

FINAL

MARION CONSERVATION COMMISSION
MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 14, 2011

Members Present: Sherman E. Briggs, Jr., Chairman
Norman A. Hills, Vice Chairman and Clerk
Lawrence B. Dorman, Treasurer
Joel D. Hartley

Members Absent: Wendy L. Carreau
Jeffrey W. Oakes, Associate

Secretary: Diane R. Drake

Others Present: David Davignon, Leslie Kuo, Paul Rigali, Matthew Baltz, Kenneth Michaels, Joan Mabie and Richard Charon.

Meeting convened at 7:00 PM Wednesday, September 14, 2011 in the conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were held on Saturday, September 10, 2011 by S. Briggs and N. Hills.

7:00 PM **ALAN L. MINARD and NANCY S. JOHNSON**, Lot 30 Allens Point Road - amendment to an order of conditions (SE 041-1110) to construct a dwelling, a driveway and a sewage disposal system, install underground utilities, fill and grade, and replicate wetlands. The amendment is to pave portions of the driveway, replicate an additional 1,025 square feet of wetlands, and construct retaining walls and a 14' x 20' utility shed. S. Briggs left the table. The new owner, Dr. Matthew Baltz, was present with his engineer, David Davignon of N. Douglas Schneider & Associates, Inc. D. Davignon described the proposed changes and said the shed will be anchored down, as it will be in the AE 16' elevation flood zone. N. Hills said the siltation fence around the house is a disaster; the fill needs to be pulled back where it has bulged out, and the siltation fence reinstalled. He said the piles of fill are washing away. He said there are two big plastic pipes leading directly to the wetlands; Dr. Baltz said those are for roof runoff. N. Hills said the order of conditions requires the roof runoff to be directed to drywells or dripstrips. D. Davignon said the siltation fencing will be reset within five business days. Dr. Baltz asked if he could place haybales instead of siltation fencing; N. Hills said that would be fine. N. Hills will inspect the site when the siltation measures have been corrected. J. Hartley moved to close the hearing; L. Dorman seconded; voted unanimously. S. Briggs returned to the table.

7:25 PM **COPPER MEDAL LLC**, Lots 44/45 Converse Road - amendment to an order of conditions (SE 041-1147) to construct a driveway, a dwelling with an attached garage and deck, and replicate wetlands. The amendment is to modify the location and footprint of the house and circular driveway, relocate the driveway take-off from Converse Road, install gas service, adjust the grading and construct a retaining wall. Leslie Kuo, one of the new owners of the property, was present with

her engineer, David Davignon, who said the driveway entrance is now out of the Conservation Commission's jurisdiction. He said the box culvert will be a circular pipe to cut costs. Another major cost saving was to eliminate the need for a crane. D. Davignon said the house is more centrally located now. Roof runoff will be directed to the replication area. N. Hills was concerned that the house will now be closer to the existing velocity zone; D. Davignon said there is no required setback to a velocity zone. D. Davignon submitted a letter from the new owners stating they are aware of the possibility of the velocity zone delineation being adjusted. S. Briggs said the revised plan is allowable under the existing flood regulations and the Wetlands Protection Act. D. Davignon said fill is allowed in a velocity zone; N. Hills said not to elevate a house. D. Davignon said you cannot fill in a velocity zone to get it out of the velocity zone. N. Hills said the Commission can use the new flood zone information; S. Briggs disagreed and said it is up to the Commission to let the applicant know of the possible changes. D. Davignon said the house can be slid over ten feet westerly, and the terrace can be shaved down which will still give the view of the harbor. D. Davignon said the court can be changed as well. L. Dorman agreed with N. Hills that the further from the velocity zone the better, but this is a major change to the order of conditions and could require a new notice of intent filing. J. Hartley said he would like a riprap area before the outlet pipe empties into the wetlands. D. Davignon asked for a two-week continuation so that he can revise the plan to be five feet from flag #108, and possibly a little closer to flag #104, in order to move the house further from the velocity zone. J. Hartley moved to continue the hearing, with the applicant's consent, to 7:00 PM on September 28, 2011; L. Dorman seconded; voted unanimously.

7:55 PM **CARL A. and KAREN J. CORREIA**, 814 Mill Street - NOI (SE 041-1161) to raze the dwelling, construct a new dwelling with a new driveway, install a sewage disposal system, and associated filling and grading. Richard Charon of Charon Associates represented Mr. and Mrs. Correia and submitted a revised plan adjusting flags 5 through 10. N. Hills said he couldn't find several of the flags during the site inspection. R. Charon said the house is barely in the buffer zone to the wetlands. N. Hills said the clippings and fill along the wetland line needs to stop. N. Hills said the pond is a man-made koi pond and will be filled in. N. Hills said he would like to inspect the reflagged line. R. Charon said the only work in the buffer zone is in the driveway, and the flags are hung but are just remnants. N. Hills moved to continue the hearing, with the applicant's consent, to 7:40 PM on September 28, 2011, and do another site inspection of September 24, 2011; L. Dorman seconded; voted unanimously.

8:12 PM **KEVIN and JOAN MABIE**, 148 Spring Street - RFD (41D-1459) to construct a 20' x 30' storage addition to the garage, a 15' x 20' terrace for a hot tub, and reconfigure the driveway. Joan Mabie was present and described the work. She had submitted a revised plan moving the addition from behind the garage to beside the garage, and moving the hot tub terrace over. S. Briggs asked Mrs. Mabie to submit a copy of the as-built foundation plan of the garage addition, which will be required by the Building Department, to the Commission as well. S. Briggs moved to close the hearing; L. Dorman seconded; voted unanimously.

8:17 PM **JOHN KENDALL**, 39 Water Street - RFD (41D-1460) for general maintenance repairs to the existing seawall, wooden pier and gazebo. Kenneth Michaels represented John Kendall and said repairs will not be done to the pylons. N. Hills moved to close the hearing; J. Hartley seconded; voted unanimously.

8:22 PM **JOHN KENDALL**, 39 Water Street - RFD (41D-1461) to remove and fill in the in-ground swimming pool and its concrete apron, and landscape a portion of the rear yard. Kenneth Michaels represented John Kendall and said there may also be some excavation along the garage to repair that foundation. N. Hills moved to close the hearing; J. Hartley seconded; voted unanimously.

8:25 PM **BAY WATCH REALTY TRUST**, Lots 27-29 off Front Street (Route 105) - NOI (SE 041-1145) 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 (continued from August 10, 2011). The applicant has requested another continuation. N. Hills moved to continue the hearing, with the applicant's consent, to 7:30 PM on December 14, 2011; L. Dorman seconded; voted by majority with S. Briggs abstaining.

OTHER MATTERS

(1) Our order of conditions standard boilerplate conditions were discussed. It was agreed to continue specifying the maximum number of bedrooms allowed.

(2) Checklists - Karen Walega of the Board of Health would like a check-off list similar to what the Building Department uses. N. Hills will look into this more.

(3) F.E.M.A. revised maps - S. Briggs said 45 days of the 90-day window for comments have already gone by, and he would like the Board of Selectmen to hold a public meeting to inform the public of what the changes mean.

(4) F.E.M.A. revised maps - N. Hills has drafted a letter to Town Counsel to determine whether the Conservation Commission can use the data in its decisions on projects submitted prior to the maps formally going into effect in June/July 2012.

(5) Aucoot Cove marsh violations - trenching was done by a New York contractor to get a beached sailboat off of the marsh. D.E.P.'s Daniel Gilmore will hold a site inspection tomorrow at 9:30 AM. Participants will meet at the Harbormaster's office.

L. Dorman moved to issue a conditional negative determination (#41D-1460) for box #2 for **JOHN KENDALL**'s maintenance repairs to the wooden pier, gazebo and seawall at 39 Water Street, with conditions that: (1) materials shall not be allowed to rest on the harbor bottom at low tide; (2) repair materials shall be stockpiled away from the pier and seawall; (3) all old materials shall be removed from the site; and (4) the use of power grouting is prohibited. N. Hills seconded the motion; voted unanimously.

L. Dorman moved to issue a conditional negative determination (#41D-1461) for box #2 and box #3 for **JOHN KENDALL**'s pool removal and landscaping project at 39 Water Street, with a condition that all cement from the pool apron shall be removed off site. N. Hills seconded the motion; voted unanimously.

N. Hills moved to issue a conditional negative determination (41D-1459) for box #3 for **KEVIN and JOAN MABIE**'s garage addition and terrace at 148 Spring Street, with a condition that a copy of the as-built garage addition foundation plan, required by the Building Department, shall also be submitted to the Conservation Commission; S. Briggs seconded; voted unanimously.

SARDINHA FAMILY TRUST's request for a full certificate of compliance for replacing the L'Auberge restaurant at 450 Wareham Street with a Dunkin Donuts restaurant was discussed (SE 041-1053). N. Hills said Mr. Sardinha's contractor has done the requested work and moved to issue a full, non-conditional certificate of compliance; L. Dorman seconded; voted unanimously.

N. Hills moved to issue a third three-year extension permit (SE 041-966) to **ALEXANDER BINER** for constructing a driveway, burying overhead utility lines, constructing a lap pool and stone wall, and replicating wetlands; L. Dorman seconded; voted unanimously. Note: Mr. Biner's request to construct a garage was denied.

ALAN L. MINARD's and NANCY S. JOHNSON's request for an amendment to their order of conditions (SE 041-1110) for constructing a dwelling, a driveway and a sewage disposal system at Lot 30 Allens Point Road was discussed. J. Hartley drafted the amended order of conditions for paving portions of the driveway, replicating additional wetlands, and constructing retaining walls and a 14' x 20' utility shed, and moved to issue it as written; L. Dorman seconded; voted by majority with S. Briggs abstaining.

Meeting adjourned at 9:10 PM.

Diane R. Drake, Secretary

Approved October 12, 2011