or not.

MW states that NHESP has begun to consider the lot as overgrown to be acceptable to allow to become a successional forest or field. RC asked if this is something NHESP will put in writing. MW said yes. BO asked if the septic system could be incorporated into the drainage lot so that it is clearly depicted as not being included within the open space lot. RC is concerned that the septic and drainage lot will not be maintained and invasive plants will take hold. MW suggested meeting further with TC and BG. BO wants to know why the septic is not within the drainage lot. MW stated that the Planning Board insisted that the septic be separate from the drainage. RC suggested further discussion with BG and TC, provide feedback from NHESP and provide responses to Commission inquiries at a future public meeting.

Vacirca/20 Wilson – Memorandum of Understanding – BG

- Attorney Matt Watsky (MW), representing property owner Tom Vacirca (TV), advised that he met with BG as well as Town Counsel (TC) Bob Galvin regarding wetland impacts stemming from work at the site. They are looking to resolve all outstanding issues, receive a COC, and move on. BG has sketched out a plan that shows what work was done. MW notes a discrepancy between the initial Commission recommendation and that of peer reviewer Steve Ivas. The peer reviewer felt the driveway could remain because it had no adverse effect, but recommended plantings such as high bush blueberries, as well as management of the phragmites encroaching on the property. They would like the settlement to be consistent with the peer review recommendations.
- BG adds that there were some outstanding conditions from the OOC that all parties discussed and subsequently came up with a resolution he thinks will be satisfactory. They have adopted Steve Ivas' (SI) report and its recommendations, including a special condition addressing payment for the peer review. BG has worked with TV and MW to design a planting plan with 12 high bush blueberries, and created a no-touch area. TV will remove the green waste in the resource area and put in four conservation markers. BG advises that a vote is needed from the Commission to accept the Memorandum of Understanding.
- RC makes a motion that the Commission accept the 8/27/18 plan for 20 Wilson Road, as agreed to by BG, MW, & TV. JK second. Approved 4-0-0.
- TV is concerned there is going to be an issue with his neighbor when he removes the green waste and puts in the markers. BG advises that with the vote, he is authorized by the Commission to perform the work. TV adds that the police were called on him the last time he went into the area. MW suggests that TV call BG before going in to remove the green waste so he can deal with any issues.

ADJOURNMENT – RC makes a motion to close the hearing at 10:45 p.m. JK second. Motion approved 5-0-0.

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

Bill Grafton, Conservation Administrator	
Robert Conlon, Chairman	Bert O'Donnell
Frank Woodfall	James Kilcoyne
Rick Carberry	Art Lage