

FINAL

MARION CONSERVATION COMMISSION
MINUTES OF THE REGULAR MEETING HELD ON JUNE 13, 2012

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

Members Absent: Jeffrey W. Oakes, Associate

Secretary: Diane R. Drake

Others Present: Thomas and Nancy Bibeau, James Gurney, Mark MacKenzie, Paul Sherlock, Eric Tripoli (The Wanderer), David Davignon (N. Douglas Schneider & Assoc.), Dale and Laura Briggs, two illegible signatures and others that may not have signed in.

Meeting convened at 7:00 PM Wednesday, June 13, 2012 in the conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were held on Saturday, June 9, 2012 by N. Hills, L. Dorman and J. Hartley. This meeting was audio recorded by Town of Marion staff and also by Eric Tripoli of The Wanderer.

MINUTES - May 23, 2012 minutes were reviewed and amended. L. Dorman moved to accept the minutes as amended; J. Hartley seconded; voted unanimously.

M.A.C.C. (Massachusetts Association of Conservation Commissions) - N. Hills moved to pay \$342.00 for the Commission's F/Y 2013 annual dues, which is a 2.9% increase from last year; L. Dorman seconded; voted unanimously.

OTHER MATTERS -

A. **F/Y 2012 Budget** - N. Hills said there is about \$600.00 left in the Commission's budget and suggested taking a soils workshop or ordering another M.A.C.C. Manual. It was agreed to order one more Manual.

B. **Ken Gassett** - He is from Brockton and has applied for the Associate Member position. N. Hills spoke with him by phone. K. Gassett said he does not intend to move to Marion. L. Dorman said he does not believe it is a good use of time training someone that does not intend to become a member.

C. **Sippican Lands Trust** - N. Hills said he spoke with the new Lands Steward regarding their Brainard Marsh property on Delano Road. They want to move the stone wall that is presently 3' from the road another 6' from the road to allow for safer parking. He recommended setting up an

appointment for discussion with the Commission. L. Dorman said he remembers the stone wall being quite a distance from the wetlands. (41D-1456)

7:10 PM **HENRY and JUDY DeJESUS**, 12 Hartley Lane - Amendment to an Order of Conditions (SE 041-1172) to raze and reconstruct the dwelling. The Amendment is to: (1) reduce the size of the dwelling and move it 7' easterly; (2) eliminate the covered porch on the westerly side of the dwelling; (3) eliminate the masonry patio at the southeasterly corner; and (4) allow the westerly-most portion of the existing stone driveway to remain. David Davignon of N. Douglas Schneider and Associates represented the Applicant and explained the proposed changes. He said the section of covered porch on the westerly side of the building is being eliminated. D. Davignon said at the Zoning Board of Appeals hearing the abutters were concerned with the size of the new dwelling, which is why these changes are proposed. He said there will be 10 more feet than existing conditions between the houses. The house is in a flood zone and the cellar will only be used for storage and a garage, and no utilities below the base flood elevation, not living space. Mark MacKenzie asked how much fill is going to be brought in; D. Davignon said the hill will be taken down about 3'; in front of the covered porch will change from grade 13' to 15.8' so there is a balance in grading from where the garage is to be cut to the front entry of the porch. Thomas Bibeau asked why the house can't remain where it is instead of going to the ocean another 7'; S. Briggs said that is a zoning issue. D. Davignon said the vinyl fence will end at the end of the driveway, about halfway down the property line, not all the way to the beach. T. Bibeau asked whether there is a rule prohibiting cutting down the rhododendrons and trees on the property line; S. Briggs said that is not a Conservation matter, that is between the property owners. L. Dorman said the plans state the property owner has the right to trim up to the property line; Nancy Bibeau said if that will jeopardize the health of the trees it is illegal. James Gurney said he has more air space than Sherlock on one side and Bibeau of the other side, and giving me 7' more doesn't make a bit of difference. D. Davignon said if you look at the old plan versus the new plan, the location of the water side of the deck is only 2' more towards the water than it was; the other 5' was from making the house smaller and eliminating the porch, and now the neighbors are complaining that we made it smaller and wasting their time. D. Davignon said at the Board of Appeals hearing there was a lawyer representing the neighbors (more than one neighbor), who said their opposition was the lack of air space between the closest homes, so during that hearing the chairman asked us if we could create more space between the buildings and we have, and now I'm hearing negative comments from the audience about doing that, so no matter what the applicant does the abutters won't be happy. Regarding the fence, D. Davignon said the fence along the right of way will not impede J. Gurney's right to pass and repass. J. Gurney said his right of way will not still be 11'; S. Briggs said that is a ZBA matter. D. Davignon repeated that he has the right of way to pass and repass, but J. Gurney does not own that land, the DeJesus's do. M. MacKenzie asked what is going to happen when the house turns out to be in a velocity zone rather than a flood zone; N. Hills said they could pay more for flood insurance. S. Briggs said every applicant is made aware that the flood zone may change, but by law they can build in accordance with existing laws. S. Briggs moved to close the hearing; W. Carreau seconded; voted unanimously.

7:30 PM **DALE and LAURA BRIGGS**, Map 21, Lot 17 (behind 512 County Road) - Request for Determination of Applicability (File #41D-1481) to install a ground-level solar panel farm, construct a gravel access road around the perimeter of the array, and install chain-link security fencing. S. Briggs said he could not participate because Dale Briggs is his cousin, and left the table. Dale and Laura Briggs were present with their engineer, David Davignon. D. Davignon said the

farm will be built by Beaumont Solar. The panels are all the same size but the height will vary according to the land contours. D. Davignon said the depression goes from 47' to 49' and gravel encompasses 80% of the area, plus the project area will have crushed stone on top of gravel, so puddling won't happen. N. Hills asked how the vegetation will be controlled; D. Briggs said he doesn't even use pesticides on his driveway, and will weed whack whatever weeds grow. L. Dorman moved to close the hearing; J. Hartley seconded; voted unanimously. S. Briggs returned to the table.

OTHER MATTERS -

D. **One Shore Drive** - The new owner spoke with N. Hills regarding replacing the existing osprey nest that is falling down, and possibly erecting a second nest. N. Hills suggested he make an appointment with the Commission to discuss this in more detail. (SE 041-904)

E. **Town of Marion - Sprague's Cove** - N. Hills said the knotweed is growing back thicker than ever. The Town had applied for a grant to maintain the site. N. Hills will speak with Town Administrator Paul Dawson regarding the status of the grant. (SE 041-556)

F. **Mark Fantoni**, 370 Delano Road - N. Hills said the Fantonis sold this property and the new owners appear to have cut and cleared trees and brush within the 100' riparian zone to the Weweantic River and a coastal bank. A site inspection will be held to confirm the violations. (41D-1395)

G. **Bay Watch Realty Trust**, Front Street - N. Hills spoke with Town Counsel Jonathan Witten regarding how to resolve the two outstanding Enforcement Orders on this property. J. Witten will speak with the Zoning Board of Appeals Chairman, Robert Wedge, to see if they can come up with a solution. S. Briggs did not participate in the discussion. (SE 041-1145)

DALE and LAURA BRIGGS - N. Hills drafted their Determination of Applicability (41D-1481) to construct a solar panel farm off County Road . A portion of the work will be in the buffer zone to cranberry bogs. J. Hartley said 95% of the project is out of the Commission's jurisdiction. N. Hills moved to issue a Negative Determination for Box #3; L. Dorman seconded; voted by majority with S. Briggs abstaining.

HENRY and JUDY DeJESUS - S. Briggs drafted their Amended Order of Conditions to raze and reconstruct the dwelling at 12 Hartley Lane, and moved to issue it as written; L. Dorman seconded; voted by majority with N. Hills abstaining (SE 041-1172).

Meeting adjourned at 7:55 PM.

Diane R. Drake, Secretary

Approved July 11, 2012