

**MINUTES**      08/01/17; 08/22/17; 9/5/17, 9/19/17

Members Present: Chad Haitsma (CH) Acting Chairman, Frank Woodfall (FW), Bert O'Donnell (BO), James Kilcoyne (JK) and Art Lage (AL), Bill Grafton, Conservation Administrator (BG), Robert Conlon, Chairman (RC), not present

Open: CH motioned to open the meeting at 7:00 p.m. FW Second, motion passed 5-0-0. Approved.

**BUSINESS**

Schedule next meetings 1st and 3rd Tuesdays of November. CH motioned Nov 7<sup>th</sup> and Nov 21<sup>st</sup> for next meetings. BO 2nd. Motion passed 5-0-0. Approved. FW out on 21<sup>st</sup>

Carolina Hill/DCR – J.K.

- JK discussions about allowing hunting on Carolina Hill (CH) and a state grant to support recreation at CH.
- JK started looking at mixed use. BU is doing a Deer Study about Lyme disease. Marshfield is one of the view local towns that does not allow hunting.
- FW would like a hunting system using Blue Hills as a model for policy. This is a high traffic property and there have not been any conflicts.
- BG states Hingham and Sudbury have model programs. BG agrees with FW about the Blue Hills. BG would like to have public involved in developing a selective hunting program.
- JK wonders if the state funds could benefit Conservation lands. BG has spoken to the Treasurer and to advance this discussion would require a meeting with the Treasurer.
- CH asks if the Commission would like to proceed with the Carolina Hill model. All in favor for JK and BG to continue the outreach.

Update on WPA Forms/BG updating the Marshfield suite of conservation permitting forms to reflect the current WPA Forms and codified Wetlands Bylaw (Chapter 294) and Wetlands Bylaw Regulations (Chapter 505) for internal use and distribution. Soon to be on website.

SE42-2531 (WPA Form 7 Extension) 3 East Street, Eleanor C. Seaberg Trust

- BG states that the family requires additional time to financially reorganize.
- Commission signs COC (CH, FW, BO, JK & AL)

BG mentions the filming of Equalizer II closing scene near the World War II Submarine Tower by recreating a hurricane scene. The work falls under MAP 17-27 as the proposed work area is a coastal dune that is highly disturbed. The work involves temporary structures on the coastal dune and mitigation if necessary. The World War II Submarine tower will also be abated under separate permits for a variety of requirements.

**EXECUTIVE SESSION** – place holder

**ENFORCEMENT ORDERS**

McCarthy, 46 Bay Avenue  
Drosopoulos, 7 Ladyslipper Lane  
Levangie, 3 Cove Creek

Mahaney, 46 Preston Terrace  
White, 180 Atwell Circle  
Pam ?, 237 Webster Avenue

**REQUESTS FOR CERTIFICATES OF COMPLIANCE**

Current:

SE42-2607 Pomerantz, 56 Bartlett Island Way (deck)

- Commission signs COC (CH, FW, BO, JK & AL)
- Separate subject. Adding some additional native plantings. Commission approves MAP.

SE42-2389 Spruill, 4 Damon's Point Drive – on hold

SE42-2592 Morris-Hipkins, 955 Careswell St. – Waiting for Conservation Restriction – Clarification?

Backburner: (until problems are resolved)  
SE42-1658 Heaney, 29 Farragut Road  
SE42-1090 Peterson, 219 Ridge Road  
SE42-1827 L. L. Smith, 60 Macomber's Ridge  
REQPCC-1925, Cushing Construction (Parsonage St.) Garden Gate  
SE42-2381 NSTAR, Pine Street  
SE42-1318 Darman, Chestnut Hill Trust, Holly Road

## **PUBLIC HEARINGS**

### **RDA 17-23 Carberry, Ferry Street 1190 (seawall repair).....(NEW)(Jim)**

- CH Read the legal ad. JK is the Hearing Officer.
- JK mentioned seawall damage is due to supporting a former dock & applicant wants to repair it.
- JK mentioned that there might be a test pit involved with the work.
- JK would like to mention his observance that a small disturbance on river side will occur as a result of the proposed work but he realizes that you cannot do work without small disturbance.
- FW good with a Neg. Det. #3, would be no issues for project as this is a repair to a previous approved project. Considering a MAP for the test pit.
- BG requested an access plan from the applicant.
- Applicant Patrick Carberry (PC) would like to put plywood to prevent concrete from falling into River upon demolition. Discussed scaffolding and footings to minimize the impacts to the river bed by the scaffolding. Estimated time of work is 2 days.
- CH only issue is whether the temporary impacts are satisfactorily offset by the access plan.
- PC detailed the access plan which will distribute the weight of the scaffolding and no debris will accumulate on the river bed.
- Commissioners are pleased with the plan.
- Commissioners wonder if DEP needs to be involved.
- BG Seawall repair is under a Bylaw exemption [505-10B(2)(e)]. PC presented written evidence.
- Pat Haddigan (PH) would like to state Mr. Carberry is going above and beyond the norm with his repair plan with regards to protecting the river. He supports the project.
- JK motion to close & issue a Neg #3 w/no conditions. BO second. Motion passed 5-0-0. Approved.
- BG impressed with Mr. Carberry's detail.
- PC would like to make a separate request about replacing dock. Kevin McGuire Engineer, to do site plans. Has to do a full Chapter 91 permit. The former dock and pier swung and damaged the sea wall. New proposal involves installing piles away from seawall to support the pier. He has an opportunity to perform an exploratory hole, while a barge is in the area and do a test pile.
- BG thinks there are exemptions and this is likely not subject to the filing of a Notice of Intent [10.02(2)(a)(1) and 10.02(2)(b)(1) & (2)(g)]. Could be an RDA or a Minor Activity Permit (MAP).
- CH recommends PC and BG get together to look at the Bylaws and exemptions.
- Commissioners willing to consider a MAP for the test hole in the river bed.
- BG will set up a meeting with PC.

### **RDA 17-24 DPW, Plain Street Veterans Park (Fish ladder repair).....(NEW)(Art)**

- CH Read the legal ad. AL is the Hearing Officer.
- Rod Proccacino (RP) presents proposed fish ladder repair.
- Mass Division of Fisheries (DMF) and North & South Rivers Watershed Association (NSRWA) also involved in the project.
- Adjustment to sluice boards over the past 6 months have resulted in minimal increase in fish passage. We know that hundreds of fish are congregating under the dam at Veteran's Park. The fish ladder needs repairs to entice more fish upstream.
- Brad Chase with DMF thought adding another step to fish ladder would dissipate the resulting turbulence at the base of the fish ladder and moving the ladder entrance down-stream would help the fish migration.
- The repair would consist of a 4 X 4 concrete block extension.

- AL states the presentation is well put together, three day project, sees no issues and would like to move forward.
- BG states this is an interim step to fix a bigger problem and sets up future work around the Veteran's Park. There has been a lot of collective cooperation within the South River Management Unit to aid the fish passage from a variety of parties including DMF and NSRWA.
- AL opens to public.
- Pat Haddigan (PH) all for it, just would like to pay attention to the migration of the fish. Any improvements done here in Marshfield should involve the State as well.
- BG concurred that the South River Management Unit includes DMF, NSRWA as well as DPW.
- FW would like them to file an NOI as this is a high visibility project but he is for it 100%.
- BG would like to continue as RDA.
- RP would like to go ahead now because it is a low flow matter now.
- BO the plan is to do work on October 10<sup>th</sup> and 11<sup>th</sup> (next week). BO would like to know if the people at the Veteran's Park are aware of the repair.
- RP/BG said no. The Veterans are kept informed through Tom Reynolds and others in DPW.
- BG conditions might be allowing field modifications in case there are any changes that need to be done on the construction day. BG suggests Neg. Det. #3
- CH would like to know what kind of determinations AL would recommend.
- AL would like Negative det. # 3 Special conditions: avoid fish migration March-June, allow field mods.
- CH would like a condition including specific date range in the Neg. Det. # 3
- AL motion to close & issue a Neg #3 w/conditions. JK second. Motion passed 4-1-0. Approved.

RDA 17-25 Seoane, 84 Bartlett's Island Way (veg. management).....(NEW)(Chad)

- CH Read the legal ad. CH is the Hearing Officer.
- Greg Morse, Morse Engineering (GM) for the applicant, Luis Seoane, presents site plans.
- 3 minor activities proposed including existing driveway looking to pave, existing turf lawn looking to replace turf with native plants (bayberry, winterberry & summer sweet) and looking to put down a propane tank underground. GM states that these minor activities are not subject to a Notice of Intent filing as per [10.02(2)(b),(2)(d) & (2)(q)].
- GM mentions the proposed work will result in no change to topography and is within previously disturbed area, providing silt fence around work during the installation of propane tank.
- CH asks if the Commissioners have any questions.
- JK questions if there is a possibility of a semi permeable drive way?
- GM proposes a chip seal driveway (crush stone and asphalt) which is impermeable. The soils are 2 minute sand and gravel so any runoff coming off the driveway will percolate into the subsurface quickly.
- BG discussed the option of geo technical grid as possible option for parking.
- FW states it is out of 75 foot buffer zone, it is an existing driveway and he is upgrading it. FW states that the current driveway is seashell and is permeable.
- AL asks the reason to put propane tank underground, not used to propane tanks underground. He finds this irregular. GM said that is it due to esthetics. FW says that he is aware of other examples underground. AL retracts his question.
- BG would like to see the full set of setbacks on the site plans going forward. BG would like to see the planting plan. BG mentioned leaves on salt marsh need to be removed. BG observed a dock on the salt marsh that has caused permanent damage to the salt marsh. This needs to be removed and the salt marsh needs to be restored.
- FW states that the dock is under an existing Bylaw.
- CH states we are here to talk about the plan not about enforcement of additional observations.
- JK agrees that the proposed work is a separate issue from the salt marsh/dock damage. He prefers to address dock issues when the applicant comes in front of the board for the dock.
- BG inquires of the Commission and GM if the salt marsh/dock damage can be addressed under the Minor Deviation associated with the current dock Orders. GM & Commission support this.
- CH would like to issue a Neg. determination #3 with an updates planting plan within 30 days.

- CH motion to close & issue a Neg. #3 with an updated plan within 30 days. FW second. Motion passed 5-0-0. Approved.

RDA 17-26 Fitzpatrick, 1080 South River Street (deck/ patio).....(NEW)(Frank)

- CH Read the legal ad. FW is the Hearing Officer.
- Terry McGovern (TM) Stenbeck & Taylor representing applicant Brendan Fitzpatrick (BF) who is also present.
- Extending an existing deck in rear of home and replacing patio with pervious pavers.
  - All work against house.
  - Shown all setbacks on the Site Plan.
  - No topography being changed.
  - No debris being dumped.
  - Terry Stated BG recommended the RDA for this project as part of a building permit review.
- BG flagging looks good and RDA filing is a result of a building permit review that revealed that the proposed work has overlaps with conservation jurisdictional boundaries.
- FW motion to close & issue a Neg #3 (no conditions). CH second. Motion passed 5-0-0. Approved.

2684 Bethanis 1184 Ferry Street (found. rest. driveway recons.).....(cont from 9/19)(Jim)

- BG briefed JK (Hearing Officer). The hearing was open previously while JK was absent but not heard as the Green Cards (evidence of abutter notification) had not been received. Therefore, no testimony could be taken at that time. Subsequent to this, the Green Cards have been received so the hearing can now continue.
- JK asks for comments from commissioners.
- Robert Crawford (RC) presents on behalf of the applicant, Peter Bethanis.
  - Home will be razed. The foundation will be higher than stated on the plan. Lack of communication led to the discrepancies between the original site plan and the revision that RC presented tonight to the Commission.
  - 9' x 7' overhead door in front and rear of home to allow vehicle passage.
  - Elevation of house will be raised to 16' not 10'. Site Plan elevations are lower.
  - First floor will be at 17'.
- JK likes the plan presented this evening over the previous plan.
- RC was asked by FW what is the flood zone. RC states the Flood zone is in 10'.
- JK would like to continue to allow all site plans to be updated with correct elevation.
- BG would like an Elevation Certificate at the completion of project. RC states that the Building Department requires Elevation Certificates as part of the proposed work.
- FW would like to issue an Order Of Conditions with a special condition requiring an updated plan. BG indicates that this could be a problem in terms of when it is submitted to Conservation.
- JK stands with the continuation. AL agrees.
- FW asks that BG spells out what will be required. BG detailed the required details.
- Patrick Carberry (PC) 1190 Ferry Street Abutter, supporting any improvements and would like to know how high above the existing ground is the new foundation. RC states that the concrete foundation is approximately 4 feet above the existing ground level. There is a wall on which the house sits so the first floor will be about 9' above the existing ground level which will accommodate the garage door for the vehicle.
- Jack Sullivan (JS) represents the Town for a 2015 Flood Mitigation Assistance (FMA) Grant at 1184 Ferry. The reason that he came tonight was that he saw the public hearing for 1184 Ferry. In 2015, there was an application for a NEMA/FEMA grant with a set of plans that were submitted for approval. JS indicated that RC might not be aware that this set of plans exists. Before the applicants can do anything, the applicants need to submit a set of plans for approval. The set of plans that were approved for the grant did not include a driveway, nor overhead doors and the house was on pilings not a raised foundation. JS is concerned that the plan in front of the Conservation Commission might not meet the scope of work for the FMA Grant so the applicants might have to change the scope of work to meet the requirements of the grant.

- FW suggests Bob Crawford pulls the FMA Grant and ensure that the revised plan presented to the Conservation Commission is resolved.
- RC suggests that the plan and FMA Grant requirements should agree before they resubmit.
- BG suggested that the options are to either wait to get a revised plan or use the major deviation to address any changes in elevation that are presented. BG is not comfortable using the minor deviation for elevation changes. BG states that this is a matter for the Commission to resolve through a Major Deviation.
- JK makes motion to continue until revised plans are received & allows applicant to check on Marshfield applicant FMA requirements. AL second. Motion passed 5-0-0. Approved.

2678 O'Donnell, 52 Island Street (Raze/Rebuild).....(cont from 7/11) (Chad)

- CH stated that this is a continuance. Reviewed his notes including Chad/Frank wanted mitigation thoughts by next meeting which is an open topic; Bill/Chad wanted wetland flags on the updated site plan which has been completed. CH stated that he reviewed Stenbeck & Taylor's letter dated September 27, 2017 stating that the scope of work has been reduced.
- Terry McGovern (TM) representing the applicants, the O'Donnells. The project has been continued as it was in front of the ZBA. The ZBA wanted either a variance or a 1 foot setback that would have been problematic. The O'Donnell's opted for the variance request. Erosion control down the back of house, proposed relocating a stone wall to create a barrier with wetland line. Reduced foot print of home originally 22' wide reduced to 19' wide. Reduced size of deck to pull away from the 25' set back. Smart vents raised above flood zone.
- FW states the porch is now impervious. TM states that the width of the house has been reduced 3 feet in width which closely approximates the size of the impervious porch. FW is good with the net outcome of the new impervious area versus the reduction of the single family home.
- BO would like to comment that the applicants have no relation to himself.
- BG suggests that the Commissioners should do a site visit on this site. BG states that the applicants need to request a variance to the 75' setback under the Bylaw as this is new construction within a previously disturbed area (lawn). The existing house is further away from the proposed location for the house just outside the 25' setback under the Bylaw to existing construction. CH queried that proposed raze and rebuild is typically on roughly the same location as the existing structure. BG confirmed.
- TM responded that the site is going from 800 sf to 1700 sq ft. The shed and deck are not counted in that area.
- JK says this is a new home, not a raze and rebuild. AL agrees. BG recommends a revised NOI and request variance within the 75 foot buffer zone and states the home is a new structure.
- CH if we hold the applicants to the new structure requirements then they would need to request a variance to the 75' setback. BG states that this is new and would like to work with TM and get a revised NOI allowing the applicants the opportunity to request the variance to the 75'. FW wants to know if this is new or not. BG states I think it is. FW said that this was not covered in the prior hearing. BG said that he mentioned it during the prior hearing and provided in notes to Commissioners for both hearings. TM said that he will now have to get Attorney Steve Guard involved based on the experience with the ZBA and this discussion on the variance to the 75. TM recalls having similar discussions with Amy Kwesell, prior Conservation Chair. BG read the relevant Bylaw Regulations to the Commission to address any questions. BO asked about the performance standards. FW read the relevant Bylaw Regulations to Commission to address any questions. BG read the full text including exemptions. BO, CH & FW state that this is an existing lot with existing structure. JK identifies two (2) issues: 1. existing lot with existing house/building and 2. a new home on an existing lot. JK said that we have to interpret this. He sees this as precedent setting. AL said that he assumed that existing stays within the existing footprint. JK reads the relevant Bylaws to make his point that if it is brand new then the 75' variance applies and if it is an existing structure on an existing lot then the 25' variance applies. He sees this as a struggle for the Commission to resolve. AL suggests getting Town Counsel involved. BG states that the Commission is the Authorizing Authority and needs to deliberate and make a determination. AL states that he believes it is a variance to the 75' absent Town Counsel (TC) input. TM said that when the Bylaw came into being back in 2002, when Jay Wennemer was involved for about a year that the intent of the 75' variance was for new construction on unbuilt lots while the 25' variance was designed for existing lots with existing

structures. TM asked that the Commission consider that the structure is going to meet flood control requirements, gaining new pervious area in the front of the lot and placing a stone wall barrier along the wetland line for separation and conservation going forward. BG said that Jay Wennemer arrived in 2003 so one year later would be 2004, the Bylaw was updated in 2008 and had been reviewed multiple times prior to this. This is the kind of situation that initiates a need for regular review of the Bylaw and Bylaw Regulations. BO asked if this will be precedent setting. BG believes it might. BG suggested that the Commission take a poll about their position on the requirement for the variance before voting. CH called for a motion.

- CH makes motion to close hearing and issue order of conditions as proposed, FW second, BG polled the Commission vote: CH, BO and FW approve, JK and AL disapprove. Approved 3-2-0.

2627 Bedig, Richard Street (SFH).....(cont from 7/11) (cont'd)

- Continued as per applicant.

## **NEW BUSINESS**

Signatures:

- Negative Determinations for: RDA 17-23 Carberry, RDA 17-24 DPW, RDA 17-25 Seoane and RDA 17-26 Fitzpatrick.
- Positive Determination for: RDA 17-22 Massee.

Seaweed Policy: Subcommittee met with Board of Selectmen last night and they accepted the policy as is. They thanked the Seaweed Policy Subcommittee, the Conservation Commission and all parties involved for the effort.

Massachusetts Association Of Conservation Commission (MACC) Fall Conference on October 28<sup>th</sup>. BG provides handouts and encourages the Commissioners to partake.

Adjournment: CH motion to adjourn at 9:07 p.m., AL second, Motion passed 5-0-0. Approved.

Respectfully submitted,  
Bill Grafton, Conservation Administrator  
Liz Anoja, Conservation Administrative Clerk

Marshfield Conservation Commission:  
Robert Conlon, Chairman  
Frank Woodfall  
Chad Haitsma

Bert O'Donnell  
James Kilcoyne  
Art Lage