

FINAL

MARION CONSERVATION COMMISSION
MINUTES OF THE REGULAR MEETING HELD ON MARCH 5, 2003

Members Present: Joel D. Hartley, Vice Chairman
Janice M. Mendes, Treasurer
Jeffrey W. Oakes, Member (left at 9:00 PM)
Frank J. Germano, Jr., Associate Member

Members Absent: Robert J. Merlino, Chairman
Sherman E. Briggs, Jr., Recording Secretary
Horace S. Kenney, Jr., Associate Member

Secretary: Diane R. Drake

Others Present: Richard S. Russell, Peter Noyer, Thomas Cooper, Brian Ladouceur, Henry Roberts, Linda Goodwin, Kathleen Haenale (illegible), Brian Grady, Susan Kenny, Linda Harju, Marie and James Davidian, and Susan Nilson.

Meeting convened at 7:00 PM Wednesday, March 5, 2003 in the main conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Due to J. Oakes and J. Hartley attending the M.A.C.C. annual meeting on Saturday, March 1, 2003, site inspections were held on Sunday afternoon, March 2, 2003 by J. Hartley, J. Mendes, J. Oakes and F. Germano Jr.

7:00 PM **THOMAS & LINDA COOPER** - NOI (SE41-978) to construct a house and driveway at Lot 81B Cove's End Road. Thomas Cooper was present with his business partner, Peter Noyer, and representative, Richard S. Russell. F. Germano said he thought the existing retention area (which was constructed when the road was built) might be a resource area, but it doesn't meet the 1/4 acre per foot requirement. J. Oakes said that if the retention area was a wetland, the project would still comply with the Commission's Policy Standard #1 because the proposed house is at least 30' away from the retention area. J.Mendes moved to close the hearing; F. Germano seconded; voted unanimously.

7:10 PM **BEVERLY YACHT CLUB** – RFD (41D-1132) to repair/renovate the Junior Yacht Club building at 99 Water Street. J. Mendes left the room. Brian Ladouceur, Henry Roberts and Linda Goodwin all represented the Yacht Club and said the submitted plan is a generalization, because they did not want to spend money on final plans if the project would not be allowed. J. Hartley said the 50% Rule does not apply in this instance because the building is not a habitable dwelling. F. Germano said he would like to continue the hearing to a later date, when the final plans have been prepared. Because the Club Members did not know when the plans would be completed, J. Oakes moved to continue the hearing indefinitely, at the Applicant's request; F. Germano seconded; voted

unanimously. The hearing will be readvertised, at the Applicant's cost, when the final plans are submitted to the Conservation Commission. J. Mendes returned to the table.

7:20 PM **MICHAEL SMEAD** – Amendment to an Order of Conditions (SE41-936) for constructing a house on Lot 141 Olde Logging Road. The Amendment is to accept a new plan, showing a change in the Applicant's name, the house footprint and the driveway footprint, as the new Plan of Record. Brian Grady of G.A.F. Engineering, inc. represented Mr. Smead and said the Commission's requirements for a 15' no-touch zone and 30' no-construction zone are still in effect. J. Oakes said he would like the haybales along the driveway (as required in the original Order of Conditions) to be placed and staked before any more work is done. J. Oakes moved to close the hearing; J. Mendes seconded; voted by majority with F. Germano not voting.

7:33 PM **THE KITTANSETT CLUB** – NOI (SE41-979) to regrade areas of the 4th, 5th and 6th fairways, and install a culvert near the 6th fairway (continued). J. Oakes left the room. Susan Nilson represented the Kittansett Club and submitted a revised plan showing the 12" clay culvert on Sheet #4 being replaced with a 24" culvert with a flapper. The file number has been received. J. Mendes moved to close the hearing; F. Germano seconded; voted unanimously. J. Oakes returned.

7:40 PM **THE PINEY POINT BEACH CLUB** – NOI (SE41-977) to add 20 cubic yards of sand between the Clubhouse and the high water mark at 93 Piney Point Road (continued). Another site inspection had been made. Jeff Oakes said 20 cubic yards of sand is a small amount for that area. J. Mendes moved to close the hearing; J. Oakes seconded; voted by majority with F. Germano not voting.

7:50 PM **JAMES & MARIE T. DAVIDIAN** – RFD (41D-1133) to construct a 40'-long ramp from a jetty to a boulder, with a ramp and float at the end, at 21 East Avenue, Planting Island. F. Germano left the room. J. Oakes said that CLE Engineering was contacted about this project, but has not received a contract for this project, so he can participate in this hearing due to The Rule of Necessity. Mr. and Mrs. Davidian were present. J. Hartley explained to the Davidians that the Shellfish Officer was concerned that the floats would sit on productive shellfish beds, which would be detrimental to the shellfish. In response to the Commission's request for comments from the Planning Board concerning this project, their response was that they needed more information before they could comment. J. Hartley said the Davidian's Chapter 91 License does not include a ramp and float, so a new ramp and float will have to be licensed. J. Oakes asked if this was going to be a removable ramp; Mr. Davidian said he would prefer a permanent float. J. Hartley explained that a new pier cannot be allowed under a Request for a Determination of Applicability filing, and will require a Notice of Intent filing accompanied by an engineer's plan. Mr. Davidian said he has hired Kelley Marine Services to prepare the drawing, and will do whatever is necessary to have a float. J. Hartley suggested continuing this hearing indefinitely so that the Davidians can: (1) meet with the Planning Board to see if this project is feasible; (2) speak with John Whittemore of 51 East Avenue, Planting Island, to find out how Mr. Whittemore managed to construct a "seasonal" pier; and (3) hire an engineer to prepare a specific plan and Notice of Intent for the pier, if the Planning Board or

Zoning Board of Appeals will allow the project. J. Oakes moved to continue the hearing indefinitely, with the Applicants' consent; J. Hartley seconded; voted unanimously. F. Germano returned to the table.

F. Germano drafted Thomas and Linda Cooper's Order of Conditions (SE41-978) and moved to issue it as written; J. Oakes seconded; voted by majority with J. Hartley abstaining, as he and Mr. Cooper were classmates.

J. Mendes drafted Michael Smead's Amended Order of Conditions (SE41-936) and moved to issue it as written; J. Hartley seconded; voted by majority with F. Germano abstaining.

J. Hartley drafted The Piney Point Beach Club's Order of Conditions (SE41-977) and moved to issue it as written; J. Hartley seconded; voted by majority with F. Germano not voting.

9:00 PM J. Oakes left the meeting, as he could not participate in any other matters before the Commission.

F. Germano drafted The Kittansett Club's Order of Conditions (SE41-979) and moved to issue it as written; J. Hartley seconded; voted unanimously.

Meeting adjourned at 9:15 PM.

Diane R. Drake, Secretary

Approved June 4, 2003