

FINAL

MARION CONSERVATION COMMISSION
MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 22, 2010

Members Present: Joel D. Hartley, Chairman
Sherman E. Briggs, Jr., Vice Chairman
Norman A. Hills, Secretary and Treasurer
Lawrence B. Dorman
Wendy L. Carreau
Jeffrey W. Oakes, Associate (absent from 7:00-7:28 PM)
Bruce C. Hebbel, Associate

Secretary: Diane R. Drake

Others Present: Ricky Pursley, Christian Farland, Christopher Bryant, Stacy Minihane, Mark Manganello, Bernadette Taber, Gregor McGregor, Luke Legere, Kenneth Steen, Ed Gless, Sean Hale, David Croll, Nathan and Jennifer Stewart, and Roger Blanchette.

Meeting convened at 7:00 PM Wednesday, September 22, 2010 in the conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were held on Saturday, September 18, 2010 by N. Hills, J. Oakes and B. Hebbel, and on Thursday, September 16, 2010 by L. Dorman.

7:00 PM **SUZANNE McMANMON** - RFD (41D-1431) to construct a garage, a deck, a porch and house additions, extend a gravel driveway and associated grading at 64 Delano Road. W. Carreau left the room. Christian Farland represented Ms. McManmon and described the project. He said all work will be done in areas that have already been disturbed. He said the hot tub is a self-contained unit. He said the house meets current flood zone construction. L. Dorman moved to close the hearing; N. Hills seconded; voted unanimously.

7:05 PM **MARK W. MacLEAN** - NOI (SE 041-1143) to construct an addition with a screened porch and deck on the southeast end of the dwelling at 10 Hammett's Cove Road, an in-ground swimming pool and patios at the south end of the dwelling, and associated grading (continued from September 8, 2010). W. Carreau remained out of the room. Christian Farland represented Mr. MacLean. The D.E.P. file number has been received. C. Farland said the pool is salt water and would not be detrimental to the wetlands if there was runoff. J. Hartley suggested conditioning the project so that discharge would be further than 30 feet from the wetlands. N. Hills suggested continuing the hearing to show how the pool will be drained; C. Farland said he could sketch a garden hose and discharge point on the existing plan now because the Applicant would like to begin the project and not be held up with further continuations. L. Dorman moved to close the hearing; N. Hills seconded; voted unanimously.

7:18 PM **HEATHER VRATTOS** - RFD (41D-1432) to construct a garage, extend a gravel driveway and associated grading at 72 Water Street. W. Carreau remained out of the room. Christian Farland represented Ms. Vratton and described the project. The site is in the AE elevation 16' zone. L. Dorman moved to close the hearing; N. Hills seconded; voted unanimously. W. Carreau returned to the room.

7:20 PM **BOATHOUSE NOMINEE TRUST, c/o CYNTHIA H. GRACE, TRUSTEE** - NOI (SE 041-1144) to eradicate areas of phragmite growth at 131 Allens Point Road. Mark Manganello of LEC Environmental represented the Trust and described the project. Natural Heritage has determined that the project is exempt from MESA (Massachusetts Endangered Species Act). He said the spray will be applied by a back sprayer to the entire plant, and individually to single cut stalks. M. Manganello said the plants should die within weeks and will then be cut by hand. N. Hills said the wetland lines will need to be renewed before working in areas other than those now proposed. L. Dorman reminded M. Manganello that clearing is prohibited on the Sippican Lands Trust property portion of this property. N. Hills moved to close the hearing; S. Briggs seconded; voted unanimously.

7:30 PM **BAY WATCH REALTY TRUST** - NOI (D.E.P. file number not assigned yet) to construct a 168-unit affordable housing complex under Chapter 40B with associated parking areas, on-site and off-site utility connections, storm water management infrastructure and related mitigation measures on Lots 27-29 off Front Street (Route 105). S. Briggs left the table but remained in the room as an abutter. Property owner Kenneth Steen was present with his wetlands botanist, Sean Hale of Epsilon Associates, Inc. and engineer, Ed Gless of Existing Grade, Inc. J. Oakes said he would like the open enforcement order to be addressed. S. Hale said D.E.P. changed the Notice of Intent fee from a Category 2 to a Category 3, and he has submitted a check for the amount due, \$275.00. S. Hale described the proposed work and said there are no perennial streams on site, and the area is not in a flood zone. He said the site is fairly level throughout. He said there is one certified vernal pool on the site, and there is a limited project access drive approximately 1,500 feet long from Front Street to the cul-de-sac. All utilities will be within the road footprint. He said a portion of Building C, on the far left of the site, is in the 100' buffer zone to wetlands on Sippican Lands Trust property. He said the replication is at a better than two-to-one ratio, and only 12" to 18" of earth will need to be excavated for the replication area. J. Hartley asked if the replication area would become a vernal pool; S. Handy said it was not designed for it, but it could happen. N. Hills said page 6 of the notice of intent, item C4, says no, but conflicts with the storm water report which says yes, and he thinks the storm water report is correct. N. Hills said wording in the narrative is not correct, as the site has been cleared. N. Hills said the 18'-wide temporary access path into the wetlands is too wide; S. Hale said they looked at that and will make it narrower. N. Hills questioned how the snow will get to the snow designation areas; Ed Gless said snow will be scooped up and placed in the snow areas when plowing is impractical due to the height of the plowed snow. E. Gless said there are seven buildings, not six, and the seventh is an office building. N. Hills said he feels the Commission needs to send the storm water report and plans to an engineer for comment, and the notice of intent and plans to the Commission's wetland biologist for comments, to be paid for by the Applicant. J. Oakes said the wetland flag numbers and locations need site elevations to be shown on the plans. J. Oakes asked how the engineer came up with the extent of fill; E. Gless said the fill goes to the base of the wall. J. Oakes said the work will likely extend 5' from the wall which will add an additional 1,000 square feet of alteration, even it is just temporary.

J. Oakes agreed that a peer review is needed, and would also suggest that Town Counsel attend the hearings. N. Hills said Attachment F says it is Attachment A. L. Dorman questioned item 7A on the first page of the notice of intent - the road is more than just a driveway. L. Dorman said the 25' and 50' no-disturb and no-build zones described in the notice of intent are not shown on the plans. B. Hebbel said the narrative states the road is 24' wide; the engineer said that is the paved area. B. Hebbel said he would like more space between the road and the vernal pool; E. Gless said the 6' sidewalk could have some utilities underneath it. N. Hills said another alternative is to get to this lot by a different alternative, coming from an adjacent property toward the rear of this lot. B. Hebbel asked for a detail of the road, sidewalk and retaining wall; it appears to be shown on Plan 6. J. Hartley asked if this notice of intent addresses the enforcement order; S. Hale said those are two separate issues. The hearing was then opened to the public. Gregor McGregor of McGregor and Associates was present and said he has been retained by a group of Marion citizens. He said work on the road and wall will exceed 5000 square feet and therefore it is not a limited project. He introduced Stacy Minihane of Beals and Thomas, and Luke Legere, his associate. He suggested having three hearing dates by topic. He said there is a DEP standard for work in a buffer zone. He said he will send copies of his documents to the Applicant, and would ask for the same courtesy. He said it is not legal to start a hearing without a file number being assigned because DEP's comments on the project are needed before starting a hearing. S. Minihane said incorrect soil types were used for the storm water design. She described several discrepancies in the project design as listed in her letter. L. Dorman said it is his understanding that a hearing can be opened for discussion without a file number being assigned. G. McGregor said it should be a working hearing, and some commissions agree with this Commission. David Croll said the "affordable" rents are higher than affordable rents in Marion, so this is a commercial project. He said McGregor and Beals & Thomas will show why this project does not comply with wetland regulations. Christopher Bryant, the Sippican Lands Trust President, said the density of this project will damage and possibly flood the Lands Trust's abutting land, and he would like to be added to Bay Watch's distribution list. N. Hills said he would like the Applicant to deposit \$5,000.00 so a peer engineering review and a peer wetland biologist review can be undertaken. Ken Steen of Bay Watch asked whether the peer review would go out to bid; N. Hills said yes, five firms will be invited to bid. B. Hebbel suggested updating the storm water report before the peer review; S. Hale agreed. K. Steen verbally agreed to submit \$5,000.00 for the two peer reviews. S. Hale requested continuing the hearing for two-weeks, rather than four weeks. N. Hills said the peer review firms may be selected at that hearing. L. Dorman moved to continue the hearing, with the Applicant's consent, to 7:30 PM October 13, 2010; N. Hills seconded; voted unanimously. S. Briggs returned to the table.

MINUTES - L. Dorman moved to accept the August 11, 2010 minutes as written; N. Hills seconded; voted unanimously. N. Hills moved to accept the September 8, 2010 minutes as amended; L. Dorman seconded; voted unanimously.

DAVID CROLL - N. Hills moved to issue a three-year extension permit for adding beach sand at 10 Lewis Street; L. Dorman seconded; voted unanimously (SE 041-1084).

HEATHER VRATTOS - L. Dorman moved to issue a negative determination for box #2 with a condition that the garage will be built in accordance with flood plain regulations; N. Hills seconded; voted by majority with W. Carreau abstaining (41D-1432).

SUZANNE McMANMON - S. Briggs moved to issue a negative determination for box #2 with a condition that the improvements will be built in accordance with flood plain regulations; L. Dorman seconded; voted by majority with W. Carreau abstaining (41D-1431).

MARK W. MacLEAN - N. Hills drafted the order of conditions and moved to issue it as written; L. Dorman seconded; voted by majority with W. Carreau abstaining (SE 041-1143).

BOATHOUSE NOMINEE TRUST, c/o CYNTHIA H. GRACE, TRUSTEE - W. Carreau drafted the order of conditions and moved to issue it as written; N. Hills seconded; voted unanimously (SE 041-1144).

Meeting adjourned at 9:00 PM.

Diane R. Drake, Secretary

Approved December 8, 2010