

FINAL

MARION CONSERVATION COMMISSION
MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 7, 2005

Members Present: Jeffrey W. Oakes, Chairman
Norman A. Hills, Vice Chairman
Robert J. Merlino, Member

Members Absent: Janice M. Mendes, Treasurer
Sherman E. Briggs, Jr., Recording Secretary
Horace S. Kenney, Jr., Associate Member
Joel D. Hartley, Associate Member

Secretary: Diane R. Drake

Others Present: Christian Leland, Stephanie Metz, Rachel Metz, Colleen Carreiro, Kyle Riseley, Betsy Dash, Cameron Fordyce, Tom Weber, Debbie Houck, David (illegible), Thomas McGuire, Judith W. Rosbe, Geoffrey Neal, Wilma & Marshall Bailey, Blaine P. Butterfield, Frederick Cornford, Judy Cope, Kevin Walker, D. Dunn

Meeting convened at 7:00 PM Wednesday, September 7, 2005 in the main conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were held on Saturday, September 3, 2005 by J. Oakes and R. Merlino.

Due to an advertising problem, a hearing for the Kittansett Club could not be opened or discussed. The new hearing date is October 5, 2000 at 7:00 PM.

Minutes were reviewed. R. Merlino moved to accept the July 20, 2005 minutes as amended; N. Hills seconded; voted unanimously. R. Merlino moved to accept the August 3, 2005 minutes as written; N. Hills seconded; voted unanimously.

R. Merlino moved to send a letter to David Davignon of N. Douglas Schneider & Associates acknowledging his discussion with the Commission regarding the proposed pier reconstruction at 414/416 Point Road owned by the Notman and Shingleton families; N. Hills seconded; voted unanimously.

7:10 PM **CAMERON P. & JEAN C. FORDYCE** - RFD (41D-1235) to construct a 10' x 22' second-story dormer and a 4' x 10' deck at 13 Aucoot Avenue. Mr. and Mrs. Fordyce were present. Although the house is in the flood plain and the first floor elevation is below FEMA's requirements for new buildings, the contractor's detailed cost estimate of \$109,754.40 is well below 50% of the house's \$288,800.00 value, so the 50% Rule (requiring a structure to be raised to current FEMA standards if the improvements are more than 50% of the house's value) does not apply in this case. The house is also in the 100' buffer zone to a salt marsh. Betsy Dash of 9 Aucoot Avenue said she was concerned

that the project would affect her water view, but Mr. Fordyce assured her that would not happen. R. Merlino moved to close the hearing and issue a Negative Determination for Box #2; N. Hills seconded; voted unanimously.

7:20 PM **MASSACHUSETTS HIGHWAY DEPARTMENT** – RFD (41D-1236) to repave Mill Street (Route 6) from Point Road westerly approximately 1,000 feet. Thomas McGuire represented Mass. Highway and explained the project. He said the work is exempt from the River Protection Act, but not from working in a buffer zone to a wetland. He said Mass. Highway's maintenance department determines which roads are to be resurfaced, and the contract has already been awarded, so work can begin as soon as the Conservation Commission approves the project. J. Oakes said the curbs will prevent any erosion or sedimentation problems, so hay bales or silt fences will not be necessary. T. McGuire said this is the only project proposed in Marion at this time. R. Merlino moved to close the hearing; N. Hills seconded; voted unanimously. N. Hills moved to issue a Negative Determination for Box #3; R. Merlino seconded; voted unanimously.

7:30 PM **GEOFFREY NEAL** – NOI (SE 041-1033) to construct a single-family dwelling, a driveway, install utilities, grade and landscape at Lot 120 Olde Meadow Road (continued). Mr. Neal was present with his legal counsel, Judith Rosbe. Just prior to this hearing, Mr. Neal's engineer, Kevin Walker, called to say he is on his way but is stuck in very heavy traffic and cannot be here by 7:30 PM. Another site inspection was done on September 3, 2005 to verify the recently-placed flags marking the "real" wetland line. R. Merlino said he spoke with K. Walker earlier today, and K. Walker offered to do replication on the site. J. Oakes said only Flag 6A was missing, but he agrees with the correctness of the other flags delineating the actual wetlands on site. J. Oakes said there are virtually no uplands on the lot. R. Merlino said that unless the lot is grandfathered, under current zoning it would not be buildable due to the lack of uplands. Because of the amount of wetlands that would be affected by developing this lot, J. Oakes said he would be inclined to request an adjudicatory hearing if D.E.P. issues a Superseding Order approving the project. Mr. Neal said he spoke with K. Walker this morning, who told him the Commission might approve 6,000 square feet of replication for the 9,000 square feet of wetlands that would be altered. At Mr. Neal's request, R. Merlino moved to continue the hearing to later tonight, after the last hearing at 8:20 PM, when Mr. Neal's engineer will be present; N. Hills seconded; voted unanimously.

7:45 PM **WILMA BAILEY** – NOI (D.E.P. file number not assigned yet) to attempt to eradicate phragmites at 41 Dexter Road, Dexter Beach. Mr. and Mrs. Bailey were present. D.E.P. would like a more detailed plan before a file number will be issued. The Baileys recently had their septic system updated; using that plan to show the proposed work should satisfy D.E.P. R. Merlino moved to continue the hearing, with the Applicant's consent, to 7:40 PM September 21, 2005; N. Hills seconded; voted unanimously.

7:52 PM **CHRISTIAN B. LELAND** – RFD (41D-1232) to upgrade a septic system at 471 Point Road (continued). The plan has been revised to show the leaching field reconfigured so that it is further than 50' from the wetland line to satisfy the Board of Health's requirements. R. Merlino moved to close the hearing; N. Hills seconded; voted

unanimously. N. Hills moved to issue a Negative Determination for Box #3; R. Merlino seconded; voted unanimously.

8:00 PM **ALBERT AND ELIZABETH R. STONE** – RFD (41D-1237) to repair a seawall at 30 Sippican Lane. Mr. and Mrs. Stone's mason, Blaine Butterfield, was present and said this is just a continuation of the work he is doing on the abutter's seawall. The Commission Members highly praised B. Butterfield for the work he is doing on the abutting lot. R. Merlino moved to close the hearing and issue a Negative Determination for Box #2; N. Hills seconded; voted unanimously.

8:10 PM **ANTHONY T. & JUDITH A. COPE** – RFD (41D-1238) for maintenance repairs to a seawall and groin at 16 West Avenue, Planting Island. Mrs. Cope was present. J. Oakes said it is all beach, not marsh, there, and only minor maintenance is needed. R. Merlino moved to close the hearing; N. Hills seconded; voted unanimously. R. Merlino moved to issue a Negative Determination for Box #2; N. Hills seconded; voted unanimously.

Reorganization of the Conservation Commission was discussed. R. Merlino moved to continue with the present officers until a replacement is found for J. Mendes, who is presently the Treasurer; N. Hills seconded; voted unanimously.

Gilda Pietragalla's response to the Commission's reissuance and recording of her Enforcement Order for filling in wetlands and/or the buffer zone to wetlands behind the Stone Rooster was discussed. Kevin Forgue of G.A.F. Engineering, the engineer for the septic system upgrade project at the Stone Rooster, by telephone explained that he cannot do anything regarding the problem with the fill unless Ms. Pietragalla asks (and pays) him to. The Commission Members agreed to meet with Brad Silva, the contractor that added the fill during the septic system upgrade project, at the site on one of the regular Saturday site inspection mornings, to discuss what could be done to bring the site into compliance again. D. Drake will contact Mr. Silva.

8:20 PM **FREDERICK D. CORNFORD** – RFD (41D-1239) to clear and grade a lot on Oakdale Avenue in preparation for the construction of a single-family dwelling. Mr. Cornford was present. A prior Determination was issued verifying that the site is only in the flood plain, and any wetlands there are isolated and not protected. J. Oakes questioned the road runoff that runs right onto this lot; Mr. Cornford said the drain in the street is plugged and he has spoken with the Department of Public Works to have it corrected, but nothing has been done. R. Merlino moved to close the hearing; N. Hills seconded; voted unanimously. R. Merlino moved to issue a Negative Determination for Box #2 for clearing the lot; N. Hills seconded; voted unanimously.

8:25 PM **GEOFFREY NEAL** – NOI (SE 041-1033) to construct a single-family dwelling, a driveway, install utilities, grade and landscape Lot 120 Olde Meadow Road (continued from 7:44 PM this evening). Mr. Neal was present with his attorney, Judith Rosbe, and engineer, Kevin Walker, who was unable to attend the hearing earlier tonight due to traffic. K. Walker said 6,000 square feet of replication would be done in the eastern

part of the lot. He said the house is jammed up as far as possible to meet zoning setbacks. He said two-thirds of the house is in wetlands, but grading can minimize impacts of the filling. K. Walker said 9,000 square feet of wetlands would be filled, and 6,000 square feet would be replicated. J. Oakes said runoff from this project will flow onto the abutting properties. J. Oakes said he doesn't see any way to make this project work. In response to J. Oakes' request for comments from the public, an abutter said the Assessors' field card states the lot is unbuildable. D. Drake mentioned that there was another lot in that subdivision that was nearly all wetlands, and D.E.P. issued a Superseding Order of Conditions allowing the wetlands to be filled and a house built, with the replication done elsewhere. R. Merlino moved to close the hearing; N. Hills seconded; voted unanimously. R. Merlino moved to deny the project and approve the draft letter explaining why it was being denied; N. Hills seconded; voted unanimously.

Meeting adjourned at 9:20 PM.

Diane R. Drake, Secretary

Approved September 21, 2005