

FINAL

MARION CONSERVATION COMMISSION
MINUTES OF THE REGULAR MEETING HELD ON MAY 2, 2007

Members Present: Norman A. Hills, Chairman
Jeffrey W. Oakes, Vice Chairman
Sherman E. Briggs, Jr., Recording Secretary (absent from 7:00-7:11 PM)
Bruce C. Hebbel, Member
Lawrence B. Dorman, Member

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

Secretary: Diane R. Drake

Others Present: Dana Altobello, Lester Wilkinson and son, Ernest Yeaw, John Rockwell, Walter Hartley, Karen Augeri Benson, Laura Kay Coggeshall, Alexander Poulos, Bradley Bertolo, Richard Charon, Christine and Mark Fantoni, Neal Balboni and son

Meeting convened at 7:00 PM Wednesday, May 2, 2007 in the main conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were held on Saturday, April 28, 2007 by N. Hills.

7:00 PM **ERNEST YEAW** - RFD (41D-1305) to verify the delineation of the wetland resource areas at Lot 148 Doran Way, Dexter Beach (continued from February 7, 2007). Ernest Yeaw was present with his Engineer, Dana Altobello of Thompson Merrill. N. Hills had visited the site on Saturday, April 28, 2007. J. Oakes said Flag #1 and Flag #2 are off a lot; Flag #3 is fine; Flag #4 should be 4' further upland; and Flag #5 should be 5' further upland. J. Oakes said the Commission will mark up the existing plan so it can be used as the plan of record. J. Oakes moved to close the hearing; L. Dorman seconded; voted unanimously.

7:10 PM **THE KITTANSETT CLUB** - NOI (SE41-1062) to modify existing parking areas at 11 Point Road and Butler's Point (continued from March 7, 2007). The Club's Engineer, Susan Nilson of CLE Engineering, by letter has requested another continuation. B. Hebbel moved to continue the hearing, with the Applicant's consent, to 7:20 PM May 16, 2007; L. Dorman seconded; voted by majority with J. Oakes abstaining.

S. Briggs joined the meeting at 7:11 PM.

7:11 PM **CONSTANCE SHEPARD** - RFD (41D-1311) to reposition three boulders and perform maintenance repairs (repainting) to a pier at 99 Allens Point Road. No one represented Ms. Shepard. The Commission had approved two projects on Sippican Lane that were very similar to this one. L. Dorman moved to close the hearing; J. Oakes seconded; voted unanimously.

Minutes were reviewed. J. Oakes moved to accept the April 18, 2007 minutes as amended; B. Hebbel seconded; voted unanimously.

7:20 PM **TOWN OF MARION, RECREATION COMMITTEE** - NOI (SE41-1068) to construct a new ball field at Washburn Lane (continued from April 18, 2007). William Washburn was present with John Rockwell. J. Oakes said a test pit he dug on the cart path showed mottling and about a foot of fill. J. Rockwell asked J. Oakes and the Commission to do another site inspection to determine whether the grasses on the cart path are wetland or upland species. A letter had been received by the Commission today from Laura Coggeshall's attorney, Karen Benson, who was present with Laura Coggeshall. J. Rockwell said if the wetland is isolated, the U.S. Army Corps of Engineers will become involved, and if it is bordering, they won't. J. Rockwell said an Order of Conditions will be needed to get a water quality certificate. J. Oakes said that if replication is needed, it will have to be shown on the plan. J. Rockwell said he or the Recreation Committee can contact the U.S. Army Corps of Engineers to see if they want to view the site, but first it has to be determined whether it is a bordering vegetated wetland or an isolated wetland. J. Oakes said that if the wetland is over 5,000 square feet a water quality certificate is needed; J. Rockwell said "may be" needed, not "is." Federal Regulations say it must be isolated on a biological sense. J. Oakes said an autocad machine can calculate the square footage. J. Oakes said a corner of the lot may be in the flood plain; J. Rockwell said the site is four feet above the pond, and everything up to the 15' elevation is land subject to coastal storm flowage. J. Rockwell said there are no performance standards for wildlife protection in land subject to coastal storm flowage. J. Oakes said he will get a topographical map and overlay an assessors' map. Another site inspection will be done at 8:30 AM on May 12, 2007. J. Rockwell stated he has comments about Attorney Benson's letter: (1) Page 3 regarding D.E.P.'s comments when the file number was assigned: there is no pipe; the path is not a bordering vegetated wetland. (2) If U.S. Army Corps permits are needed, this is the first step. (3) If there are box turtles on the site, a report should be filed with D.E.P. but right now it is not in Natural Heritage's review. (4) If replication is needed, it will be done. (5) "Alter an area subject to The Act:" that is not yet determined. Attorney Benson asked how the delineation would be accomplished; J. Rockwell said in accordance with D.E.P.'s manual. J. Rockwell said he submitted data sheets. K. Benson said if the sheets were not submitted, then the filing is incomplete. J. Rockwell said the Town does not have a By-Law for that, just a guide. K. Benson asked what herbicides, etc. might be used on the field; W. Washburn said nothing will be used. K. Benson asked about the deed; J. Rockwell said the Assessors' office records of the book and page are incorrect. K. Benson asked if there are any deed restrictions; J. Rockwell said open space, recreation and schools. J. Rockwell said that it was voted at Town Meeting to turn the property over for recreation uses five or six years ago, and it was not recorded because it didn't have to be. W. Washburn said there are plenty of passive areas in Marion, but not enough ball field, and this is the only Town-owned land large enough for a ball field. J. Oakes asked about the Mecke subdivision open space land off Point Road; J. Rockwell said it is deed restricted. N. Hills noted that recreation land is expected to be used more than passive. Items to be addressed by the next meeting: (1) Figure out the square footage and elevation to see if it is a bordering vegetated wetland; (2) J. Oakes said the next step is to go to the U.S. Army Corps; J. Rockwell said that is not a Conservation Commission issue; (3) what is the flood plain - J. Rockwell said G.A.F. Engineering will determine elevations; (4) a grass analysis is to be confirmed on May 12, 2007 and keyed out prior to the next site inspection; and (5) data sheets. J. Oakes moved to continue the hearing, with the Applicant's

consent, to 7:40 PM May 16, 2007, and do another site inspection at 8:30 AM on Saturday, May 12, 2007; L. Dorman seconded; voted unanimously.

8:00 PM **MARK AND CHRISTINE FANTONI** - NOI (SE41-1069) to raze the existing dwelling and garage at 370 Delano Road, and construct a new dwelling in its place. Mark and Christine Fantoni were present with their Engineer, Brad Bertollo of J.C. Engineering, who described the project. He said it would have been too costly to renovate the house. He said the new house will be above Elevation 18' and grading will be brought up to 17' for aesthetic reasons. He said 4,600 square feet is the total area to be renovated - the house, lawn, etc. N. Hills questioned the bicentennial plaque on the existing dwelling; Mr. Bertollo said no one had told him the house could not be razed. S. Briggs verified that there are no restrictions on removing the house, but there is interest in saving the building. M. Fantoni said that would be wonderful, rather than razing it. B. Bertollo said the deck will be on piers, but no fill will be added in the rear. J. Oakes said David Wilson's house on Front Street, beside Tabor's Lillard Hall, had fill added. S. Briggs said as long as the fill is not structural, it is not prohibited. J. Oakes said the Riverfront Act is lenient on redevelopment of single-family homes. J. Oakes said as long as the Building Commissioner approves the project, it will be OK. L. Dorman moved to close the hearing; J. Oakes seconded; voted unanimously.

8:15 PM **DAVID J. AND JANICE M. KORIS** - NOI (D.E.P. file number not assigned yet) to upgrade the sewage disposal system at 1 West Avenue, Planting Island. J. Oakes left the room. Richard J. Charon represented David and Janice Koris and said as the house grew, the Board of Health decided to have the septic system upgraded. R. Charon is proposing a "Presby" system from Presby Environmental, Inc., which performs like a biomass system. He said the plan is being changed to allow a four-bedroom home, which is preferred by the Board of Health. N. Hills said he was concerned that cars might drive over the pipes and crush them. R. Charon said a line of boulders or a split-rail fence could be installed. The vent for the system is hidden in a bird bath. Due to the lack of a file number, L. Dorman moved to continue the hearing, with the Applicant's consent, to 7:50 PM May 16, 2007; S. Briggs seconded; voted unanimously. J. Oakes returned to the room.

STEVEN HURLEY - 21 Bayview Road (SE41-921). Abutter Walter Hartley was present and asked if there was any progress with regrading Bayview Road, as the time deadline is June 1, 2007. The Commission had not received any new information. J. Oakes recommended visiting the site during the next site inspections on May 12, 2007.

J. Oakes said **JOSEPH LASKY** of 33 Giffords Corner Road had asked the Commission to visit his property to discuss ways to alleviate his drainage problems. A site visit will be done on May 12, 2007.

J. Oakes moved to issue a Positive Determination for Box #2a to **ERNEST YEAW** for verifying the delineation of the bordering vegetated wetlands at Lot 148 Doran Way (41D-1305); B. Hebbel seconded; voted unanimously.

J. Oakes drafted an Order of Conditions for **MARK AND CHRISTINE FANTONI** to raze the dwelling and garage at 370 Delano Road and construct a new dwelling there (SE41-1069), and moved to issue it as written; L. Dorman seconded; voted unanimously.

J. Oakes moved to issue a Conditional Negative Determination for Box #2 to **CONSTANCE SHEPARD** of 99 Allens Point Road with conditions that heavy equipment shall not be allowed on the shore/beach; power grouting is prohibited; and rocks shall be pulled back by machine upland of the seawall; L. Dorman seconded; voted unanimously (41D-1311).

Meeting adjourned at 9:00 PM.

Diane R. Drake, Secretary

Approved July 18, 2007