

MINUTES OF MEETING OF WAREHAM CONSERVATION COMMISSION

Date of Meeting: March 4, 2009

I. CALL MEETING TO ORDER

The meeting was called to order at 7:01 P.M.

II. ROLL CALL

Members Present: Kenneth Baptiste, Chairman
Donald Rogers
John Connolly
Debbie Paiva
Mark Carboni, Associate Member
Sandy Slavin, Associate Member
David Pichette, Agent

Members Absent: Doug Westgate
Louis Caron
Manuel Barros

NOTE: The meeting proceeded w/ item VI. Extension Request – A. Cheryl O'Hara Jenkinson – Fearing Hill Road.

D.Pichette stated the lot in question is at 38 Fearing Hill Road. It was an application submitted in response to a violation that occurred. The project involved the removal of a retaining wall that was placed in the buffer zone to wetlands. The applicant has not been able to get the project going due to financial matters. They are requesting an extension of the OOC. He recommended the extension. Brief discussion ensued re: what the project entails.

MOTION: J. Connolly moved to grant an extension permit for an Order of Conditions for one year to Cheryl O'Hara Jenkinson. D. Paiva seconded.

VOTE: Unanimous (4-0-0)

NOTE: The meeting proceeded w/ item VII. Enforcement Orders – A. Alfred Ferreira – 38 East Central Avenue.

Present before the Commission: Alfred Ferreira

D.Pichette explained the project site is located at 38 East Central Ave. Work was going on at this property in the buffer zone to a salt marsh & also in a coastal flood zone. Some vegetation has been altered w/in the buffer zone to a wetland & partially at the edge of

the wetland. Also, fill was placed in close proximity to the wetland & is also w/in a coastal flood zone. At the last meeting, the Commission asked that this matter be continued so they could go look at the site situation.

Mr. Ferreira stated that when he purchased the property he tried to clean it up not knowing he couldn't do what he did. He noted that the fill he put there was not in the wetlands. He made sure of this. He discussed the debris he got rid of, such as mattresses, tires, etc. He just wanted to clean it up.

D.Pichette stated the fill was placed w/out Commission approval. It was placed very close to the wetland. If the Commission decides the fill can stay there, a filing will be necessary in order for the Commission to approve it being there. Brief discussion ensued. D.Pichette stated a wetland line was never reviewed nor approved by the Commission.

Present before the Commission: A woman

The woman stated she complained about what Mr. Ferreira did because he cleaned out property that wasn't his property. She has lived in this area her entire life. She stated Mr. Ferreira has cut down things. She will complain if things being done are not right. The Board proceeded to review the plan of lots in this area.

Mr. Ferreira stated he cleaned up trees, limbs, etc. He stated he didn't know he needed permission to do what he did & he didn't realize he went too far into other property.

Mr. Baptiste expressed concern re: the fill/dirt Mr. Ferreira placed along the wetland.

Brief discussion ensued re: how to proceed.

MOTION: J. Connolly moved the Commission ratify the Enforcement Order for Alfred Ferreira.

VOTE: Unanimous (4-0-0)

MOTION: J. Connolly moved that a Notice of Intent be filed by Alfred Ferreira for the placement of the sand & obtaining an accurate wetland line. D.Paiva seconded.

VOTE: Unanimous (4-0-0)

III. PRELIMINARY BUSINESS

A. Approval of Minutes: October 1, 2008, October 15, 2008, November 19, 2008, & December 3, 2008.

Not handled.

IV. PUBLIC HEARINGS

A. Amended Order of Conditions – Wareham Boatyard & Marina, Inc., d/b/a Dugan Marine Realty – SE76-1618

The public hearing notice was read into the record.

Present before the Commission: Don Dugan

Mr. Dugan stated he is trying to accomplish two things. One is to obtain approval to patch the ramp & the second is a change to the docks before the as-built is done. He noted the changes to the docks are due to the installation of a pump out station per the request of the Harbormaster. The way the docks are set up now, there isn't enough water depth to handle a 25 ft. boat at low tide & then in turn, can't utilize the pump out station.

D.Pichette explained the site is at the Wareham Boat Yard. The request is to amend the OOC issued for the addition of floating docks. Minor changes are being proposed for the configuration of the floating dock system to improve access to a pump out facility located at the marina. Changes involved would be to shift the dock system to the south by approx. 8 ft. & removing 4 ft. of finger floats at the other end & shifting the outward arm of the dock system approx. 4 ft. to make up the difference so the structure as a whole doesn't move any closer to the southern boundary than what was permitted by the Commission & the ZBA. Mr. Dugan has also asked to repair a corner of the concrete boat ramp that has broken off. It will be reformed & re-poured. He feels changes to the dock system are relatively minor. The ramp is an existing licensed ramp & this repair is up to the Commission's discretion.

J. Connolly asked if the Commission had approved the pumping station & floating dock system. D.Pichette stated the Commission approved the floating dock system, but the pump out station was not part of the original approval issued. Discussion ensued. Mr. Dugan just wanted the Commission to be aware of these changes before he submits the as-built so there wouldn't be any surprises. Some members expressed concern re: no plans being submitted for these dock repairs, just a hand-sketch. Mr. Dugan stated he wasn't aware he would need full engineering plans to make repairs. If engineering plans are required, he will have to push off this project until next season. Discussion continued.

K.Baptiste indicated that possibly three members would like to see plans. He also expressed concern re: the pump-out station. He feels this should have gone before Conservation, State project or not. Mr. Dugan stated this was sponsored by the Harbormaster. K.Baptiste stated when Mr. Dugan speaks to an engineer re: a plan, the pump station should be included. The Commission members concurred to have a plan submitted.

The audience was asked for questions or comments.

Present before the Commission: Victor Johnson, 68 Leonard Street
Mr. Johnson asked if the pump out station is already in. K.Baptiste stated it is. Mr. Dugan stated it was put there in August.

Present before the Commission: Greg Reban

Mr. Reban asked if the Commission is giving permission to clear away sludge to _____??? K.Baptiste stated no & Mr. Dugan needs to file first.

Present before the Commission: Peter McClover

Mr. McClover stated on the plan he saw, it shows taking only four ft. off of two extensions & the others remain the same. The dock Mr. Dugan plans on moving will move 10 ft. more in that direction vs. 8 ft. Mr. Dugan stated he will not go closer than 53 ft. of the property line. Brief discussion ensued. Mr. Dugan discussed what he plans to do.

D.Pichette stated issues that are being raised are Chapter 91 licensing issues & the Commission has no control over. He discussed the riparian line & where the dock sits were granted by the Chapter 91 license. This is a navigational matter vs. an environmental matter. A plan will need to be submitted for Mr. Dugan's requested changes. Mr. Dugan expressed concern re: costs relative to obtaining a new plan. He doesn't feel these changes are major, but minor. K.Baptiste stated an engineer can utilize the original plan & just put the changes on it.

Mr. Dugan stated the Harbormaster requested the pump out station there because neighbors were stating people were dumping waste in the water. He went to the State & he was to be reimbursed by the State 75%. When it was put in, it was found that there wasn't enough water at low tide for the bigger boats to utilize the pump. He discussed the alternative place where the pump station was placed, but it still wasn't adequate. He hopes w/ moving it down eight ft., it will accommodate larger boats at low tide. He received permission from the ZBA for the pump station.

MOTION: J. Connolly moved to continue the public hearing for Wareham Boatyard & Marina, Inc., d/b/a Dugan Marine Realty to March 18, 2010. D. Paiva seconded.

VOTE: Unanimous (4-0-0)

B. NOI – Michael F. Flynn, c/o Braman Surveying & Associates, LLC – SE76-2061

The public hearing notice was read into the record.

Present before the Commission: Bob Braman, Braman Surveying & Associates

D.Pichette described the project. The property is located at 19 Filmore St. (Briarwood). The project involves the construction of an addition to an existing dwelling in the buffer zone to a coastal bank w/in the riverfront area of the Weweantic River & w/in a coastal flood zone, AE elevation 16. A 19x22 ft. "L" shaped addition is proposed approx. 62 ft. from edge of beach grass along the bank dune area. The addition will have a crawlspace foundation & constructed between the existing dwelling & the road. This is the furthest point from the river re: where the house layout is. The site is flat & no grade changes or fill proposed. Haybales are proposed. A DEP file number has been assigned w/ no negative comments. He recommended the issuance of an OOC & added conditions to address the dewatering of the foundation trench should it become an issue. Brief discussion ensued.

Audience members had no questions or comments.

MOTION: D. Paiva moved to close the public hearing for Michael Flynn. J. Connolly seconded.

VOTE: Unanimous (4-0-0)

MOTION: D. Paiva moved to grant an Order of Conditions for Michael Flynn w/ normal stipulations & the added stipulation re: the dewatering of the foundation. J. Connolly seconded.

VOTE: Unanimous (4-0-0)

C. NOI – Henry & Donna Whittier, c/o G.A.F. Engineering, Inc. – SE76-2060

The public hearing notice was read into the record.

MOTION: J. Connolly moved to continue the public hearing for Henry & Donna Whittier to March 18, 2009. D. Paiva seconded.

VOTE: Unanimous (4-0-0)

V. CONTINUED HEARINGS

A. NOI – R. Dale Booth, c/o Thompson Farland Professional Engineering – SE76-2059

Present before the Commission: Christian Farland

Mr. Farland stated they were last here on 2/18/10. He discussed what transpired at that meeting. He got the impression at this meeting that the Commission wanted the house set further back.

D.Pichette described the project. The property is located at 3 Maroni Ave. (RLDS Campground). The project involves the construction of a single-family dwelling in the buffer zone to a coastal bank, a salt marsh, & estimated habitat of rare & endangered species. The 32x56 ft. dwelling w/ associated structures is proposed. The hearing was continued at the last meeting so members could go visit the site & see the location of the house as staked out along w/ the identification of the coastal bank boundary. A revised plan has been submitted. It reflects the setback of approx. 10 ft. vs. what the original plan showed at the top of the coastal bank. A DEP file number has been assigned & no negative comments have been received from Natural Heritage.

Mr. Farland discussed changes shown in the revised plan. He noted DEP & Natural Heritage had no negative comments.

Mr. Baptiste noted that State standards are less strict than the Town's Bylaw standards. He wants to make sure that before anything is done at this site, such as cutting trees, creating a lawn, etc. that a call is made to the Conservation Agent.

Present before the Commission: Bill Wilton

Mr. Wilton stated he is an Onset Board of Trustees representative. They own the land & lease it. A resolution had been passed to change the name of the road. The road was unnamed & is now called Helaman Way.

J. Connolly asked if there had been a subdivision plan for this area. Mr. Farland stated there had been. D.Pichette stated on the Assessors map, it shows this whole area as one big lot w/ a lot chopped out of it. He asked if this went before the Planning Board. It shows all the land to be community land. Mr. Farland explained all the lots are leased. Discussion ensued.

Discussion ensued re: the lot not being shown as broken out on the Assessors map. Mr. Farland feels this map may not be updated.

Mr. Carboni stated another issue near this lot is there were stumps & debris pushed down into the marsh. Mr. Farland stated leaves & brush were being pushed into the marsh for a while, but the ConCom told them this could no longer be done. It was filled in & the ConCom approved. D. Pichette recalls addressing this issue some time ago, but the material was supposed to be taken out. There was no need to fill anything in. Mr. Baptiste suggested D.Pichette be contacted to go look at this problem.

MOTION: D. Paiva moved to close the public hearing for R. Dale Booth. J. Connolly seconded.

VOTE: Unanimous (4-0-0)

MOTION: D. Paiva moved to approve an Order of Conditions for R.Dale Booth. J. Connolly seconded.

VOTE: Unanimous (4-0-0)

VI. EXTENSION REQUESTS

**A. Cheryl O'Hara Jenkinson – Fearing Hill Road
(DONE)**

VII. ENFORCEMENT ORDERS

A. Ross McKee – Cranberry Highway

Mr. Baptiste noted that he was a former employee of Mr. McKee & he will be presiding over the meeting as Chairman only to hold a quorum.

Present before the Commission: Ross McKee

Mr. Pichette stated the site is at 2830 Cranberry Highway. He met Mr. McKee at his property to look at activity in proximity to wetlands. He found there is activity in the wetland, such as storage containers. He was told by Mr. McKee that these containers were recently changed & a roof was put over them to keep a small machine in. He feels the containers do exist in the wetland & he believes they will have to be relocated.

Mr. Pichette stated on another portion of the property, some cutting work was done in the wetland area to prune existing blueberry bushes (this property used to be a farm).

Mr. McKee is unclear as to what the issues are. He has improved the property.

Mr. Connolly asked if there is any room on the other side of the property to get these containers away from the pond. Mr. McKee feels other property owners are doing much worse, such as businesses. There are reasons why he did what he did. The containers were already on his property, he just re-organized them.

Mr. McKee described where his property is located (across from Garden Homes Sales property & next to Kelly's Marine).

Discussion ensued.

Mr. McKee feels he is being made an example of & he didn't do anything that anyone else hasn't done. He expressed his frustration at this situation.

Mr. Baptiste offered the Commission go & meet w/ Mr. McKee re: remedies to this situation. Mr. McKee concurred. Brief discussion ensued re: when to meet at the property.

Brief discussion ensued re: stormwater standards & structures.

B. Alfred Ferreira – 38 East Central Avenue (Not Handled)

VIII. ANY OTHER BUSINESS/DISCUSSION

A. Buffer Zone Setback Bylaw

Mr. Pichette stated issues were raised re: the Bylaw wording & it was felt that the language be re-worked to clarify & spell out the language. It was also suggested that this be brought forward in the fall vs. the spring to make sure everything is worked out. Tonight is the last night to vote to put this article on for the spring Town Meeting or not.

Mr. Baptiste feels it would be too rushed to try & produce a final product for this spring. He feels the fall would be best. Brief discussion ensued.

Brief discussion ensued re: putting information on the website.

Mr. Pichette suggested members bring forward their ideas & language to be put into the Bylaw to be discussed for the Commission's next meeting.

Brief discussion ensued re: buffer zone setback policy & need for Bylaw to hold up in court.

The Commission members concurred to hold a public hearing on the Bylaw for 3/24/10.???

B. Discussion: Victor Brier (Not Handled)

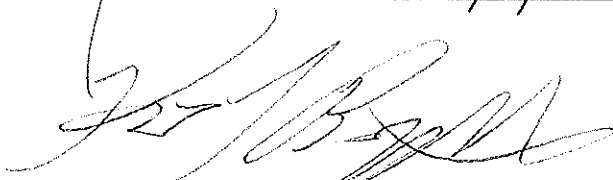
IV. ADJOURNMENT

MOTION: A motion was made & seconded to adjourn the meeting.

VOTE: Unanimous (4-0-0)

Attest: 

Date sent to Town Clerk: 11/4/10


Chairman