

# MARION CONSERVATION COMMISSION

## MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 12, 2016

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5 Members Present: Cynthia Callow, Chairman  
6 Jeffrey J. Doubrava, Vice Chairman  
7 Norman A. Hills, Clerk  
8 Kristen Saint Don, Member  
9 Joel D. Hartley, Member  
10 Shaun Walsh, Associate  
11  
12 Members Absent: Lawrence B. Dorman, Associate  
13  
14 Admin. Assistant: Donna Hemphill  
15  
16 Others Present: Julie Peterson, Lang, Xiafaras & Bullard, 115 Orchid Street, New  
17 Bedford; Feliciano Figueiredo, 94 Quail's Crossing; Rick Charon,  
18 C.A.I., Rochester; Jay Myrto, CEC, Worcester; Jim Manganello, LEC  
19

20 Meeting convened at 7:00 PM on Wednesday, October 12, 2016 in the conference  
21 room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site visits were  
22 held on Saturday, October 8, 2016 by J. Doubrava, J. Hartley, N. Hills and K. Saint Don. This  
23 meeting was televised and video recorded by Old Rochester Community Television  
24 (ORCTV), and audio recorded by Town of Marion staff.  
25

26 7:00 PM **Thomas P. Gibbs**, Request for Determination of Applicability, File  
27 No. 41D-1631, to construct a new single family house with connections to town sewer and  
28 water at Briggs Terrace. Rick Charon of Charon Associates was present and described the  
29 project. It is new house construction and the site has town water and a sewer stub as well.  
30 A corner of the grading at the side of the house is just within in 100' buffer zone. The  
31 majority of wetlands are on adjoining lots. There is a small area of wetlands on the back  
32 corner of the property with the bulk of the wetlands on adjoining lots R. Charon said the  
33 limit of clearing is about 50' to the edge of the BVW. N. Hills asked about the sewer  
34 connection. R. Charon said that the stub is there but the grinder pump still has to be  
35 connected. N. Hills also asked about the grading that is mentioned in the application,  
36 voicing his concern regarding drainage in that area. He said that there is a drainage swale  
37 shown on the plan. R. Charon said that the house will have a walkout basement and that  
38 there will be minimum fill used at the back of the property. There will be some fill at the front  
39 of the house. He described the elevation of the lot. R. Charon mentioned that they will  
40 have a hay bale/silt barrier along the upland side of the swale to protect it while the area is  
41 being revegetated. There was a discussion about the swale and run off that may be

42 generated by the construction of the house. It was mentioned that the road run off from  
43 Briggs Terrace has been running into this swale. J. Doubrava asked if drywell will be  
44 installed for roof run-off. R. Charon said it was not on the plan but that is something they  
45 can do. There is a shed and a garden that will be removed. The driveway will be paved  
46 and that run off will go back toward Briggs Terrace. J. Hartley said that the wetland flags  
47 looked reasonable. Julie Peterson, Lang, Xiafaras & Bullard addressed the Commission. She  
48 represents abutter Feliciano Figueiredo of 94 Quail's Crossing. J. Peterson explained that  
49 her client did not have objections about the project per se. His concern is the run off from  
50 the lot and Briggs Terrace could be directed onto his property. F. Figueiredo would like to  
51 be assured that there will not be an increase in volume and go into his property. J. Peterson  
52 said that any conditions that could be made to address the concern would be greatly  
53 appreciated. She presented photos of the area to the Commission. There was a discussion  
54 about the run off. N. Hills mentioned that they have discussed the swale and the dry wells  
55 to address the roof run off. N. Hills said that the issue with the road run off is not T. Gibbs's  
56 responsibility it appears to be the responsibility of the Town. Currently there isn't water  
57 running onto F. Figueiredo's property and he wants to make sure that continues. There was  
58 further discussion about the contours on the property. R. Charon mentioned that there are  
59 stones at the end of the road that direct run off to the Gibbs property and he has no  
60 intention to change that. R. Charon mentioned that possibly the town should look into a  
61 drainage easement to address road run off in the area. He said that T. Gibbs intends to  
62 maintain the existing swale and keep it in working order. There were no further questions  
63 from the audience or the Commission. J. Doubrava motioned to close the hearing; N. Hills  
64 seconded; voted unanimously.

65  
66 7:05 PM Appointment for Discussion with Jay Myrto of Clean Energy  
67 Collective regarding the plantings at Tucker Lane, SE 041-1232. The plantings needed to be  
68 replaced and that was completed recently. N. Hills said members visited the site the  
69 previous Saturday and all but one plant looked good. J. Myrto said that the plants have a  
70 one year warranty and come Spring they can replace any plantings that may not have  
71 survived. J. Myrto said that the solar array project is complete and that a Request for a  
72 Certificate of Compliance will be submitted the next day. The Enforcement Order in effect  
73 is for the planting area only so the Request for a Certificate of Compliance can still be  
74 submitted. The Commission asked that an as-built plan be submitted with the Request. The  
75 site visit with the engineer will be scheduled for October 22, 2016 and the meeting will be  
76 scheduled for October 26, 2016.

77

78 7:10 PM (7:31pm) **Richard Langevin**, Notice of Intent, File No. SE 041-1252, for  
79 construction of a garage onto the existing single family dwelling at 41 Parkway Lane. The  
80 applicant requested to continue the hearing since they are still awaiting information from  
81 Natural Heritage and Endangered Species. N. Hills motioned to continue the hearing as  
82 requested to Wednesday, October 26, 2016 at 7:20pm; K. Saint Don seconded; voted  
83 unanimously.

84  
85 7:15 PM (7:31PM) **Laurence Reinhart, Trustee – East Avenue Realty Trust** – Notice of  
86 Intent, File No. SE 041-1251, to add stone to existing revetment with DEP Waterways License  
87 No. 11040 (Continued from September 28, 2016). J. Doubrava recused himself and left the  
88 conference room. Rick Charon of Charon Associates was present. He said he hasn't met  
89 with the botanist, Bob Grey, as of yet but was hoping to do so within the next week or so.  
90 Mr. Grey is going to review the site to determine if the seawall has impacted any natural  
91 resources. Once they have that information he said that they will be able to determine  
92 what corrections can be made in that area. N. Hills mentioned that since the last meeting  
93 he reviewed the two previous Orders of Conditions and associated correspondence and  
94 provide a summary. There was a discussion about the letters and the previous Waterways  
95 License that had not been recorded. Also, there was a brief discussion regarding the rocks  
96 that had been placed. R. Charon reiterated that he hopes to meet with his botanist Bob  
97 Grey within a week. They will be looking for evidence of shellfish in the area as well as  
98 eelgrass and spartina grass. R. Charon requested to continue the hearing. N. Hills motioned  
99 to continue the hearing to Wednesday, October 26, 2016 at 7:35pm; C. Callow seconded;  
100 voted unanimously.

101  
102 J. Doubrava returned to the conference room.

103  
104 7:20 PM (7:48PM) Discussion with **Jim Manganello** – follow up to Enforcement Order  
105 issued to File No. SE 041-12301 regarding brush piles and permanent markers at 121  
106 Converser Road. Jim Manganello of LEC was present and described the brush piles and  
107 the permanent markers. Members did a site visit the previous Saturday. N. Hills said the  
108 permanent markers are iron posts with medal tags on each with the wetland flag number  
109 that they represent. Members agreed that the markers were sufficient. There was a  
110 discussion regarding the brush piles that the applicant wants to remove and those that  
111 they want to spread out. After much discussion, members decided that the nine piles  
112 marked for removal can be removed manually. It was noted that miscellaneous metal and  
113 plastic in the piles should have already been removed. All other piles are to stay as is and  
114 not be spread out. A letter will be sent to the homeowner notifying them of the approval.

115

116 7:25 PM (7:58PM) **Gale Runnells**, Request for Certificate of Compliance for Order of  
117 Conditions SE 041-1208, pool installation and associated work at 17 Reservation Way.  
118 (Continued from September 28, 2016) Rick Charon of Charon Associates was present. He  
119 reviewed the revised plan that showed the rail fence and the proposed revegetation. R.  
120 Charon said he has not been able to contact the neighbors to ask for permission to  
121 revegetate the part of their property that had been landscaped. They have mailed them  
122 a copy of the proposed plan and a letter of explanation. N. Hills questioned why the plan  
123 does not show details all the way to the street. R. Charon said that the area was lawn  
124 between wetland #9 and the street. He also said that it is historic lawn since it was there  
125 before the no touch zone was enacted. There was a discussion about plantings and the  
126 flagpole that are near the street and not on the plan. Since the applicant is waiting to hear  
127 from the neighbor, R. Charon requested to continue the hearing. N. Hills motioned to  
128 continue the hearing to Wednesday, October 26, 2016 at 7:40pm; K. Saint Don seconded;  
129 voted unanimously.

130

131 7:30 PM (8:09PM) **Christian Loranger**, Request for Determination of Applicability, File  
132 No. 41D-1629, to construct a single family dwelling which includes minor site development  
133 in the 100 foot buffer zone to a delineated wetland off point Road. (Continued from  
134 September 28, 2016). Christian Loranger was present and submitted updated plans that  
135 showed the location of the leaching field. There was a discussion about the soil reports that  
136 C. Loranger had submitted via email. The location of the wetlands line was also discussed.  
137 Generally a more complete and detailed soil report is provided. They discussed the  
138 possibility of being able to issue a Determination of Applicability without accepting the  
139 wetland line. Also, there was a discussion about the limit of the lawn area. C. Loranger said  
140 that he will install markers every ten feet to clearly mark the limit of work. Discussion  
141 returned to the wetland line. S. Walsh mentioned that if a future owner were to propose  
142 work near the line that they would have to file a new application with the Commission at  
143 that time. There were no further questions. N. Hills motioned to close the hearing; K. Saint  
144 Don seconded; voted unanimously.

145

146 7:35 PM (8:29PM) **Town of Marion, c/o Shaun Cormier**, Facilities Director, Request for  
147 Determination of Applicability, File No. 41D-1632, to tear down the existing unsafe pump  
148 house in Washburn Park. Shaun Cormier was unable to attend the hearing since he was at  
149 a different town related meeting. N. Hills said that members did a site visit on the previous  
150 Saturday and agree that the building is in bad shape and needs to be removed. When  
151 they remove the pump house they will cap the foundation at that time. It was mentioned

152 that members would like S. Cormier present during the demolition and that no earth  
153 moving will be allowed. There were no further questions or discussion. N. Hills motioned to  
154 close the hearing; K. Saint Don seconded; voted unanimously.

155

156 7:40 PM (8:35PM) **Robert C. Nissen**, Request for Certificate of Compliance for Order  
157 of Conditions SE 041-956, 28 Parlowtown Road. R. Nissen was not present. N. Hills said they  
158 met the home owner at the property on the previous Saturday. R. Nissen was informed that  
159 his engineer will need to submit a request form, letter of explanation and a plan. At the site  
160 visit the members saw that there is a porch on the front and a larger sunroom on the back  
161 of the house that are not on the original plan. There was a brief discussion and it was  
162 decided that an as-built plan will be requested from the home owner. A letter will be sent  
163 to R. Nissen with the information that is required. N. Hills motioned to continue the hearing  
164 until Wednesday, October 26, 2016 at 7:45pm; J. Doubrava seconded; voted unanimously.

165

166 Invoices #7003 & 7005 from The Wanderer were approved for payment.

167

168 Request for comments from the Board of Selectmen regarding an Aquaculture  
169 License Application submitted by Chris Bryant: A memo will be sent to the Board of  
170 Selectmen indicating that C. Bryant will need to file a Notice of Intent.

171

172 Request for comments from the ZBA for Case # 732, Moberg/Farrington at 21 West  
173 Avenue: The project is not within the Commission's jurisdiction. A memo will be sent to the  
174 ZBA.

175

176 Minutes from September 28, 2016 were approved.

177

178 At the last meeting an Amended Order of Conditions was signed in error for the  
179 MOSAC Grassi Bog project, File No. SE 041-1197. However, abutter notifications and a legal  
180 notice in the local paper need to be done. Since the last meeting, John Rockwell of  
181 MOSAC was notified that he must sent abutter notices and the Commission sent a legal  
182 notice to The Wanderer. The public hearing will be held on Wednesday, October 26, 2016  
183 at 7:10pm.

184

185 There was a discussion regarding the house that had been demolished at 320  
186 Delano Road. Part of the structure was within the Flood Zone so the homeowner should  
187 have filed a Request for Determination of Applicability. A new house is going to be  
188 constructed on the lot outside of the flood zone but could possibly be within the coastal

189 bank buffer zone and was within the 200' resource area to the Weweantic River. A letter  
190 will be sent to the home owner to clarifying what is necessary for filing.

191

192 N. Hills motioned to issue the Determination of Applicability for Thomas Gibbs, File  
193 No. 41D-1631, Briggs Terrace. Negative Box #3 with the following Special Conditions: 1. Roof  
194 run off shall be into drywell, 2. Insure that fill does not impact the function of the existing  
195 swale on the property, and 3. Clearing closer to 50' from the BVW will require approval of  
196 the Commission; S. Walsh seconded; C. Callow, J. Doubrava, N. Hills, J. Hartley and S. Walsh  
197 voted in favor. K. Saint Don recused herself.

198

199 J. Hartley motioned to issue the Determination of Applicability for the Town of  
200 Marion, c/o Shaun Cormier, File No. 41D-1632, for the pump house removal in Washburn  
201 Park. Negative Box #3 with the following Special Conditions: 1. No earth work, foundation  
202 removal or cutting of vegetation is allowed and 2. Shaun Cormier shall be at the site during  
203 work. N. Hills seconded; voted unanimously.

204

205 J. Doubrava motioned to issue the Determination of Applicability for Christian  
206 Loranger, Negative Box #3, with the following Special Conditions: 1. The Wetlands line is not  
207 accepted. 2. The limit of clearing shall be permanently marked with posts, split rail fence or  
208 boulders no less than ten feet apart. N. Hills seconded; J. Doubrava, J. Hartley, K. Saint Don  
209 and N. Hills voted in favor. C. Callow voted against.

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211 Meeting adjourned at 9:10pm.

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Donna M. Hemphill, Administrative Assistant

Approved: October 26, 2016

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