

FINAL

MARION CONSERVATION COMMISSION
MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 1, 2004

Members Present: Jeffrey W. Oakes, Chairman
Norman A. Hills, Vice Chairman
Janice M. Mendes, Treasurer
Sherman E. Briggs, Jr., Recording Secretary
Robert J. Merlino, Member

Members Absent: Horace S. Kenney, Jr., Associate Member
Joel D. Hartley, Associate Member

Secretary: Diane R. Drake

Others Present: Martha Stark, Karl Smith, Kathleen Giles & Robert H. Nakashian,
Matt S. Baltz, David Davignon, Chris Meyer, Gary Cox, Richard Duffy.

Meeting convened at 7:00 PM Wednesday, December 1, 2004 in the main conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were held on Friday, November 26, 2004 by J. Oakes, N. Hills and R. Merlino.

7:00 PM **TOWN OF MARION** - Amendment to an Order of Conditions (SE41-999) to extend the Town's sewer lines to the Berry area, the Dexter Beach area, and the South Converse area. The Amendment is to expand the scope of work to include the installation of sewer tie-ins, grinder pumps, etc. from the streets to the houses to be serviced by the expanded sewer system. The installation will occur within existing driveways and/or maintained lawn. At the conclusion of work, trenches will be backfilled, compacted and seeded/paved to pre-existing conditions. Karl Smith of Earth Tech, Inc. was present and submitted updated plans signed and stamped November 30, 2004. He said the pipes going to the houses will be 1-1/4" diameter. He said the three houses (#7, 9 and 10) on Lady Slipper Lane, that have frontage on Delano Road, may be exempt from the installation, but if not, a ditch witch will dig a trench 1' wide, 5' deep through the wetlands, filling in behind it as it goes. He said the machinery will need a 6'-wide corridor to do the work. Matt Baltz of 7 Lady Slipper Lane was present and said all the utilities come down Lady Slipper Lane from Cross Neck Road, not from Delano Road. He said the three homes on Lady Slipper Lane are 5, 6 and 8 years old, with perfectly good septic systems, and he would like to ask the Conservation Commission to try to influence the Sewer Commissioners to exclude them from the sewer expansion. R. Merlino said state law mandates that any property with frontage on the road must tie in; Mr. Baltz said the state law says the Board of Health MAY require the tie in, not MUST, and he has Attorney Richard Schaefer looking into that. K. Smith agreed that most of Dexter Beach is in the flood plain, and said directional drilling will be done in the salt marsh areas. Regarding the South Converse area, K. Smith said the owners of the three houses far off Converse Road

have asked to be exempt from the expansion, but it was decided by the Sewer Commissioners that the length of a driveway is not a reason to be excluded, and the lines will be installed within the driveways, which he thinks may be paved. J. Oakes said the revised plans and narrative will be referenced in the Amended Order of Conditions. J. Mendes moved to close the hearing; N. Hills seconded; voted unanimously.

7:30 PM **PATRICIA VAN DEN BROEK** – RFD (41D-1209) to fill potholes and eroded areas along the seawall at 34 Point Road. Mrs. van den Broek's brother, "Duffy," was present on her behalf. J. Oakes said that waves had scoured behind the seawall, and he would like more detail of the work being proposed, i.e., the size of the stone. J. Oakes said he would prefer a Notice of Intent be filed for this work. Duffy said the van den Broeks do not want to retain an engineer, and said this work is insignificant compared with the project next door. J. Oakes said perhaps a more detailed plan could be prepared. S. Briggs said the contractor doing the work next door, at the Currans', will probably do this work as well. R. Merlino said he would like to know exactly what is proposed – i.e., filter fabric, size of rock, etc. R. Merlino moved to continue the hearing, with the Applicant's consent, to 7:10 PM January 19, 2005; N. Hills seconded; voted unanimously.

7:40 PM **KATHLEEN GILES** – RFD (41D-1204) to construct a 24' x 28' detached garage at 42 Tucker Lane (continued). Kathleen Giles and her husband, Robert Nakashian, were present. She said the wetland line has been reflagged, the flags have been put on a plan, and she is asking the Commission to waive their policy of no building within 30' of a wetland line so that she can place the garage 6' from the wetland line. She said she will put up a permanent fence if the Commission requires that. J. Oakes asked if she could shrink the size of the building; Mrs. Giles said she prefers not to do that. She said she needs as much open space as possible so that oil trucks can turn around, as well as fire trucks, especially in the winter time. Regarding building the garage behind the house, she said the leaching field is behind the house, and she didn't think an oil truck should drive over it. She said the garage will be for lawnmowers, snowblowers, kids bikes, motorcycles, etc., not for cars. N. Hills suggested building a longer, narrower garage; Mrs. Giles said that would be too expensive. S. Briggs said Mrs. Giles has struggled to please the Commission, has good reasons for her request to build within the 30' buffer zone, and an as-built plan can be submitted to the Commission showing the 24' x 28' building was built where proposed. J. Oakes said he thought Mrs. Giles should file an Abbreviated Notice of Intent for this project, using the same plan except that the garage should be drawn directly on the plan, the plan will need an engineer's stamp and signature, and a permanent fence between the garage and wetlands should be shown as well. Mrs. Giles said the brambles are a natural fence. R. Merlino moved to close the hearing; N. Hills seconded; voted unanimously.

7:55 PM **DR. MARTHA STARK** – Revised Third Amendment request for rebuilding the guesthouse and renovations at 4 West Avenue, Planting Island. The requested Amendment is to expand the scope of work to include constructing a minor house addition and a minor deck expansion. Dr. Stark was present with her engineer, David Davignon of N. Douglas Schneider & Associates, Inc. D. Davignon said the plan has been very much downsized to just connecting the buildings with a 90 square foot breezeway and a minor

deck expansion, requiring only 4 more sono tubes. D. Davignon said the first floor deck will be at elevation 17.6' and no new stairs are needed. J. Oakes said the proposed work is out of the Conservation Commission's jurisdiction. Regarding the septic system, D. Davignon said he checked with the Board of Health and the 1989 septic plan was sized for four bedrooms. He said there are three bedrooms in the main house, and one in the guest building. D. Davignon said Dr. Stark has the right to have four bedrooms, and the work will be done in compliance with Title 5. R. Merlino asked why this work is being done; Dr. Stark explained that the Building Commissioner and Town Counsel told her this is the way to bring the buildings into compliance with the zoning bylaws, and she can have one kitchen in only one of the buildings. Gary Cox of 73 West Avenue said he heard Dr. Stark say this is all the work proposed "at this time" and he was concerned that there will be more work. Chris Meyer of 4 East Avenue asked to see the plan and asked if construction is approved for this; J. Oakes gave Mr. Meyer a copy of the plan and explained that the work is above the flood elevation, in compliance with the Wetlands Protection Act, and therefore meets the Commission's requirements. R. Merlino moved to close the hearing; N. Hills seconded; voted unanimously.

8:12 PM **STEPHEN CLARK** – RFD (41D-1201) to place a line of boulders and to level and reseed an existing lawn at 713 Mill Street (continued). Another site inspection was held on Friday morning, November 26, and the work had not been done. D. Drake explained that Mr. Clark was in the Conservation office on Monday, November 29, and said he did that work first thing Saturday morning, in time for the Commission's 8:30 AM inspection, but no one showed up. Mr. Clark was unable to attend the meeting tonight and had asked for a continuation. R. Merlino moved to continue the hearing, with the Applicant's consent, to 7:10 PM December 15, 2004; N. Hills seconded; voted unanimously. A letter will be sent to Mr. Clark apologizing for the early site inspection, and informing him of the continuation date and next site inspection. The letter will also explain that the unpermitted fill near the garage is to be removed, not replicated.

8:15 PM **ARTHUR & CHERYL WALKER** – RFD (41D-1208) to upgrade a septic system and verify resource areas at 587 Front Street (continued). Mr. Walker's engineer, Denis Seguin, by telephone to the MCC office and also by telephone to J. Oakes, said he was upset that the November 17, 2004 hearing had been continued to tonight without his permission. The Commissioners agreed that his consent was not required, and that Mr. Seguin told the Commission he was only interested in the septic system part of the filing. Once the Title 5 work was verbally approved, Mr. Seguin said he didn't want to get involved in any wetlands delineation issues and left the building. After Mr. Seguin had left, the Commission voted to continue the hearing so that another site inspection could be done to verify ENSR's soil sample logs, and a notice of the continuation date and time had been mailed to the Walkers. J. Oakes said he is happy with the delineation. The Commission noted that approval of a fence in a wetland would require submittal of a Notice of Intent and be subject to an Order of Conditions. J. Oakes moved to close the hearing and issue a Positive Determination for Box #2 for the wetland line, and a Negative Determination for Box #4 for the septic portion of the filing; R. Merlino seconded; voted unanimously.

J. Mendes showed the most recent architectural drawings for John Sweeney's "friendly" 40B Housing project at 177 Spring Street (presently Maggie's Ice Cream).

J. Oakes moved to issue a Positive Determination for Boxes #1 and #4 for Kathleen Giles' garage project at 42 Tucker Lane (41D-1204); J. Mendes seconded; voted unanimously.

R. Merlino moved to accept the October 20, 2004 and November 3, 2004 minutes as amended; N. Hills seconded; voted unanimously.

N. Hills drafted the Town of Marion's Amended Order of Conditions for the sewer expansion project (SE41-999) and moved to issue it as written; R. Merlino seconded; voted unanimously.

N. Hills offered to draft the 2004 Annual Report which is due January 7, 2005 at the very latest.

J. Oakes drafted Dr. Stark's Amended Order of Conditions (SE41-900) and moved to issue it as written; R. Merlino seconded; voted unanimously.

Meeting adjourned at 9:15 PM.

Diane R. Drake, Secretary

Approved December 15, 2004