

MARION CONSERVATION COMMISSION

MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 14, 2016

Members Present: Cynthia Callow, Chairman

Norman A. Hills, Clerk
Joel D. Hartley, Member
Kristen Saint Don, Member
Shaun Walsh, Associate

Members Absent: Jeffrey J. Doubrava, Vice Chairman
Lawrence B. Dorman, Associate

Admin. Assistant: Donna Hemphill

Others Present: Bob Nissen; Rick Charon, Charon Associates; Brian Butler, Oxbow Associates; Chad Santos; John Rockwell, Pathways Committee; Dave Davignon, Schneider & Associates, Inc. ; Jamie Bissonnette, Zenith Consulting Engineers, LLC

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Meeting convened at 7:00 PM on Wednesday, December 14, 2016 in the conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site visits were held on Saturday, December 10, 2016 by N. Hills, J. Hartley and S. Walsh and on Sunday, December 11, 2016 by N. Hills. This meeting was televised and video recorded by Old Rochester Community Television (ORCTV), and audio recorded by Town of Marion staff.

7:00 PM **Robert C. Nissen**, Request for Certificate of Compliance for Order of Conditions, File No. SE 041-956, 28 Parlowtown Road (continued from October 26, 2016). Robert Nissen was present. N. Hills said that the current conditions reflect what is on the plan that was provided with the request. R. Nissen said that he will be sure that the new owner receives a copy of the as-built plan. There were no further questions. S. Walsh motioned to issue a complete Certificate of Compliance; N. Hills seconded; voted unanimously.

7:05 PM **Doug Thackeray**, Notice of Intent, (File No. SE 041-1239), to construct and maintain an aquaculture project east of Stewart's Island (Continued from November 9, 2016). Since Doug Thackeray was not present at the start of the hearing N. Hills motioned to continue the hearing until later on in the evening in case D. Thackeray arrived; C. Callow seconded; voted unanimously.

42 7:10 PM **Laurence Reinhart, Trustee** – East Avenue Realty Trust, Notice of
43 Intent, (File No. SE 041-1251), to add stone to existing revetment with DEP Waterways
44 License No. 11040 (Continued from November 9, 2016). Rick Charon of Charon Associates
45 was present on behalf of Laurence Reinhart. R. Charon submitted revised plans. He said
46 that the repair work had been completed and the previous Enforcement Order had been
47 lifted. R. Charon said that once an Order of Conditions is issued they will go forward with
48 requesting the Chapter 91 Waterways License as required. There was a discussion
49 regarding the stones that had been added to the revetment and how the DEP may
50 determine the fees associated with the Waterways License. There will be no further stones
51 or rocks being placed as this is an after the fact filing. There were no further questions from
52 the audience or the Commission. J. Hartley motioned to close the hearing; S. Walsh
53 seconded; voted unanimously.

54

55 7:15 PM (7:20PM) **Kevin Braxton**, Notice of Intent, (File No. SE 041-1258), for the
56 construction of a single family home and garage on a previously developed lot at 585
57 Delano Road. Brian Butler of Oxbow Associates was present as was the homeowner Kevin
58 Braxton. B. Butler reviewed the existing conditions of the site. There had been a cottage
59 there in the 1960's. B. Butler said that they had submitted an exemption in reference to the
60 Eastern Box Turtles to the Natural Heritage and Endangered Species and they responded
61 that the project would not have a permanent impact. The house is serviced by town sewer
62 and water. B. Butler described how they will regrade the lot and that there will be a
63 substantial amount of fill. It will be a three bedroom home with two car garage. In the rear
64 there will be an accessory structure that will store classic cars. Ken Motta did the site design
65 and grading work. He also designed a stormwater management system even though it is
66 not required for a single family home. B. Butler noted on the plan where the "rain garden" is
67 located and he described how it will function. The delineation was initially done in April
68 and reexamined in September. He submitted an upland data sheet with the application.
69 There was a discussion about the drainage. The dwelling has a walkout basement. N. Hills
70 asked if the driveway or portions of it could be permeable. K. Braxton prefers the length of
71 the driveway to be asphalt. There was further discussion about the rain garden and roof
72 run off. There will be crushed stone drip strips. At the rear of the house, gutters will be at the
73 edges so not to interfere with the walkway or driveway. There was a discussion regarding
74 the fill that will be added at the front of the lot in order to bring it up to the grade of the
75 neighboring lots. That area is outside of the buffer zone. Hay bales will be in place for
76 erosion control. There was a brief discussion about the 15' no touch zone. N. Hills asked if
77 permanent markers are necessary. B. Butler said that the swale will discourage any activity

78 in that area. There were no further questions from the audience or the Commission. N. Hills
79 motioned to close the hearing; S. Walsh seconded; voted unanimously.

80

81 7:20 PM (7:39PM) **Chad T. Santos**, Request for Determination of Applicability, (File No.
82 41D-1637, to use the existing road to the back of the property to stock pile loam at 17
83 Giffords Corner Road. Chad Santos was present. This filing is in response of to a letter that
84 the Commission sent in reference to loam that is being stored on the property. There was a
85 discussion about whether or not the wetlands line would need to be delineated or not for
86 this RDA. A plan from a previous file was submitted with the application. C. Santos has
87 owned the property since August 2016. There was a discussion about how close the pile of
88 loam is to the resource area located toward the rear of the property. At the site visit they
89 did not have a plan to reference. S. Walsh suggested that the hearing be continued so the
90 Commission can do another site visit with a plan in hand. C. Santos offered to move the
91 pile if needed. C. Callow said that it can stay as it is until a decision is made one way or the
92 other. With the permission of the applicant N. Hills motioned to continue the hearing to
93 Wednesday, January 11, 2017 at 7pm; S. Walsh seconded; voted unanimously.

94

95 7:25 PM (7:52PM) **Town of Marion, Pathways Committee, c/o John Rockwell**,
96 Abbreviated Notice of Resource Area Delineation, (File No. SE 041-1257), to confirm the
97 delineation of the edge of the Bordering Vegetated Wetlands along the proposed bike
98 path route from the Marion/Mattapoissett line to Point Road (Continued from November 30,
99 2016). John Rockwell said that on the past Saturday he met members and walked the path
100 at Washburn Park and on Sunday they walked the path from route 105 to the Mattapoissett
101 town line. N. Hills reiterated that this filing is strictly to confirm the wetland lines only. He said
102 that the rights of ways have been flagged and that there are plenty of wetlands at the
103 rights of ways as well as beyond them. He noted that there were two places where run off
104 was cutting through the area and will need to be addressed during the
105 engineering/construction phase. J. Rockwell agreed that there are drainage issues that will
106 be addressed. N. Hills said that he did not have a problem with the line but he had
107 concerns about the construction. J. Rockwell described the process of the project
108 including that the public will have a chance to speak during a comment period. Once
109 that process is complete the Pathways Committee will submit a Notice of Intent for the
110 construction. Sherman Briggs is a direct abutter and is in favor of the bike path. He said he
111 has spoken to J. Rockwell regarding his concern about keeping the pine trees in place at
112 his Point Road property. He said the pine trees have been growing for 40 years and are
113 very important in keeping the highway noise down. S. Briggs also asked about concrete
114 culverts that are at Washburn Park located near his property. N. Hills said the Commission

115 will look into these culverts. There were no further questions from the audience or members.
116 S. Walsh motioned to close the hearing; N. Hills seconded; voted unanimously.

117

118 7:30 PM (8:03PM) **Gale Runnells**, Request for Certificate of Compliance for Order of
119 Conditions SE 041-1208, pool installation and associated work at 17 Reservation Way.
120 (Continued from October 26, 2016). Rick Charon of Charon Associates was present on
121 behalf of Gale Runnells. Rick Charon said that the restoration plan is complete. There was a
122 discussion regarding the continuing conditions and concerns of new owners not
123 complying. N. Hills said that the members did another site visit on the previous Saturday.
124 The noticed a discharge pipe that was near the pool area. R. Charon was not familiar with
125 this pipe or its function. S. Walsh had photos and shared them with R. Charon and the
126 Commission. There was a discussion about the location of the pipe and what it is draining.
127 R. Charon will research where the pipe originates and its function. There was also a
128 discussion about the area near the concrete bound on the grass slope. R. Charon said that
129 Susannah Davis had seeded the area and it will be allowed to grow in. There is an area
130 where phragmites eradication had been conducted under continuing conditions of a
131 previous Order of Conditions. N. Hills motioned to continue the meeting until Wednesday,
132 January 11, 2017 at 7:05pm; S. Walsh seconded; voted unanimously.

133

134 7:35 PM (8:16PM) **Sue B. Reamer**, Notice of Intent, File No. (SE 041-1255), to install a
135 septic system in compliance with the requirements of Title 5 at 25 Holly Road. (Continued
136 from November 30, 2016) Dave Davignon of Schneider & Associates, Inc. was present on
137 behalf of Sue Reamer. He had submitted revised pages of the Notice of Intent and a cover
138 letter explaining the revisions. The revisions include phragmites removal. They did another
139 test hole on December 6, 2016 in the side yard and the results were not favorable. The
140 Board of Health approved the variance at their hearing on December 13, 2016 and had
141 provided a memo to the Commission with that information. The Board of Health had a
142 lengthy discussion about testing and maintenance of the systems. They will be developing
143 a policy for Marion. N. Hills expressed his concerns regarding the installation of alternative
144 systems. He believes that the current systems should only be replaced if they are not
145 functional. There was a discussion about the many steps that have to be taken to install an
146 alternative system. S. Walsh asked Dave Farias in the Wastewater Department at the DEP if
147 replacing a functioning tight tank with an alternative system is allowed and he said it is.
148 There was further discussion about the tight tank. N. Hills said that he had issues with the
149 placement of the new system within the buffer zone and the Velocity Zone. S. Walsh
150 mentioned that Policy 86-1 states that if the system is greater than 50' from a resource area
151 it is presumed to comply with performance standards. If it is less than 50' from a resource

152 area it doesn't mean that the Commission can't approve it, it means that it is not entitled
153 to the presumption. The Commission's role is to review is limited to whether the system as
154 located is going to alter a resource area. S. Walsh felt that it will not alter the resource area.
155 However, he mentioned his concern for potential of storm impact in the small area where
156 the sand filter is located. There were no further questions from the audience or the
157 Commission. J. Hartley motioned to close the hearing; K. Saint Don seconded; C. Callow, J.
158 Hartley, K. Saint Don and S. Walsh voted to close the hearing and N. Hills abstained.

159
160 7:40 PM (8:36PM) **Robert & Joan Wilson**, Notice of Intent, (File No. SE 041-1256), to
161 install a septic system in compliance with the requirements of Title 5 at 43 Holly Road.
162 (Continued from November 30, 2016). Dave Davignon was present on behalf of Robert &
163 Jean Wilson. D. Davignon told the Commission that he had submitted revised pages of the
164 Notice of Intent and a cover letter explaining the revisions. The revisions include phragmites
165 removal. D. Davignon said that his client understood the concern about cutting and
166 overseeding in the grass area would not be allowed. There was a brief discussion about the
167 removal process for the phragmites eradication. There were no further questions from the
168 Commission or the audience. S. Walsh motioned to close the hearing; K. Saint Don
169 seconded; C. Callow, J. Hartley, K. Saint Don and S. Walsh voted to close the hearing and
170 N. Hills abstained.

171
172 7:45 PM (8:39PM) **Copper Medal, LLC**, Request for Determination of Applicability,
173 (File No. 41D-1635), to re-establish the edge of the BVW and propose to install seven (7) 4"
174 diameter cedar posts with placards marked as the corresponding BVW Flag numbers as
175 shown on the site plan at 125, 129, 135 & 135A Converse Road. (Continued from November
176 30, 2016) Dave Davignon was present on behalf of the applicant. He said that after the last
177 hearing LEC Environmental went back to the site and did test pits on both sides of the
178 stone wall and did not find any hydro soils and the data sheets had been submitted. The
179 line was bumped out slightly. Revised plans have been submitted as well. There will be 9
180 permanent markers instead of 7. N. Hills said that a substantial amount of leaves and grass
181 have been dumped between flags 4R and 2 in the buffer zone and the resource area. D.
182 Davignon will advise his client to take care of that area. After the posts are installed the
183 Commission will do another site visit. There were no further questions from the audience or
184 the Commission. S. Walsh motioned to close the hearing; K. Saint Don seconded; voted
185 unanimously.

186
187 7:50 PM (8:48PM) **Barbara Chaffee**, Notice of Intent (File No. SE 041-1259), for the
188 installation of a Title 5 subsurface sewage system (upgrade) at 12 West Avenue. Jamie

189 Bissonnette of Zenith Consulting Engineering was present on behalf of Barbara Chaffee. He
190 submitted revised plans for the Commission to review. They will be meeting with the Board
191 of Health in the next few weeks. This is a failing system and the replacement will be at the
192 same location. This majority of the site is within the Velocity Zone. J. Bissonnette said that
193 the water table is not a problem. He described the Presby leaching field system that will be
194 installed and its location under the driveway. It is considered an alternate technology
195 system with some advance treatment properties. J. Bissonnette said they have installed
196 these systems under commercial parking lots as well as residential houses. The water table
197 is not an issue this system will be in the ground and back filled so there is no grade change.
198 Since the property is within the Velocity Zone the tanks have been designed with
199 buoyancy and they will be commercial strength. They may encounter rocks when digging
200 for the system so they will have a truck on site to remove them if needed. J. Bissonnette
201 explained how the pump system will work. There were no further questions from the
202 audience or members. S. Walsh motioned to close the hearing; J. Hartley seconded; voted
203 unanimously.

204

205 N. Hills motioned to re-open the hearing for Doug Thackeray from earlier in the
206 evening; K. Saint Don seconded; voted unanimously. D. Thackeray was not present so N.
207 Hills motioned to continue the hearing to Wednesday, January 11, 2017 at 7:10pm; K. Saint
208 Don seconded; voted unanimously.

209

210 Invoice #s 7041, 7050 & 7057 from The Wanderer were approved for payment.

211

212 The MACC Online subscription for two members and one for office use in the
213 amount of \$45.00 was approved.

214

215 Draft Budget for Fiscal Year 2018 was approved and will be submitted to the Town
216 Administrator.

217

218 Minutes from November 30, 2016 were approved.

219

220 CORRESPONDENCE:

- 221 • The letter from the DEP regarding an On-site Inspection for Water Quality
222 Certification at Route 6 and Fillmore Street, Wareham and Marion was briefly
223 reviewed.

224 • The letter from the Department of Army Corps of Engineers regarding Sprague's
225 Cove seawall was briefly discussed. The Commission was copied on this letter and
226 the original had been sent to the Town Administrator.

227

228 N. Hills mentioned that a question had been raised regarding work behind the
229 building at 133 Wareham Street. According to the online data there is a flood zone behind
230 the building. A letter will be sent to the owner to request a site inspection.

231

232 C. Callow motioned to issue the Order of Conditions for **Barbara Chafee**, (File No. SE
233 041-1259), 12 West Avenue; N. Hills seconded; voted unanimously.

234

235 N. Hills motioned to issue the Order of Resource Area Delineation for **Town of Marion,**
236 **Pathways Committee**, (File No. SE 041-1257); S. Walsh seconded; voted unanimously.

237

238 J. Hartley motioned to issue the Order of Conditions for **Sue B. Reamer**, (File No. SE
239 041-1255); K. Saint Don seconded; C. Callow, J. Hartley, K. Saint Don and S. Walsh voted to
240 issue the Order, N. Hills voted against.

241

242 N. Hills motioned to issue the Determination of Applicability for **Copper Medal, LLC**,
243 (File No. 41D-1635), Negative Box #2 and #3; K. Saint Don seconded; voted unanimously.

244

245 J. Hartley motioned to issue the Order of Conditions for **Robert & Joan Wilson**, (File
246 No. SE 041-1256); K. Saint Don seconded; C. Callow, J. Hartley, K. Saint Don and S. Walsh
247 voted to issue the Order, N. Hills voted against.

248

249 S. Walsh motioned to issue the Order of Conditions for **Kevin Braxton**, (File No. SE 041-
250 1258), K. Saint Don seconded; voted unanimously.


251

252 N. Hills motioned to issue the Order of Conditions for **Laurence Reinhart, Trustee**, (File
253 No. SE 041-1251), C. Callow seconded; voted unanimously.

254

255 Meeting adjourned at 9:42pm.

256



257

Donna M. Hemphill, Administrative Assistant

258 Approved: January 11, 2017