

FINAL

**MARION CONSERVATION COMMISSION**  
MINUTES OF THE REGULAR MEETING HELD ON JANUARY 9, 2013

Members Present: Lawrence B. Dorman, Vice Chairman  
Joel D. Hartley, Treasurer  
Norman A. Hills, Clerk  
Stephen C. Gonsalves

Members Absent: Sherman E. Briggs, Jr., Chairman  
Jeffrey W. Oakes, Associate  
Wendy L. Carreau, Associate

Secretary: Diane R. Drake

Others Present: Lars V. Olson, Katy Fitzpatrick, Michelle Russell, Rcb Hurd, and  
William G. Rogerson

Meeting convened at 7:00 PM Wednesday, January 9, 2013 in the conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were held on Saturday, January 5, 2013 by L. Dorman, J. Hartley and N. Hills. This meeting was audio recorded by Town of Marion staff.

7:00 PM Commencement. Vice Chairman L. Dorman chaired the meeting in Chairman S. Briggs' absence.

7:01 PM **LARS OLSON**, 24 Hammetts Cove Road (File No. SE 041-1149) – request for a Certificate of Compliance for constructing a new dwelling with decks, an in-ground swimming pool, retaining walls and driveways, and associated grading. Lars Olson was present and said the second driveway and drain will be finished in the spring. J. Hartley did not think that should prevent a full Certificate of Compliance from being issued now. N. Hills moved to issue a full Certificate of Compliance; J. Hartley seconded; voted unanimously.

The December 12, 2012 **MINUTES** were reviewed. L. Dorman moved accept them as amended; S. Gonsalves seconded; voted unanimously.

The Commission's 2012 **ANNUAL REPORT** drafted by N. Hills was reviewed. L. Dorman moved to accept it as written; J. Hartley seconded; voted unanimously.

**OTHER MATTERS**

A. **MACC Annual Conference** – it will be held on Saturday, March 2, 2013 in Worcester. N. Hills and S. Gonsalves will attend.

B. **Grant Writer** – Pamela Marean has an appointment for discussion with the Commission at 7:30 PM on January 23, 2013.

C. **The Wave Restaurant** – Todd Zell, the owner, has not yet submitted a Request for Determination of Applicability for the site work in the parking lot. It is due by January 11, 2013.

D. **NSTAR** – NSTAR is clearing their power lines right-of-way at Washburn Park. L. Dorman suggested viewing the site during the next inspections on January 19, 2013.

E. **Michael Popitz**, 64 Indian Cove Road – he had asked the Commission whether a filing would be necessary to clear dead and/or dying trees and logs in wetlands on his lot that are causing ponding; N. Hills said he prefers no clearing in wetlands. L. Dorman would like to visit the site during the next inspections on January 19, 2013.

7:20 PM **SANFORD RUSSELL, JR.**, 5 Main Street – Notice of Intent (File No. SE 041-1179) to replace a carport with a garage; remove a retaining wall; relocate and expand a boulder retaining wall; reconstruct a driveway apron; and install a trench drain (continued from December 12, 2012). David Davignon of N. Douglas Schneider and Associates represented Mr. Russell. New plans (revised January 3, 2013) have been submitted since the August 2012 revision. The newest plan moves the garage 3' further from the road. Although the proposed garage is larger than the existing carport, the impervious area of the garage and pavement is 5% less than at present. The area west of the garage will be loamed and seeded. J. Hartley said some of the work is on Town property; D. Davignon said D.P.W. Superintendent Robert Zora is aware of that, but this revised plan will have less of an impact without the trench drain. D. Davignon said the drywell is just for the roof runoff, and road runoff will be directed alongside the garage. D. Davignon said this hearing has been continued several times during its review by the Zoning Board of Appeals.

The hearing was opened to the audience for comments. William Rogerson of 9 Main Street said the Zoning Board of Appeals denied the requested special permit; D. Davignon said it is up to the Zoning Enforcement Officer whether it needs to go before the Zoning Board of Appeals again. W. Rogerson said all permits need to be applied for at the same time – Ch. 131 Sec. 40. It does not include building permits. D. Davignon said this has been discussed with the Building Commissioner. D. Davignon said Mr. Rogerson is trying to put the cart before the horse, and you have to start somewhere to get the first permit in order to get the others. L. Dorman asked why the Z.B.A. denied the project; D. Davignon said it was denied because four votes in favor were needed in order to have a quorum, and there were three votes in favor and one against. W. Rogerson said the size of the building is 25' x 27' due to the 1' roof overhang, not 24' x 26'. D. Davignon said roof runoff is considered clean water and the runoff from Hiller Street that presently runs directly onto Mr. Russell's property and then into the Harbor will be improved by the redirected runoff. W. Rogerson said Hiller Street is going to be improved in the future to stop the drainage issues, and that is not a reason for the Applicant to propose these changes for this project. N. Hills said this revised plan will improve runoff conditions at the site for the immediate future. As there were no further comments, N. Hills moved to close the hearing; S. Gonsalves seconded; voted unanimously.

7:50 PM **DAVID and LINDA NIELSEN**, 203 Front Street – Notice of Intent (File No. SE 041-1189) to construct a 253'-long timber pier, a 20'-long aluminum gangway, and two 12' x 15' timber floats anchored with six pilings. David Davignon represented the Nielsens and described the project. He said Waterways wanted a smaller, simplified set of the full-sized plans, which is why the

Order of Conditions needs to reference the smaller set in the Order. Mr. Nielsen has a 26' boat and intends to purchase a 29' boat. The two 12' x 15' floats are proposed so they can be hoisted out of the water and stored in place during the winter. The channel buoy markers will be set by the Applicant and their locations have been approved by the Harbormaster. Electrical and water are shown as options and will be regulated by the Planning Board. L. Dorman would prefer the pier length to be shortened by two or three sections. D. Davignon said Thomas Tarrant will hopefully build this pier. The Division of Marine Fisheries comment letter was reviewed. D.M.F. originally requested a two-year monitoring plan for the eelgrass beds in the area of construction. D. Davignon said he will contact the Army Corps of Engineers to see how such a plan is proposed. D. Davignon said mitigation IS permissible. The D.M.F. and Army Corps don't agree on this matter – whether it is optional or mandatory – and D. Davignon will contact both of them to clarify. He asked for a two-week continuation. L. Dorman would like a condition in the Order prohibiting fertilizing the lawn. L. Dorman moved to continue the hearing, with the Applicant's consent, to 7:40 PM on January 23, 2013; S. Gonsalves seconded; voted unanimously.

**JONATHAN P. and AMY DiVINCENZO**, 370 Delano Road – Notice of Intent (File No. SE 041-1187) to construct a 163'-long pile-supported timber pier, a 20' gangway and a 10' x 20' float anchored with four pilings. This hearing was continued from November 28, 2012. David Davignon represented the DiVincenzos and had asked for this continuation while awaiting feedback from Waterways. Waterways will permit a bench on only one side of the pier, not both sides. Water and electricity will be added as options. Rosa rugosa will be planted along the bank. D. Davignon will submit revised plans and asked to continue the hearing. L. Dorman moved to continue the hearing to 7:30 PM on January 23, 2013; N. Hills seconded; voted unanimously.

**SANFORD RUSSELL, JR.** – N. Hills drafted the Order of Conditions (SE 041-1179). S. Gonsalves suggested installing sod beside the garage where road runoff will flow because it won't be as affected by storm events as growing grass would be. N. Hills moved to issue the Order as written; L. Dorman seconded; voted unanimously.

Meeting adjourned at 8:45 PM.

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Diane R. Drake, Secretary

Approved February 27, 2013