

FINAL

MARION CONSERVATION COMMISSION
MINUTES OF THE REGULAR MEETING HELD ON JANUARY 13, 2010

Members Present: Norman A. Hills, Chairman
Jeffrey W. Oakes, Vice Chairman
Sherman E. Briggs, Jr.
Lawrence B. Dorman
Joel D. Hartley
Wendy L. Carreau, Associate

Members Absent: Horace S. Kenney, Jr., Associate

Secretary: Diane R. Drake

Others Present: Bill Smith, Steven Smith, Robert Rogers, Steve Carvalho, Michael Fraggie, James Manganello, Susan Nilson and David Davignon

Meeting convened at 7:00 PM Wednesday, January 13, 2010 in the main conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were held on Saturday, January 9, 2010 by N. Hills, J. Oakes, L. Dorman, J. Hartley and W. Carreau.

7:00 PM **A. NEIL PAPPALARDO** - NOI (SE 041-1127) to demolish the existing (main) dwelling at 90 Moorings Road and construct a new dwelling with stone retaining walls and elevated patios in its place. Mr. Pappalardo was represented by his engineer, Robert Rogers. Also present were Steven and Bill Smith of Ford Construction who hope to do the work right after Labor Day. The new house will be 1500 square feet larger than the existing house. N. Hills asked about the AE 15' zone remaining the same; R. Rogers responded that the AE zone will be expanded on the new maps and will remain unchanged. R. Rogers said he could provide digitized information verifying the house will remain in the AE zone, but the permitting will be based on the existing flood insurance rate map (FIRM). J. Oakes said he has no other concerns with the project. L. Dorman emphasized that the driveway is narrow and this is a major construction which should be kept away from the wetlands. L. Dorman moved to continue the hearing until 7:00 PM on January 27, 2010 with the Applicant's agreement; J. Oakes seconded; voted unanimously.

7:16 PM **NANCY D. and GREGORY JOHNSON** – NOI (SE 041-1120) to construct a 700'-long elevated walkway, a 55'-long pier, a 3' x 24' ramp and a 12' x 12' float at 406 Point Road (continued from December 23, 2009). J. Oakes left the room. No one represented the Johnsons. L. Dorman moved to continue the hearing until later that night when the Johnsons' engineer can attend; J. Hartley seconded; voted unanimously. J. Oakes returned.

7:20 PM **JOHN P. and CRAIG F. LAWRENCE** - RFD (41D-1402) to expand an existing brick patio at 5 Pawkechatt Way, and install a 10' diameter spa. Steve Carvalho of Thompson

Farland represented the Lawrences. He described the project which is in the flood plain and also in the buffer zone to a bordering vegetated wetland. S. Briggs moved to close the hearing; J. Oakes seconded; voted unanimously.

7:23 PM **NANCY D. and GREGORY JOHNSON** – (continued from earlier tonight). J. Oakes left the room. The Johnsons were present with their engineer, Susan Nilson. N. Hills said that plot observation numbers on the test sheets appear to be wrong and the test holes are 120' apart. S. Nilson said the wetland line is in the cleared area and will not be cleared again, just the pathway. N. Hills questioned the 5' walking easement of the Sippican Land's Trust to Shaw's Island which bisects the proposed pier. S. Nilson said she would check the height of the pier to see if there will be egress below it. N. Hills asked if there was a hurry on this; S. Nilson responded that Waterways won't issue their permit without an Order of Conditions. N. Hills asked if they would extend the path further up the buffer zone; Dr. Johnson said that whoever cut it last year was new and cut it lower than usual, but a longer 10' wide path will still work for him. He said the piles will be installed by two-men augers. S. Nilson said the float will have stops so it can't sit on the bottom. L. Dorman moved to close the hearing; J. Hartley seconded; voted unanimously.

7:38 PM **DOLA STEMBERG** – NOI (SE 041-1126) to reconstruct the dwelling and garage at 85 Moorings Road, install an in-ground pool, and make improvements to landscaping, parking, and walkways. J. Oakes remained out of the room. James Manganello of LEC Environmental represented Ms. Stemberg and described the project. N. Hills said the proposed flood maps show the house will be in a Velocity Zone; J. Manganello responded that it is not in a VE zone now. N. Hills said the Building Department is different from the Conservation Commission's view, and that of the Department of Environmental Protection, that the best available data should be used. L. Dorman suggested that the Applicant acknowledge that the flood zone may change. J. Manganello responded that Ms. Stemberg is aware of that but wants to proceed. J. Hartley said he would prefer to approve the project in accordance with the existing FIRM map. S. Briggs said he does not see how it could be conditioned to maps that are not legally in effect now. L. Dorman reiterated that he would like the Applicant to acknowledge in writing that she is aware of the possible change in flood zone change to a velocity zone. J. Manganello responded that it is the architect's responsibility to notify her of the possible changes. S. Briggs moved to continue the hearing, with the Applicant's consent, to 7:40 PM on January 27, 2010; J. Hartley seconded; voted unanimously. J. Oakes returned.

8:04 PM **WILLIAM CURLEY** – Appointment for discussion regarding razing the house at 154 Spring Street and constructing a new dwelling on the site. William Curley was present with his engineer, Dave Davignon. He noted that LEC Environmental had flagged the BVW and that the proposed project will place the house 7.5' from the BVW line. He would like to bring the grade up 3' under the house and have a 10' walkway around the house. He said a vegetative barrier will be planted to shield the house from Dunkin Donuts. A geothermal system runoff will be directed to the planting area. Mr. Curley said he is a home builder and will build the house for himself. N. Hills said the Conservation Commission has a 15' no-disturb and a 30' no-build policy, and this plan does not comply. J. Oakes said he should design the house to fit the BVW, not design the land to fit the house. D. Davignon said the house will be 16' from the BVW after the replication, not 7.5'. N. Hills asked if other house designs would better fit the site. S. Briggs said that new thickly-

planted 16' tall trees will keep the activity out of the wetlands. J. Hartley said he would be happy with a 20' setback. D. Davignon said he could add more replication at a 2:1 ratio.

8:30 PM **JAMES C. PRIEUR** - The Commission discussed the owner's request to expand the scope of work to include a hot tub, a 3' landscape retaining wall, and landscaping with grading, without the need for a formal Amendment to the Order (SE 041-1113). Steven Carvalho of Thompson Farland and Michael Kondracki of Michael Williams Associates were present to discuss the request. N. Hills said there is no wetland line shown at the site, so how would they know where they could and could not cut? J. Oakes said he would like an NOI to be submitted for the work toward the marsh and he is not sure that he would approve that work anyway. N. Hills said the proposed storm water management system was not shown on the plan of record. J. Hartley would prefer a new NOI to be filed. The landscaper said the retaining wall will not be built. Discussion addressed using a letter to approve the hot tub but that an NOI would be required for any other work.

JAMES P. and CRAIG F. LAWRENCE – J. Oakes moved to issue a Negative Determination for Boxes 2 and 3; J. Hartley seconded; voted unanimously (41D-1402).

MARGHERITA BALDWIN – Request to issue a duplicate Certificate of Compliance. L. Dorman moved to issue a duplicate Certificate of Compliance; J. Oakes seconded; voted unanimously.

MARTHA STARK – Certificate of Compliance for reconstructing a seawall and landscaping activities at 4 West Avenue, Planting Island. J. Oakes moved to issue a full Certificate of Compliance; L. Dorman seconded; voted unanimously (SE 041-1061).

NANCY D. and GREGORY JOHNSON – J. Hartley drafted their Order of Conditions (SE 041-1120). L. Dorman moved to issue as written; N. Hills seconded; voted by majority with J. Oakes abstaining.

MARION LANDS TRUST – N. Hills noted that there has been more cutting of trees at the site in the buffer zone and possibly within the resource area, and suggested issuing an Enforcement Order. S. Briggs suggested that we should talk to Mr. Croll first. L. Dorman agreed with that approach. J. Oakes said he does not think a person should need to file a RFD for any tree cut in the 100' buffer.

VERNAL POOLS – N. Hills noted that it had been almost a year since the vernal pools were certified at the Bay Watch Realty Trust 40B site (SE 041-1104). He suggested that the Conservation Commission consider retaining Bob Gray to re-inspect potential vernal pool 3 to determine if it could be certified also.

Meeting adjourned at 9:30PM.

Diane R. Drake, Secretary

Approved August 11, 2010