

FINAL

**MARION CONSERVATION COMMISSION**  
MINUTES OF THE REGULAR MEETING HELD ON APRIL 6, 2005

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

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

Secretary: Diane R. Drake

Others Present: Kathleen Giles, Robert H. Nakashian, Peter G. Rezendes Jr., Lysa Riccardi, Paul Revere Pearle, Annita Donovan, Kevin W. Forgue.

Meeting convened at 7:00 PM Wednesday, April 6, 2005 in the main conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were held on Saturday, April 2, 2005 by J. Oakes.

7:00 PM **LYSA & DAVID RICCARDI** - RFD (41D-1216) to upgrade a septic system and construct three additions, two decks and a farmer's porch as 15 Parlowtown Road. Lysa Riccardi was present with her Father, Paul Revere Pearle, for which the in-law apartment is being built. J. Oakes said the wetland line demarcation is very clear. J. Mendes moved to close the hearing; N. Hills seconded; voted unanimously.

7:10 PM **KATHLEEN GILES** – NOI (SE 041-1027) to construct a detached garage at 42 Tucker Lane. Mrs. Giles was present with her husband, Robert Nakashian. J. Oakes said there will be a 5' buffer between the garage and wetlands, but the area is already lawn. J. Oakes said a single line of hay bales will suffice. A permanent split-rail fence will be erected between the garage and the wetlands. J. Mendes moved to close the hearing; N. Hills seconded; voted unanimously.

7:20 PM **ANTONIO LOPES** – NOI (SE 041-1026) to construct a 700'-long driveway, a single-family dwelling, install utilities, and associated filling and grading at Lots 17 and 27A off Rezendes Terrace (continued). This hearing had been continued so that another site inspection could be held to verify the wetland flagging. J. Oakes and N. Hills inspected the site on Tuesday, April 5, 2005 with Mr. Lopes' botanist, Stacy Barron. Changes were noted on the plan, but the engineer was unable to prepare a revised plan for tonight's meeting and has asked for another continuation. J. Mendes moved to continue the hearing, with the Applicant's consent, to 7:20 PM April 20, 2005; N. Hills seconded; voted unanimously.

Minutes were reviewed. N. Hills moved to accept the January 19, 2005 minutes as amended; J. Mendes seconded; voted unanimously. N. Hills moved to accept the March 2, 2005 minutes as amended; J. Mendes seconded; voted unanimously. N. Hills moved to accept the March 16, 2005 minutes as written; S. Briggs seconded; voted unanimously.

7:30 PM **NANCY COLE LAMBERT** – RFD (41D-1217) to construct a single-family dwelling at Lot 11 Delano Road. Annita Donovan represented Ms. Lambert. J. Oakes said the wetland line is not too far off from the old line shown on the plan. J. Oakes said there are wetlands within 100' of the road and he feels a Notice of Intent should be filed for this project. S. Briggs explained to Ms. Donovan that the wetland line will be updated using soil composition as well as vegetation. J. Mendes moved to close the hearing; S. Briggs seconded; voted unanimously.

7:00 PM **FRANCIS J. PERRY** – RFD (41D-1218) to construct a new septic system at 25 East Avenue, Planting Island. Kevin Fogue of G.A.F. Engineering represented Mr. Perry and said all necessary variances have been received from the Board of Health. J. Mendes moved to close the hearing; N. Hills seconded; voted unanimously.

J. Mendes moved to issue a three-year Extension Permit to John and Alice Shanahan for adding sand on an as-needed basis at 287 Delano Road (SE41-957); N. Hills seconded; voted unanimously.

N. Hills moved to issue a Negative Determination for Box #3 for Lysa and David Riccardi's septic system upgrade and additions at 15 Parlowtown Road (41D-1216); S. Briggs seconded; voted unanimously.

S. Briggs moved to issue a Negative Determination for Box #3 for Francis Perry's septic system upgrade at 25 East Avenue, Planting Island (41D-1218); N. Hills seconded; voted unanimously.

J. Mendes moved to issue a Positive Determination for Box #4 for Nancy Cole Lambert's new house project at Lot 11 Delano Road (41D-1217); N. Hills seconded; voted unanimously.

N. Hills had drafted a newspaper announcement informing people of the W.P.A. changes that went into effect on March 1, 2005. Everyone agreed that it was a good idea to inform the public of the changes.

N. Hills gave an update on Arthur Walker's violations at 587 Front Street (41D-1162 and 41D-1208). He said Rich Gioiosa's promise to do a site visit within two months has

passed. J. Oakes said the Walkers' neighbors told him that the Walkers are claiming they are a farm and therefore exempt from many of the regulations. N. Hills said he will call R. Gioiosa again.

J. Oakes drafted Kathleen Giles' Order of Conditions (SE 041-1027) for constructing a garage at 42 Tucker Lane, and moved to issue it as written; N. Hills seconded; voted unanimously.

J. Oakes said he visited Barbara DeCosta's 2 Washburn Park Road property on April 2, 2005 and has drafted a letter to her engineer based on his observations. The Commission had issued a Determination of Applicability (41D-1194) on September 17, 2004 approving the delineation of the resource areas there, and based on that delineation, an Order of Conditions (SE41-1019) was issued on November 22, 2004 approving a 700' driveway extension to service two house lots in the rear of the property. J. Oakes said he observed much more water there on April 2nd and he feels the I.L.S.F. delineation is incorrect based on his latest calculations, and may also be a vernal pool. S. Briggs said there was over 1" of rain just before April 2nd, an additional 2-1/2" of rain shortly before that, and 8" of melting snow as well, which would be the reason for the ground being saturated. S. Briggs said there will be no water at all there in August. J. Oakes said he will speak to N. Douglas Schneider to amend the Determination. S. Briggs objected and said Ms. DeCosta has been working on this project for over two years, and she has met all the criteria for all the town Boards, and it is not right to throw a cog in the wheel now after she has gotten her wetland lines approved, Plan of Record approved, and received her Order of Conditions. S. Briggs said Dorothy Blickens herself signed off on the need for a water quality certification. S. Briggs said the Planning Board has approved a 12'-wide driveway rather than the 16'-wide driveway approved by the Conservation Commission, which will result in less impact to the wetlands there. S. Briggs showed a drawing of the two-home subdivision which was submitted to the Planning Board. S. Briggs said the Conservation Commission approved that line and the subdivision has already been planned. S. Briggs said one of the houses will need a filing because it is in the buffer zone, and suggested J. Oakes check for staining in the soils when that filing is submitted. J. Oakes said he wants to address that now, before the houses are located, and amend the Commission's Determination. J. Mendes reminded J. Oakes that a majority of the Commission voted to approve the wetlands delineation; J. Oakes said he did not vote for it at that time. J. Oakes said he did not intend for copies of his letter to be sent to Ms. DeCosta and Thompson Surveying. S. Briggs said he does not want the letter to be sent but would not mind J. Oakes speaking with N. Douglas Schneider. S. Briggs said he would be happy to visit the site with J. Oakes at any time. D. Drake said she did not think a Determination could be amended, and was concerned that the Town might be sued if the Commission does amend it, because the Notice of Intent Plan of Record was prepared based on that Determination. J. Oakes agreed to do nothing further until he checks the Wetlands Protection Act to see if a Determination can be amended after the appeal period has passed, or whether nothing can be done for the three years a Determination is valid.

Meeting adjourned at 8:55 PM.

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Diane R. Drake, Secretary

Approved May 4, 2005`