

FINAL

**MARION CONSERVATION COMMISSION**  
MINUTES OF THE REGULAR MEETING HELD ON JUNE 6, 2007

Members Present: Norman A. Hills, Chairman  
Jeffrey W. Oakes, Vice Chairman  
Sherman E. Briggs, Jr., Recording Secretary (absent from 7:00-7:10 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: Blaine P. Butterfield, Joseph & Holly McDonough, Dana Altobello, Peter Noyer, Carol Simpson, Jason A. Panos, Will Saltonstall, Jack Rezendes, Benjamin Cushing, Steven Hurley, Alan & Joy Freitas, Susan Nilson, Diane Tillotson, Richard Garnett, Chip Johns, Susanne Kotowski, Laura K. Coggeshall, Alexander Poulos, David Davignon, Thomas Angelo, Gerry Dineen, Shaun Walsh, Robert Sudduth, John Rockwell, William Madden, and one illegible name.

Meeting convened at 7:00 PM Wednesday, June 6, 2007 in the main conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were held on Saturday, June 2, 2007 by N. Hills, J. Oakes, B. Hebbel and L. Dorman.

7:00 PM **PETER NOYER** - NOI (SE41-1072) to raze the dwelling at 1 Shawondasse Road and construct a new dwelling in its place. Peter Noyer was present with his Engineer, Dana Altobello, who described the project. The house is now on cinder blocks, with no basement. No grading is proposed. B. Hebbel said it is important to maintain the siltation fencing. L. Dorman moved to close the hearing; J. Oakes seconded; voted unanimously.

7:05 PM **PRISCILLA T. KENNEDY** - RFD (41D-1317) to repair a sitting area and a launch ramp at 312 Delano Road. Ms. Kennedy's mason, Blaine P. Butterfield, was present and described the proposed work, which will be done by hand using an electric mixer. He said the broken cement will be removed from the site. B. Hebbel moved to close the hearing; L. Dorman seconded; voted unanimously.

7:10 PM Sherman E. Briggs, Jr. joined the meeting.

7:10 PM **JOSEPH E. AND ANNE H. McDONOUGH** - NOI (SE41-1073) to demolish a garage at 63 Moorings Road, construct a new garage, a guest wing addition, a deck and patio, and add fill to level the lawn. Mr. and Mrs. McDonough were present with their Engineer (David Davignon) and Architect (Will Saltonstall). D. Davignon said the driveways will remain stone and

gravel. He said the work will take place in the fall and will be hydroseeded before beginning work on the addition. N. Hills questioned the two catch basins shown on the plan; D. Davignon said they have been there for years and no one is sure where they exit. B. Hebbel suggested a maintenance plan be determined for the drains. D. Davignon said the patio will continue to be bluestone. B. Hebbel moved to close the hearing; L. Dorman seconded; voted unanimously.

7:28 PM **NANCY K. BOIT** - RFD (41D-1316) for maintenance repairs (mainly repointing) to a seawall at 8 West Avenue. Ms. Boit's mason, Blaine P. Butterfield, was present and described the proposed work. He power washes the wall first, then uses Type S cement for the repairs with rebar. He will also fill the sinkholes along the seawall with rocks. J. Oakes moved to close the hearing; L. Dorman seconded; voted unanimously.

7:35 PM **NATALIE STEPHENS MITCHELL** - RFD (41D-1313) to repair a boardwalk over the marsh at the lower end of Bayview Road (Lot 136). Steven Hurley, Benjamin Cushing and Jack Rezendes were present on Ms. Mitchell's behalf. B. Cushing said the work is to repair damage caused by the April 14-16, 2007 southeast storm, and work will be done in accordance with the Chapter 91 license for the walkway. The Harbormaster, by letter, suggested the deck boards be two by fours, with 1" spacing between them, and wherever possible would like the deck to be built higher than it presently is. B. Cushing said Hurricane Bob destroyed the walkway in 1991, but it has sustained only minor damage since then. L. Dorman moved to close the hearing; J. Oakes seconded; voted unanimously.

7:42 PM **BURR BROTHERS BOATS, INC.** - RFD (41D-1318) to install a sewer line at 366 Wareham Street. S. Briggs left the table. No one was present on behalf of Burr Brothers. J. Oakes said he would like the work to be completed in one day, and the site restored to its prior condition. L. Dorman moved to close the hearing; J. Oakes seconded; voted unanimously. S. Briggs returned to the table.

7:45 **ALAN C. FREITAS** - RFD (41D-1314) to construct a 25' x 32' addition at the east side of the dwelling at 43 Bullivant Farm Road. Alan and Joy Freitas were present and explained that the addition will be for his elderly parents. J. Oakes would like a siltation fence to be installed between the house and the pond to prevent sedimentation from entering the pond. L. Dorman moved to close the hearing; J. Oakes seconded; voted unanimously.

7:48 PM **MARION LANDS TRUST** - ANRAD (SE41-1064) to verify the delineation of the wetland resource areas at 369/ 371 Wareham Street and Lots 68A and 68B Wareham Street (continued from May 16, 2007). The wetlands consultant has completed his site inspection and has submitted his report. Because D. Croll is overseas and unable to attend the hearing tonight, his Engineer had asked that it be continued. L. Dorman moved to continue the hearing, with the Applicant's consent, to 7:20 PM June 20, 2007; J. Oakes seconded; voted unanimously.

7:50 PM **THE KITTANSETT CLUB** - NOI (SE41-1062) to modify existing parking areas at 11 Point Road and Butler's Point (continued from May 16, 2007). J. Oakes left the room. S. Briggs left the table. Kittansett's Engineer, Susan Nilson, was present with Kittansett's legal counsel, Diane Tillotson. S. Nilson explained that Kittansett wants to pave a portion of the grassy area that is being used for parking, and part of the paved area will be turned to flat grass. S. Nilson

said the existing pavement will be removed, approximately 6" deep. Drainage will flow to the water quality swale, which will be routinely inspected and cleaned to prevent a buildup of silt. S. Nilson said she does not know the total number of cars that will be able to park, but there are currently 45 parking spaces and she would guess a total of 68 spaces.

Attorney Jason Panos was present with Engineer William F. Madden on behalf of abutters Mark and Eileen Epstein. J. Panos said the Epsteins oppose this project because all necessary permits have not been applied for, particularly a site plan review with the Planning Board. J. Panos asked the Conservation Commission to table this project until after it goes before the Planning Board. N. Hills asked J. Panos to put his presentation in writing. W. Madden submitted a letter saying there are no wetland issues, but he feels the project must go before the Planning Board and the Zoning Board of Appeals.

Diane Tillotson, Kittansett's attorney, said no other permits are required, and in fact CLE Engineering has been trying to work with the abutters on this project since January 2007, but the abutters have cancelled appointments. D. Tillotson said the Building Commissioner does not need to issue a building permit for this project and she would like the Commission to close the hearing tonight. J. Panos said his firm has been trying to settle the issue. N. Hills noted that a Notice of Intent was received and the Conservation Commission is obligated to act. Experience has shown that early involvement is beneficial to the tenets of the Wetlands Protection Act.

S. Nilson explained that the 2005 project was to pave out to the turrets, which the Building Commissioner said would need a Zoning Board of Appeals hearing at that time, but that application was withdrawn. D. Tillotson also agreed to submit her presentation in writing to the Commission, and asked that no new information be provided to the Commission. Both parties said they would like the Building Commissioner to respond to this project. B. Hebbel asked that both parties submit their presentations significantly prior to the next meeting on June 20, 2007. B. Hebbel corrected J. Panos' statement that Butlers Point was Rosa Rugosa; B. Hebbel said the Commissioners observed bittersweet and briars, not Rosa Rugosa.

J. Panos said he would like this filing to be withdrawn, and if not, then continued. S. Nilson requested a continuation to June 20, 2007. B. Hebbel moved to continue the hearing, with the Applicant's consent, to 7:30 PM June 20, 2007; L. Dorman seconded; voted unanimously. J. Oakes and S. Briggs returned to the room.

8:26 PM **TOWN OF MARION RECREATION COMMITTEE** - NOI (SE41-1068) to construct a new ball field at Washburn Lane (continued from May 16, 2007). John Rockwell, Susanne Kotowski and four coaches were present on behalf of the Recreation Committee. J. Rockwell submitted an additional (not substitute) plan by G.A.F. Engineering, Inc. showing site contours and the ball field location, as requested by the Conservation Commission on May 16, 2007. Regarding wildlife habitat, J. Rockwell submitted a copy of an adjudicatory hearing decision from 1999 which states wildlife protection is not an issue in land subject to coastal storm flowage. J. Rockwell said the site is not subject to coastal storm flowage and does not apply to this project. J. Rockwell said 5,140 square feet of vegetated wetland will be altered and he has contacted the U.S. Army Corps of Engineers. J. Rockwell said the two ponds on the site drain through Albert Ford's property at 369/371 Wareham Street, then to Sippican Harbor. J. Rockwell said the Applicant has

submitted everything the Commission has requested. N. Hills questioned the Open Space Plan's jurisdiction on this site; J. Rockwell said it is under the Parks and Recreation Department's jurisdiction. Abutter Laura Coggeshall said the existing fields aren't being used now. One of the coaches said there aren't enough field at night for ball games. J. Rockwell said he has a 1901 plan for the Town of Marion and it shows this site as a sewage treatment site. A letter from Alexander Poulos opposing the project has been received; L. Coggeshall explained that A. Poulos lives on Oakdale Avenue, but visits the site. J. Oakes agreed that all the requested information has been received and moved to close the hearing; L. Dorman seconded; voted unanimously.

8:50 PM **BEVERLY YACHT CLUB** - RFD (41D-1315) to repair sinkholes and erosion along the seawall at 99 Water Street. J. Oakes left the room. Chip Johns was present on behalf of the Yacht Club and explained the work necessary to repair the damage caused by the April 14-16, 2007 southeast storm.. He said a small bobcat may be used, but it will work from the lawn, not the shore. B. Hebbel moved to close the hearing; L. Dorman seconded; voted unanimously. J. Oakes returned to the room.

8:57 PM **JAMES AND MARIE T. DAVIDIAN** - NOI (SE41-1074) to remove and reconstruct the existing licensed concrete launch ramp and 21 East Avenue, Planting Island. David Davignon represented the Davidians and explained the proposed work. He said 15' of the ramp has been lost in the water since 1996, but the Davidians do not intend to reclaim that portion. He said they want to reconstruct the last 12' and lower the grade to the existing beach grade; J. Oakes said that will address the Harbormaster's concerns. The erosion by the wall on the lawn caused by the April 14-16, ,2007 southeast storm will be filled. The contractor will be Paul Mitchell who did an identical job in Mattapoisett. Work will be done by an excavator on the lawn. S. Briggs moved to close the hearing; L. Dorman seconded; voted unanimously.

J. Oakes drafted **PETER NOYER'S** Order of Conditions (SE41-1072) to raze the dwelling at Shawondasse Road and construct a new dwelling in its place. B. Hebbel moved to issue the Order as written; L. Dorman seconded; voted by majority with S. Briggs abstaining.

L Dorman moved to issue a Conditional Negative Determination for Box #2 to **ALAN C. FREITAS** to construct an addition at 43 Bullivant Farm Road, with Conditions that: (1) a siltation fence is to be installed and maintained along the edge of the lawn north of the addition and south of the bank to the pond, extending 20 feet east and west of the limits of work; and (2) the siltation fence shall remain in place until the site is revegetated; B. Hebbel seconded; voted unanimously (41D-1314).

B. Hebbel moved to issue a Conditional Negative Determination for Box #2 to **NATALIE STEPHENS MITCHELL** to repair a boardwalk over the marsh at Lot 136 Bayview Road, with Conditions that: (1) the width of the walkway shall be three feet maximum; (2) decking material should have one inch spacing or be grating; (3) if practical, the decking surface should be raised to allow for increased light penetration in addition to minimizing storm damage; (4) work shall be limited to the structure as shown on the Chapter 91 license plan; and (5) wood piles shall not be CCA pressure treated timbers. L. Dorman seconded; the motion; voted unanimously (41D-1313).

J. Oakes moved to issue a Conditional Negative Determination for Box #2 to **PRISCILLA T. KENNEDY** to repair a sitting area and a launch ramp at 312 Delano Road, with Conditions that all work shall be done by hand, and no waste concrete will be allowed to remain on the beach; B. Hebbel seconded; voted unanimously (41D-1317).

L. Dorman moved to issue a Conditional Negative Determination for Box #2 to **NANCY K. BOIT** for maintenance repairs (repainting) to a seawall at 8 West Drive, with Conditions that all work shall be done by hand, and no waste concrete will be allowed to remain on the beach; J. Oakes seconded; voted unanimously (41D-1316).

L. Dorman moved to issue a Conditional Negative Determination for Box #2 to **BURR BROTHERS BOATS, INC.** for installing a sewer line at 366 Wareham Street, with the following Conditions: (1) the pipe installation is to be completed within one day and the site restored to its original condition to the extent possible; (2) the Commission is to be notified upon completion in order to inspect the site; (3) the drainage ditch is to be restored to its original condition upon completion of the sewer line installation; and (4) this Determination does not address the location of any Bordering Vegetated Wetland line. J. Oakes seconded the motion; voted by majority with S. Briggs abstaining (41D-1318).

J. Oakes drafted **JOSEPH E. AND ANNE H. McDONOUGH'S** Order of Conditions (SE41-1073) to demolish a garage at 63 Moorings Road, construct a new garage, a guest wing addition, a deck and patio, and to level the lawn. J. Oakes moved to issue it as written; B. Hebbel seconded; voted unanimously.

B. Hebbel moved to issue a Conditional Negative Determination for Box #2 to **THE BEVERLY YACHT CLUB** to repair sinkholes and erosion along the seawall at 99 Water Street, with the following Conditions: (1) all work shall be done during low water; (2) no equipment shall be allowed below the lawn area; (3) all rocks to be used will be imported and not taken from the beach area; and (4) future long-term repairs based on an engineered design shall be submitted prior to any subsequent repairs beyond that allowed in this Determination; L. Dorman seconded; voted by majority with J. Oakes abstaining (41D-1315).

L. Dorman drafted **JAMES AND MARIE T. DAVIDIAN'S** Order of Conditions (SE41-1074) to remove and reconstruct an existing licensed concrete launch ramp at 21 East Avenue, Planting. J. Oakes moved to issue the Order as written; B. Hebbel seconded; voted unanimously.

The Commission has received a verbal complaint that Daniel Dowd of 13 Blackhall Court is spreading two dump truck loads of loam in the flood plain and possibly in wetlands. J. Oakes drafted a letter to Mr. Dowd and moved to send it as written; B. Hebbel seconded; voted unanimously. A group site inspection will be held on June 16, 2006.

During a site inspection at a nearby Moorings Road property, it was noted that Dola Stemberg is mowing right up to the edge of her pond, which is prohibited by her Order of Conditions (SE41-1058). N. Hills will draft a letter to Mrs. Stemberg regarding this matter.

B. Hebbel moved to issue a full Certificate of Compliance to **LAWRENCE B. DORMAN** for constructing a pier at 166 Allens Point Road (SE41-1024); S. Briggs seconded; voted by majority with L. Dorman abstaining.

The Conservation Commission Members discussed the **TOWN OF MARION RECREATION COMMITTEE'S** new ball field project at Washburn Lane (SE41-1068). J. Oakes said he is not in favor of this project and would like to hold off issuing the Order of Conditions until the Commission's next meeting on June 20, 2007. S. Briggs said he would like to ask the Board of Selectmen to write a letter stating they are in favor of constructing a ball field there, and to clarify exactly who owns that lot. It was agreed to postpone voting on an Order of Conditions until June 20th, and in the meantime each Member could write up their reasons to approve or deny the project.

Meeting adjourned at 10:15 PM.

---

Diane R. Drake, Secretary

Approved August 1, 2007