

FINAL

**MARION CONSERVATION COMMISSION**  
MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 5, 2008

Members Present: Norman A. Hills, Chairman  
Jeffrey W. Oakes, Vice Chairman  
Lawrence B. Dorman  
Bruce C. Hebbel

Members Absent: Sherman E. Briggs, Jr.  
Horace S. Kenney, Jr., Associate  
Joel D. Hartley, Associate

Secretary: Diane R. Drake

Others Present: William R. Washburn, William R. Elfers, David Davignon and Kevin Madley

Meeting convened at 7:00 PM Wednesday, November 5, 2008 in the conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were held on Saturday, November 1, 2008 by N. Hills, J. Oakes and B. Hebbel.

L. Dorman moved to issue the order of conditions (SE 041-1101) as written to **FERNANDES PACHECO** for constructing an attached garage at One Sparrow Lane; J. Oakes seconded; voted unanimously. The order was not issued at the October 15, 2008 meeting due to the lack of the Natural Heritage and Endangered Species Program's comments which were subsequently received noting that this project will not adversely affect the actual Resource Area Habitat, and will not result in a prohibited 'take' of state-listed rare species.

**NORMAN A. HILLS** – certificate of compliance for constructing an attached garage at 680 Front Street (SE 041-1015). N. Hills left the room. J. Oakes moved to issue a full certificate of compliance; B. Hebbel seconded; voted unanimously. N. Hills returned to the table.

**TOWN OF MARION** – L. Dorman moved to approve spending \$78.00 to record the Little Neck Village reconstruction project order of conditions (SE 041-1100) at the Plymouth County Registry of Deeds; B. Hebbel seconded; voted unanimously.

7:10 PM **96 MOORINGS ROAD NOMINEE TRUST, C/O WILLIAM ELFERS, TRUSTEE** – NOI (SE 041-1099) to remove two licensed stone jetties at 96 Moorings Road, construct a 4' x 82' pile-supported timber pier leading to a 148'-long stone-built pier with a 5'-wide, 12"-thick cement walkway (cap), a 3' x 16' gangway, and an 8' x 20' wooden float anchored with two piles (continued from October 1, 2008). William Elfers was present with his engineers – Kevin Madley of L.E.C. Environmental and David Davignon of N. Douglas Schneider and Associates.

D. Davignon submitted revised plans with a letter summarizing the changes. He said the main change is turning 45 feet of the proposed solid-filled pier into a timber pier which will result in the solid pier being seaward of the low tide line. He said the pilings will be spaced 18 feet apart instead of 12 feet and the stringers will be "beefed up" to withstand the increased spacing. Voids in the solid pier will be filled with small stones rather than concrete. A barge will be necessary to build the outer portion of the pier. Decking material will be IPE, a 2" x 8" hardwood similar to Greenheart with one-half-inch spacing. The depth under the float will be -3-1/2' to -4.0' mean low water, so float stops will not be necessary. J. Oakes said the pilings are to be driven to -12' or refusal, and asked what would be done if they can only sink the piles to, for example, -4'? D. Davignon said the contractor, Dale Briggs, will drive test piles while he is at the site rebuilding the seawall under a prior order of conditions (SE 041-1089). D. Davignon said there are old piles where the new pier will be, which is encouraging, and hopefully new piles can be placed without many problems. Regarding the Department of the Army's comments, Kevin Madley explained that the project does not meet the Programmatic General Permit requirements because there is solid fill below the low water line. N. Hills said the Harbormaster and Shellfish Officer have not seen the revised plans and he would like to send copies to them for their comments. K. Madley said the Harbormaster's main issue was the lack of flow under the pier, and that has been addressed under the new plans. B. Hebbel asked about eel grass at the site and propeller wash; K. Madley said there isn't an eel grass bed, just patches of eel grass on small spots of sand. He said propeller wash will be minimal because the bottom is rocky, not sandy. J. Oakes questioned why the float isn't closer to the pier; D. Davignon said the piles need to be one foot from the wall, and he wanted a large enough gap so that a person wouldn't be trapped under the boat if they fell off the float. J. Oakes suggested extending the pier an additional 4' where the boat will be. D. Davignon suggested creating a sandy contour south of the pier to encourage eel grass to grow. L. Dorman moved to continue the hearing, with the Applicant's consent, to 7:00 PM November 19, 2008 so that the Harbormaster and Shellfish Officer can review the revised plans; B. Hebbel seconded; voted unanimously.

7:05 PM **INDIAN COVE TRUST** – NOI (SE 041-1102) to construct a single-family dwelling with a septic system at Holly Pond Road, Indian Cove (Assessors' Map 18, Lot 44). The Trust's engineer, David Davignon, said attorney David Titus is looking into whether or not this lot is subject to a conservation restriction, and asked for a continuance. L. Dorman moved to continue the hearing, with the Applicant's consent, to 7:10 PM November 19, 2008; J. Oakes seconded; voted unanimously.

**TOWN OF MARION, RECREATION COMMITTEE** – J. Oakes had drafted a letter to the Marion Recreation Committee regarding their project to construct a new ball field at Washburn Park (SE 041-1068). He would like the Recreation Committee to demonstrate compliance with the EPA's Construction General Permit under the National Pollutant Discharge Elimination System (NPDES Phase II). J. Oakes said he drafted the letter because he didn't recall John Rockwell discussing it. J. Oakes said the EPA has a data base for projects clearing over one acre, and it does not show the paperwork for this project has been submitted. J. Oakes said no one is in this area that would check for compliance, so the Conservation Commission can check it for compliance. William Washburn was present and asked if any other projects have been put under this much scrutiny, such as the new water town at the transfer station. J. Oakes said the new regulations regarding clearing over an acre went into effect in 2003. W. Washburn asked how many acres the Little Neck Village project will clear; N. Hills said he does not know. L. Dorman asked Mr. Washburn whether or not

he agrees that this permit is necessary. W. Washburn said it may be necessary, but it should have been mentioned prior to now, and once this hurdle is taken care of, how many others is J. Oakes going to find? L. Dorman said it is a reasonable request of Mr. Washburn to ask the Commission to inform applicants of other, upcoming requirements of other permits. D. Drake explained that she has always been instructed by the Commission Members to allow the public to look at our files for projects with superseding orders of conditions, but to tell people that those projects are out of our hands and they must speak with D.E.P. if they have questions or problems, and in keeping with this practice this letter should be issued by D.E.P. J. Oakes moved to send the letter as written; L. Dorman seconded; voted unanimously. A similar letter will be addressed to the Marion Board of Selectmen regarding the Little Neck Village reconstruction project (SE 041-1100).

Regarding vista clearing taking place at **COOLMAR LIMITED**'s 604 Point Road house relocations project (SE 041-1042 and SE 041-1049), N. Hills explained that Coolmar's architect, Robert Luchetti, has requested a site inspection at 8:30 AM Saturday, November 8, 2008 to determine the present status of the violations, and to clarify any remaining issues and necessary remediation. As this is the only inspection, N. Hills asked everyone to meet at the site rather than at the Town House.

Meeting adjourned at 8:30 PM.

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Diane R. Drake, Secretary

Approved November 19, 2008