

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

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

CALL TO ORDER RC makes a motion to open the meeting at 7:00 pm. AL second. Approved 4-0-0.

MINUTES

- The minutes for the 9/11/18, 9/18/18, 1/22/19, 2/5/19, and 2/19/19 meetings were distributed and reviewed with no corrections.
- RC makes a motion to accept the 9/11/18, 9/18/18, 1/22/19, 2/5/19, and 2/19/19 minutes as written. AL second. Approved 4-0-0.

PUBLIC HEARINGS

On / After

19-08 Burke, 50 Moritz Road (slope stabilization & restoration plan).....NEW (Jim)

- RC reads legal ad. Hearing Officer JK confirms administrative requirements are complete.
- Jason Zimmer (JZ) presents for applicant. JZ advises that a sinkhole has developed in a portion of the back yard. Applicants would like to restore this portion of the yard and repair the slope. There is a nearby perennial stream tributary to the South River and a BVW at the base of the slope. They would also like to remove some invasive species by hand-cutting/pulling to protect trees in the yard. Some hazard tree limbs will be removed, but all trees will remain intact. The repaired slope will be revegetated with New England Conservation mix as well as native plantings including black choke cherry, sweet fern, and eastern red cedar. A fence damaged by the sinkhole will also be replaced. All work will be done by a landscaper under JZ's direction. All work is at least 75 ft away from the wetland and 150 ft away from the stream. The site is just outside of NHESP habitat.
- JK comments that he visited the site today and clearly the slope needs to be repaired. He thinks a natural slope would be preferable to a wall. RC has no problem with the fence or the proposed work. In response to a query from the Commission, JZ notes that the area is a habitat for box turtle, and the bottom of the fence will be elevated to allow for wildlife movement.
- JK asks for comments from the public; none.
- BG reads the proposed special conditions into the record, including a 6 inch clearance between the ground and bottom of the fence.
- JK makes a motion to close and issue a DOA, Pos 2A, Neg. # 3, with special conditions drafted by BG.
BO second. Approved 4-0-0.

19-09 Joe Fitzgerald, 1032 Ocean Street (ATF Vegetative Management).....NEW (Jim)

- RC reads legal ad. Hearing Officer JK confirms administrative requirements are complete.
- Applicant Joe Fitzgerald (JF) distributes some supplemental material to the Commission; BG notes that all the required paperwork was received at the Conservation Office before the deadline. Filing is an RDA for after-the fact vegetation management, including the removal of three trees that had been leaning over in an area of the property where cars are parked and people walk; after-the-fact removal of a non-functional fireplace to the back of the property; and general cleanup along the back property line, including removal of green waste and vegetative trimming.

- JK asks about a reference to the neighboring property in the administrator notes. JF states that part of the three trees removed, which were planted by his grandfather years ago, were on the neighboring property. He has obtained a permission letter from the neighbor for the tree removal, and it has been added to the file.
- JK asks for comments from the public; none.
- JK makes motion to close and issue a DOA, Neg. # 3, with special conditions drafted by BG.
AL seconded. Approved 4-0-0.

19-11 Newman, 0 Constellation (ATF Vegetative Management).....NEW (Art)

- RC reads the legal ad. Several area residents present but applicant not present.
- RC motions to continue the matter to May 7, 2019 due to applicant not being present.
JK second. Approved 4-0-0.

2795 Charon, Fairways Edge Pond (Aquatic Management).....NEW (Art)

- RC reads the legal ad. Hearing Officer AL confirms administrative requirements are complete.
- Keith Gazaille (KG), Solitude Lake Management, presents for applicant. The proposed activity is the implementation of an aquatic vegetation management program in a small man-made pond backing three properties along Fairways Edge Drive. Pond is about 1.3 acres in size with average depth of 4 ft, and currently is inundated with water lily and floating leaf species. They would like to remove these species through the application of herbicides used by Solitude on other ponds in town.
- AL has no issues with the project. BO asks whether regular ongoing maintenance will be required. KG feels that some level of ongoing maintenance will be required given the shallowness of the pond. BG asks about impacts on wildlife that currently use the pond for habitat and feeding. KG notes that the intent is not to remove all vegetation, but rather to create some areas of open water which may improve the habitat value.
- AL asks about wildlife impacts as a result of the herbicide. KG notes that all herbicides are registered with the EPA and DEP for lake management, and feels that any impacts would be minimal. JK asks about the percentage of vegetation removed; they propose to remove 60%-80% of the vegetation
- The Commission discusses whether to allow for ongoing periodic maintenance. AL feels that subsequent treatments should require new filings. KG notes that they provide data and reporting to Commissions in other towns as to what kind of maintenance may be needed. JK suggests that Solitude advise the Commission in writing when another treatment is needed, including proposed dosages. RC notes that a typical NOI is good for three years, after which applicant could apply for an extension. The Commissioners agree to this approach.
- AL asks for comments from the public; none.
- BG reads the proposed special conditions into the record, including written notice at least two weeks prior to herbicide application, and submission of a final report post-application and annual progress reports.
- AL makes a motion to close the hearing and issue an OOC with special conditions drafted by BG.
RC second. Approved 4-0-0.

2796 Clemence, 74 B Marginal Street (Raze & Rebuild).....NEW (Art)

- RC reads the legal ad. Hearing Officer. AL confirms administrative requirements are complete.
- Rick Servant (RS), Stenbeck & Taylor, presents for applicant along with builder Paul Armstrong (PA). Applicants would like to demolish the existing cottage on the property and build a new house elevated on 15 driven wooden piles. Property is in AE16 flood zone; the house will be elevated to 16.1 top of pile and 18 ft bottom of floor. They will match the setback of the existing house. The existing concrete foundation will be removed and replaced with pervious material. They would also like to add a cantilevered deck to the east side of the house.
- AL asks if there will be pads for the stairs. PA states they will use two piling footings for support of the base of the stairs. AL confirms with RS that the deck will encroach toward the wetlands. RC notes that except for the deck, the new house is right along the line of the existing house.

- JK asks whether the project would be considered new construction or rebuild of an existing house. RC states it would be considered a rebuild since it's a previously developed lot. BG notes that the project as proposed will result in a great deal of pervious mitigation that can be weighed against potential impacts.
- The Commission discusses various aspects of the proposed deck. RS states that the deck will utilize ThruFlow decking material that will allow for increased light and water penetration. PA adds that Army Corps has approved its use on piers and docks, and lets rain and natural light penetrate. BG feels the use of this material could count as additional possible mitigation. In response to a question from JK, RS indicates the deck will be about 10 ft off the ground. RC has no issue with the deck as proposed.
- JK comments that someone seems to have cut the phragmites in the saltwater marsh. BG comments that despite phragmites is an invasive species but part of the salt marsh definition, it must be mitigated or allowed to grow back.
- The Commission discusses the need for placement of conservation markers. BG notes that markers weren't required for the property next door. After a brief discussion, all parties agree to the placement of two markers by the stone walls.
- Betty Creighton (BC), 74 Marginal, asks how far outside of the existing structure applicant will be allowed to build. BG indicates that only the deck extends outside the structure. RC states that the site plan indicates that the existing structure is 525 sq ft and the new structure is 750 sq ft. BC also asks about construction impacts. BG suggests that applicants come up with an access plan to avoid issues; PA agrees. RC notes that some of BC's concerns are beyond Commission jurisdiction.
- BG reads the proposed special conditions into the record, including submission of an access plan, variance request letter, elevation certificate, ensure the building subsurface remains open or pervious coverage, and posting of two conservation markers on property edge behind stone wall.
- AL makes a motion to close the hearing and issue Orders of Conditions with special conditions drafted by BG. RC second. Approved 4-0-0.

2793 Sullivan, 176 Beach Street (Veg Restoration & Other Activities).....cont from 4/2/19 (Bert)

- Applicant has requested continuation.

2792 Tulis, 0 Pinehust (New SFH).....cont from 4/2/19 (Frank)

- Applicant has requested continuation.

2794 Seoane, 84 Bartletts Island Way (Multiple Activities)..... cont from 4/2/19 (Art)

- Continued hearing, AL Hearing Officer.
- Brad Holmes (BH), ECR, presents for applicant. AL notes that Greg Morse's (GM) latest revision came in today and, according to the submittal policy, it should have come in at noon last Friday. He would like to continue the hearing until the next meeting. Before the motion is voted, BH states it was his understanding that Morse submitted a revised plan last week, adding the impervious table, 50 ft buffer zone, and other elements requested at the April 2 hearing. He believes he passed in a landscape plan bearing his PWS stamp at that meeting; he made no changes to Seoane's plans, and there was no new information provided in the e-mail he sent earlier today.
- BG agrees that the updated materials were not submitted exactly as per policy, but notes that in this case the changes were relatively minor, including a reference to an old DEP number and old delineation without the 50 ft setback. A recent holiday may also have been a factor.
- JK notes that the submittal policy was put in place due to repeated last-minute submissions, which started out small but progressed to the point where the Commission was being handed drawings at the meeting. He acknowledges that these changes may be minor, but feels that adherence to the deadlines is a matter of respect of process and wants to avoid a slippery slope. AL agrees that if they make an exception now, other applicants will want the same kind of exception.

- BH reiterates that his understanding was that GM submitted the updated plan last week. BG states that GM did submit a plan with the 50 ft buffer and other requirements, but he asked GM to strike the old delineation by Steve Ivas. The substantive changes requested were made in a timely fashion, and he feels the additional changes are more a matter of housekeeping. JK feels that if the old delineation wasn't removed, then a properly updated plan was not received in a timely fashion.
- BO asks if there is anything left for the Commission to deliberate on this filing, or was the previous continuation just a matter of receiving the paperwork needed to close. JK comments that the wall is getting taller, wider, and longer, and given its location, this is something that needs to be discussed further.
- BG notes that the next hearing won't be for three weeks, and suggests that the Commission making this the last exception to the policy. RC polls the Commission on whether to continue: JK yes; BO continue if more deliberation to be done; AL continue.
- BH asks if there is any additional information the Commission wishes to see at the next hearing. BG would like to see the use of more porous materials in the walkway. BH also notes that applicant would like to repair some broken stairs before the next meeting. JK feels this is an egress, and a repair can be made; any subsequent design changes should be added to the NOI.
- AL makes a motion to continue the hearing until next scheduled meeting. JK second. Approved 4-0-0.
- BG notes for the record that JK missed the April 2 hearing, but has viewed the video of the hearing and signed a Mullin affidavit. Commissioner PC will have to do the same to be able to vote in the matter.

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

- Applicant has requested continuation.

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

- Applicant has requested continuation.

REQUESTS FOR CERTIFICATES OF COMPLIANCE & EXTENSIONS

0869 Bristol (Terrio), 128 Jedediahs Path [Partial COC]

- RC makes a motion to issue a COC for the property. AL second. Approved 4-0-0.

2761 Ryan, 248 Ridge Road [COC]

- RC makes a motion to issue a COC for the property. AL second. Approved 4-0-0.

2781 Garretson, 246 Moraine Street [COC]

- BG notes that the ongoing conditions include no mowing in the back area, receipt of updated as-built plan, and permanent conservation markers. BG will issue the COC once the as-built is received.
- RC makes a motion to issue a COC for the property with conditions as noted. AL second. Approved 4-0-0.

2605 Mass DCR, Millpond [EXT]

- BG notes that the extension will be for three years.
- RC makes a motion to issue an EXT for the property. AL second. Approved 4-0-0.

ENFORCEMENT ORDERS

Smith, 38 Liberty Street **(11/19/18 KS will set early Dec visit)**
 Drosopoulos, 7 Lady Slipper Lane **(08/15/18 TC Final Notice)**
 New Owner, Winslow Avenue Ext.
 Mahaney, 46 Preston Terrace **(12/12/18 BG met with TC)**
 White, 180 Atwell Circle (Escalation letter in Process)

Bednarz/ Nouza, 65 Ireland Road (Unpermitted Cutting <= 50 ft)
Tamara Macuch, 237 Webster Avenue
Levangie, 3 Cove Creek (Communication in Progress)
Stifter, 102 Bartlett's Island (unpermitted revetment wall)

BUSINESS

B1 Commissioner Woodfall/training courses – Bill Grafton

- BG advises that Commissioner FW will be taking six months off to attend some training classes. He would like to keep FW on as a Commissioner after the training is completed, but his absence may cause quorum issues. BG would like to bring on another Commissioner to ensure all meetings have quorums.
- RC agrees that there should be another Commissioner, as it is normally a seven-member board. AL feels that having an odd number of commissioners would make having a quorum easier. JK agrees they should search for an additional commissioner.
- With regard to the absence, JK feels that FW is a valuable Commissioner with knowledge that others don't have; he would like to support FW in this absence but feels the Commission should consider how long of an absence is too long. AL feels the Commission can get by in FW's absence, especially if they can get another Commissioner. BO agrees that it's valuable to have FW on the Commission, and if he needs this time he should have it.
- BG will try to recruit an additional Commissioner. JK feels there are some core competencies that prospective commissioners need to do a decent job that the Commission should consider when vetting new candidates. RC agrees, but notes that it can be difficult filling open slots.

B2 Commission Protocols/site plan & plan of record finalization – Jim Kilcoyne & Art Lage

- BG notes there have been multiple instances where site plans have been marked up at meetings. He adds that such notations caused some confusion in a recent case, and would like some clarification as to when handwritten notations will be allowed at meetings.
- RC feels that conservation markers and minor changes are okay to add into plans. AL feels it depends on what is involved with the changes. JK doesn't like handwritten notes because they are unofficial and potentially difficult to verify, but sometimes the changes they denote are very small. In cases where handwritten notes are added, he would like to see the OOC require the submission of an updated drawing, without the handwritten notation, by 12 noon, the following Friday.
- All parties discuss JK's proposal. BG notes that it is easy to make changes to electronic site plans; applicants could then provide one electronic document or hardcopy to the Conservation Office. JK would like to avoid continuing matters just to receive updated site plans. RC agrees with JK that receipt of an updated drawing should be part of the OOC. All parties agree to allow handwritten revisions for minor changes but then require the submission of an updated plan by 12 noon, the following Friday.

B3 State Land Subject to Coastal Storm Flowage Update/MACC Annual Conference – Bill Grafton & Jim Kilcoyne

- BG shows the Commission a slide show from the annual MACC conference concerning LSCSF bordering isolated Land Subject To Coastal Storm Flowage presented by state officials. The slides show photos of the damage that can result when hardscape meets ocean wave energy.
- JK attended the presentation and took away from it the need for permeable surfaces and flow through vents. The three options for dealing with ocean storm damage is to retreat from these areas, protect structures through hard- or softscape, or accommodate (elevate structures). He would like to promote softscape solutions to engineers that may achieve the same results as hardscape without the same downsides. RC notes that DEP is already against armoring with hardscape. BG adds that hybrid solutions are worth considering in areas where a completely soft solution is not viable.

- JK adds that heavy, interlocking pavers are now available that could be useful for driveways in flood zones. BO doesn't see how a pervious paver is going to slow the flow of floodwater. BG would like the Commission to make applicants and engineers aware of these options.

NEW BUSINESS

NB1 91 Cohasset Avenue (SE42-2623), discussion – Bill Grafton & Commission

- BG distributes a printout of an e-mail from Town Counsel (TC) regarding road work associated with construction of the house under Orders of Conditions. BG states that the outstanding issues between Planning and ZBA have been resolved. TC states that any subsequent roadway work that the residents in the area do will require an OOC, as the area is in Commission jurisdiction.
- BG feels that, once requested, a COC can be issued for the house construction and roadway improvement based on TC's opinion, but that any future work by any party will require a new NOI. Homeowner still has to request the COC. JK is willing to do this as long as the conditions are met. All parties briefly discuss the conditions, including removal of erosion control, direction of roof runoff into drywells or rain barrels, revegetation of disturbed soil during the growing season, and no disturbance of wetlands.
- RC makes a motion affirming that the Commission will consider issuing a COC for SE42-2623 when submitted. BO second. Approved 4-0-0.

AJOURNMENT – RC makes a motion to close the hearing at 8:33 pm. AL second. 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