

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

**CALL TO ORDER** – RC motioned to open the meeting at 7:00 p.m. FW second. Motion approved 6-0-0.

**MINUTES** – No action.

**BUSINESS** –

South River Management Unit Update- Bill Grafton

- Insufficient time to cover.

Discussion of OSRP Committee Final Draft Plan & letter response- Karen O'Donnell

- Canceled as per Karen O'Donnell

Adjacent Coastal Property/ Peter Igo Park- Brewer Green Harbor Marina (BGHM) & Marshfield DPW request for written approval of herbicide use – Mike Connolly, Jason Zimmer & Bud Duksta

- Jason Zimmer (JZ), requests use of herbicide for control of Phragmites australis (aka common reed or phragmites). BG stated that the special conditions of the Determination (DOA17-03) include a written approval for the use of herbicide on the subject property. JZ presented a written request dated October 5, 2017 via e-mail to BG and a quote from Vegetation Control Services, Inc. (VCSI) dated May 4, 2017. JZ discussed the ongoing hand removal activities with high school students under the supervision of Ed Boudreau, boy scouts and other volunteers helping to clear about 70% of the invasive plants and overgrowth identified within the work areas on the Plan of Record and the initial planting of new vegetation but it became obvious that the property is so covered with phragmites, a robust invasive that the only way to control it would be through chemical herbicide applications.
- The site is inundated with invasive plants such as phragmites, black locus and privet which are tough to remove. Other invasive such as multi-flora rose can be "root pulled" for effective removal.
- JZ works for the Mass. Division of Fisheries and Wildlife (MassWildlife) managing 50,000 acres of open space so he has a lot of experience with invasive plants such as phragmites. JZ presented the quote details submitted by VCSI, an herbicide applicator company that has significant experience in the North East. Their owner visited the site and recommended a foliar spray treatment (an herbicide) with a backpack applicator system. JZ realizes that there is a lot stigma associated with the use of herbicide. This was his initial position as well but his ongoing experience has made him aware of the safe and positive results of using certain herbicides with best management practices. The current application process and types of chemicals are more benign. Timing will be next year as the season to apply the herbicide is currently ending. Typical applications would be between July and end of September for maximum effectiveness as the roots will be active and draw the chemicals into the root system aiding the control of the targeted plant population.
- FW states a similar plan has been done at Webster Inn.
- BG indicated that there is a lot of storm water runoff and other water inputs such as tidal overtopping and this is a concern if it mixes with the chemicals. What other options exist? CH echoes BG's comments. JZ states that very little of the herbicide gets into the wetlands due to the combination of type of herbicides used and the method of application. VCSI has spill containment packets with them when applying the treatment.
- JZ explained that fire actually stimulates phragmites, so in this case would not be an option.
- AL concerned that the application of the herbicide might not be safe for the wetlands. JZ states the selected herbicide breaks down and sticks only to the phragmites and 5 minutes after application the area is safe for children and animals.

- BG mentioned that another applicant applied for a Minor Activity Permit to weed wack phragmites then cover it with leaves to deter it from growing back.
- Bud Duksta (BD), based on his experience at Peter Igo Park states that smothering will not work, due to the plant resiliency. BG mentioned that Bob Prescott from Mass Audubon/Wellfleet Sanctuary informed him that they cut the phragmites and covered it with a black tarp to cook it with success.
- BG suggests the Commission consider the use of the herbicide only with conditions. If the written permission is given it will be good for the remainder of Determination expiration which is 3 years from the date of issuance. The applicants will await the written authorization from the Commission. Commission is willing to support the phragmites herbicide from July through September. BG to issue written authorization.
- CH asked about long clearings at the Peter Igo Park. BD said those are bocce courts.
- JZ once the phragmites have been controlled they would like to place a Gazebo with an entrance path (stone dust). BD states that the path would be ADA compliant. Commission requires a Notice of Intent filing for the gazebo and path.

Major Deviation Request Special Condition D: SE42-2592 Morris-Hipkins, 955 Careswell St.

- Attorney Steve Guard (SG) representing the applicant stated that they are seeking a Major Deviation request for a plan of Open Space Easement for an area associated with 955 Careswell Street in place of a conservation restriction as per Special Condition D of the Orders (SE42-2592).
- BG suggests that the Open Space Easement was properly vetted with Town Counsel Bob Galvin (TC), SG and BG. The Open Space Easement can be written to contain all of the permissions and prohibitions as a Conservation Restriction but is less difficult to put in place. According to TC, a Conservation Restriction is a restriction on use while an Open Space Easement is an interest in real property. BG reminded the Commission that we authorized 2 easements at 605 Plymouth Avenue to achieve the required permissions and prohibitions for that project. BG requests Commission input.
- CH asks BG what documentation from TC that he has to provide. At this stage, BG does not have anything in writing. SG presented the marked up copy of the Open Space Easement with TC's edits revised on 10/12/2017 for review. CH asks if the file will have something in writing confirming the input from TC. BG suggests he intends to have TC provide a written statement for Commission.
- SG suggested that the Conservation Restriction is a burden to put in place for a 100 square foot vegetated area. After a meeting with TC and BG, all three were in favor of an Open Space Easement that would allow the Commission to have control of the area prohibiting future building, would be marked with No Disturbance markers on 4 sign posts to clearly define the conservation area. 2 recordings would be recorded with the Plymouth County Registry of Deeds for the property if an Open Space Easement is granted by the Commission. SG clarified that to amend Special Condition D the Commission needs to approve and initiate a Major Deviation.
- RC makes motion for BG to issue Major deviation. FW second. Motion approved 6-0-0.

## **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:

SE 42-2183 Folan, 1187 Ferry Street, Septic (work never completed)

- Applicant presented a letter that the work has never been completed. BG performed site visit.
- Commission signs Certificate of Compliance (COC) (RC, FW, CH, BO, JK, AL)

### SE 42-2389 Spruill, 4 Damon's Point Drive – on hold

SE 42-2592 Morris-Hipkins, 955 Careswell St. –

- Awaiting issuance of Major Deviation.

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 17-27 Egan, 8 Adelaide Way (temp. structures).....(NEW)(Art)

- RC reads legal ad. AL is hearing officer.
- AL asks applicant to introduce himself. Mike Egan (ME) representing his home. They have temporary structures, pool (blow up), swing set, trampoline and climbing gym in the backyard. The Egan's bought the home in 2014. Silt fence is in place protecting the wetlands from erosion and sedimentation. Would like to keep the temporary structures in the same place for the time being. No one communicated with the Egan's before they purchased the property that there were limitations on activities owing to presence of wetlands. ME's 5 year plan is to put in an in-ground pool.
- AL asked the Commissioners if they had any questions or comments. CH comments that this is the first of possibly many applicants that may come forward in this subdivision with similar requests. He suggests that the Commission needs to remain consistent while being fair to this applicant. RC asks if the work area is lawn now. ME yes. How much is in the buffer zone? BG states the silt fence was placed as part of the subdivision Orders that are open, Spectrum Homes has also begun to post the conservation markers every 25 feet along the 50 foot setback to the wetland delineation and there is an overlap within the buffer zones 50-100 with the location of the temporary structures. The applicant is ready to comply with all conservation requirements. BG also mentioned that this property is partially within the Water Resource Protection District. The applicant was made aware of this and is willing to comply. BG suggested a condition that we require the applicant to provide written evidence that he has complied with the Planning Board's WRPD. BG suggests ME plant 4 high bush blueberries and seed with a conservation mix. ME is willing to do so.
- BO observed that the temporary structures are within the wetland setbacks and based on the fact that the actual contact with the ground is minimal he feels that they can remain as temporary structures.
- AL asks if there are any other comments from audience. No comments from audience.
- BG suggests formal determination from Greg Guimond if commission allows, as evidence of compliance with the WRPD.
- AL makes motion to issue a Negative Determination # 3 with special conditions:
  - Vegetative management is required-no mowing within the 0-50 foot wetlands setback, seed the area between the conservation markers and wildlife habitat with conservation mix and plant 4 high bush blueberry.
  - Temporary structures including a 3-season pool, swing set, etc. are permitted with 50-100 foot wetlands setback.
  - Provide written evidence to Conservation Commission by December 31, 2017 that the subject property conforms to WRPD general & special conditions limiting the size of the lawn to 7500 square feet.

RC second. Motion approved 6-0-0.

- Commission signs Determination of Applicability (DOA) (RC, FW, CH, BO, JK, AL).

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

- Applicant requests a continuation.
- JK makes motion to continue 1184 Ferry Street. CH second. Motion approved 6-0-0.

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

- Applicant's attorney requested a continuation. BG suggests the commission motion to continue.
- CH makes motion to continue hearing. AL Second. Motion approved 6-0-0.

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**NEW BUSINESS** – The Board may hold an Open Session for topics not reasonably anticipated by the Chair 48 hours in advance of the meeting.

Bridgeway Marina/Kevin McGuire (KM) representing the applicant

- KM asks Commissioners to look at plan for Bridgeway. Presents new float layout shown in red within a reconfiguration zone (assigned coordinates within which floats can be reconfigured). The applicant first constructed a restaurant then sold the property. Original Orders (SE42-2104) issued in 2006 included dredging, reconfiguring the floats and relocating a pier as the old pier was in need of repair. Army Corps opposed the dredging and it took from April 2006 until now to secure the Army Corps permits. The Harbormaster was opposed originally to the proposed work as well. He asked the owners if the float and pier could be moved 18 feet back from the channel rather than the original approved location in the Plan of Record under the Orders. The Harbormaster preferred moving the floats back 18-19 feet from the channel. The applicant complied with the Harbormaster's request and also will not be dredging.
- CH what approval did you get from Army Corps? KM the Army Corps approved the reconfiguration zone and floats to be 10 feet from the channel. Conservation, DEP under Chapter 91 and Army Corps all gave minor deviation to move pier.
- JK observes that the pier and floats are extended out to get into deeper water instead of dredging. KM pointed out locations of reconfiguration showing that each location will be in slightly deeper water. KM mentioned that all three agencies approved the reconfiguration within 10 feet of the channel but the applicant will comply with the Harbormaster's request to move it 18 feet or more from the channel.
- JK states there is a small reduction in the floats to 4000 square feet. All 31 pilings will be removed, and replaced or reused depending on the condition of each piling.
- BG discussed that the Brewer Green Harbor Marina separate from this request also came before the Commission requesting an approval letter for their reconfiguration under their Orders.
- JK asked when will the work commences. KM hopefully work will commence in November.
- KM presented a draft letter and read it to the Commission. KM stated that in the past the Commission has approved float reconfiguration within the reconfiguration zone provided that there is no activity outside the approved reconfiguration zone. FW had comments and presented his copy to KM for finalization and sign off by BG when ready.

7 Bryant's Lane/Doug Volpe (DV) representing the home owner.

- DV inquiring what kind of filing he should submit to the Commission, MAP, RDA or NOI? Work involves replacing an existing deck and footings. The stairs are being supported by a rock and the structure is currently unsafe.
- BG stated this came to his attention as a Building Permit. BG disapproved the building permit and required the filing of a Notice of Intent (NOI). DV came to the Conservation office and inquired why this was required. BG informed him that there is a similar project that was permitted under SE42-2670 on Foster (Drounin) that required an NOI. BG states that there are other properties in the vicinity as well that have also filed NOIs for similar work.
- BO inquired if this is a repair? DV yes.
- BG stated that large footings were to be installed as per the Building Permit. DV will be taking out the existing footings and installing new ones about 4 feet below grade.

- RC asks if the deck is in the Velocity zone? BG stated the property is in both VE/AE flood zone.
- JK stated the filing and permits are used for documentation. JK explains permit filing process to DV.
- Poll taken: JK NOI, RC NOI, FW NOI, AL NOI, BO NOI, CH Abstains but supports RC on NOI filing. Discussion about RDA purpose as a possible option on this type of Building Permit that requires the filing of either an NOI or RDA. A positive RDA would lead to a new permit filing as a NOI provides the applicant some flexibility and the Commission oversight on the proposed work and permitting type.
- FW suggests a more detailed plan with flood zones, velocity zones and footings with application.
- BG suggests setting up an appointment with DV to review the permit filing requirements.

SE42-2521 Brogan, 6 Jackson (WPA Form 7/ Extension Permit For Orders Of Conditions)

- Applicant will provide a planting plan for dune grass and execute.
- Clerical Error on Orders (Plan of Record no gas line). Resolved under current Minor Deviation and updated As-Built.
- Project is on course. Applicant requires additional funding and needs more time.
- Commission signs Extension Permit For Orders of Conditions (EXT) (RC, FW, CH, BO, JK, AL).

**ADJOURNMENT** – RC motions to close hearing at 8:20pm. AL second. Motion approved 6-0-0.

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

Bill Grafton, Conservation Administrator  
Robert Conlon, Chairman  
Frank Woodfall  
Chad Haitsma

Bert O'Donnell  
James Kilcoyne  
Art Lage