

FINAL

**MARION CONSERVATION COMMISSION**  
MINUTES OF THE REGULAR MEETING HELD ON MAY 26, 2010

Members Present: Norman A. Hills, Chairman  
Sherman E. Briggs, Jr.  
Joel D. Hartley

Members Absent: Lawrence B. Dorman  
Wendy L. Carreau  
Jeffrey W. Oakes, Associate  
Horace S. Kenney, Jr., Associate (resigned May 24, 2010)

Secretary: Diane R. Drake

Others Present: George and Zoila Estudante, Ricky Pursley, Richard Schaefer,  
Robert McNamara, David Davignon and James Colageo.

Meeting convened at 7:00 PM Wednesday, May 26, 2010 in the conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were held on Saturday, May 22, 2010 by N. Hills and J. Hartley.

7:00 PM **INDIAN COVE TRUST** - RFD (41D-1420) to add approximately 50 cubic yards of crushed stone to eroded areas of the revetment at the boat ramp at the end of Indian Cove Road (continued from May 12, 2010). William St. Cyr of the Trust had requested another continuation. N. Hills moved to continue the hearing, with the Applicant's consent, to 7:00 PM on June 9, 2010, J. Hartley seconded, voted unanimously.

**MINUTES** – The Commission meeting minutes of October 29, 2009 were reviewed and accepted as written on a motion by J. Hartley, seconded by S. Briggs, voted unanimously.

**COOLMAR LIMITED PARTNERSHIP** - request for a one-year extension permit to finish landscaping associated with moving the dwelling from 604D to 596 Point Road, constructing a porch, a driveway and vista pruning (SE 041-1042). J. Hartley moved to issue a one-year extension with the requirement to clean up debris from the wetlands, seconded by S. Briggs, voted unanimously.

7:10 PM **GEORGE F. ESTUDANTE** – RFD (41D-1417) to construct a 10' x 16' wooden shed and a 25' x 30' steel garage at 19 Giffords Corner Road. Mr. and Mrs. Estudante were present. N. Hills said that the BVW line shown on the plan was from 2000 and needs to be reestablished. N. Hills also noted that there was a brush pile in the wetlands (near the tree with the target on it) which is not allowed. Mr. Estudante said he will contact an engineer to flag the BVW line. N. Hills would also like the garage and shed to be shown on the plan. S. Briggs suggested letting the

Applicant go ahead with the shed. J. Hartley moved to continue the hearing to 7:00 PM on June 23, 2010, S. Briggs seconded, voted unanimously.

7:20 PM **JAMES E. COLAGEO** – RFD (41D-1421) to construct a roof over an existing deck and screen area at 41 River Road, and (after-the-fact) expansion of retaining walls, a patio, a fountain, a fence and walkways. Mr. Colageo was not present at the opening of the hearing but arrived at 7:25 PM. The RFD for the roof and screen is acceptable. The plan showing the after-the-fact changes to the previous work did not include the existing shed. J. Hartley moved to close the hearing, S. Briggs seconded, voted unanimously.

7:30 PM **ROBERT B. McNAMARA** – RFD (41D-1422) to relocate a shed, install Town sewer, and landscape (rebuild a stone wall, replace loam in the driveway with crushed stone, and reseed) at 19 Shawondasse Road. Mr. and Mrs. McNamara were present. Richard Schaefer represented the Sippican Lands Trust (SLT). R. McNamara said no work will be done to the cottage, he just wants to clean up the site. J. Hartley explained that the stone wall is not allowed because it is in a Velocity Zone. Mr. McNamara responded that he doesn't understand because his neighbors built stone walls. He has pictures to show the stone walls were already there, he just moved the wall to remove debris, then he was going to replace them. S. Briggs said the walls were two feet or less in height. N. Hills said the walls could be rebuilt only because they existed previously. The proposed shed will be fastened down to prevent movement in a storm. R. Schaefer explained that he was present regarding unauthorized site work that was done on the abutting Sippican Lands Trust land and he would like the site restored to its former condition or ask the Commission to issue an Enforcement Order to restore it. Mr. McNamara said he spoke with Chris Bryant about cleaning up the concrete and rebar that sticks up and is dangerous. J. Hartley moved to close the hearing, S. Briggs seconded, voted unanimously.

7:40 PM **CHRISTOPHER BRYANT** – NOI (D.E.P. file number not yet issued) to construct a one-acre aquaculture project in Job's Cove. No one was present for this hearing due to the lack of a file number and no response from National Heritage. The Applicant had requested a continuation. N. Hills moved to continue the hearing to 7:20 PM on June 9, 2010, J. Hartley seconded, voted unanimously.

**JAMES E. COLAGEO** – Request for a Certification of Compliance for constructing a dwelling, a deck, a garage, retaining walls and a septic system at 41 River Road (SE 041-872). Mr. Colageo was present. N. Hills said the Commission's Plan of Record shows a different configuration than what was built, i.e. the wall and shed, and he would like an engineer's as-built plan to be submitted. Mr. Colageo said he believes that is the correct configuration except that the wall was continued along the abutting property to keep the fill from washing away. Mr. Colageo said he does not want to spend another \$1000 for an engineer's drawing. S. Briggs explained that he should show everything as it was built so it could be replaced if it was washed away. Mr. Colageo said he will draw everything as built on the plan and get back to the Commission.

7:50 PM **ALAN and LINDA P. SOLOMON** – RFD (41D-1423) to construct a 14' x 19' addition within the patio area at 15 Spinnaker Lane, and relocate the exiting patio easterly to a lawn area. David Davignon represented Dr. and Mrs. Solomon. N. Hills asked where the new Velocity Zone line is. D. Davignon said he heard that FEMA is going to do all their calculations over again.

N. Hills said he doesn't have a problem with the building work, but he is concerned with moving and building up the patio. D. Davignon said the work is in the 100 foot buffer zone to the coastal bank. N. Hills thought a Notice of Intent filing might be needed; J. Hartley agreed. D. Davignon asked whether the house work can be issued a Negative Determination and a Positive Determination for the patio relocation because it might still work with the existing patio. N. Hills said he would approve the house but would not want the patio location to change. D. Davignon said he could extend the patio without the walls. S. Briggs said this type of project should not be allowed or denied due to the whim of whether the FEMA maps will or won't change. D. Davignon said the Massachusetts Building Code was majorly changed effective 2008, but everyone was entitled to get a building permit under the existing rules and that should be how FEMA should be handling their changes. D. Davignon said he will let his client know that a NOI will be needed for moving the patio. S. Briggs said he does not agree that a NOI is required to build a patio. D. Davignon said the addition will be built on a slab. J. Hartley moved to close the hearing, S. Briggs seconded, voted unanimously.

**ROBERT B. McNAMARA** – RFD (41D-1422) - J. Hartley moved to issue a Negative Determination for Boxes 2 and 3 with a condition that there shall be no further expansion of the stone walls, N. Hills seconded, voted unanimously.

**JAMES E. COLAGEO** - RFD (41D-1421) - S. Briggs moved to issue a Negative Determination for Box 2 and 3, J. Hartley seconded, voted unanimously.

**ALAN and LINDA P. SOLOMON** – RFD (41D-1423) - N. Hills moved to issue a Positive Determination for Box 2B for the patio and a Negative Determination for Boxes 2 and 3 for the house addition only, J. Hartley seconded, voted unanimously.

**MISCELLANEOUS** – (1) Associate Member Horace S. "Hod" Kenney, Jr. resigned from the Commission effective May 24, 2010. The Selectmen will advertise for a new member. (2) N. Hills noted that it looked like further studies on Potential Vernal Pool #3 will not be done this year; if this is true then the remainder of the money provided by the Finance Committee for consulting services can be returned.

Meeting adjourned at 9:00 PM.

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Diane R. Drake, Secretary

Approved September 8, 2010