

MINUTES OF MEETING OF WAREHAM CONSERVATION COMMISSION

Date of Meeting: March 16, 2011

I. CALL MEETING TO ORDER

The meeting was called to order.

II. ROLL CALL

Members Present: John Connolly
Ken Baptiste
Mark Carboni
Doug Westgate
Sandy Slavin
David Pichette, Agent

Members Absent: Donald Rogers
Louis Caron

III. PRELIMINARY BUSINESS

A. Approve meeting minutes: January 19, 2011.

The Commission concurred to put off approval of these minutes since only three members present were present at that meeting.

NOTE: The meeting proceeded w/ item V. Continued Public Hearings – A. ANRAD – Mark Lanza, Trustee/Job’s Island Realty Trust, c/o Environmental Consulting & Restoration, LLC – SE76-2160.

Present before the Commission: Mark Lanza, Trustee Job’s Island Realty Trust
Lauren Hayes, Environmental & Restoration, LLC
Bill Madden, G.A.F. Engineering, Inc.

Mr. Pichette described the project. The property is located at Lot 1000 (known as 0 Job’s Island Road) off of Mather Dr. The application is for the delineation of wetland resource areas which is a 16.5 acre site. Several wetland resource area boundaries are being applied for, including bordering vegetative wetland, coastal bank, riverfront area, & coastal flood zone. The bordering vegetative wetland is marked w/ flags WF1 through WF142. This line was reviewed & based on plan revisions, he concurs that the wetland line depicted is accurate. There were no changes to the coastal bank delineation. Re: the riverfront area, he did not concur w/ the way the riverfront boundary was presented on the submitted plan. A discussion was held re: this at the last meeting. The applicant had submitted a previous court case where they felt it was applicable to this particular application. The hearing was continued to review this court case. After reviewing this case, he does not agree this is applicable to this present project. He briefly noted that the court case in question was heard in 1999 & the regulations were much different than they

are currently. Since then, there have been coastal river maps developed by DEP where the end of a river would be in terms of a coastal river/tidal river. The regulation language was also changed to reference said maps vs. river characteristics. He feels the Commission should regard the mean high tide line as where the 200 ft. riverfront line should be measured from. He feels the plan still needs to be revised.

Mr. Lanza understands DEP changed the regulations, but DEP didn't change its regulations to a better definition of what is a river in a tidal or coastal context. He spoke re: the location of the mouth & stretch of the Broad Marsh River. He spoke re: the court case referenced & he discussed the river characteristics, such as the river banks. Lengthy discussion ensued.

Mr. Pichette feels there is a difference in opinion as to how this should be interpreted. The applicant's argument is w/ the fact they don't agree w/ the fact the way DEP has defined how the Commission should determine how the river should be characterized. He recommended the Commission operate by what is written in the regulations & base their decision on that. Currently what the regulations state now is what the decision should be based on.

Mr. Carboni expressed concern re: algae. Mr. Lanza discussed irons & iron impacts relative to the soils & flow. Mr. Carboni stated since he has been on the Commission, no-one has come before the Commission to try to change the characteristics of a body of water.

Brief discussion ensued re: intermittent streams & mosquito ditches. Mr. Pichette stated w/in the regulations, mosquito ditches are not to be included as rivers.

Audience members had no questions or comments.

MOTION: Mr. Westgate moved to close the public hearing for Mark Lanza, Trustee/Job's Island Realty Trust, c/o Environmental Consulting & Restoration, LLC. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

Mr. Pichette asked if the coastal bank line will be left as is on the plan. Mr. Madden noted the coastal bank line on the plan. There were suggestions that the coastal bank could be changed in some areas. Mr. Pichette stated he wouldn't propose any changes, but Mr. Madden can re-evaluate if he wants. Brief discussion ensued.

MOTION: Mr. Westgate moved to deny the application for Mark Lanza, Trustee/Job's Island Realty Trust based on the definition brought forth by DEP relative to the riverfront area & further, all other boundaries are accurate w/ the exception of the riverfront area. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

IV. PUBLIC HEARINGS

A. NOI – A.D. Makepeace Company, c/o Allen & Major Associates, Inc. – SE76-2165.

Present before the Commission: Tom Berkley, A.D. Makepeace
Phil Cordiero, Allen & Major

The public hearing notice was read into the record.

The representatives submitted the green abutter cards.

Mr. Pichette described the project. The property is located at Lot 1001, Rosebrook Way. The project involves grading, site work, & construction of stormwater drainage structures in the buffer zone to bordering vegetative wetland. Site work & the construction of stormwater drainage structures associated w/ the construction of a medical office building are proposed approx. 50 ft. from the edge of the wetland which are cranberry bogs. The proposed medical office building & parking areas are outside the buffer zone to the wetland & to an isolated wetland that exists on the site. The proposed office building is approx. the same size as the office building currently under construction on the adjacent lot. Stormwater for the proposed development shall be collected in catch basins & directed through a Storm ceptor unit & then into grass swails & eventually into a detention basin. There is also an emergency overflow design into the retention basin in case it fills up to a certain level. He questioned the methodology of the northern parking lot where it looks like it is designed to be just sheet flowing toward the edge of the parking lot. The roof runoff from the building would also be captured w/in the same system. The Planning Board will also review this project & will have the stormwater design will be reviewed by the Town Engineer. Because of this, he recommended continuing the hearing so the Planning Board can review. Brief discussion ensued.

The representative discussed runoff & surfaces of the northern parking lot. Discussion ensued.

Audience members had no questions or comments.

MOTION: Mr. Westgate moved to continue the public hearing for A.D. Makepeace Company to April 20, 2011. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

B. RDA – Marani Nominee Trust, c/o McKinnon & Keese Engineering.

Present before the Commission: Representative, McKinnon & Keese

The public hearing notice was read into the record.

Mr. Pichette described the project. The property is located 37 Agawam Lake Shore Drive. The project involves upgrading a septic system & some of this work is in the buffer zone to Agawam Mill Pond. The existing cesspool will be replaced w/ a new Title V system. The pipe work & the septic tank will be in the buffer zone to the wetland &

the actual leach field will be outside the buffer zone to the wetland. It is located in the furthest possible location on the site from the resource area. No grade changes are proposed & haybales will be placed between the work area & the resource area. He recommended approval w/ a Negative Determination #3.

Ms. Slavin stated a lot of land has been disturbed at this property already. Brief discussion ensued what this work is.

Audience members had no questions or comments.

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

VOTE: Unanimous (5-0-0)

MOTION: Mr. Westgate moved to grant a Negative Determination #3 for Marani Nominee Trust. Mr. Westgate seconded.

VOTE: Unanimous (5-0-0)

C. NOI – Anita Milka, c/o Bennett Engineering, Inc. – SE76-2166

The public hearing notice was read into the record

Present before the Commission: Representative, Bennett Engineering, Inc.

The representative submitted the green abutter cards.

Mr. Westgate stated he will abstain from this hearing because he knows both parties.

Mr. Pichette described the project. The property is located at 43 Canedy St. (Rose Point). The project involves the construction of a single family dwelling & associated site work & driveway & part of this is w/in the riverfront area of the Sippican River. A 30x35 ft. dwelling w/ site work & driveway are proposed. The site work & driveway are w/in the riverfront area which is across the street from the proposed building site. Approx. 2200 sq. ft. of riverfront area will be disturbed. It is a pre-existing lot. The work is not w/in the buffer zone to any other resource area. The plan doesn't suggest any grade changes. He asked if there are any grade changes proposed. He stated the ConCom at a previous meeting reviewed the adjacent lot next to this one in question where there was a potential vernal pool. This adjacent lot was conditioned that a pervious driveway surface be installed. On the plan before the Commission, the driveway is proposed to be tarred. He wants the Commission to be conscious of this. A DEP file number has been assigned. If the Commission is satisfied w/ the plan, he recommends the issuance of an OOC w/ standard conditions & the added conditions for the pervious driveway surface.

Audience members had no questions or comments.

The representative stated the applicant isn't entirely sure what type of house there will be yet. He expects some fill in the front yard to fill in a depression. Mr. Pichette would feel better if the Commission had a better sense as to what will be done at this property vs. leaving it open-ended. Brief discussion ensued. The representative stated it will be no problem to have the driveway be a pervious surface. Brief discussion ensued re: the lots in this area, lots surrounding this lot in question, & resource areas.

MOTION: Mr. Baptiste moved to close the public hearing for Anita Milka. Mr. Carboni seconded.

VOTE: Unanimous (4-0-0)

MOTION: Mr. Baptiste moved to approve an Order of Conditions w/ standard conditions & the additional condition that the driveway be a pervious surface & have no more than 3 ft. of fill for the depression area for Anita Milka. Ms. Slavin seconded.

VOTE: Unanimous (4-0-0)

B. RDA – Town of Wareham/Municipal Maintenance

The public meeting notice was read into the record.

Mr. Pichette stated this project is proposed by the Town's Municipal Maintenance Dept. who stated they may not be present at this meeting tonight. They may do this project in conjunction w/ an issue the Commission had re: work on this particular lot.

Mr. Pichette explained the project. The property is located at the Fearing Hill Rd. conservation area, Lot 1000 off of Fearing Hill Rd. It is a Town-owned piece of land. The intent of the application is to conduct maintenance work on the trail & construct some hiking trail(s), fencing around parking area, & signage marking it as conservation land. There is a culvert pipe that goes under the existing access road that goes into this lot which was an old logging road & has deteriorated & needs to be replaced.

Present before the Commission: Kathy Pappilardo, Wareham Land Trust

Ms. Cappuaro reminded the Commission of the Conservation Restriction (CR) on this property & the Land Trust needs to be notified in writing 45 days prior to any work commencing. Discussion ensued.

Mr. Pichette suggested continuing this hearing to April 6, 2011 to make sure all the information is in before proceeding.

Audience members had no questions or comments.

MOTION: Mr. Westgate moved to continue the public hearing for Town of Wareham/Municipal Maintenance to April 6, 2011. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

C. RDA – JAS Realty, LLC c/o J.C. Engineering, Inc.

The public hearing notice was read into the record.

Present before the Commission: J.C. Engineering, Inc. Representative

Mr. Pichette described the project. The property is located at 4 Lake Ave. The project involves site work associated w/ the construction of a single family dwelling in the buffer zone to bordering vegetative wetland along a small isolated pond. Some vegetation clearing & grading work is to be done approx. 85 – 90 ft. from the edge of the wetland that exists along the pond. The proposed house, driveway, & other structures are outside the buffer zone to the wetland. Haybales will be installed between the limit of work & the resource are. There is limited grading proposed & the whole site will be regraded, but a majority of it is outside the buffer zone. He recommended the issuance of a Negative Determination #3.

Brief discussion ensued re: where the Title V system will be placed.

Present before the Commission: Steve Senal

Mr. Senal spoke against the project. He spoke re: the pond & his feeling how this project will impact the pond. He spoke re: a stormdrain that goes into the pond which needs repair. It is an issue & this drain sits right in front of the property being discussed. Mr. Senal was shown the proposed plan. He expressed concern re: in the future the need for the Town to install a culvert on this property. He discussed the steep embankment down to the pond from the proposed property & runoff he anticipates into the pond. He expressed concern re: the trash & debris on this property & how this gentleman has been a poor neighbor. Ms. Slavin stated she visited the site today & the only trash she saw was the orange/yellow item in the water. She did not see any debris on the property. Mr. Pichette stated this pond has a history of having things dumped into it. Relative to the ownership of the property, he is not sure if this current owner has always been the owner. The Town currently would have to approach the landowner, say for an easement, because it is private land. He stated the proposed home will be 100 ft. away from the pond.

Mr. Senal stated again that the lot needs cleaning, such as having a landscaper come & fix it up. He again stated this gentleman has not been a good neighbor. He asked that some conditions be placed on this property to clean it up. Mr. Pichette stated the Commission will address the clean-up at this lot. As far as the limit of work, it will be what is shown on the plan. From a certain point back to the pond, nothing will be touched & should be left natural & not manicured. He showed Mr. Senal the plans again & explained the limit of work line.

Present before the Commission: A woman

The woman stated this pond is a natural kettle pond & is ancient. There are ancient plants around the pond & she has cleaned up this pond area on many, many occasions. She expressed concern re: runoff developing from this project & having things change. Mr. Pichette stated there will not be any erosion going into the pond from this project. Discussion ensued.

MOTION: Mr. Westgate moved to close the public hearing for JAS Realty, LLC. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

Discussion again ensued re: work to be done on the property & the Agent can be contacted if there are any further issues. Mr. Pichette added that outside the 100 ft. line shown on the plan, the Commission has no authority to direct the applicant to do anything because the Commission's jurisdiction ends at the 100 ft. line.

MOTION: Mr. Westgate moved to grant a Negative Determination #3 for JAS Realty, LLC w/ the condition that the debris be cleaned up on the property. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

V. CONTINUED PUBLIC HEARINGS

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

NOTE: The Commission asked that a Mr. Karl Clemmey come before them.

Present before the Commission: Karl Clemmey

Mr. Pichette stated Mr. Clemmey is present due to an issue at Winship Ave. re: cutting done to a wetland area. It was initially thought it was a neighboring land owner, but it was found that it was on Mr. Clemmey's property. He is scheduled to meet w/ Mr. Clemmey tomorrow at the site. The main issue is there was work done in a wetland/near a wetland & someone can't do that w/out the Commission's review. Mr. Clemmey stated when he purchased this property seven years ago, it was there. It has always been there. He stated the deer go through this path. Mr. Pichette stated he will meet w/ Mr. Clemmey tomorrow down at the property. Again, Mr. Clemmey stated it was always there. Mr. Clemmey departed at this time.

Discussion ensued re: the alleged violation & what indications there are that a violation occurred.

VI. CERTIFICATES OF COMPLIANCE

A. William White – 11 Pine Tree Drive – SE76-1663

B. William White – 11 Pine Tree Drive – SE76-1860

Mr. Pichette stated the approvals for the two items above were issued by the Conservation Commission for work along an in-ground pool & a trail that went from the backyard to beach. He feels both of these projects have been completed.

MOTION: Mr. Westgate moved to grant a Certificate of Compliance to William White – 11 Pine Tree Drive – SE76-1663 & SE76-1860. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

VII. ANY OTHER BUSINESS/DISCUSSION

A. Discussion – Lucchessi – Murphy Street

Mr. Pichette stated this is a house that the Commission approved on Swifts Beach on the corner of Columbia St. or Murphy St. He was approached by the builder re: the deck. The request is to make the deck 12 ft. wide vs. 10 ft. The builder wants to know if he needs to come back before the Commission. Discussion ensued.

MOTION: Mr. Baptiste moved to not grant the request for Lucchessi – Murphy St. & to leave it how it was approved. Ms. Slavin seconded for discussion.

Ms. Slavin asked what the difference of two ft. makes. Mr. Westgate stated this is what had been proposed & this is what was granted. Ms. Slavin questioned if 12 ft. had been proposed, would the Commission have denied it. Discussion ensued.

VOTE: Unanimous (5-0-0)

MOTION: Ms. Slavin moved to grant the request for Lucchessi – Murphy St. to have the deck be 12 ft. vs. 10 ft. & that the boundaries be adhered to & no further extensions. Mr. Carboni seconded.

Brief discussion ensued re: if a new plan needs to be submitted to show the new dimension of the deck. Mr. Pichette stated that he will tell the builder a new order needs to be filed.

VOTE: (2-3-0)

B. Discussion – Special Events

Mr. Pichette stated whenever there is a special event, such as on the beach, he is supposed to sign off on it. He discussed what special events are upcoming.

MOTION: Mr. Baptiste moved to approve the special events. Mr. Westgate seconded.

VOTE: Unanimous (5-0-0)

NOTE: Ms. Slavin stated she has a request from the Open Space Committee. The committee would like to find inventory of Town owned property that have Conservation Restrictions on them & who owns the CR. They are also looking for privately owned land in which the Conservation Commission has the CR. The concern is stewardship is not happening on some of the properties. All these properties need to be identified. Mr. Pichette can provide most of this information. It just needs to be compiled.

C. Emergency Certificate: Bourne – Edgewater Drive

No discussion ensued.

D. Swifts Beach Conservation Property

No discussion ensued.

Mr. Pichette asked if any members are interested in the Conservation classes being held in Middleboro. Brief discussion ensued. Mr. Pichette stated the registration form needs to be sent in shortly.

VIII. ADJOURNMENT

MOTION: Mr. Westgate moved to adjourn the meeting. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

Date signed: 6-15-2011

Attest: [Signature]
John Connolly, Chairman
WAREHAM CONSERVATION COMMISSION

Date filed w/ Town Clerk: June 16, 2011

