

MINUTES OF MEETING OF WAREHAM CONSERVATION COMMISSION

Date of Meeting: October 5, 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
Ken Baptiste
Louis Caron
Doug Westgate
Sandy Slavin
Donald Rogers (Arrived at 7:04 P.M.)
Joe Mulkern, Associate Member
David Pichette, Agent

Members Absent: Mark Carboni

NOTE: The meeting proceeded w/ item V. Continued Public Hearings – A. NOI – Walmart Stores/Mark Goldsmith, c/o Bohler Engineering – SE76-2172.

Present before the Commission: Matt Smith, Bohler Engineering

Mr. Connolly noted that Mr. Baptiste would abstain from any discussion re: this application & departed the table at this time.

Mr. Smith provided an update to the Commission re: the power portion of the project. Last night the Planning Board was given a revised site plan re: modifications proposed.

Mr. Smith provided the Commission w/ updated plans & discussed the new plan & the proposed changes. The new plan still stays out of the 50 ft. no disturb area on the site. He stated the limits of the development stay relatively the same, except it has moved a little closer due to adding a bus stop area. He discussed the driveway to the site from Tobey Rd. will shift further away from Cranberry Highway to accommodate traffic issues. These changes were fairly received by the Planning Board last evening. The formal design plans will now be formulated. Hancock Associates, the peer reviewer for the project will review, make comments, etc. on the formal design plans, & from there, the final design should be done.

Mr. Pichette asked why the layout of the store changed. Mr. Smith stated the original proposal had a garden center & there were concerns re: how close the garden center & garden center material would be located to the wetland. This garden center has been moved to the other side of the building.

Ms. Slavin spoke re: the rain retention areas in the parking lot. Mr. Smith discussed the increase of island sizes to help w/ viability of planting & there will be many rain guards

& there will be additional treatment of the runoff. Larger landscape island will be installed. The plans will meet or exceed the stormwater management outlines required.

Ms. Slavin asked re: the reduction of some retention basins. Mr. Smith explained that the paved area has been expanded which will take out some of the size of the above-ground basins. There may be some additional underground infiltration areas or a wall to deal w/ volume.

Mr. Smith stated the initial plan at the intersection was to clear cut the wooded area, but this will be left alone.

Mr. Rogers asked what type of drains will be going in the area near the brook. Mr. Smith stated there will be a series of catch basins & some mechanical separator units. Because the site is wooded, there is a need to infiltrate 100% of the runoff & he hopes the final plans indicate this as well.

Mr. Pichette asked re: the Endangered Species Act & where this is in the process. Mr. Smith stated the traffic issues have been the main focus. The next step in the process will be to address the endangered species issue.

MOTION: Mr. Westgate moved to continue the public hearing for Walmart Stores/Mark Goldsmith to November 16, 2011. Ms. Slavin seconded.

VOTE: Unanimous (5-0-0)

Mr. Baptiste returned to the table at this time.

B. NOI – Winship, LLC, c/o Environmental Consulting & Restoration, LLC – SE76-2194

Present before the Commission: Mr. Holmes, Environmental Consulting & Restoration

Mr. Holmes discussed what transpired at the last meeting & what was required of them for this meeting.

Mr. Pichette discussed the project. The property is located at 18 Winship Ave. The NOI is being filed in response to a violation that involved the alteration of bordering vegetative wetland to create a path through the wetland along the edge of the property. The path had been cleared in varying width from 10 to 12 ft. approx. 320 ft. long. Woodchips were spread over the cleared area. The site is also w/in the estimated habitat of rare & endangered species. The project proposes restoration of the disturbed area by removal of the material placed in the wetland & reseeding the disturbed area w/ a wetland seed mix. The proposal includes maintaining a 4 ft wide pathway into the area for pedestrian & equestrian access. Maintenance of the 4 ft. wide path includes pruning of overhanging limbs & the annual fall mowing of ground vegetation of approx. 6 inches. At the last meeting, these issues were discussed & there were requests to obtain copies of the plan stamped by the engineer which have been submitted this evening. At the last meeting, he had recommended that all the wood-chipped material be removed & the area be reseeded & then the 4 ft. width path maintained on the natural ground & any

vegetation that grows in vs. surfacing the area w/ any material. The area will likely have phragmites regrow as this was a large portion of what had been cleared. Also requested is to include the construction of a horse barn that was recently constructed in the coastal flood zone. Comments were received from MA Natural Heritage & Endangered Species & they had no negative comments re: the project. A DEP file number has been assigned. He recommended this matter be dealt w/ along w/ the conditions he just stated & further, that no future expansion of this path be allowed w/out wetland replication.

Mr. Pichette stated there was a question of restoration & whether it should be done by hand or by machine. This is up to the Commission to make a decision on. Ms. Slavin stated that a small bobcat was discussed at the last meeting. Mr. Holmes discussed how this will be done utilizing a small bobcat.

Mr. Baptiste expressed concern re: what has been done in the past on this property, but he just wants no more to be done than is supposed to be done.

It was stated that Mr. Pichette should be notified before & after the project.

No-one from the audience had any questions or concerns.

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

VOTE: Unanimous (5-0-0)

MOTION: Mr. Westgate moved to grant an Order of Conditions w/ conditions to be set by the Agent. Ms. Slavin seconded.

VOTE: Unanimous (6-0-0)

III. PRELIMINARY BUSINESS

A. Approve meeting minutes: September 7, 2011

To be handled later in the meeting.

IV. PUBLIC HEARINGS

A. NOI – Beverly & Richard Vita – SE76-2198

The public hearing notice was read into the record.

Present before the Commission: William Lockwood, Lockwood Associates

Mr. Pichette described the project. The property is located at 33 Oak St. The project involves the construction of additions, patios, & landscaping in the buffer zone to a coastal bank, coastal beach, & w/in a coastal flood zone. A 12x26 ft. addition & a 7x19 ft. addition is proposed. The 12x26 ft. addition would be constructed between the dwelling & the street. The 7x19 ft. addition would be constructed on the north side of the dwelling between the dwelling & the existing boat house. Currently, there are existing steps in this area. Patios & retaining walls are also proposed. A patio is proposed on the

beach side of the dwelling & would be an extension of an existing patio which would move closer towards the beach. Currently, there is a retaining wall & a patio area that are seaward of the dwelling. The proposal is to remove this feature, then loam, grade, & seed the area to the seawall which is a sloped stone wrap material behind a retaining wall. Thus, there would be an extension of the patio toward the water & the proposal is this in exchange for removing another feature that is even closer to the water & converting this area into a vegetated area. New retaining walls are proposed between the dwelling & the street to terrace the property. Currently, the land slopes down to the street to the dwelling. Renovations to the existing dwelling area also proposed. The roof would be raised & a second story added. Three drywells are proposed to handle roof runoff from the proposed structures. Haybales & silt fence are proposed at the base of the seawall. The proposed patio nearest the seawall is w/in the 20 ft. area to the coastal bank. This patio is being expanded towards the coastal bank. The existing feature that is closer to the seawall is being removed. A DEP file number has been assigned. The submitted plans depict information on three separate plans, thus it is difficult to decipher. It is up to the Commission whether they want to look at the three separate plans or request one single plan. Overall he doesn't have a problem w/ the project. The only part he has a concern with is pushing the patio area closer to the water, even though they are exchanging some existing features. There is a lot of development going on at this site & it would push that patio 6 to 7 ft. closer to the water than is currently there. Also, he has a question as to whether the tree that is between the house & the water will have to be removed. Mr. Lockwood stated yes.

Brief discussion ensued re: having everything on one plan & if the tree definitely has to be removed.

Brief discussion ensued re: the new patio to be installed.

Brief discussion ensued re: the existing steps to the beach. Mr. Lockwood stated there will be no machinery on the beach. He explained how he will get the equipment down to work on the patio.

Mr. Pichette spoke re: the patio in front of the boathouse & asked re: drywells. Mr. Lockwood discussed the placement of the drywells.

Audience members had no questions or comments.

MOTION: Mr. Baptiste moved to close the public hearing for Beverly & Richard Vita. Mr. Caron seconded.

VOTE: Unanimous (6-0-0)

MOTION: Mr. Baptiste moved to grant an Order of Conditions for Beverly & Richard Vita w/ the stipulation that there be no machines on the beach & any further stipulations of the Agent. Ms. Slavin seconded.

VOTE: Unanimous (5-0-1)

V. CONTINUED PUBLIC HEARINGS

A. NOI – Walmart Stores/Mark Goldsmith, c/o Bohler Engineering – SE76-2172 (DONE)

B. NOI – Winship, LLC, c/o Environmental Consulting & Restoration, LLC – SE76-2194 (DONE)

C. NOI – 47 Agawam Lake Shore Drive Nominee Trust, c/o G.A.F. Engineering, Inc. – SE76-2195

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

Mr. Pichette described the project. The property is located at 47 Agawam Lake Shore Drive. The project involves the reconstruction of a deck, installation of a water service in the buffer zone to Agawam Mill Pond. An existing 12x42 ft. deck & associated stairs are proposed to be removed & replaced w/in the same footprint. Sono-tube footings will be installed. The stairs are only 5 ft. or so from the pond. A silt fence is proposed between the work & the pond. Also proposed is a new water service along the westside of the dwelling. Work is relatively minor & no grade changes are proposed. At the last meeting, there was discussion re: tree cutting activity that occurred at the site. Mr. Grady brought in pictures of the trees which showed that the trees were blown over due to storm damage & that is the reason why they were cut.

Brief discussion ensued re: requiring some shrubs/bushes be installed to be installed.

Mr. Pichette asked re: the stumpage. The Commission concurred to allow the stumpage to the cut 6-8 inches off the ground.

Audience members had no questions or comments.

MOTION: Mr. Westgate moved to close the public hearing for 47 Agawam Lake Shore Drive Nominee Trust. Mr. Caron seconded.

VOTE: Unanimous (6-0-0)

MOTION: Mr. Westgate moved to approve an Order of Conditions for 47 Agawam Lake Shore Drive Nominee Trust w/ the stipulation that planting of shrubbery/bushes be done per recommendation of the Agent for the unstable area & to cut stumps down to 6-8 inches. Mr. Caron seconded.

VOTE: Unanimous (6-0-0)

VI. EXTENSION REQUESTS
(NONE)

VII. ENFORCEMENT ORDERS

A. Wood – 3041 Cranberry Highway

Present before the Commission: Mr. Wood

Mr. Pichette stated Mr. Wood owns the property adjacent to Subway (between Subway & Kent's Welding). There was a violation of cutting activity.

Mr. Wood stated the conclusion at the last meeting was that no further cutting would be done. He was then told at the last meeting that he would be contacted (by Mr. Pichette), but he received no call. He stated the site is rejuvenating.

MOTION: Mr. Westgate moved to continue the enforcement order discussion for Wood – 3041 Cranberry Highway to November 16, 2011. Mr. Caron seconded.

VOTE: Unanimous (6-0-0)

VIII. CERTIFICATES OF COMPLIANCE

A. Cherryfield Development – Squirrel Island Road.

Mr. Pichette stated this was a single family home & everything has been done according to plan.

MOTION: Mr. Baptiste moved to grant a Certificate of Compliance for Cherryfield Development – Squirrel Island Road. Mr. Caron seconded.

VOTE: Unanimous (6-0-0)

B. Sands – 18 Blue Jay Terrace.

Mr. Pichette stated this project was to repair a seawall in the Pinehurst area.

MOTION: Mr. Baptiste moved to grant a Certificate of Compliance for Sands – 18 Blue Jay Terrace. Mr. Westgate seconded.

VOTE: Unanimous (6-0-0)

C. Cobin – Sias Point Road.

Mr. Pichette explained that originally, there was a request for a Certificate of Compliance for an OOC. He found that there were two orders outstanding. The applicant will be sending in a request for the second order that was found. He would like to wait to handle both Certificates of Compliance together. This will be brought forward at a later date.

D. Cherubini – 21 Over Jordan Road.

Mr. Pichette stated this was for a septic upgrade that has been completed.

MOTION: Mr. Baptiste moved to grant a Certificate of Compliance for Cherubini – 21 Over Jordan Road. Mr. Caron seconded.

VOTE: Unanimous (6-0-0)

E. Curtain – 5 Priscilla Avenue

Mr. Pichette stated this was for the construction of a fresh water dock that has been completed.

MOTION: Mr. Baptiste moved to grant a Certificate of Compliance for Curtain – 5 Priscilla Avenue. Mr. Caron seconded.

VOTE: Unanimous (6-0-0)

IX. ANY OTHER BUSINESS/DISCUSSION

A. Swifts Beach Conservation Property.

No discussion.

B. Discussion: Violations.

No discussion.

C. Discussion: Frank O'Brien.

Mr. Connolly stated that Mr. Pichette spoke to Mr. O'Brien. Mr. O'Brien is absorbing all the information that Mr. Pichette gave him. Mr. O'Brien will be making an appointment to come back before the Commission for a discussion.

D. Discussion: McCabe Property.

Mr. Pichette stated there is no sign design yet. He will request pricing for certain items from local engineers. He sees other engineering firms doing projects for the Town locally. He will attempt to find out if the engineers may be interested & then get some estimates.

E. Discussion: Associate Member.

Mr. Connolly had called this person to attend the meeting & has not heard anything from him. He attempted one other time to contact him, but has yet to hear from him. He would like to send a letter to the BOS re: this matter. This person has missed two meetings thus far & no-one has heard from this person.

Mr. Pichette stated this person was appointed & sworn in, but he hasn't attended a meeting. Ms. Slavin spoke to Selectman Holmes re: how this person could be appointed to the Commission w/out the Commission's approval. She noted the appointment guidelines & recommendations. Mr. Baptiste feels it has come down to who you are now & bypassing the proper procedure where everyone else on the Commission had to follow the proper procedure to become a member of the Commission. Mr. Pichette stated this person was sworn in on July 6, 2011.

Discussion ensued re: making a motion to remove this person from the Commission. Mr. Pichette feels all the Commission can do is to recommend this person be removed; removal is up to the BOS.

MOTION: Mr. Westgate moved the Commission recommend this person be removed from the Commission for the following reasons & to have Mr. Pichette draft a letter to the BOS: 1. This person was never interviewed by the Commission.

2. This person has yet to attend any meetings since he has been sworn in. 3. This person has not returned the Chair's phone calls. Mr. Baptiste seconded.

VOTE: Unanimous (6-0-0)

F. Discussion: CPC Article.

Ms. Slavin spoke re: the CPC article in the Fall 2011 Town Meeting Warrant (Article 16) that seeks to transfer \$50,000 from the CPC fund to the Conservation Fund. This \$50,000 would be available to be used in order to purchase property more quickly than waiting to purchase property through Town Meeting. This money would only be available for purchases defined by CPA rules. It would be approved by the Conservation Commission, the CPC, & the BOS. The intent is that if some land becomes available & it needs a quick turn-around, this money could be utilized for that purpose. The FinCom voted no on this article because they wanted a specific project listed. Brief discussion ensued.

Mr. Pichette noted the Conservation Fund & estimated there is approx. \$32,000 in this fund.

MOTION: Mr. Westgate moved the Commission support Article 16 of the 2011 Fall Town Meeting Warrant. Mr. Caron seconded.

VOTE: Unanimous (6-0-0)

G. Discussion: Bills – M.A.C.C. Annual Dues.

Mr. Pichette noted the bill for M.A.C.C. dues which is \$224.00. If any member is added, he asked for permission.

MOTION: Mr. Westgate moved to grant permission for Mr. Pichette to add members of the Commission to the M.A.C.C. member list. Mr. Baptiste seconded.

VOTE: Unanimous (6-0-0)

Ms. Slavin stated at the last meeting, she requested certain items be placed on the agenda, such as conservation sites, stewardship land, etc. Mr. Pichette stated he wasn't aware these were to be agenda items. Brief discussion ensued.

Brief discussion ensued re: removal of floating structures at the Tourigny pier off Granston Way in Onset & re: debris in the water.

MOTION: Mr. Baptiste moved if the debris is not removed from the water by November 1, 2011 there will be a \$100.00 per day fine back to October 5, 2011 to Mr. Tourigny. Mr. Westgate seconded.

VOTE: Unanimous (6-0-0)

X. ADJOURNMENT

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

VOTE: Unanimous (6-0-0)

Date signed: 12-7-11

Attest: [Signature]

John Connolly, Chairman

WAREHAM CONSERVATION COMMISSION

Date copy sent to Town Clerk: 12/8/11