

MINUTES OF MEETING OF WAREHAM CONSERVATION COMMISSION

Date of Meeting: September 7, 2011

I. CALL MEETING TO ORDER

The meeting was called to order at 7:03 P.M.

II. ROLL CALL

Members Present: Sandy Slavin, Chairman Pro Tem
Ken Baptiste
Doug Westgate
Louis Caron
Donald Rogers
Joe Mulkern, Associate Member
David Pichette, Agent

Member Absent: Mark Carboni
John Connolly

III. PRELIMINARY BUSINESS

None.

NOTE: The meeting proceeded w/ item V. Continued Public Hearings – A. Judythe & Matthew Desmond, c/o G.A.F. Engineering, Inc.

Present before the Commission: Kevin Forgue, G.A.F. Engineering, Inc.

Mr. Pichette described the project. The property is located at 246 Barker Rd. The project involves the demolition of a dwelling & the reconstruction of a new dwelling in the buffer zone to White Island Pond. Also proposed is a new septic system. The existing cottage is to be removed & a new larger 28x36 ft. dwelling is proposed. The property slopes down towards the pond in the vicinity of the current cottage. The new dwelling is being set back further from the pond than the current cottage, but is being proposed w/ a walk out basement which will need additional excavation done into the slope of the property to create a level terrace. This will result in grading closer to the pond than the current dwelling location. Haybales will be placed between the work & the resource area. This will be approx. 11 ft. from the edge of the wetland. He suggested the Commission should eliminate the walkout basement to minimize alterations to the current grading & work won't be closer to the pond than what currently exists. The application also needs to go before the ZBA. At the time this application has been filed w/ the ZBA for a hearing in the near future. A DEP file number has been assigned. He also feels drywells should be considered. He suggested obtaining a revised plan before closing the hearing.

Discussion ensued re: placement of the septic system.

Mr. Forgue stated the plans have not been revised to show the drywells.

Brief discussion ensued re: the walkout basement. Mr. Pichette explained the reason the walkout basement is a problem w/ this particular project is because there is an existing slope on site & the foundation would be set far down. In order to have the lowest floor, which would be the walkout, the bank would have to be carved out to make it level w/ the lowest floor of the basement level. Mr. Forgue discussed minor grade changes & existing contours at the site. Discussion ensued re: grade changes & its impact on drainage & potential impacts to White Island Pond. Mr. Forgue discussed that the grade changes are minor. Mr. Baptiste stated if the walkout basement was not put in, there would need to be a frost wall protection for the foundation. Mr. Pichette stated it could still be a full basement, just not a walkout. He explained relative to the Bylaw & the slope, it states looking at work w/in 30 ft. of the resource area. The house is already w/in this & if approved as is, it would bring work closer to the 30 ft. Mr. Westgate expressed concern re: expansion of the yard & bringing the project closer to the wetland. Discussion continued. Several Commission members & Mr. Pichette concurred that if the level spot for the walkout basement is w/in the confinement of the deck area, they would not have a problem. Mr. Forgue stated that Mr. Grady could meet w/ Mr. Pichette prior to the next meeting to rework a grading scheme up that meets the Commission's standard.

Audience members had no questions or comments.

VOTE: Unanimous (5-0-0)

MOTION: A motion was made & seconded to continue the public hearing for Judythe & Matthew Desmond to September 21, 2011.

IV. PUBLIC HEARINGS

A. NOI – Andrea Van Inwegen – Cape Cod Shipbuilding Co., c/o CLE Engineering, Inc. – SE76-2193

The public hearing notice was read into the record.

Ms. Slavin acknowledged she is an abutter to this property. Mr. Baptiste became Chairman Pro Tem for this hearing.

Present before the Commission: Ms. Nilson, CLE Engineering, Inc.
Ms. Gleason
Mr. Goodwin

Mr. Pichette described the project. The property is located at the Cape Cod Shipbuilding location. The project involves the installation of a pressure wash collection system in the

buffer zone to a coastal bank & w/in a coastal flood zone. Also part of the project entails the replacement of piles as part of the existing dock structure w/ land under the ocean. The pressure wash system would involve the installation of a 20x30 ft. concrete pad w/ a drainage sump that would collect water that would run through a filtering system which would be situated on a separate 10x10 concrete pad. This activity would be done in the buffer zone to a coastal bank & w/in a coastal flood zone, zone AE elevation 15. The original plan submitted did not show a coastal bank delineation. He asked that this be looked at & identified on a plan. Installation of the system would not require any significant grade changes & this feature is a requirement for facilities that perform boat washing activities. Also proposed is to replace pilings on the existing dock structure. Comments were received for the DMF noting that this part of the project should have a time of year restriction due to the herring run. A DEP file number has been assigned. He would like to see the plan accurately reflect the wetland resource areas & he recommended having haybales along w/ silt fencing for erosion control. He recommended approval of the project w/ the items noted.

Brief discussion ensued re: measurements & material that will be washed off when utilizing the system.

Audience members had no questions or comments.

MOTION: Mr. Westgate moved to close the hearing for Andrea Van Inwegen – Cape Cod Shipbuilding Co. Mr. Caron seconded.

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

MOTION: Mr. Westgate moved to approve an Order of Conditions for Andrea Van Inwegen - Cape Cod Shipbuilding Co. per plan submitted w/ the stipulation of a silt fence & haybales & the time of year restriction as noted by DMF. Mr. Caron seconded.

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

V. CONTINUED PUBLIC HEARINGS

A. NOI – Judythe & Matthew Desmond, c/o G.A.F. Engineering, Inc. (DONE)

VI. EXTENSION REQUESTS

There were no extension requests.

VII. ENFORCEMENT ORDERS

A. Fontes/Perry – 278 Barker Road.

Present before the Commission: Valenti Perry

Mr. Pichette stated this issue is re: a violation that is long-standing at 278 Barker Road. It involved the alteration of land to the buffer zone of White Island Pond. It involved landscaping, the removal of vegetation along the pond, the construction of a stairway along the slope of land along the pond, & the construction of a "pavilion" style building w/in the buffer zone to the pond. Mr. Perry has been before the Commission previously & the Commission directed Mr. Perry that an NOI be submitted to address the violation. To this point no NOI has been submitted. The Commission previously issued a \$200.00 fine for the violation which has gone unpaid. Recently, a notification was re-sent to the owners to attend the meeting to get this issue straightened out.

Mr. Perry asked what an NOI is. Mr. Pichette explained what an NOI is.

Mr. Perry distributed pictures of the property in question. He noted he has done no more work & isn't currently doing work on the property now. Mr. Pichette again described work that was done that was in violation. He stated there are "features" there now that were not there previously. Mr. Perry noted the parking area/driveway was already there previously. He stated the stairs are not permanent & are removable. He stated the stones came out of the property. He is trying to protect his property. He is not doing anything anymore. He feels it is not the people that live around the pond that are polluting it, it is A.D. Makepeace. He doesn't feel he has hurt anything as far as the pond is concerned.

Ms. Slavin stated the Commission is looking for an NOI to be filed to understand what *was done* to the wetland boundary & have a discussion as to whether it stays or is removed. Mr. Perry stated the Commission can see from the pictures what he did.

Mr. Baptiste went to the property. He stated from what he has observed, Mr. Perry has done nothing else & the area is growing back. He doesn't have too much of an issue w/ the stonewall, except it may not be what the Commission would require. He would rather see some stairs/steps going down to the water vs. traversing & eroding the bank.

Mr. Pichette explained when the Enforcement Order was first issued, there was a cease & desist issue (no further work was to be done). Since that time, the stonewall was built around the pond. There are multiple violations at the site. At the very least, an NOI needs to be filed. There is also a fine that hasn't been paid. These are issues the Commission needs to consider.

Mr. Perry questioned if everyone around the pond that has done something to any dock on the pond all filed an NOI for that work. Mr. Pichette stated all the ones during a certain period of time. He has records of all the filings. Anything done 30 or 40 years ago did not have these requirements. Anything new, there are a number of filings.

Mr. Perry asked who has jurisdiction over the pond; Wareham or Plymouth. Mr. Pichette stated both towns do. Part of the pond is in Plymouth & part is in Wareham. The stretch that Mr. Perry's property is on is in Wareham, thus Wareham has jurisdiction over this portion. He noted the property line goes through the pond itself.

Mr. Perry asked what the problem is. Mr. Westgate explained the problem is Mr. Perry did not get permission from the Commission to do the wall & the steps. The punishment would be to take it out of there. If Mr. Perry wants to work w/ the Commission, an NOI should be filed for legality. He stated Mr. Perry is not an exception. Everyone who wants to do such things (living on the pond) need to file w/ the Commission. He stated there are regulations not just of the Town, but of the State. The Commission is trying to work w/ Mr. Perry, but they are receiving defiance on Mr. Perry's part. Discussion continued.

Brief discussion ensued re: a timeframe. Five to six weeks was discussed. Mr. Westgate clarified that a filing from Mr. Perry should be submitted so that it would appear on the Commission's second meeting in October.

B. Franklin – Green Gate Lane.

Present before the Commission: Douglas Schneider, Representative

Mr. Schneider stated it is a complex site that they have been working w/ consultants and a restoration designer from down the Cape. He asked for permission from the Commission relative to the Enforcement Order to remove all the dead brush that has piled up since the enforcement order was given. The restoration designer will come up w/ a restoration plan on the "open face" to stabilize it. It will consist of a vegetative management plan.

Mr. Pichette met w/ Mr. Schneider at the site today. He concurs w/ getting rid of the brush piles. He would like to see the steep face stabilized prior to the winter, for example, netting, erosion control blanket, & some seed mix before the planting season is missed. A more comprehensive plan for the whole slope area will be done. There is still a lot of vegetation there & the steeper face could pose erosion problems.

Mr. Schneider discussed the area where the older smaller house is, the area where the newer house is, & how this was sloped off. He stated that the brush removal will be done by hand. Mr. Pichette stated he would like to see a plan, by the next meeting, relative to planting of the steep face & have this work allowed to move forward under the Enforcement Order so the planting season is not missed. This will be followed up w/ an NOI. As far as any additional planting on the rest of the site, this may have to wait until the springtime.

Brief discussion ensued re: tree stumps on the property. It was stated that the tree stumps are part of the management plan & will be addressed at a later date. Mr. Pichette

stated the plan needs to be approved by the Commission before tree stumps & other items are dealt with.

NOTE: The meeting proceeded w/ item VIII. Certificates of Compliance – B. A.D. Makepeace – Farm to Market Road.

MOTION: Mr. Westgate moved to grant a Certificate of Compliance for A.D. Makepeace – Farm to Market Road. Mr. Baptiste seconded.

Mr. Pichette explained this project was done re: cleaning up the gun shooting ranges, getting lead out of the soil, etc. An as-built plan has been submitted as well as sampling results.

VOTE: Unanimous (5-0-0)

C. Herring – Bourne Cove.

Mr. Pichette stated the consultant for this area (issue) came to see him today & gave him a copy of what they are planning on submitting for an NOI so it will be on the next agenda. He reviewed the application & feels it is “skimpy” as to what they are proposing for replanting. He told the consultant that it needed to be “beefed up”. All that was proposed was to plant six (6) Cedar trees for the whole area & ten (10) Bayberry. He told the consultant the planting numbers need to be increased & other vegetation needs to be planted because other vegetation was cut out of there. A lot of the cut material is growing back. He had concern re: the proposal for such a minimal amount of planting. Brief discussion ensued.

D. Wood – 3041 Cranberry Highway.

Mr. Pichette stated he received a call from Mr. Wood stating he is still trying to get a sense from the Planning Board what will be required of him. Mr. Pichette feels this is a separate issue from the Commission’s perspective. Mr. Wood wants to find out from the Planning Board, if they tell him there is no shot, if he will move forward w/ the project or not. He also had a conflict re: attendance for this evening. Mr. Pichette would like to place this matter on the next meeting agenda.

VIII. CERTIFICATES OF COMPLIANCE

A. John Heywood – 27 Pine Tree Drive.

MOTION: Mr. Baptiste moved to grant a Certificate of Compliance for John Heywood – 27 Pine Tree Drive. Mr. Westgate seconded.

Mr. Pichette explained this project involved the construction of an addition & an in-ground pool w/in the buffer zone to a coastal bank & flood zone. It has been completed according to the plan.

VOTE: Unanimous (5-0-0)

B. A.D. Makepeace – Farm to Market Road. (DONE)

C. Lydon – 11 Sias Point Road.

Mr. Pichette stated this Certificate of Compliance is not ready yet. The Commission is waiting to see if they pulled the little stairway back off the new wall that was built. He has not heard anything back from them. Mr. Pichette stated he wasn't at the last meeting, so he doesn't know what the Commission decided.

Discussion ensued re: the Commission signed the COC at the last meeting. Mr. Pichette will go out & look to see if the stairs were pulled back.

IX. ANY OTHER BUSINESS/DISCUSSION

A. Swifts Beach Conservation Property. (Not handled)

B. Discussion: Violations. (Not handled)

C. Parkwood Beach Association. (Not handled)

D. Discussion: Drainage structure – Onset.

Mr. Pichette stated he hasn't heard anything back from the engineer yet. He will contact Mr. Gifford tomorrow re: the status.

E. Discussion: Frank O'Brien.

Mr. Pichette stated he & Mr. Connolly have spoken about this issue. Mr. O'Brien got in touch w/ Mr. Connolly & wanted to have a discussion w/ the Commission about the matter. Mr. Connolly asked that this matter be placed on the agenda & then have Mr. O'Brien contacted to tell him this would be on the agenda. This all transpired around the Hurricane Irene time & he attempted to call Mr. O'Brien, but Mr. O'Brien had no power so he could not get a message to him re: his matter being on the agenda. Mr. O'Brien does not know this matter is on the agenda, so he recommended tabling this matter until the next meeting.

F. Discussion: McCabe property.

Mr. Pichette stated this is the property the Town/Conservation Commission purchased off of Papermill Road. All the debris/junk has been cleaned off the site w/ one exception; there is still an outhouse building there. Town Counsel is checking w/ them to see about removing this area so the last of the \$10,000 can be released.

Mr. Pichette stated the agreement was when the land was purchased, the Town would take access to the land. Discussion is needed re: getting things done at this site. Access

presently is difficult. A discussion is needed w/ the Land Trust & the Coalition since they have been involved.

Brief discussion ensued re: a need to discuss the parking area.

Mr. Westgate suggested having the abutter come before the Commission to discuss what will be going on.

G. Discussion: Emergency Procedures (Regs.) – Irene.

Mr. Pichette stated as a result of Hurricane Irene, the State has put out emergency regulations re: wetlands laws to allow certain work to be done w/out having to obtain filings, etc. This letter was put in member packets. He wants the members to be aware of these emergency procedures because there will be some work that will be done that will fall under these emergency procedures w/ provisions of notice only. These regulations are only for certain activities, such as downed trees, partially damaged homes, etc. Notice needs to be sent to the Commission by September 27, 2011 stating they want to take advantage of these new regulations & they need to complete the work by October 27, 2011.

NOTE: Ms. Slavin noted that the Edgewater Drive Emergency matter has been taken off the agenda. She doesn't recall this entity coming before the Commission. Mr. Pichette explained they will be filing an NOI. Mr. Grady of G.A.F. Engineering, Inc. is handling this matter. It was taken off the agenda because there was no filing submitted & he didn't feel the need to place it on the agenda until such time as a filing is submitted. The matter is not forgotten.

H. Fall Forest Forum.

Mr. Pichette stated this is a seminar re: forestry work.

Brief discussion ensued re: having Mr. Benjamin come before the Commission.

Ms. Slavin stated relative to Conservation Restrictions the Commission holds, she feels there is a need for an updated list of stewardships & a review when a restriction is in place. She feels at least once per year these properties should be walked by the Commission.

Mr. Pichette stated he will contact Mr. Benjamin.

X. ADJOURNMENT

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

VOTE: Unanimous (5-0-0)

Date signed: 10/19/11

Attest: S S Slavin

Sandy Slavin, Chairman Pro Tem

WAREHAM CONSERVATION COMMISSION

approved 3-0-1

Date copy sent to Town Clerk: 10/20/11

