

FINAL

MARION CONSERVATION COMMISSION
MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 27, 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

Members Absent: Jeffrey W. Oakes, Associate
Bruce C. Hebbel, Associate

Secretary: Diane R. Drake

Others Present: Benjamin Bryant, Christopher Bryant, Donald Lewis, Steve Gilbert, Jennifer Francis, Everdene and Henry Salustro, Robert Puffer, Joan Hartnett-Barry, George Moffat, Ellen and William D. Johnston, Frederico Medina II, Mark Hadley, Shep Johnson, Sandra and Jose Delgado, John Ludes, Christian Farland, Craig and Jeff Lawrence, Bronwen Cunningham, Earland Briggs, Mae Barrett, David Davignon, Robert Gray, Fernandes Pacheco, Wayne Tirrell, Brandon Faneuf, and possibly others that did not sign in.

Meeting convened at 7:00 PM Wednesday, October 27, 2010 in the conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were held on Saturday, October 23, 2010 by J. Hartley and N. Hills.

7:00 PM **CHRISTOPHER BRYANT** - NOI (SE 041-1138) to construct a one-acre aquaculture project in Job's Cove (continued from July 14, 2010). Christopher and Benjamin Bryant were present. Natural Heritage has approved the project with conditions. C. Bryant said there is no change in the project, and realizes this is for just the first phase at this time. J. Hartley asked for comments from the audience. Robert Puffer of 7 Arrowhead Lane said he was present on behalf of 17 homeowners in the area who are against the project for many reasons, including it being a commercial operation, too close to an osprey nest, detrimental to quahogs, noisy due to many hours of power washing, navigational difficulty, lowered property values, no taxes will be paid to the Town, etc. J. Hartley said the Wetland Protection Act does not address navigational issues or property values, but does address wildlife, shellfish, and possibly power washing issues. C. Bryant said he does not expect to spend nearly as much time power washing as the abutters have determined, and may not need to power wash at all. B. Bryant said the town that the abutters referred to for their power washing study used wire cages, which tend to barnacle up much more readily. B. Bryant said the 96 hours stated is grossly overstated for this site. B. Bryant said bags are turned approximately three times per week to prevent barnacles. C. Bryant said the E.P.A. frowns

on moving any shellfish to a different area, which is why power washing should not be done on land. Regarding pressure washing noise, N. Hills noted that 17 homeowners run lawn mowers, leaf blowers, etc. much closer in their own yards. B. Bryant said the Division of Marine Fisheries does not feel this will negatively impact existing shellfish, and the Natural Heritage and Endangered Species Program is not against the project. Donald Lewis said he did the turtle study for this project and would be happy to address any issues about it. Shepard Johnson, an environmental attorney, said he was present on behalf of the Homeowners Association and discussed several issues, especially that power washing should be done on land, and the bags will affect the terrapins when the bags are placed on the bottom. He said this is not the correct location for a commercial shellfish farm. B. Bryant said the 1/2 acre at a time requirement is a Town regulation. B. Bryant said aquaculture is overseen by the Harbormaster, the same as a mooring, and a Chapter 91 license is not necessary. W. Carreau moved to close the hearing; L. Dorman seconded; voted unanimously.

7:38 PM **THOMAS F. WALSH** - RFD (41D-1435) to upgrade a sewage disposal system at 826 Mill Street. Steve Gilbert of SJF Engineering represented the Applicant and described the project. He said variances are being requested from the Board of Health. N. Hills said the garage and shed are close to the wetland lines. S. Briggs said this filing is for the septic system, not the garage and shed. N. Hills said the garage has been there for awhile. S. Gilbert said this will be a raised system, 2-1/2 to 3 feet high. He said materials will be taken off site, not stored on site, and new materials will be brought in as needed. He said the house will remain a two-bedroom home, as noted on the deed when a variance is approved. L. Dorman moved to close the hearing; N. Hills seconded; voted unanimously.

7:50 PM **C. JAMES and KAREN A. PRIEUR** - NOI (SE 041-1146) to construct a 231'-long timber pier, a 24'-long gangway, and a 10' x 20' float anchored with four pilings at 101 Cove Circle, Piney Point. David Davignon of N. Douglas Schneider and Associates, Inc. was present with Wayne Tirrell, the Owner's contractor. D. Davignon said LEC Environmental established the wetland line on the easterly side of the property. He said the footprint will avoid the salt marsh near the jetty and will be high enough for pedestrian access beneath it. D. Davignon said he is aware of the need for a waterways permit and Chapter 91 license. N. Hills said he would like the pier footprint to be staked and do another inspection. N. Hills said he would like the plan to be revised to show where the access will be for machinery to construct the pier. S. Briggs moved to continue the hearing, with the Applicant's consent, to 7:05 PM November 10, 2010, and do another inspection on November 3, 2010; W. Carreau seconded; voted unanimously.

8:00 PM **COPPER MEDAL LLC** - NOI (SE 041-1147) to construct a dwelling with an attached garage and deck, a driveway, and replicate wetlands on Lots 44/45 Converse Road. John Ludes of Copper Medal LLC was present with his engineer, David Davignon. J. Hartley said he would like to do another inspection with the Owner and/or his engineer present. D. Davignon clarified the locations of the wetland lines. D. Davignon said their botanist disagreed with a portion of the Order of Resource Area Delineation from 2008, which was probably done in the winter based on vegetation, not soils, and the line has been altered by approximately 70 feet, but no activity is proposed in that area anyway. N. Hills said he would like backup information for the wetland line that has not yet been verified by the Conservation Commission. D. Davignon said he will stake the wetland crossing area and also the house footprint. D. Davignon said a box culvert is proposed in the stream bed. D. Davignon said Lots A and B total 9.74 acres. J. Ludes said he and D. Davignon

will be happy to meet the Commission at the site. N. Hills moved to continue the hearing, with the Applicant's consent, to 7:10 PM on November 10, 2010 with another site inspection to be held at 8:35 AM on Saturday, November 6, 2010; W. Carreau seconded; voted unanimously.

8:13 PM **JOHN and CRAIG LAWRENCE** - appointment for discussion regarding work in the buffer zone to wetlands at 5 Pawkechatt Way (41D-1402, SE 041-1076). John (Jeff) and Craig Lawrence were present with their botanist, Brandon Faneuf, and engineer, Christian Farland. Another site visit was held on October 23, 2010 with the owners and botanist present, and it was apparent that the wetlands have been encroached upon, possibly by the former owners, which is impacting the whole area out back. B. Faneuf said a contractor has piled some loam in the area, but it does not show on the trees, and he feels it is irreversible. B. Faneuf said the wetland is isolated. J. Lawrence said he would like the Conservation Commission to deem the area behind their house as an isolated wetland, as determined by their botanist. J. Hartley explained that the abutting property owners, the Crockers, appear to have placed fill on the Lawrence property, creating an isolated wetland out of a wetland. C. Farland said the Lawrences will file a request for determination of applicability for any future work.

8:30 PM **MARK D. HADLEY** - RFD (41D-1436) to construct a two-story addition at the east end of the dwelling at 28 Old Knoll Road. Mark Hadley was present with his engineer, David Fredette. D. Fredette said the wetland flags have been surveyed but he has not yet had a chance to place them on the plan. He promised to submit the revised plan at the next meeting. N. Hills moved to continue the hearing, with the Applicant's consent, to December 8, 2010 at 7:00 PM; J. Hartley seconded; voted unanimously.

8:33 PM **FERNANDES PACHECO** - request for a full certificate of compliance for constructing an attached garage, a deck, and relocating sheds at 1 Sparrow Lane (SE 041-1101). Fernandes Pacheco was present and said he will make the changes requested by the Commission Members at the October 23, 2010 site inspection, and will request another inspection.

8:37 PM **BAY WATCH REALTY TRUST** - review of engineering and wetlands peer review reports for the proposed Chapter 40B affordable housing project on Lots 27-29 off Front Street (Route 105) (SE 041-1145). S. Briggs left the table but remained in the room. Robert Gray of Sabatia, Inc. was present to discuss his findings. He said there is no proof that the Applicant tried to find an alternative access to the site. He said the road construction is going to be only 25 feet from the vernal pool, and the additional sunlight from the road footprint will likely affect Certified Vernal Pool #1. He said the Conservation Commission can ask the U.S. Army Corps of Engineers to review this project due to their concerns, and the COE can issue a letter of jurisdiction to the Applicant. The Commission thanked R. Gray for his presentation. A copy of Sabatia's report, JC Engineering's report, Gregor McGregor's report and the Beals and Thomas report will be sent to Bay Watch for their response. S. Briggs did not participate in the discussion.

MARK and CHRISTINE FANTONI - request for a full certificate of compliance for removing/razing the dwelling and garage at 370 Delano Road, and constructing a new dwelling in its place (SE 041-1069). The new dwelling is smaller than shown on the plan of record. N. Hills moved to issue a full certificate of compliance, but not mail it until a copy of the foundation as-built drawing is obtained from the Building Department; J. Hartley seconded; voted unanimously.

GORDON A. SHERLOCK, JR. - request for a fourth three-year extension permit for cutting phragmites at Beach Park, off Taunton Avenue (SE 041-832). N. Hills said the beach grass is being mowed along with the phragmites. He moved to issue a one-year extension permit and the permit will be discussed again next year; L. Dorman seconded; voted unanimously.

CHRISTOPHER BRYANT - N. Hills drafted the order of conditions approving the aquaculture project in Jobs Cove and moved to send it as written; J. Hartley seconded; voted unanimously (SE 041-1138).

THOMAS F. WALSH - S. Briggs moved to issue a negative determination for Box #3 with conditions that the permit is being issued only for the septic work, and an as-built plan shall be submitted; N. Hills seconded; voted unanimously (41D-1435).

OTHER BUSINESS:

1. **George T.J. Walker**, 639 Point Road (41D-277) - N. Hills said he would like the wetland lines and potential vernal pools to be shown on the forestry plan.
2. **Gregory Koss**, 32 Beach Street (SE 041-676) - N. Hills said there has been no response to the enforcement order that was issued for mowing in the buffer zone.
3. **Barbara DeCosta**, 2 Washburn Park Road (SE 041-1019) - N. Hills said a stable does not constitute an agricultural exemption and he will draft a letter or an enforcement order.

Meeting adjourned at 9:30 PM.

Diane R. Drake, Secretary

Approved January 26, 2011