

MARION CONSERVATION COMMISSION

MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 30, 2016

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

Members Present: Cynthia Callow, Chairman
Jeffrey J. Doubrava, Vice Chairman
Norman A. Hills, Clerk
Joel D. Hartley, Member
Kristen Saint Don, Member
Shaun Walsh, Associate

Members Absent: Lawrence B. Dorman, Associate

Admin. Assistant: Donna Hemphill

Others Present: Joseph Zora, 253 Wareham Road; Jennifer Stewart, 428 Front Street; Warren L. Washburn, Jr., 319 Wareham Road; John Rockwell, 1171 Point Road; Rick Charon, 17 East Avenue; Dave Davignon, Schneider & Associates, Inc.

Meeting convened at 7:00 PM on Wednesday, November 30, 2016 in the conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site visits were held on Saturday, November 26, 2016 by C. Callow, J. Doubrava, N. Hills and S. Walsh. This meeting was televised and video recorded by Old Rochester Community Television (ORCTV), and audio recorded by Town of Marion staff.

7:00 PM Town of Marion, Pathways Committee, c/o John Rockwell,

Abbreviated Notice of Resource Area Delineation, (file No. SE 041-1257), to confirm the delineation of at the edge of the Bordering Vegetated Wetlands along he proposed bike path route from the Marion/Mattapoissett line to Point Road. John Rockwell of the Marion Pathways Committee was present. He explained the route of the proposed bike path. He said he did most of the flagging this summer and Jeff Oakes did some as well. J. Rockwell said that they had used the wetland lines in Washburn Park that were established as part of an Enforcement Order and a current Order of Conditions. C. Callow said that she had walked half of Washburn Park portion during the site visit and noticed that many wetland flags were missing. J. Rockwell said the flags will be replaced before construction begins and that they are part of the design criteria. There was a brief discussion as to when to visit and how long it would take to visit the remaining parts of the bike path. J. Doubrava asked J. Rockwell about the construction schedule. J. Rockwell said that the engineers are working on the design now and they are expecting construction to begin in 2018. Discussion returned to scheduling the site visits. The Commission decided to visit the

42 remainder of the Washburn Park on Saturday, December 10, 2016 and as much as possible
43 on Sunday, December 11, 2016. J. Rockwell will meet the Commission on site if he is able to.
44 Joe Zora, Jr. of 253 Wareham Road expressed his concerns regarding the culverts along
45 the bike path and how the water runs to Benson Brook. He also expressed his concern
46 regarding the ownership of lots (including lot 24) along the bike path. J. Zora said that his
47 attorney and town counsel are working through the questions on ownership. He mentioned
48 an Enforcement Order that had been issued some time ago to one of the lots for
49 unauthorized fill. J. Zora stated that he plans on speaking to J. Rockwell to obtain more
50 information about the project. Warren Washburn, Jr. of 319 Wareham Road was present
51 representing Washburn Electric. He mentioned his concerns which included the culvert
52 behind his property and the importance of protecting and maintaining the pond and
53 wildlife in that area. He asked about fencing. Yelena Sheynin, abutter and unofficially
54 representing Sippican Lands Trust, asked where the Commission visited the past Saturday.
55 C. Callow described the route that the Commission walked through Washburn Park. S.
56 Walsh clarified that this filing is requesting that the wetlands line be confirmed and that
57 there is no work proposed under this application. The Pathways Committee will have to file
58 a different application for the proposed work. There were no further questions from the
59 audience or the Commission. N. Hills motioned to continue the hearing to Wednesday,
60 December 14, 2016 at 7:25pm; K. Saint Don seconded; voted unanimously.

61

62 Dave Davignon asked that the Commission take the 7:30 appointment with Rick
63 Charon out of order. The Commission agreed.

64

65 Rick Charon of Charon Associates was present to address the Enforcement Order for
66 Laurence Reinhart, File No. SE 041-1141, 17 East Avenue. J. Doubrava recused himself and
67 left the conference room. R. Charon said the work that was described in the Enforcement
68 Order has been completed. R. Charon met N. Hills on site with Bob Gray, wetlands
69 specialist. R. Charon described how the rock removal progressed. He submitted a copy of
70 an email from B. Gray along with photographs of the area after a week of tides. B. Gray
71 felt that the area will naturally replenish the plantings that had been lost. R. Charon
72 reviewed the updated plan with the Commission. N. Hills suggested that a reevaluation
73 should be done in the spring. R. Charon said he would like to submit a revised plan to go
74 along with the current Notice of Intent. The Commission said that the Enforcement Order is
75 in compliance and suggested that he go ahead and submit the changes in order to restart
76 the Notice of Intent which is scheduled for Wednesday, December 14, 2016 at 7:10pm. A
77 letter will be sent to the L. Reinhart and R. Charon stating that the Enforcement Order has
78 been complied with.

79

80 7:05 PM (7:43PM) **Sue B. Reamer**, Notice of Intent, (File No. SE 041-1255), to install a
81 septic system in compliance with the requirements of Title 5 at 25 Holly Road. (Continued
82 from November 9, 2016) Dave Davignon of Schneider & Associates, Inc. was present on
83 behalf of S. Reamer. C. Callow read aloud the letter explaining the changes and additions
84 that had been submitted. The letter listed the revised plan additions of the location
85 propane tank, the elevated generator platform, 14 permanent markers proposed to be set
86 and proposed phragmites removal has been added. D. Davignon said that he spoke with
87 the landscaper and he will be responsible for placing the 14 permanent markers at the
88 wetland boundary. The landscaper has a licensed professional on his staff for phragmites
89 removal. He said they will resubmit the Notice of Intent to include the phragmites removal.
90 There was a discussion about the DEP Policy 86-1 regarding the Title 5 and the required
91 setbacks from the resource areas. N. Hills questioned the placement of the new system and
92 how it does not meet the setback. D. Davignon said that if alternative technologies are
93 used than the system can be less than the required 50' setbacks. The DEP Policy 86-1 that
94 was reviewed was dated March 1, 1995 and D. Davignon said that it addressed only
95 conventional systems not alternative technology. He noted that Title 5 had been updated
96 since 1995 to include alternative technology. D. Davignon also said that if using alternative
97 technology the system can be less than the required setbacks. N. Hills maintained that the
98 system may not meet the requirements of the DEP policies. There was further discussion
99 regarding the Title 5 updates. The Board of Health variance hearing is scheduled for
100 Tuesday, December 13, 2016. There was a discussion about the possibility of moving the
101 system further away from the resource area. J. Doubrava asked if someone at DEP could
102 give guidance. D. Davignon said he sent the plans for review to Brett Rowe at the DEP. B.
103 Rowe said that the DEP did not need to review the system for water pollution control
104 aspect and that it required local approval by the Board of Health. There was a discussion
105 regarding the approval process from the Board of Health and the Commission. D.
106 Davignon said that generally the Commission approves the plan conditional on the Board
107 of Health approval. J. Doubrava and S. Walsh agreed that they would like to see the
108 system approved by the Board of Health before issuing an Order of Condition. J. Hartley
109 mentioned again the possibility of moving the system. D. Davignon said test pits had been
110 done in the past in the marsh area and he believes that the results were not satisfactory.
111 He reviewed the other areas that they did conduct tests. There was further discussion
112 about the possibility of conducting further tests and potentially relocating the system away
113 from the resource area. With D. Davignon's permission, J. Doubrava motioned to continue
114 the hearing to Wednesday, December 14, 2016 at 7:35pm; K. Saint Don seconded; voted
115 unanimously.

116

117 7:10 PM (8:05PM) **Robert & Joan Wilson**, Notice of Intent, File No. SE 041-1256, to
118 install a septic system in compliance with the requirements of Title 5 at 25 Holly Road.
119 (Continued from November 9, 2016) D. Davignon of Schneider & Associates, Inc. was
120 present on behalf of the Wilsons. C. Callow read aloud the letter that was submitted along
121 with revised plans that were received on November 30, 2016. The revisions to the plan
122 include limits to the mowed area, the approximate location of the path to water, four
123 permanent markers are proposed to demarcate the edge of the wetlands, the mowed
124 area is proposed to be upgraded with wetland seeding and maintained as a "wet
125 meadow" with restricted cutting limits. D. Davignon said that the Wilson are not interested
126 in eradicating the phragmites on the property. He reviewed the revisions. Mark Manganello
127 of LEC Environmental suggested that the previous mowed area be upgraded as the wet
128 meadow and mow just twice a year. There was a discussion regarding the seeding and the
129 mowing of a resource area. J. Doubrava pointed out that phragmites will take over the
130 area that was seeded without an eradication plan. Members did not look favorable on
131 mowing within the resource area. The location of the new system was reviewed with
132 respect to DEP Policy 86-1. It was noted that this property does not have an option of
133 moving the system like the previous filing had. S. Walsh asked why the homeowners were
134 interested in changing from a tight take to this new system. D. Davignon said that the
135 homeowners feel that the tank de-values the property. Repairs to failed tight tanks can be
136 very costly. He said that the design of the new system allows for a smaller size than a
137 conventional system. D. Davignon described how the systems work. With D. Davignon's
138 permission, N. Hills motioned to continue the hearing to Wednesday, December 14, 2016 at
139 7:40pm; K. Saint Don seconded; voted unanimously.

140

141 7:15 PM (8:22PM) **Copper Medal, LLC.**, Request for Determination of Applicability,
142 (File No. 41D-1635), to re-establish the edge of the BVW and propose to install seven 4"
143 diameter cedar posts with placards marked as the corresponding BVW Flag numbers as
144 shown on the site plan at 125, 129, 135 & 135A Converse Road. D. Davignon of Schneider &
145 Associates, Inc. was present on behalf of Copper Medal, LLC. Soil reports were submitted
146 via email. This RDA is in respond to an Enforcement Order. D. Davignon explained that the
147 wetland line in the area hadn't been looked at for some time and there were no flags out
148 in the field so they had LEC go to the site and evaluate it. He felt it was prudent to file the
149 RDA in order to re-establish the line and to show where the permanent markers will be
150 place. The owner wants to install cedar posts with placards. N. Hills noted that the wetland
151 line does not match the line that was on the Plan of Record from the Order of Conditions
152 issued in 2010. There is a new stone wall that did not exist previously. 2010 was prior to

153 Schneider & Associates involvement with the properties. There was a discussion about the
154 differences between the 2010 plan and the current wetland line that was done by LEC. N.
155 Hills reviewed the original Order of Conditions that was May 21, 2010. A Certificate of
156 Compliance has not been issued. The lot lines have been changed since the original Order
157 was issued. There was a discussion about the wetlands line that is on the 2010 plan and that
158 it is still valid due to the Permit Extension Act which extended the expiration date of the
159 Order to May 2017. D. Davignon said that the owner has hired LEC to evaluate and
160 provide reports regarding the regrowth of the vegetation to the Commission for the next
161 two years. The Plan of Record from 2010 showed wetlands closer to Converse Road. S.
162 Walsh suggested that LEC do a soil test pits in the area to determine whether or not fill has
163 been added to that area. D. Davignon said that he will ask LEC to conduct the testing
164 between flags 4, 5 and 6 heading toward the corner of the wall. J. Doubrava noted that
165 elevations are not on the 2010 plan. S. Walsh said that the old line is still valid due to the
166 Order of Conditions validity. The area is going to be evaluated to see why there is a
167 difference between what is on the 2010 Plan of Record and what LEC has on the new
168 plan. D. Davignon said that the difference may be that the original line had been
169 determined by vegetation and not soils. The 2010 Plan of Record did not indicate who
170 flagged the wetlands line. A copy of the 2010 plan was given to D. Davignon. With D.
171 Davignon's permission, N. Hills motioned to continue the hearing to Wednesday,
172 December 14, 2016 at 7:45pm; K. Saint Don seconded; voted unanimously.

173
174 7:20 PM (8:40PM) Request for Partial Certificate of Compliance for **N. George &**
175 **Laurie A. Host**, Order of Conditions SE 041-1203, 456 Point Road. D. Davignon of Schneider &
176 Associates, Inc. was present on behalf of the Hosts. He had submitted a letter and an as-
177 built plan for the two float piles and the gangway. The Waterways Department did an
178 inspection and the as-built has been sent to them as well. Photo had been submitted
179 along with the request. There was a discussion about the difference between using two or
180 four piles. J. Doubrava motioned to grant a Partial Certificate of Compliance; K. Saint Don
181 seconded; voted unanimously.

182
183 7:25 PM (8:54PM) Ann & Edward Severance, Request for Determination of
184 Applicability, (File No. 41D-1636), for the selective cutting and pruning of invasive at 20
185 Front Street. There was an error in the Legal Notice as well as on the application. The
186 applicant will re-file the RDA at a later date. N. Hills motioned to close the hearing; K. Saint
187 Don seconded; voted unanimously.

188

189 Discussion regarding the Enforcement Order issued to Eleven Hiller Street Nominee
190 Trust. D. Davignon of Schneider & Associates, Inc. was present on behalf of Eleven Hiller
191 Street Nominee Trust. He reported that they did survey work and he felt that the steps could
192 not be permitted so he advised the owner to remove what they had put into place. They
193 are looking into installing an aluminum removable staircase and will be back before the
194 Commission with that filing. The Commission will do a site visit at low tide. The matter is
195 considered closed.

196
197 Minutes from October 26, 2016 and November 9, 2016 were approved.

198
199 The Wanderer Invoice #7033 for \$60.00 was approved for payment.

200
201 There was a brief discussion regarding the past Runnells 17 Reservation Way
202 Certificate of Compliance and the continuing conditions that have been violated. Also,
203 the Commission is still waiting for a filing from the owners of 320 Delano Road. N. Hills
204 mentioned that he would like to see a policy for specifying that field data sheets be
205 submitted and that plans show the site locations used for the data sheets. He will draft
206 something for the Commission to review.

207
208 Meeting adjourned at 9:05pm.



Donna M. Hemphill, Administrative Assistant

209
210
211 Approved: December 14, 2016

RECEIVED
TOWN CLERK OF MARION, MA
2016 DEC 15 P 2:01