

Conservation Commission  
October 15, 2012  
Present: Present: Chair, Joe Taylor; Steve Pereira,  
Cora Peirce & Andy Jones  
Absent: Jay Simmons & John Dallen

Meeting called to order at 6:30pm

Chairperson, Joe Taylor asked if anyone was recording the meeting, to which no one answered. He also asked for the audience members to either shut off their phone or put on vibrate.

Cora made a motion to approve the Sept. 24<sup>th</sup> minutes, removing the last two pages; Andy 2<sup>nd</sup>. All in favor.

**NEW BUSINESS:**

1. **Notice of Intent** Applicant, Robert Nightingale Jr. Location 23 Shaws Cove Plot 33, Lot 38. Purpose conduct soil assessment for septic system modifications within a VE flood zone and barrier beach.

Engineer, Phil Cordeiro of Apex Engineering was present to speak on behalf of the applicant. He said they wanted to dig soil for a potential septic upgrade, dependant on what his client wanted to do.

Joe Taylor said, "basically you want to dig a hole?"

Mr. Cordeiro said, 'Yes. They want to identify the level water, per health regulations.' He also said that they usually dig four holes, but because the lot is so small, it may only be 1 that would be necessary per Pat Fowle.

Andy Jones looking at the site plan, said there was a dune line and asked where the digging would take place.

Phil Cordeiro said it would be on the front of the lot, closer to the street.

Andy Jones said he thought that could allow with a condition that says the resource lines on the site plan is not confirmed.

Andy Jones made a motion for an approval with the commissions three standard conditions plus a 4<sup>th</sup>. The conditions are: EMC1, REC1, REC3 and 4) Resource area delineations are not confirmed on plans. Cora Peirce 2<sup>nd</sup> the motion; All in favor. Motion passed.

2. **Request for Determination**, Applicant William E & Maria B Santos Location 11 Gilbert Street, Plot 29A lot 252 Purpose construct shed within an AE flood zone.

Applicant, Maria Santos was present, she said they bought the house several years ago & there's a shed that is falling apart on the property. They would like to put a slab/cement down to put a new one up.

She showed Joe Taylor on the map where the existing shed was.

Andy Jones said this was 'flood zone only.'

There were no abutters present.

Steve Pereira made a motion for a -2; Andy Jones 2<sup>nd</sup>. All in favor. Motion passed.

3. **Request for Determination**, Applicant Lisa M Clohessy, Location in road layout of Mill Road & Shady Drive, purpose install 4" conduits within the NRB only.

Lisa M Clohessy, a Verizon Engineer & Julie Freshman were present to speak on behalf of this project. They explained this is the SouthCoast Medical building, and they wanted to install one 4" PVC pipe, narrow trenches, 12-15" wide; usually done in one day. Ms. Freshman said she spoke to Wayne Fostin and he thought it was just outside the buffer zone.

Andy Jones asked where the nearest wetland was? (And it was explained on the plan that Ms. Freshman had brought).

Steve Pereira made a motion to approve as a -2. Andy Jones recommended a +6 and a -1.

Andy Jones made the motion to approve as a +6 and a -1; Cora Peirce 2<sup>nd</sup>. All in favor; the motion passed.

Julie Freshman asked if a Notice of Intent was necessary?

Andy Jones said the Zoning Board of Appeals oversees Nasketucket Basin Area, so we are just saying that the RDA is ok with it.

4. **Request for Determination**, Applicant Estate of Mary Tavares, location 288 Mill Road Plot 39, Lot 29B. Purpose repair septic system within the NRB only.

Steve Pereira made a motion to table this RDA, Andy Jones 2<sup>nd</sup>. All in favor.

#### **NEW BUSINESS:**

Joe Taylor advised the audience that the board could not deliberate on any rescheduled hearings, because they didn't have a quorum.

Andy Jones explained who was present at the meeting that occurred two weeks ago, and who needed to be here for a quorum. (Steve P. was absent two weeks ago).

Steve Pereira advised the board that he read up on what happened two weeks ago, and was prepared to write a letter into the minutes to hear the rescheduled hearings, in reference to Fhvn. Shipyard. His letter states, "I have read the minutes and supporting shellfish plan and believe I am up to speed and capable of participating in the hearing." The letter was submitted for the record.

The first rescheduled public hearing of Notice of Intent, Richard Gomes of 14 Sylvia Street., was rescheduled for the next meeting, October 29<sup>th</sup>.

2. **Notice of Intent**, Applicant Fairhaven Shipyard Companies, Inc. Location 32 Water Street, plot 07 lot 001. Purpose installation of steel cofferdams, removal of unsuitable materials (dredging) placement of structural fill. Installation of utilities and pavement for three service bays within a flood zone.

Susan Nilson, Engineer was present on behalf of the applicant. She said they met with the Shellfish Warden, Tim Cox for possible mitigation, and they submitted a proposed condition. Quahogs are \$22/bushel, 200-250 quahogs. The area was pre-dredged in 2004 & 2005; therefore they agreed to pay \$752.50, for 7525 quahogs for the project.

Tim Cox, Shellfish Warden was already present. He said there were no records available from '04 & '05, so they came up with this suitable mix.

Steve Pereira asked is this per square feet or just the surface?

Susan Nilson said it would be, '1 per square foot.'

Cora Peirce said at the last meeting, she clearly asked specifically if they needed an on-site for this project, and they should have Tim Cox present to attend. She said she was very annoyed when she received the information that an 'on-site' was done with Tim Cox and Joe Taylor last week at this property. She said she was going to abstain from the vote, but she changed her mind and will vote; however, she said, 'she really doesn't like meetings taken place like this without the whole board being informed.'

Tim Cox said he had talked to Joe Taylor, and had he known that the whole board wanted to do an on-site he would've arranged it for another day.

Joe Taylor said, 'it was not a Conservation Commission on-site.'

Andy Jones said they do need to talk about that after this discussion, and that he understand Cora's point.

Andy asked Mr. Cox if he thought this was a conservative number?

Mr. Cox answered, "yes."

Joe Taylor asked if there were any abutters present, to which there were none.

Andy Jones made a motion to approve with their 3 standard conditions: REC1, EMC1, and REC 3; along with the following conditions:

4) As mitigation for unavoidable impacts to shellfish habitat, the applicant shall contribute \$752.50 to the Town of Fairhaven Department of Natural Resource Propagation Account to be used for the purchase of quahogs for transplant.

5) No silt-producing work should be performed from January 15-June 30 to protect winter flounder and diadromous passage, spawning and juvenile development. Cofferdam installation and dewatering should occur outside of this timeframe. Work conducted inside the cofferdam will not require a time of year restriction.

6) The dredge material will require dewatering prior to either upland disposal or disposal into the CAD cell. If the dewatering area is onsite, adequate containment, and if necessary filtration, should be required.

7) Appropriate containment techniques should be used to prevent construction debris, stormwater runoff and loose sediments from entering the marine environment during construction.

8) DEB-1

9) MAC-3, said as.. 'All mechanized vehicles or bildged vessels from under contract, subcontract or lease, participating in any manner, in any phase of activity within resource areas, shall carry on board absorbent materials to immediately respond to inadvertent discharge of petrochemicals.

Cora Peirce 2<sup>nd</sup> the motion. All in favor; motion passed.

Cora Peirce made a motion to untable Estate of Mary Tavares, under new public hearings; Andy Jones 2<sup>nd</sup>. All in favor.

4) **Request for Determination**, Applicant Estate of Mary Tavares Location 288 Mill Road, Plot 39, Lot 29B. Purpose repair septic system within the NRB only.

Peter DeTerra was present to speak on this RDA. He said there were no wetlands on site.

Cora Peirce asked if this was an after the fact filing?

Peter DeTerra said, "yes."

Joe Taylor asked if there were any abutters, to which there were not.

Andy Jones made a motion for a +6 and a -1. Steve Pereira 2<sup>nd</sup>. All in favor. The motion passed.

Under other rescheduled hearings, the board voted to continue to the following meeting on Oct. 29<sup>th</sup>. Andy Jones made a motion to reschedule the NOI for Richard Gomes to Oct. 29<sup>th</sup>; Cora 2<sup>nd</sup>. All in favor; motion passed.

Andy Jones made a motion to reschedule the NOI for Dave Hebert to the October 29<sup>th</sup> meeting; Cora Peirce 2<sup>nd</sup>. All in favor; motion passed.

#### **OTHER BUSINESS:**

Joe Taylor asked Mr. and Mrs. Frias to come up; then he explained to them that the board was aware that they brought extra soil onto their property that wasn't on the original order of conditions. He said they received from Brandon (the engineer) a 2<sup>nd</sup> plan on the Order of Conditions; but that the Frias had to stick to the original plan on record. Mr. Taylor also advised them that they needed to know what was going on with the BPW site, whereas that one was supposed to be done first. He said he understands you go the soil for free, but they do need to follow the Order of Conditions that have been set.

Cora Peirce said that the Frias neighbors weren't to happy to begin with, and the board had agreed to certain square footage, and just because they got free soil doesn't mean they can alter the Order of Conditions.

Mrs. Frias explained that she and her husband were away and there son, John wanted to know about the dirt. He thought it was from the DPW project; the son hadn't been involved in the situation and he wanted them to have clean dirt, so arranged it for them. When they returned, they realized what had happened. She said they spoke to the surveyor and he's going to put packs in there.

Joe Taylor said they have to stick with the first Order of Conditions.

Andy Jones said there is the original plan and then another from their engineer as of September 28<sup>th</sup>.

Mrs. Frias said "Brandon was going to oversee the project."

Andy Jones asked if there intention was go back to the original Order of Conditons; to which Mrs. Frias said it was.

Andy Jones said he was of the opinion to allow them to self comply or an enforcement order would be issued. "I'd be open to let you return to compliance within a certain date," he said.

Mrs. Frias said that Brandon said they're starting BPW yard this Thursday.

Joe Taylor said the board appreciated them coming in.

Andy Jones said they had to choose a definite compliance date; and he said that by November 12<sup>th</sup> (which gives them a month) they'll have to be back in compliance. He also said that they would need a plan from the engineer to when the extra soil would be gone.

Mrs. Frias said she would be calling the troops.

Joe Taylor recommend to hydraseed, because it grows quickly.

Andy Jones made a motion that by November 12, 2012 the site should return to compliance or an explanation from their engineer; or an enforcement order will be issued. Steve Pereira 2<sup>nd</sup>. All in favor.

Mr. Frias said he wanted to level the soil, but that they had requested it to bow?

Andy Jones said it needs to look like the plan of record. "What we all agreed to," he said.

Andy Jones recommend they discuss the plan with their engineer. "The first step is to correct it, it's critical that it needs to get done."

In other business, Bob Field was present regarding his client on Shaw's Cove, who was going to be on the next agenda.

Mr. Field said they filed a "RDA", last week re: a septic. He said they didn't have debox (distribution box); and Wayne Fostin thought it was a good idea for them to come in and see if there would be any question regarding the debox that the board may have; so they could prepare for the meeting, before

they came back.

Joe Taylor asked if they were going to hand dig where the debox is going to go?

Bob Field said it would be all hand work between the buildings. He said again, they were coming in on 10/29 for the RDA to be heard, and if the board had questions?

Steve Pereira said, "we wouldn't normally do that would we?" He then asked, 'when that was last done'.

Bob Field said it was post hurricane Bob repair in '91 & '92.

There were no further questions from the board.

In other business, Andy announced the two bills that needed to be paid:

1) Fairhaven Neighborhood News - \$60.00. Andy Jones made a motion to pay the bill; Cora 2<sup>nd</sup>. All in favor.

2) Fairhaven Neighborhood News - \$65.00. Andy Jones made a motion to pay the bill; Cora 2<sup>nd</sup>. All in favor.

#### **Certificate of Compliance:**

Wayne Fostin left a COC for Doug & Rebecca Marchessault of 97 New Boston road that needed to be signed. Andy Jones made a motion to issue the Certificate of Compliance, Steve Pereira 2<sup>nd</sup>. All in favor.

Andy reported that they were to sign an order for Newton Street, that was approved at a previous meeting. Cora reminded the board that the paperwork wasn't at the previous meeting.

Steve P. was able to sign as a 'witness.'

Andy Jones said there was an enforcement order for a property on Manhattan Ave, Shapiro but that they needed to find out what the violation is. Cora Peirce said this was the property that cut down some stuff, but now three more houses in that area, has done the same. So they should probably just go down there to check it out. Andy J. asked Joe Taylor to find out from Wayne what this was about.

Andy Jones made a public service announcement regarding the board receiving complaints re: ATV's and Dirt Bikes. He said that this is handled by the State of MA Environmental Police or the residents could call the Fairhaven Police Department. Andy reported that the phone number for the MA State Department of Environmental Police is 1-800-632-8075, to which they would get a dispatcher who would contact someone out or to return the call.

Joe Taylor said that he had spoke to the Chief of Police already, and that he may give him a call to advise they may be getting more calls.

Andy Jones said, "it may not be a ConCom issue." He said you can not drive ATV or dirt bikes on Conservation land, that would be there interest and may be charged criminally.

In other business, Joe Taylor said that Bella Vista Island owners owe \$567.00 to the ConCom Fund; and asked what they should do about it.

Andy Jones recommended a 'nice' letter. He wondered aloud what the policy in town was. He suggested that Wayne as their agent has to talk with someone to wonder how to deal with it. He referenced when you don't pay your taxes, you get a demand notice, and that's what needs to happen with this.

Joe Taylor advised he would talk to Wayne about the process.

Joe Taylor told the board, that he hoped they have been reviewing the information from John Rockwell on the by-laws.

Andy Jones wondered if he wanted the board members to elaborate, or does he want further details?

Joe Taylor said that they let John do the paperwork, then have Tom Crotty (atty) look at it all at once. Once Mr. Rockwell gets the information to them, they would hold a public hearing and go from there.

There was some discussion on tracking enforcement orders. Joe Taylor recommended a spreadsheet of some kind. Steve Pereira suggested 'google docs'. A discussion ensued.

Cora Peirce started a conversation re: on-sites. She said there has been no on-sites in the last few weeks; but no one should be going out themselves without any other board members. 'One thing, when you're brought out by accidents, etc.. but we don't want people saying we are doing favors.' She then referred to Joe Taylor regarding him going out with an engineer to the Fairhaven Drive In. "I was like Why?," she said. "We need transparency with the community so they trust us," she said.

Andy Jones said, 'Cora makes a good point.' He said he agrees if they say no site visit, then that's the way it should be, and for all to be aware of it.

Joe Taylor said, "Well, I'm going out with Wayne Fostin this week for a BPW, Bella-Vista pre-construction meeting at BPW." He said that Wayne emailed him about going out to the meeting.

Andy Jones asked why they were meeting again, 'I thought we already had the pre-construction meeting.'

Joe Taylor said there was a different contractor and that's why they were meeting.

Andy said, "This is a gray area. In our three standard conditions, it clearly says we should be notified if there are changes, including a new contractor."

Joe Taylor said he had received an email from Wayne regarding a new contractor at Bella Vista.

Cora Peirce said she has recused herself from the Bella Vista project, so this is a 'gray area' for her, but she wishes our agent would recuse himself from the Bella Vista project as well.

Andy Jones said, "I'd be careful Cora, you can't have it both ways."

Cora Peirce said, "It doesn't seem fair."

Joe Taylor said, 'the on-site is scheduled for Thursday with pre-construction at BPW.'

Andy Jones said he could not make it; and asked who was going to be there.

Joe Taylor said, "Wayne will be there, myself, Brandon and the new contractor and plan of record."

Steve Pereira said it was not a bad idea for us to get the information earlier to be able to be out there; and he has faith that Joe will get the information back to them.

Andy Jones asked who would be at the BPW on-site?

Joe Taylor said, "Mr. Charbonneau, Brandon, Wayne, the new contractor and myself."

Andy Jones said they should have something from the applicant that this is happening. "That they are aware this is happening," he said. "If applicant is out there, the applicant should know what's going on, if they don't want to be there."

Joe Taylor said he would contact Wayne Fostin to contact the applicant.

'I think you should contact the applicant, or ask what his intentions are. Something in writing should be sufficient,' Andy Jones said.

Joe Taylor said, 'Ok. I'll talk to him tomorrow to put it in writing.'  
"Just file it," Andy Jones said. "That should be sufficient."

Andy made a motion to adjourn; Cora 2<sup>nd</sup>. All in favor. Meeting adjourned at 8:10pm

Respectively submitted,

Patricia A Pacella