

**APPROVED – CONSERVATION COMMISSION
TUESDAY, FEBRUARY 6, 2018 7:00 p.m., HEARING ROOM 2
TOWN HALL, 870 MORaine ST., MARSHFIELD, MA**

APPROVED: 04-03-18 6-0-0

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

CALL TO ORDER – RC motioned to open the meeting at 7:02 p.m. JK second. Motion approved 6-0-0.

MINUTES – RC motioned to approve 1/23/18 minutes as submitted. FW second. Motion approved 6-0-0.
RC motioned to approve 10/17/17 minutes as submitted. FW second. Motion approved 6-0-0.

BUSINESS –

New Hercules Pile Diver Presentation - Paul Armstrong (PA) – Conflict not able to attend.

ENFORCEMENT ORDERS

Smith, 38 Liberty Street (Email Response 12/20/17)
Drosopoulos, 7 Ladyslipper Lane (TC Letter 11/18/17)
White, 180 Atwell Circle (Escalation letter TBD)
Levangie, 3 Cove Creek (Communication in Progress)

Mahaney, 46 Preston Terrace
McCarthy, 46 Bay Avenue
New Owner, Winslow Avenue Ext.
Pam ?, 237 Webster Avenue

REQUESTS FOR CERTIFICATES OF COMPLIANCE

Current:

SE42- 2628 Lentine, 44 Monitor Road

- Steve Lentine (SL), homeowner states cottage has been there since 1950 and they purchased it in 1988 but built a new home last year. The Orders of Conditions say the gutters should run into drywells but BG states that the home was not built to meet this condition. SL shows commission photos of property showing the pronounced level of the water table on his property & that the drywells would be ineffective.
- BG suggests that the Commission issue a Major Deviation as only the Commission can change Orders.
- BG states the existing Orders also state there can be no utilities or equipment subject to flood damage located below 11ft above mean sea level and there is an outlet in the open garage below the house about 5 feet above the ground. A Major Deviation would remove the utility and the drywell from the conditions and clear the way for the COC issuance.
- BO commented he assumed this requirement referred to electrical meters, switchboards, and distribution panels not individual protected circuits- we might get clarification from building dept.
- RC makes motion to issue Major Deviation to relieve Special Condition G & COC. AL second. CH would like to waive the fee for COC. CH identifies an administrative issue and moral obligation to correct the mistake made by the Commission on the initial Orders. JK asks CH what he is seeking. CH is looking for a second. BG states RC makes a motion. CH weighs into the motion to amend it to waive the \$50 fee and is seeking a second. The Commission needs to consider CH's amendment and move the motion along to a final vote. CH amendment not seconded. CH withdraws motion to waive fee. BG summarizes that this highlights the need for good, clear standard conditions to avoid circumstances like this.
- Final Motion: RC makes motion to issue Major Deviation to relieve Special Condition G & COC. JK second. Motion approved 6-0-0.
- BG & SL sign Major Deviation as per the Commission.
- Commission signs and issues Certificate of Compliance (COC) (RC, FW, CH, BO, JK, AL)

SE42-2570 Ryan, 241 Foster Road

- BG asks commission to read the MCC notes on the property and COC request.
- Orders followed by Amended Orders. BG found that the scope of work was overall reduced but some of the required work under the Special Conditions is incomplete. BG would like guidance and a Commissioner to attend a site walk on the property to discuss how to move forward.
- AL will go with BG to property to look at the home and discuss the best way to continue.
- RC would like to add National Flood Insurance Program (NFIP) best management practices and regulations to the Standard Conditions which would cover building codes and FEMA regulations. RC mentioned that there is a Community Rating System (CRS) that is occasionally audited so we want to be sure that we write conditions that provide guidance and flexibility with current standards. The health of the CRS is connected with town-wide compliance and can impact the NFIP discounted insurance rates enjoyed by all residents with homes within flood plains who are required to carry flood insurance.
- JK will also try to make is to a site visit.
- CH states the prior Conservation Administrator to BG was very good. BG concurred.
- BG says the Special Conditions were very specific, prescriptive when originally drafted and with changing conditions some might not comply with current codes, guidance, etc. This occurs with aged projects seeking COCs after many years. BG suggests that the Commission might need to work with the homeowner to fulfill the special conditions.
- FW would like BG to look further into the matter.
- RC states the riser and some of the conditions are open to interpretations. RC states the risers are required but could be modified to meet the conditions that are in the Orders. RC asked about the plantings. BG said that he has to communicate this with the applicant. BG said that having good conditions that are general enough to provide guidance with flexibility while retaining the option to incorporate specific conditions that are more restrictive but with equivalents where the Commission really feels it is required allows for changing conditions and norms to be incorporated into the fulfillment of the intent of the orders and reduce adverse impacts to the resource areas. BG indicates that the special conditions are somewhat restrictive which is under the control of the Commission but the applicant is responsible for addressing and completing the Special Conditions with the Orders nevertheless so there is corrective action on both sides of the equation here.

Backburner: (until problems are resolved)

SE42-0691 Linde, 878 Careswell Street- (requested an as-built and elevation certificate)
SE42-2602 Christensen, 55 Island Street (signed but issues: smartvent and down spouts)
SE42-2389 Spruill, 4 Damon's Point Drive (issues - appointment set for 12/6/17)
SE42-2199 Tedeschi, 1 Atlantic Street (Site Visit / Issues)

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

PUBLIC HEARINGS

2696 Mazzenga, 180 Riverside Circle (vegetative restoration).....(cont from 1/23/18)(Chad)

- BG updated CH (the Hearing Officer) on prior hearing and receipt of DEP/WPA Filing Number at 5pm on 2/6/18. CH asks for the WPA Filing Number. BG states SE42-2696.
- CH supports the recommended following Special Conditions for the project apply:
 - Register both sets of Orders with the Plymouth County Registry of Deeds before commencing the proposed work.
 - Erosion control as per Plan of Record. No hay that potentially could introduce invasive species.
 - Remove large tidally delivered marine debris from salt marsh.

- 2 growing seasons with 75% successive growth, cease mowing within the 50 foot no disturb area and add conservation markers every 25 feet/approximate the 50 foot.
- Coordinate pre-construction site meeting with Conservation Administrator.
- CH asks BG if markers should be at corners typically. BG yes. BG recommends 2 more equidistant on the 50' no disturb line. CH 1 at each corner, NW and SW corner and 2 markers equally spaced.
- CH makes motion to close & issue Orders of Conditions. FW second. JK abstain. Motion approved 5-0-1.

2693 Banks, 89 Bourne Park Ave (dock, pier and deck).....(cont from 1/23/18)(Frank)

- RC continued hearing. FW is Hearing Officer.
- CH mentioned protocols on updates. 1. Commission should receive a brief of all changes in advance. BG to ensure applicants and their representatives provide briefs. 2. Applicants and their representatives should provide updated signatures and dates on the signature pages to accompany any updates. RC & JK agree. No further discussion.
- Bob Rego (BR), River Hawk Environmental representing homeowner. BR states the resource areas are riverfront, South River, salt marsh, BVW on upland side of site. Wetland delineation done by Brad Holmes and the bank was delineated based on the first break in topography.
- Current dwelling has an existing garage and deck with a concrete patio under it. The applicants are looking to remove the impervious concrete and replace with permeable surfaces, increase deck, add screened-in porch and expand the upper deck. The support for the upper deck will be columns supported by footings.
- Beyond the proposed work to the dwelling, the homeowner would like to construct a pier and float to the South River for a small boat and access to the river. Submitted NOI and Site Plan have been reviewed by the Conservation Administrator, the Harbor Master, the MassDEP and the MassDMF. Most of the comments to the agencies have been incorporated into the revised plans before the Commission. The construction involves a 20ft ramp to 155 ft pier down a ramp leading to an 8' x 20' float. DMF comments focused on the height of dock above marsh proposing a 4 ft rise minimum at all locations along pier ensuring the lowest horizontal member is at 4 ft above the marsh. This will allow public access along the shore of the river. Proposing an aluminum framed float with air filled or styrofoam floats so the decking can be removed and the whole float can be disassembled in 2 pieces and moved to upland area of the subject site for winter storage. Piles will be driven using hand tools on the salt marsh and a barge from the river.
- FW noted that DMF states the top of pier should be based on elevation to bottom of the stringers. FW calculates a minimum 9.9' elevation to the top of pier. BR concurs and will raise it to 10ft to top of pier.
- JK/FW inquired if going to change the width from 36" to 48" to meet 1:1 requirement. BR yes.
- CH asks if the planking will be pressure treated lumber, BR states it will be.
- JK and FW ask if there will be 1-inch spacing between boards, BR states there will be 1-inch spacing.
- CH wants to make sure the applicants know why the Commission is asking all the questions regarding the height and spacing between boards? The homeowner, Lucinda and Jeffery Banks (LB)(JB), understand why the Commission is asking all these questions. CH explained that the 1-inch gaps allow salt marsh grass to receive light. BO states that gaps prevent the suppression of the salt marsh growth. BG mentioned that Harbor Master commented about storm of record that occurred in early January 2018 and the need to ensure that the pier is high enough to withstand such events.
- JK states to the homeowner that ocean can be mean and wants to make sure that the pile driving company can decide the depth of the piles to ensure they will not move over time. JK recommends driving all piles to refusal. FW inquires if JK is usurping the engineer's authority. JK states that his decision would be to drive to refusal. BR states that he is not a pile driving expert. RC recommends allowing the applicant the option to drive to refusal. JB inquired about the definition of refusal. JK explains strike the pile on the top into the peat until it meets resistance.
- JK existing bottom would be what level? BR states it will be more than 3' and the floats sit 10' into the water. JK states that 2.5 feet below the float is required for prop dredging. He recommends including the depths below the float. BO inquired will Chapter 91 make comments on the depths? JK yes. JK is looking for the depths below the float to be depicted on a revised plan before sending plan to Chapter 91.

BO said that the width of the river limits what can be done. CH asked if all limitations have been addressed. BG highlighted the Harbor Master's letter. JK stated Harbor Master provided comments but generally approves.

- BR hands out a response to all comments from MassDMF, MassDEP and Mike DiMeo, Harbormaster. BG states that this is going to be accepted this time but that additional information cannot be handed out at meetings as the Commission does not have time to review, prepare and respond to such late deliveries. BG said that this is a comment for all applicants and their representatives going forward. Late deliveries after established deadlines set by the Commission will no longer be acceptable.
- JK states that the River Hawk letter addresses his comments about depicting depths below floats.
- CH notes that the letter is directed to the Commission and would like to know if applicant sent a copy to the Harbor Master. BR stated no. CH recommends that the applicant send River Hawk response to Harbor Master. BG would like to go with CH route by sending response to Harbor Master but a continuation would be required. BR has had verbal conversations with the Harbor Master. FW inquired if the Commission needs to have the Harbor Master review the River Hawk response. FW notes Harbor Master makes suggestions. CH/BG think that the Harbor Master should receive the letter and have the opportunity to review, prepare and respond to the River Hawk response. BG stated that this is professional courtesy and strengthens the relationship between the Commission and the Harbor Master. BG further said that the project affects the South River which is a fish run and a sensitive ecological habitat meriting the final review by the Harbor Master. RC states that it sounds like BR is responding to all comments. RC would like to incorporate River Hawk response into the Orders of Conditions. JK sees this is a fine compromise. BR said that he made all the changes that the Harbor Master requested. RC leaves it up to FW to determine best course of action. CH inquires if there are any reasons why would need to continue? FW no. AL agrees with RC's proposal. FW polls board to see if the Commission has sufficient information to close. Poll taken: AL, JK, BO, CH, FW, RC all yes.
- JK would like a complete plan of record. BG suggests an updated site plan to show all of the modifications to lock the Plan of Record. BR agrees. JK sees the necessity of the final plan of record that matches the Orders. FW prefers that we vote tonight on this Plan of Record and then the applicant provides the Commission with a conformed plan.
- FW would like the wetland line to be identified with "No-Disturb" conservation markers and also "Conservation Land" markers along boundary with the abutting town-owned conservation land. Homeowner ok with putting both types of conservation markers on property.
- BG states the River is a migratory fish run and would like the homeowner to wait until the fish migrations have completed. The fish migration typically runs from March 15th to October 15th. RC asks if 2 piles for the float would be a 1 day affair involving the barge? BR states it would likely be a 1 day event. JK asks BG if he is suggesting March to October constraint. BG no; timing would be more like March 15th-June 30th or beyond. DMF did not provide specifics in their response letter about Time of Year (TOY) restrictions. BG unable to reach DMF for specifics on TOY restrictions. FW suggests TOY restrictions from April to June so as not to inconvenience the applicant. BG suggests a 90-day window to cover the majority of the early fish run from March 15th-June 15th. AL agrees. JK sees this is a good compromise. The deck and pier could be done without restrictions and the ramp and dock would be under the time restriction only. Homeowner ok with doing the last 2 piles after June 1st.
- BG inquired how the pilings will be driven? Will there be equipment on the salt marsh with the potential to damage this 0 Performance Standard resource area? FW states that they will follow protocols of others and us a Tripod walked across the salt marsh. JK asks if Tripod will be the method of driving the 6"X6" piles into the marsh. BR yes. JK typically the piles will be driven or vibrated into the marsh. CH states that the applicant should be telling the Commission how they plan to install the piles peat of the salt marsh. BR states JK is correct about the method to be implemented.
- FW asked if there is anybody from the public who wants to provide comments. No comments.
- Hearing Officer and Commissioners Suggest the following Special Conditions:
 - Do not commence work until evidence has been presented to the Conservation Department that both Orders of Conditions (State and Town) are registered with the Plymouth County Registry of Deeds.

- Before commencing work, obtain all subsequent permits (local, state and federal) such as the Marshfield Building Department, the Marshfield Zoning Board of Appeals, Marshfield Harbor Master's Office, the Massachusetts Department of Environmental Protection (Mass DEP), the United States Army Corps of Engineers (USACE) and any other pertinent permits. Additionally, ensure the responses to the local and state agencies detailed in the River Hawk Letter dated February 6, 2018 are met. See Exhibit A.
- Work on deck and pier may proceed immediately but piles for the float, float installation and ramp are under Time of Year restrictions from April 1st through June 15th.
- Place permanent Conservation Markers (Red/White) inscribed with "Marshfield Wetland Resource No Disturbance" on 4" by 4" rot-resistant pressure treated or cedar posts every 25 feet approximately 10 ft toward the upland of the delineated wetlands depicted in the Plan of Record. Ensure the (2) ends of the property line along the delineated wetlands are posted.
- Place permanent Conservation Markers (Green/White) inscribed with "Conservation Land" along the property line with the two adjacent Town Owned Conservation properties (Parcels/ J10-08-05 & J10-08-04A) every 25 feet starting at the intersection of the Mean Annual High water and the property line with the Town Owned Land along the south and west of the subject property terminating at Bourne Park Avenue to prevent any potential encroachment.
- No storing of fuel or fueling water craft on dock.
- No grounding of floats or boats on tidal flats. No storage of floats on salt marsh.
- Construction requirements include 5'4" wide boards with 1" spacing between boards on catwalk and deck to be located at a minimum of 9.9' NAVD88 ensuring a minimum of 4 feet above grade.
- Before commencing work, provide revised plan depicting construction requirements and depicting water depths below the float.
- Coordinate pre-construction site meeting with Conservation Administrator.
- FW makes motion to close hearing. BO second. Motion approved 6-0-0.
- FW makes motion to issue Orders with special conditions. BO second. Motion approved 6-0-0.
- JB inquired about building permit. BG provided feedback about the process. JB wants to start on the deck. BG will finalize the Orders and submit approval with condition on the building permit.

RDA 18-02 "87 Edmund Rd Realty Trust" / Stiles, 87 Edmund Road.....NEW (Chad)

- RC reads legal ad. CH is the Hearing Officer.
- Mark Stiles (MS), homeowner, renovation on shed, not going closer to river or wetlands.
- CH response to plan, steep slope would like commissioners to keep in mind.
- BO asked if shed is sitting on concrete slab? MS responded: old portion of shed not to change but new portion of shed will have a new concrete footing, the shed will be built in to the slope property.
- CH asks if there will be any special conditions? Commission has no comments or special conditions.
- The homeowner states the high school will be building the shed.
- CH inquired of RC and BG where we draw the line between RDA and NOI filings on proposed work like this. BG said that this work is within the 50-100 and is the expansion of a shed on a previously disturbed area so it is eligible for an exemption under 310CMR10.02(b)(2)(e) which is filed under this RDA. The work is moving away from the resource area. The Plan of Record is not required to be a new CAD generated site plan with PE/PLS stamp and signature.
- BG and CH do not feel a pre-construction meeting is necessary.
- BG suggests possibly including a silt sock.
- RC would like to incorporate best management practices.
- CH makes to motion to close and issue Negative Determination # 3 with special conditions: best management practice. JK second. Motion approved 6-0-0.

2695 Bhaskar, 208 Damon's Point Road.....NEW (Chad)

- RC reads legal ad. CH is the Hearing Officer.
- Bob Crawford (BC) representing homeowner. The subject site is a 1.5 acre lot. The current septic has failed. Applicant is upgrading using the existing 1000-gallon septic tank. Due to the high groundwater table, they are required to maintain a 4' clearance between the highest groundwater and the septic field. The existing leaching will be replaced with a bed of chambers 42'L X 14' 4.5"W. Fill is needed to support system. Roughly 90 percent of the property is in a flood zone AE15. Erosion control barrier is located at 46 ft at closest point to the vegetative wetland. The leaching field is about 68 feet to closest point.
- CH open to commissioner comments, no comments from commissioners.
- CH supports the recommended following special conditions:
 - Do not commence work until evidence has been presented to the Conservation Department that both Orders of Conditions (State & Town) are registered with the Plymouth County Registry of Deeds.
 - Erosion control as per Plan of Record. No hay as it potentially introduces invasive plants.
 - Notify Conservation Administrator prior to commencement of work.
- CH inquires if there is anybody in the audience who wants to comments. None.
- CH makes motion to close hearing and issue Order of Conditions. RC second. Motion approved 6-0-0.
- Commission discusses flexibility of closing orders, in 1 or 2 steps. CH sees the norm would be to close and issue in one motion but the Hearing Officer should have the option to Close under one motion and then Issue under a separate motion. CH invites BG to comment if he has good reason to see a need for 2-motions. This leaves the Commission flexibility on motions to close and issue Orders. All agree.

2697 Carberry, 1190 Ferry Street (dock).....NEW (Chad)

- Continued to 2/20/18

Cont 2/20 2687 Kelley, 0 Main Street (new sfh & vernal pool replication).....(cont from 11/7/17) (Frank)

Cont 2/20 2684 Bethanis, 1184 Ferry Street (found. rest. driveway recons).....(cont from 10/03/17) (Jim)

Cont 2/20 2627 Bedig, Richard Street (SFH).....(cont to 2/23/18) (Chad)

ADJOURNMENT – RC motions to close hearing at 8:34pm. 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