

MINUTES OF MEETING OF WAREHAM CONSERVATION COMMISSION

Date of Meeting: March 2, 2011

I. CALL MEETING TO ORDER

The meeting was called to order at 7:00 P.M.

II. ROLL CALL

Members Present: John Connolly, Chairman
Kenneth Baptiste
Sandy Slavin
Doug Westgate
Louis Caron
David Pichette, Agent

Members Absent: Mark Carboni
Donald Rogers

III. PRELIMINARY BUSINESS

A. Approval of meeting minutes: July 7, 2010 – Regular Session & July 7, 2010 – Executive Session

MOTION: Mr. Westgate moved to approve the meeting minutes of July 7, 2010 – Regular Session & July 7, 2010 – Executive Session. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

NOTE: The meeting proceeded w/ item V. Continued Public Hearings – A. Amend OOC – A.D. Makepeace Company, c/o Beals & Thomas.

Present before the Commission: Stacey Minehan, Beals & Thomas
Tom Berkley, A.D. Makepeace Co.

Mr. Pichette described the project. The property is located at Rose Brook Medical Office Building. The request is to amend the OOC to allow some tree cutting w/in the buffer zone to the bordering vegetative wetland & also w/in the riverfront area of Rose Brook. The reason for the request is to allow for an additional view of the new building from Rte. 28. The proposal is to remove 10 oak & maple trees in the buffer zone to wetlands marked as area B on the plan that were submitted. It is also proposed to remove approx. 15 trees from a wooded area adjacent to the new building marked as area A on the plan. This would result in an addition 6900 sq. ft. alteration of riverfront area based on the canopy of removed trees. The riverfront area would not be further altered & would be left in its natural state. Trees proposed to be removed have been marked in the field.

Also, it is proposed that some pine trees be limbed that are also marked. At the last meeting, this hearing was continued so some members could visit the site & trees that were marked. All cutting will be chipped up & removed from the site.

No-one from the audience spoke in favor or against the application.

MOTION: Mr. Baptiste moved to close the hearing for A.D. Makepeace Co. Mr. Westgate seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Baptiste moved to amend the Order of Conditions for A.D. Makepeace Co. as shown in the plan presented this evening & further to have the agent be informed when this work is to commence. Mr. Westgate seconded.

VOTE: Unanimous (5-0-0)

B. NOI – Bay Trust, c/o G.A.F. Engineering, Inc. – SE76-2164

Present before the Commission: Brian Grady, G.A.F. Engineering, Inc.

Mr. Pichette described the project. The property is located at 54 Winship Ave. The project involves the reconstruction & expansion of a floating dock system. The structure consists of a stone wharf, ramp, & floating dock system. The stone work is currently licensed, but the floating dock system is not. The intent is to expand the existing unlicensed float system. The existing float system is 454 sq. ft. The request is to expand the system to get to deeper water & make the floats larger. The proposed square footage of the system is 604 sq. ft. & the floating dock will extend approx. 44 ft. further out into the water. This is a community dingy dock utilized by 15 property owners in the area (Burgess Point). The overall length of the dock meets the ByLaw standard in terms of length. It doesn't conform to the square footage for the floats. He recommended the float system be reduced in terms of the square footage so it doesn't increase beyond what it currently is in terms of square footage. This may mean that a fixed section may be needed between the stone wharf & the floats. He questioned the eel grass study review & the engineer stated a formal eel grass was not done for this project. A DEP file number has been assigned. He recommended a continuation to obtain a revised plan to reflect the changes he has inquired of & for an eel grass study be done for this project.

Mr. Grady stated a formal eel grass study was not done, but he has a letter from Glen Amaral a professional land surveyor who conducted a survey on August 13, 2010 which falls under the guidelines for the study of eel grass. He noted what other information was included in the survey. It is the opinion that there is no eel grass there.

Mr. Grady spoke re: the Association's rules that came up at the last meeting which he submitted to the Commission. The discussion had been that the square footage shown on

the plan was acceptable. As long as it stays a dingy dock in perpetuity, the plan before the Commission was told to be acceptable.

Mr. Pichette noted his recommendations to the Commission which is the float size not be increased because it is already beyond the square footage of what the ByLaw allows.

Audience members were asked if they wished to speak for or against the project.

Present before the Commission: Danny Perry

Mr. Perry spoke re: the dock system that would be utilized & submitted documentation relative to the dock plans to the Commission. A positive aspect of the dock is that it allows light to get through.

Present before the Commission: Dudley Darling

Mr. Darling stated one reason for the increase in size of the dock is to allow for the tying up of dingys parallel to the dock vs. nose first or tail first. This would allow people easier access. The dock will accommodate 16 families.

MOTION: Mr. Baptiste moved to close the public hearing for Bay Trust. Mr. Westgate seconded.

VOTE: Unanimous (5-0-0)

NOTE: Ms. Slavin asked re: the Harbormaster's letter relative to a donation to the Shellfish Propagation Fund is approved. Mr. Connolly believes this is voluntary, not required. Mr. Pichette stated it is something that has been conditioned on other projects in the past based on the same request from the Harbormaster. The standard amount utilized previously is \$500.00.

MOTION: Mr. Baptiste moved to grant an Order of Conditions for Bay Trust w/ the condition that the dock remain as a dingy dock into perpetuity & to accept the design grid as presented & with the condition that a \$500.00 donation be made to the Shellfish Propagation Fund. Mr. Westgate seconded.

VOTE: (4-1-0)
Ms. Slavin opposed

IV. PUBLIC HEARINGS

A. RDA – Thomas R. Doherty, c/o Charles L. Rowley & Associates

The public hearing notice was read into the record.

Present before the Commission: Charles Rowley, Charles Rowley & Associates

Mr. Pichette described the project. The property is located at 51 Wareham Lakeshore Drive. The project involves the construction of a deck & gazebo to be constructed in the buffer zone to Glen Charlie Pond. An existing deck is to be removed & a new 12x20 ft. deck constructed over an existing patio. Also proposed is a screen gazebo to be constructed on sono-tube footings. This is the closest work to the pond & would be approx. 44 ft. from the pond. The gazebo would be attached to the deck & is 10x10. Haybales will be installed between the work area & the resource area as shown on the plan. No grade changes are proposed. He recommended approval of the project w/ a negative determination #3.

Mr. Rowley discussed the new patio.

Audience members had no questions or comments.

MOTION: Mr. Westgate moved to close the public hearing for Thomas R. Doherty. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Westgate moved to grant a Negative Determination #3 for Thomas R. Doherty. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

B. RDA – James & Hona Feeley, c/o G.A.F. Engineering, Inc.

The public hearing notice was read into the record.

Present before the Commission: Brian Grady, G.A.F. Engineering, Inc.

Mr. Pichette described the project. The property is located at 5 Swan Lane. The project involves upgrading a septic system w/in the coastal flood zone. Two existing cesspools are to be replaced w/ a new Title V septic system w/in coastal flood zone AE elevation 15. The new system will be located behind the existing dwelling which is the furthest location possible from the coastal bank. It is outside the buffer zone to the coastal bank & the Wankinquoah River. The only work in the buffer zone is the removal of one of the cesspool. The entire new system is outside the buffer zone & simply w/in the flood zone. No significant grade changes are proposed. He recommended approval of the project w/ a negative determination #2.

Audience members had no questions or comments.

MOTION: Mr. Caron moved to close the public hearing for James & Hona Feeley. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Caron moved to grant a Negative Determination #2 for James & Hona Feeley. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

C. NOI – Paul D. & Adriana Quattrociocchi, c/o Braman Surveying & Associates, LLC – SE76-2162

Present before the Commission: Rob Braman, Braman Surveying & Assoc.

Mr. Pichette described the project. The property is located at 12 Nimrod Way (Pinehurst). The project involves the demolition of an existing dwelling & the reconstruction of a new dwelling in the buffer zone to a coastal bank & w/in a coastal flood zone. An existing cottage will be demolished & a new dwelling will be constructed in the same general location. The new dwelling is 29x39 ft. & a deck & landing is also proposed. The corner of the proposed deck is the closest work to the seawall which is the coastal bank & is approx. 46 ft. from edge of the seawall. The site is also in flood zone AE, elevation 16. No grade changes proposed. Haybales will be placed between the limit of work & the resource area & be w/in 30 ft. from the top of the seawall. A DEP file number has been assigned. He recommended the issuance of an OOC w/ standard conditions.

Ms. Slavin stated she noticed heavy tire marks leading down to the beach. She asked what this is associated w/. Mr. Braman stated this may have been from a dumpster that was at a site.

Audience members had no questions or comments.

MOTION: Mr. Caron moved to close the public hearing for Paul D. & Adriana Quattrociocchi. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Baptiste moved to grant an Order of Conditions w/ standard conditions for Paul D. & Adriana Quattrociocchi. Mr. Caron seconded.

VOTE: Unanimous (5-0-0)

V. CONTINUED PUBLIC HEARINGS

A. Amend OOC – A.D. Makepeace Company, c/o Beals & Thomas (DONE)

B. NOI – Bay Trust, c/o G.A.F. Engineering, Inc. – SE76-2164 (DONE)

C. ANRAD – Mark Lanza, Trustee, Job's Island Realty Trust, c/o Environmental Consulting & Restoration, LLC – SE76-2160

Present before the Commission: Mark Lanza
Representative for Environmental Consulting &
Restoration, LLC

Mr. Pichette described the project. The property is located at Lot 1000 (Job's Island) behind Mather Dr. in the Swifts Beach area. The application is for the delineation of wetland resource areas on the 16.5 acre site. There are several wetland resource area boundaries being applied for, including bordering vegetative wetland, coastal bank, riverfront area, & coastal flood zone. The wetland was marked w/ flags WF1-WF142. The wetland line was reviewed & there were a few minor changes to the wetland line made in the field. With those changes, he concurs w/ the wetland delineation as laid out & is accurate. The coastal bank was also marked. He has no changes to the coastal bank delineation, although the applicant indicated they may wish to re-evaluate some portion of the coastal bank delineation. Relative to the riverfront delineation, he doesn't agree w/ the riverfront area boundaries presented on the submitted plan. In tidal rivers, the mean high tide line is the line that should be utilized to measure for the riverfront area boundary. The applicant has chosen to present a boundary based on other information submitted in the ANRAD application. In discussion w/ DEP personnel, they confirmed that the mean high tide line is what should be used to measure the 200 ft. riverfront area line from. The language referencing other characteristics that are used in the applicant's analysis is found in a certain section of the riverfront regulations, but only a small piece of that language was taken out of that section & it mainly refers to situations that occur in fresh water circumstances. These criteria are not applicable in this case where this is a tidal river. A DEP file number has been assigned. He recommended continuing this hearing to have the riverfront area delineation modified.

The representative stated the applicant doesn't wish to continue the hearing. They are prepared to offer information this evening. He spoke re: the delineation on the plan, a detailed analysis, & the body of water in question.

The representative spoke re: the riverfront regulations & how it relates to this project, for example, an abatement of water & vegetation.

Mr. Pichette noted his concerns which go back to the regulations. The regulations state when a river flows into coastal waters or an abayment, the river shall end at the mouth of the coastal river line as delineated on the current mouth of coastal river maps maintained by DEP. When looking at the maps, this area is up-gradient of this mouth river line. Secondly, the regulations entitled "rivers" state the mean high tide line is to be used as the line to measure the riverfront area from. He asked the representative to point out where in the regulations it gives the option to utilize other characteristics to make their determination.

The representative spoke re: the regulations that state when a river flows from coastal waters or an abayment, the river ends where it no longer has the primary riverine characteristics of fresh water. He explained this definition was upheld in a case that went

to Superior Court. Mr. Pichette would like to review this case in detail. Brief discussion ensued.

Mr. Pichette spoke re: impacts to developable areas of the property if the proposal goes through. He stated that when he spoke to DEP they did not reference the case the representative spoke of.

The representative spoke re: the compilation & details of the riverfront regulations. Mr. Pichette stated he spoke to DEP re: the characteristics & information being presented by the representative & DEP's response was it is not relevant in this case. The mean high tide line is supposed to be utilized for tidal rivers. He would like to look at the case the representative has presented to gain further knowledge & information. Further study of this case will be helpful.

The audience was asked for questions or comments.

Present before the Commission: Ms. Kenney

Ms. Kenney asked if after the case referenced is reviewed & a determination is made that the river would be reclassified in some way, what are the ramifications. Mr. Pichette stated it wouldn't do anything to the river other than to establish where the boundary of the river is going to be considered. It would establish the boundary of the river. The boundary of where it ends is already established by DEP maps. It doesn't establish the edges of the river other than his interpretation of it & his discussion w/ DEP. His interpretation is anything w/in that line should be considered the river up to the high tide line. The representatives are arguing differently & this is the subject of the debate. Delineation decisions are good for three year periods & then be re-evaluated at that time.

MOTION: Mr. Westgate moved to continue the hearing for Mark Lanza, Trustee, Job's Island Realty Trust to March 16, 2011. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

VI. EXTENSION REQUESTS
(NONE)

VII. ENFORCEMENT ORDERS
(NONE)

VIII. CERTIFICATES OF COMPLIANCE
(NONE)

IX. ANY OTHER BUSINESS

A. Discussion: A.D. Makepeace – Rose Brook Place.

Present before the Commission: Tom Berkley, A.D. Makepeace
Stacey Minihan

Mr. Pichette stated A.D. Makepeace is present to discuss the next project they wish to put forth which is Rosebrook Place. This project involves the construction of a hotel & several other commercial buildings along Rte. 28 off of Lou Ave. & Garage St.

Mr. Berkley discussed at length the proposed next project to commence which encompasses the retail & hospitality component of the project & remaining phases. He displayed a plan of the project.

Brief discussion ensued re: stormwater runoff & how the project will deal w/ this issue.

Discussion ensued re: roadways w/in the project area & buffer zones.

B. MACC Annual Conference.

Brief discussion ensued.

C. Emergency Certificate: Bourne – Edgewater Drive.

Mr. Pichette indicated he spoke to Brian Grady of G.A.F. Engineering, Inc. & he is in the process of working on the follow-up NOI & it should be submitted by the next deadline.

D. Swifts Beach Conservation Property.

Ms. Slavin noted conversations she has had re: trying to reduce the vehicle traffic on the beach. Maintenance may not be in favor of placing boulders in the vicinity. She isn't sure anything can be done.

Mr. Pichette noted there has been an effort to garner a Conservation Restriction on this property, but the Town has had difficulty finding a conservation group or an entity to hold the CR on the property. In speaking w/ personnel from the State re: if an entity can't be found to hold a CR, the answer was that you don't necessarily need to end up w/ a CR on the property if all the efforts are exhausted for an entity to hold the CR. This may be a potential possibility if an entity to hold the CR isn't found. Discussion ensued.

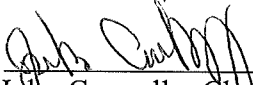
Mr. Pichette stated an option to the CR would be to have a beach maintenance policy/program that the Town adopts. Discussion ensued.

X. ADJOURNMENT

MOTION: Mr. Westgate moved to adjourn the meeting. Ms. Slavin seconded.

VOTE: Unanimous (5-0-0)

Date signed: MAY - 18 - 2011

Attest: 

John Connolly, Chairman

WAREHAM CONSERVATION COMMISSION

Date copy sent to Town Clerk: 5/19/11

