

# MARION CONSERVATION COMMISSION

## MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 13, 2017

Members Present: Cynthia Callow, Chairman  
Jeff Doubrava, Vice Chairman  
Joel Hartley, Member  
Kristen St. Don, Member  
Shaun P. Walsh, Member

Members Absent:

Admin. Assistant: Lissa Magauran

Others Present: Susan Nilson, and Courtney Rocha, CLE Engineering; Bruce Rocha, Jr, Fisher & Rocha; Jamie Bissonnette, Zenith Engineering Consultants; Dave Davignon, N. Douglas Schneider & Assoc; Brad Holmes, Environmental Consulting & Restoration, LLC; Keith Gazaille, Solitude Lane Management; John Kelly, Kittansett Golf Club; Dwight Crosby, Alisha XXXX

Meeting convened at 7:00 PM on Wednesday, September 13, 2017 in the Marion Town House, 2 Spring St., Marion, Massachusetts. Site visits were held on Saturday, September 9, 2017 by Jeff Doubrava, Joel Hartley and Shaun Walsh. This meeting was televised and video recorded by Old Rochester Community Television (ORCTV), and audio recorded by Town of Marion staff.

7:00pm **Don R. Lipsitt**, Request for Determination of Applicability, File No. 41D-1658, to demolish part of a deck and rebuild the balance of the deck, making it slightly smaller at 4 Island Ct. (further identified as Lot 21 on Map 3). Bruce Rocha, Jr. introduced himself and explained that they would be hand digging the footings for the new stairs and landing. The other footings are existing as well as the main portion of the deck. S. Walsh added that they were just removing the point on the deck. B Rocha said that it had been removed and there were just digging a couple more footings. J. Hartley commented that usually we have a limit of work, set out by "something" such as hay bales. J. Doubrava replied that usually that would be within the already existing footprint. B. Rocha Jr. said that it was within the existing original footprint of the deck which was very rotted. K. St. Don confirmed that the new footings were going to be for the new staircase. B. Rocha Jr. said yes and that they were going to be Sonotubes. S. Walsh stated that this is land that is subject to coastal storm flowage, J. Doubrava added that it

43 is within 100' of the buffer zone and S. Walsh said it's probably at the top of the coastal  
44 bank as well. J. Doubrava said that it is in the V Zone. B. Rocha Jr. said that he didn't  
45 know which zone it was in, but it was probably in one since it is Planting Island. J.  
46 Doubrava said that at best it's AE, but probably V. S. Walsh said that he didn't have any  
47 concerns about this project and neither did C. Callow. J. Doubrava made a motion to  
48 close the hearing, seconded by S. Walsh. The motion passed unanimously.

49

50 Approvals for Payment: K. St. Don made 4 motions (each seconded by S. Walsh) to  
51 approve the Wanderer Invoice #s 7217, 7220, 7228 and 7224 for legal ads. The motion  
52 was approved by unanimous vote.

53

54 **Correspondence:**

55 C. Callow passed around a letter from a citizen reporting a possible wetlands  
56 violation near a bog.

57

58 C. Callow read L. Dorman's letter of resignation. She said that the ConCom should  
59 write a letter to the Board of Selectmen to recognize his 11 years of service. All members  
60 agreed and C. Callow said she would write the letter. J. Hartley commented that we  
61 should give him "The Wetlands Medal of Honor"!

62

63 C. Callow said that she continues to get letters from the residents at Little Neck  
64 Village regarding the ponds.

65

66 **Approval of Minutes:** J. Doubrava made a motion, seconded by S. Walsh to accept  
67 the minutes as written from the May 24, and August 23 meetings. The motion passed  
68 unanimously.

69

70 7:10 **Robert and Ellen Kaplan,** Request for Determination of  
71 Applicability, File No. 41D-1660 to construct an addition on the northerly and westerly  
72 sides of their house and to rebuild the deck adjacent to the addition on the westerly side  
73 at 42 West Ave. (further indentified as Lot 10 on Map 3). D. Davignon from N. Douglas  
74 Schneider and Associates showed the plans and said that they had not changed. He also  
75 showed photos of the 15 year old house. J. Doubrava asked where they planned to put  
76 material removed from the digging of the foundation. D. Davignon said it will be taken off  
77 site because they have no intention of re-grading the site and there's really no place to  
78 keep it on site. J. Doubrava asked about keeping some in order to back fill around the  
79 cellar and D. Davignon said that some would be kept in order to backfill. He said they had

80 a small amount of space between the addition and the new deck which will be installed  
81 after the addition is completed. D. Davignon continued describing the house and its  
82 setting. He said that the Title 5 Septic was up by the road and that the house was  
83 completely out of the flood zone, based upon the contours as the elevations are 17 and 18  
84 and the AE Zone is at 16 in that locale. The site is protected from Sippican Harbor and  
85 wave action by a stone riprap seawall and there is an expansive beach between the  
86 seawall and the high tide line. He continued that the project falls within the jurisdiction of  
87 The ConCom due to setback to the coastal bank and that the majority of the lot falls  
88 within 100' of the coastal bank. They are proposing to remove a first floor deck and to  
89 replace it with a modest addition which consists of an expansion of living space for a  
90 kitchen and dining area on the first floor and the expansion of the master bedroom on the  
91 second floor. There will be no additional bedrooms. The addition will be L-shaped with a  
92 full basement as it is located outside of the flood zone. The deck on the first floor will be  
93 replaced with a new deck on the water's edge of the new addition. All of that work will  
94 occur within the footprint of the existing deck and within lawn areas. Some landscaping  
95 will have to be removed on the northerly side of the house in order to get to the rear of the  
96 property, but outside of that, there should be minimal disturbance. He concluded by  
97 saying that they were seeking a negative determination. J. Doubrava commented that the  
98 new decks would be in the AE Zone and D. Davignon stated that that was correct. Joel  
99 asked where the grading would be on the site and D. Davignon said that they weren't  
100 planning on doing any grading on the site; they would keep some fill around for back  
101 filling around the cellar, but the rest would be hauled off site. J. Hartley asked what  
102 would be happening on the northerly side of the house and D. Davignon repeated that  
103 they would have to cut back or remove some of the landscape vegetation in order to get to  
104 the rear of the property. S. Walsh made a motion to close the hearing, seconded by J.  
105 Hartley. The motion passed unanimously.

106  
107 **Discussion:** Request for Review/Comment from the ZBA regarding Andrew Sidford  
108 Architects plans for 13 West Ave (further identified as Lot 39 on Map 3). J. Doubrava said  
109 that 90% of the property is in the X Zone and the house is outside of the buffer zone to  
110 the top of the coastal bank. He thinks it is out of the ConCom's jurisdiction. J. Hartley did  
111 a drive by and said that he didn't know where the 100' set back was. J. Doubrava said  
112 that it seems well out as the lots are 75' deep and this one is across the street. S. Walsh  
113 asked them if this didn't warrant filing and J. Doubrava said it didn't. C. Callow asked if  
114 that meant that this wasn't in our jurisdiction and the committee said correct. So, it was

115 noted on the Request/Review form that this project was not within the ConCom's  
116 jurisdiction.

117

118           7:20                   **CLE engineering on behalf of Marion Lands Trust**, Request for  
119 a 3 year extension on an Order of Resource Area Delineation, 369 and 371 Wareham St.  
120 (Lots 68A, 68B and 124 on Map 11), File number SE 041-1064 originally issued  
121 September 14, 2007. Susan Nilson of CLE Engineering introduced herself stating that she  
122 was here on behalf of David Croll. She stated that the Order was issued in 2007, got  
123 extended in 2010 and was extended again (due to the Permit Extension Act) until 2017.  
124 The subject on the ORAD is Bordering Vegetative Wetland line and 2 intermittent  
125 streams. The basis for the intermittent stream determination was the watershed area  
126 being well under the 1 square mile area (at .14) and under the definition in the wetlands  
127 act, it's looking for centerline data (stream data) which is not available for the Buzzards  
128 Bay watershed so in addition to looking at the watershed area, they have provided  
129 observations of no flow conditions to further support the classification as intermittent  
130 streams. They're not looking for a project at this point, but they just want to preserve the  
131 determination. S. Nilson said she wasn't clear if the intermittent stream determination  
132 expired with the ORAD or if it stayed, so they wanted to be cautious and come before the  
133 board with this request. J. Doubrava asked if this had come before us recently. S. Nilson  
134 replied that it came before the ConCom in August but they asked for a continuance  
135 because she couldn't be here on that date. S. Walsh asked if there were anything on this  
136 site right now. S. Nilson replied that there was the attorneys' office, a garden structure  
137 and the driveway to the Poe residence. C. Callow asked if there were any more questions.  
138 S. Walsh asked if they had been out there recently. S. Nilson said that Courtney Rocha  
139 and Chris Brommer (engineers at CLE) went out there a number of days in July and  
140 August and documented the no flow conditions on both of the intermittent streams. J.  
141 Doubrava said that he thought that once a stream was determined intermittent, that it  
142 was forever. S. Nilson said that she would love that but just wanted clarification. J.  
143 Hartley said that unless something changes... but usually they just go by the US  
144 Geological Survey maps (a dotted line) but that wasn't very technical. S. Nilson said that  
145 really nothing had changed but they thought it would be better if they documented it. J.  
146 Doubrava made a motion, seconded by S. Walsh to close the hearing. The motion passed  
147 unanimously.

148

149           **Discussion:** Request for Review/Comment from the Planning Board regarding an  
150 application for site plan review and special permit for Dwight Crosby, 149 Wareham St.  
151 (further identified as lot 110 on Map 11). J. Doubrava said that this lot was within our  
152 jurisdiction because it has a stream adjacent to the site. It is also close to wetlands. S.  
153 Walsh said that this area is in the ConCom's jurisdiction and that a Request for  
154 Determination had been filed which is limited to the re-location of trees. He continued to  
155 add that other activities on this site might lead to other requests for determinations.

156  
157           7:30                   **Kittansett Golf Club**, Notice of Intent, File No. 041-1251 to treat  
158 and remove phragmites located throughout portions of the site at 11 Point Rd (further  
159 identified as Lot 1 on Map 1). Brad Holmes of Environment Consulting and Restoration,  
160 LLC explained the project and that they updated the site plan to include the south east  
161 portion of the side and added knotweed to the project. All of the herbicide is to be applied  
162 by licensed applicators. They are looking for the ConCom's support and approval. C.  
163 Callow asked when they wanted to start and B. Holmes replied that they wanted to start  
164 in November. J. Doubrava stated that the project was very comprehensive and that we  
165 encourage eradication of phragmites and knotweed. S. Walsh said this is the appropriate  
166 time to start as the energy is in the rhizomes, so now is the best time. K. St. Don asked  
167 how long the project will take. B. Holmes replied at least 3 years and more in  
168 management to support the regeneration of native species. Native plants will serve as filler  
169 to control the regrowth of the phragmites.

170  
171           **Discussion:** Septic Permit Review/Comment for Andrew and Mary Jeffrey at 619  
172 Front St (further identified as Lot 1 on Map 22A). J. Hartley said that there were wetlands  
173 behind the house next to the Jeffrey's but there don't seem to be any at this lot. SW  
174 commented about the 4' separation from the BOH. J. Hartley said that he thought this  
175 septic system was non-jurisdictional. S. Walsh and K. St. Don agreed.

176  
177           7:40                   **Dwight and Alisha Crosby**, Request for Determination of  
178 Applicability, File No. 41D-1661 to remove 2 birch trees and 2 shrubs which will be  
179 relocated on the premises (noted on the plan). New flowerbeds will replace the existing  
180 mulch beds at 149 Wareham St. (further identified as Lot 110 on Map 11). Dwight Crosby  
181 introduced himself. S. Walsh said that they had been out on the site on Saturday and  
182 that it was the Old Comcast Building. He said that the work is limited. In the back there  
183 is partial pavement and hard packed gravel area with a stream running along the south

184 side that flows under the pavement from a catch basin and then it's a stream or brook  
185 that flows out to the back. C. Callow asked where the tree were that were to be relocated  
186 and S. Walsh explained that they were to go to the south/western side of the lot. He said  
187 that in terms of the work described on the RDA it was pretty straightforward. He also said  
188 that one of the things they were considering were the future plans for the back area  
189 because some of that is in the buffer zone and there is a wetland further back which  
190 might mean filing an RDA. D. Crosby said that there is a fence about 5 feet into the woods  
191 behind the building and that he had no plans of doing anything beyond that. S. Walsh  
192 said he looked at Mass. GIS and on the other side of the right of way that the utility owns,  
193 there is a wetland but it may be more than 100' away - it was very hard to see as the area  
194 is very heavily vegetated. C. Callow said that if he wanted to do anything back there, he  
195 should come and ask the ConCom. J. Doubrava and C. Callow said that they had no  
196 issues with what was before them at this hearing. J. Hartley added that the concern was  
197 that when it was mentioned that this was going to be a car lot, they were afraid that he  
198 was going to be doing something back there. S. Walsh said that on the plans it looked like  
199 the car storage would be in the buffer zone from the top of the bank, but he didn't know if  
200 it would be in the buffer zone of a bordering vegetated wetland - the engineers would be  
201 able to decide that. As far as the current plans, he said that he had no concerns. BJ  
202 Barros of 158 Wareham Rd said that he didn't know where the bank was. S. Walsh said  
203 that it was almost directly behind the house on the left. BJ Barros said that that's where  
204 the ditch goes from the manhole across on Rt. 6 on the east side. He said that he owned  
205 the former cranberry bog across the street and that the ditch has to be open at all times  
206 because the water that flows all the way down from Delano Rd and it can't be blocked. He  
207 had the state come in because the phragmites were taking over his ditch and his  
208 brother's. The state came and dug it all out and then had to go across the street because  
209 the pipe is pretty close to the building. S. Walsh said that the pipe (outflow) is right at the  
210 edge of the property line where Mr. Allen's property is. BJ Barros said that the state had  
211 to dig down about 3' to get to the pipe and that it was so blocked that it was flooding  
212 back. The state cleaned about 75' about 5-6 years ago. The water is flowing well now, but  
213 BJ Barros said that he went back there 2 weeks ago to look at the outflow and it's  
214 starting to come up again. He didn't know who was responsible for keeping the pipe clean,  
215 but said that they should dig about 20' just to be sure the water flows. He also told the  
216 ConCom that the original building was a big night club built in 1955 by the Portuguese  
217 American Club and it burned down in 1967. The owner (Barboza) rebuilt it in 1973 and  
218 used it as a garage for his construction company. He also said that the back went much  
219 further than it does today because he had to get his big equipment in and out of the  
220 garage. BJ Barros said that he just wanted to meet Dwight because he lives across the

221 street. He wants to see a business there, but also wants to make sure that the ditch stays  
222 clean. K. St. Don made a motion (seconded by J. Doubrava) to close the hearing. The  
223 motion passed unanimously.

224

225 C. Callow asked L. Magauran to please ask Paul Dawson for an easel.

226

227 7:50 120 Front St, LLC (Christian Loranger), Notice of Intent to  
228 construct a residential dwelling with associated pool, driveway, patios, utilities and  
229 grading at 120 Front St. (further identified as Lot 74 and part of 63D on Map 16). Jaime  
230 Bissonnette introduced himself as the representative for 120 Front St, LLC and  
231 distributed new plans and evidence of letters to abutters. He explained that the plans had  
232 been revised based on the input from the last meeting. The house is the same, but they  
233 have tightened up the lot constraints. They have gotten rid of the retaining walls, and are  
234 using a "living landscape" as a border and will do minimum grading, to try to minimize  
235 impact based upon meetings with the ConCom and comments while out in the field from  
236 Mark Bartow of DEP. He explained that the blue line represented the land subject to  
237 coastal storm flowage, so they will be doing some filling in and the other resource they are  
238 dealing with is the buffer zone to the rear of the site. They held a 10' "no touch/no build"  
239 zone understanding that the ConCom likes a 15' "no touch" zone and have shrunk the  
240 pool and gotten rid of some of the apron around it, they actually got rid of the pool house  
241 by attaching it to the dwelling and moving the house forward, getting rid of the patio out  
242 front. J. Doubrava asked if the house height had been lowered. J. Bissonnette responded  
243 that it had gone from 23' 5" to 18' 5" (down about 4-1/2' if his memory served him  
244 correctly). J. Doubrava then asked about the big dark lines on the drawing with D's on  
245 them. J. Bissonnette explained that those were the roof draining pipes that would drain  
246 the roof. J. Doubrava stated that they were collecting the drainage on the front and back  
247 of the building, but not on the south side. J. Bissonnette said that there are no roof  
248 draining pipes on the south side due to a lack of space. In the former plan, he was able to  
249 have a leaching field because the house was so high, but now He is going to direct the  
250 water to the back of the lot toward the living fence and put in some stone which will in  
251 effect make it seasonal high ground water. J. Doubrava stated that lot coverage is not our  
252 issue, but this plan is really close to the property lines on all sides of the house and if he  
253 were the neighbor, he would want to make sure that all of the roof run-off wasn't going to  
254 end up in his yard. J. Bissonnette explained that what they have done - there is a catch  
255 basin on both sides of the front of the property and wetlands to the back and so they are  
256 going to use the existing swale nature of the site to direct the water to the back to make  
257 sure that that doesn't happen. J. Doubrava said that one of the previous issues was the

258 church next door, because they already have flooding issues on the property. J.  
259 Bissonnette said that yes they did and they have a 16' contour running around from the  
260 front and they are going to carry it all the way back down the driveway to the back.  
261 Currently the water drains from that side and they aren't going to impede it. They are just  
262 going to capture it and let it drain back toward the back of the lot to the living fence. S.  
263 Walsh noted that they basically have a swale located on the driveway along the line of  
264 arborvitae and he wondered how wide it was going to be. J. Bissonnette said that it was  
265 going to be very minimal because the site is relatively flat and getting from the front to the  
266 back is somewhat difficult in the fact that they wanted to not stop the catch basin from  
267 working, but if it failed, they wanted the water to be able to flow back so they maintained  
268 some catchment area which would let the water flow better into the back. They don't  
269 expect a lot of water because of the small drainage areas that are going to it, so they don't  
270 expect a lot of water running back there. He said it's a very small watershed. J. Doubrava  
271 said that while they walked the site they noticed a couple of very large trees beyond the  
272 limit of work and he asked J. Bissonnette if they were planning on taking them down. J.  
273 Bissonnette said that he is unaware of any proposal outside of what they are showing. J.  
274 Doubrava said that that was going to be in the minutes. He also said that the large trees  
275 were leaning towards the new house and he'd want them down if he were the homeowner.  
276 He said that one of them actually leans and touches the other tree which is why it's  
277 probably still up. They are beyond the limit of work, one of them is about a foot past the  
278 wetlands line (upland). J. Bissonnette tried to confirm that it was actually in the resource  
279 area and both J. Doubrava and S. Walsh said that it wasn't, it was a little upland, in the  
280 upper right hand corner just outside of the limit of work area. J. Bissonnette asked if it  
281 appeared to be a safety issue. J. Doubrava said that the one tree in the back corner was  
282 probably only still standing because it was leaning up against the other tree. C. Callow  
283 asked if any of the ConCom members had a question on the wetlands delineation. S.  
284 Walsh said that the wetlands were pretty well defined because there is a chicken wire  
285 fence back there and the lot has been filled over time right up to that fence. Beyond that  
286 fence, there is probably a 6" difference in elevation, so the wetlands are pretty well  
287 delineated. C. Callow asked if the trees were in the wetlands and S. Walsh replied no, they  
288 were probably about 10 feet from that delineation. J. Bissonnette asked if it would be  
289 feasible to get permission to remove those trees as an option as long as they notified the  
290 ConCom and put temporary erosion control fences around them. That would be the only  
291 disturbance. They don't plan on touching anything within the 10' zone (other than the two  
292 trees if they take them down) based on the ConCom's rules. J. Doubrava said that if it  
293 were his lot, he would want those trees removed, but he was hesitant to grant "a blank  
294 check" giving them permission to do anything based on "safety concerns". J. Bissonnette



295 said that he was only trying to get permission to remove those trees if that's what the  
296 owner decided he wanted to do. C. Callow didn't have a problem with the tree(s) coming  
297 down as she knows the applicant has small children. S. Walsh says it's not up to the  
298 ConCom to tell the applicant to take the trees down – that would be the engineer and the  
299 builder's decision. It looked to him like one of the trees would be in the way of the corner  
300 of the pool and the other one in the way of the grading and landscaping, but they were  
301 not shown in the scope of the work; but, if we approved this plan, they would be part of  
302 what the ConCom was approving because he doesn't see how they could leave the trees  
303 and do the work. J. Doubrava said that his only concern was that if J. Bissonnette says  
304 the tree(s) removal is beyond the limit of the work, he would expect them to come back  
305 before the ConCom to get permission to remove them. He also said that they didn't ask to  
306 take them down, but after walking the land, he would certainly at least take the "leaner"  
307 down but he thinks it's outside the limit of work. S. Walsh agreed. J. Bissonnette then  
308 asked if they would have to do a separate filing for the tree removal or if they could have a  
309 site inspection with the ConCom and get permission then. S. Walsh recommended  
310 making it clear from the outset whether or not the tree(s) is in the "no touch" zone and  
311 exactly what they intend to do and then working with the ConCom to decide whether an  
312 amended Order of Conditions or another filing would be needed. J. Bissonnette said he  
313 will talk to everyone and get a consensus about the trees. When the ConCom comes out  
314 for the preconstruction meeting after all of the work area has been delineated, they can  
315 then see where the trees lie in relation to the work area and the 10' "no touch" zone and  
316 decide what will be necessary to do in order to grant permission. J. Hartley suggested  
317 marking the trees that may possibly come down (like they did in the front of the property)  
318 on the plan and sending them into the ConCom. C. Callow said that if the ConCom comes  
319 out to the site after the work area has been defined and before the construction begins,  
320 they will be able to make a decision on whether or not an amended Order of Conditions is  
321 needed. J. Doubrava pointed out that usually the ConCom asks for a definitive wetlands  
322 delineation and right now all that is there is a chicken wire fence. J. Bissonnette said that  
323 he believed the applicant would want to remove the fence. S. Walsh said that he believed  
324 that the chicken wire fence is really right on the wetlands line and is sure that the  
325 wetlands probably extended further east than the existing chicken wire fence and that  
326 they had been filled in over time with wood chips and other natural materials which has  
327 caused the elevation to rise. He is concerned that if they do take that chicken wire fence  
328 down, it will change the wetland delineation. J. Doubrava thinks that there should be  
329 something more permanent and definitive there such as boulders which could be placed  
330 just upland of the current fence. J. Hartley said that we usually require delineation of the  
331 no build zone more than the actual wetlands. S. Walsh agreed and said that he thinks

332 they would be doing more harm than good if they required the chicken wire fence to be  
333 replaced with some other type of permanent marker because of the dramatic difference in  
334 the elevation there (about 4-6" difference) and the different types of plants there. J.  
335 Doubrava and C. Callow agreed. The consensus of the ConCom was to leave the fence in  
336 place and J. Bissonnette said that he understood. J. Hartley questioned the irregularity of  
337 the flood zone line and J. Bissonnette explained that it is due to the water flowing around  
338 the higher elevation of the rest of the lot. The flood zone line that he drew follows the 15'  
339 and under elevation. He also said that the flood water would come around from the back  
340 of the property where most of the flood zone is. J. Doubrava brought up that an unrelated  
341 past applicant had put in a pool closer to the line and larger than was permitted. J.  
342 Bissonnette stated that the applicant in this case understands the constraints of the site  
343 and it won't be a problem. L. Coffin introduced himself as representing St. Gabriel's  
344 Church. He said that he didn't believe the church would have a problem taking down the  
345 tree(s) because of safety concerns. He asked about a little wire fence separating the Loft  
346 School shed from the site and the ConCom pointed out that that was not the wire fence  
347 they had been referring to. He then asked about the retaining wall along the driveway. J.  
348 Bissonnette explained that it had been eliminated and that they were putting in a living  
349 fence on all 3 sides of the site. L. Coffin had no further questions. Before closing the  
350 hearing, J. Bissonnette wanted to clarify the expectations of the ConCom. He is going to  
351 put the tree locations on the plan and send it to the ConCom, then they will schedule for  
352 the ConCom to come out for a pre-construction meeting after the erosion controls are in  
353 place and at that time, they will discuss the possible removal of the trees shown on the  
354 plan, if they are going to be removed. He then asked if it would be at that time that the  
355 ConCom would decide if a subsequent filing is needed or if they can grant permission. K.  
356 St. Don said that the ConCom cannot meet or discuss anything outside of a public  
357 meeting, so no matter what they saw at the site, the discussion and decision would  
358 necessitate that he come back for another hearing. J. Bissonnette asked if the ConCom  
359 could put in the Order of Conditions that (if acceptable to the board members visiting the  
360 site at the preconstruction meeting) it wouldn't be detrimental to take them down and  
361 that if the erosion safeguards are properly done, they could do that as a temporary  
362 disturbance. If the applicant decides they are OK, they will leave them alone. J. Doubrava  
363 asked when the applicant wanted to break ground and J. Bissonnette replied "knowing  
364 this applicant, tomorrow!". C. Callow and J. Doubrava said they didn't have a problem  
365 with that and that they could do an Order of Conditions. S. Walsh said that the trees were  
366 in the buffer zone and in his opinion, taking them down would not cause an alteration to  
367 the resource area. He didn't think it would require an amendment to the Order of  
368 Conditions, but they are sizeable trees (wouldn't be able to hug them) so they want to

369 ensure that the resource area is protected from any siltation. They may end up requiring  
370 that a row of wattles is set up to protect the resource area. S. Walsh and C. Callow  
371 agreed that they could address this in the Order of Conditions. J. Bissonnette asked (if  
372 they decided to remove the trees) if it would be prudent of them to just go ahead and put  
373 the secondary set of wattles in prior to the site inspection, so that there could be just one  
374 inspection. S. Walsh said he is going to assume that the applicant will want the trees  
375 taken down. J. Bissonnette agreed. K. St. Don made a motion to close the hearing  
376 (seconded by S. Walsh). The motion passed unanimously.

377

378 **Discussion:** Procedure for Septic Permit Reviews – The question is how to help the  
379 BOH determine which Septic Permit Reviews need to come before the ConCom. J.  
380 Doubrava volunteered to be the “second set of eyes” so that now all Septic Review plans  
381 will come to the ConCom office, and J. Doubrava will look at them and decide whether or  
382 not it will need to come before the ConCom. He said that if there were any doubt, he  
383 would bring it before the Concom. A memo will be sent to the Board of Health informing  
384 them of this procedure.

385

386 **Discussion:** Response letter to DEP regarding the Popitz file. C. Callow had emailed  
387 the letter to the ConCom members. They reviewed it and said that they were good with the  
388 content. C. Callow will add the final touches and email it to L. Magauran, who will email  
389 copies to M. Bartow at DEP, the ConCom and S. Carvalho at Farland Corp. Hard copies of  
390 the letter will be sent by certified mail to M. Bartow and S. Carvahlo.

391

392 **Other Matters:** It was requested by C. Callow to put Blue Hair Salon on the Site  
393 visit list to see what is going on there and because they are abutters to the old Comcast  
394 property. K. St. Don asked if the bogs on Point Rd should be put on the site visit list for  
395 Saturday September 23 and C. Callow said they should be.

396

397 **Issuances:**

398

399 J. Doubrava made a motion to approve the Notice of Intent for the **Kitannsett Club**  
400 with no conditions. It was seconded by S. Walsh and the motion passed unanimously.

401

402 S. Walsh made a motion to issue the Determination of Applicability for **Don R.**  
403 **Lipsitt** (File No. 41D-1658), 4 Island Court. Negative, Boxes #2 and #3 with no  
404 conditions. The motion was seconded by K. St. Don. It passed with 4 votes and 1  
405 abstention (J. Doubrava).

406 K. St. Don made a motion to issue the Determination of Applicability for **Dwight**  
407 **and Alisha Crosby** (File No. 41D-1661), 149 Wareham St. Negative, Boxes #2 and #3 with  
408 no conditions. J. Hartley thinks that it may be in a flood zone. S. Walsh wondered if it  
409 was in a flood zone. J. Doubrava looked it up on an online map and said that it is in an  
410 AE Zone at 15 and 16'. The motion was seconded by J. Hartley and it passed  
411 unanimously.

412

413 J. Hartley made a motion to issue the Determination of Applicability for **Robert**  
414 **and Ellen Kaplan** (File No. 41D-1660), 42 West Ave. Negative Boxes #2 and #3 with the  
415 condition that the landward side of the erosion control barrier shall constitute the limit of  
416 work. The motion was seconded by S. Walsh. It passed with 4 votes and 1 abstention (J.  
417 Doubrava).

418

419 S. Walsh made a motion that the ConCom approve the request from **CLE**  
420 **Engineering on behalf of the Marion Lands Trust** (File No. SE 041-1064), 369 and 371  
421 Wareham St, to extend the Order of Resource Area Delineation for an additional 3 years.  
422 The motion was seconded by J. Doubrava and it passed unanimously.

423

424 C. Callow made a motion to issue the Order of Conditions for 120 Front Street LLC  
425 (File No. SE 041-1272), 120 Front St. with the special condition that 1. Preconstruction  
426 notice shall be given to the ConCom at least 48 hours prior to ground breaking and after  
427 the erosion control barriers are in place. 2. In the event the applicant should decide to  
428 take down two trees located in the "no disurb zone", additional erosion control such as  
429 wattle shall be placed around the take down area. 3. On the plan of record, the two trees  
430 will be identified by illustration. The motion was seconded by J. Doubrava and it passed  
431 unanimously.

432

433 Meeting adjourned at 8:50 pm.

434

435 Submitted by:

436 Lissa Magauran, Administrative Assistant

437 Approved: September 27, 2017

438



RECEIVED  
TOWN CLERK OF MARION, MA  
2017 SEP 28 A 9:20