

## **MINUTES OF MEETING OF WAREHAM CONSERVATION COMMISSION**

**Date of Meeting: March 7, 2012**

### **I. CALL MEETING TO ORDER**

The meeting was called to order at 7:15 P.M.

### **II. ROLL CALL**

Members Present: Sandy Slavin, Chairman Pro Tem  
Ken Baptiste  
Doug Westgate  
Louis Caron  
David Pichette, Agent

Members Absent: John Connolly  
Mark Carboni  
Donald Rogers  
Joe Mulkern

### **III. PRELIMINARY BUSINESS**

#### **A. Approve meeting minutes: January 18, 2012**

To be handled later in the meeting.

### **IV. PUBLIC HEARINGS**

#### **A. Amended OOC – MCJ Management, LLC/Best Friends Preschool, c/o J.C. Engineering, Inc. – SE76-2133**

The public hearing notice was read into the record.

Present before the Commission: Mike Pimental, J.C. Engineering, Inc.

The Commission reviewed the revised plan.

Mr. Pichette described the project. The property is located at 237 Sandwich Rd. This request is to amend an OOC to include a revised plan for a project that originally involved the construction of a child daycare business & associated infrastructure. This property is in the buffer zone to an isolated wetland area which is also isolated land subject to flooding. A 66x100 building was proposed w/ associated parking area, play area, & gravel access road. A 30 ft. no activity zone was required in the original order. A retaining wall was proposed behind the building between the work & the wetland area. Also proposed were stormwater structures & a Title V septic system. The project still

involves the construction of the daycare building, but w/ a revised site layout. The revised plan shows the access road & the building being “flipped” so the access road is essentially the closest feature to the resource area. The proposed limit of work remains the same. In some places it may even be further from the wetland. There is some additional work in the buffer zone that was not shown on the original layout due to the extension of the access road into the site. The square footage of the building has increased & the building will now be 60x174 ft. A different stormwater system is proposed which would be underneath the access road & adjacent to the building. The retaining wall has been removed from the original plan & instead the land will be sloped towards the wetland & loamed & seeded. He recommended the Commission require a guardrail along the roadway so vehicles don’t drive down to the wetland area. Also, there should be new haybales installed at the site as the old ones are deteriorating. Based on the revised plans submitted, he recommended the approval of the amendment w/ standard conditions & the added condition for the guardrail along the roadway & a condition that landscape clippings not be dumped into the wetland area or beyond the limit of work at the site.

Audience members had no questions or comments.

**MOTION: A motion was made & seconded to close the public hearing for MCJ Management, LLC/Best Friends Preschool.**

**VOTE: Unanimous (4-0-0)**

**MOTION: Mr. Westgate moved to grant an Amended Order of Conditions for MCJ Management, LLC/Best Friends Preschool w/ the added condition of the installation of a guardrail, installation of new haybales, & no grass clippings to be placed in the wetland area or beyond the limit of work. Mr. Baptiste seconded.**

**VOTE: Unanimous (4-0-0)**

**B. NOI – Richard Joy, c/o J.C. Engineering, Inc. – SE76-2219**

The public hearing notice was read into the record.

Present before the Commission: Mike Pimental, J.C. Engineering, Inc.

Mr. Pichette described the project. The property is located at 6 Fannie’s Lane. The project involves the demolition of an existing dwelling & the construction of a new dwelling & septic system. Some of the work is in the buffer zone to bordering vegetated wetland. An existing cottage will be demolished & a new 24x32 ft. dwelling is proposed. The new dwelling will be approx. 73 ft. from edge of wetland. The wetland line was reviewed & there were a few flag adjustments required to the wetland line. Those changes are reflected on the revised plan submitted this evening. They were the first three flags on the wetland line. A new Title V septic system is proposed. The new leach field would be outside the 100 ft. buffer zone to the wetland. Grading work is also

proposed. A stone retaining wall will be installed adjacent to the proposed dwelling, approx. 4 ft. in height & at the edge of the driveway area. This site had previous violations & there is still a lot of remaining litter on the site left from the previous owner. He recommended a condition that all trash, debris, & litter be required to be cleaned up & removed from the site prior to the commencement of any construction activities so the material doesn't end up getting buried or mixed into the site during construction. A DEP file number has been assigned. He recommended the issuance of an OOC w/ standard conditions & the added condition that the trash/debris be removed prior to the commencement of the project & both haybales & silt fence be used for the project.

Audience members had no questions or comments.

**MOTION: Mr. Westgate moved to close the public hearing for Richard Joy. Mr. Baptiste seconded.**

**VOTE: Unanimous (4-0-0)**

**MOTION: Mr. Westgate moved to grant an Order of Conditions for Richard Joy w/ standard stipulations & the added stipulations of the Agent & to have the Agent inspect the property prior to commencement of any work to make sure the trash/debris has been removed. Mr. Baptiste seconded.**

**VOTE: Unanimous (4-0-0)**

**C. NOI – ADM Development Services, LLC, c/o Beals & Thomas, Inc. – SE76-2218**

The public hearing notice was read into the record.

Present before the Commission: Mr. Johnson  
Tom Berkley, Beals & Thomas, Inc.

Mr. Pichette discussed the project. The property is located at the intersection of Charge Pond Rd. & Rte. 28. The project involves the reconfiguration of the intersection which involves work in the buffer zone to bordering vegetative wetland. The roadwork is proposed to add a traffic signal to the intersection & also a left turn lane onto Charge Pond Rd. from the eastbound direction of Rte. 28. This work will involve widening the road adjacent to the intersection area to allow for the additional turning lane. All work will be done w/in the existing road layouts. The project will result in additional 2200 sq. ft. of paved surface area. There will be a combination of a modified rock fill material to armor part of the slope down to the wetland once it has been re-contoured. In other portions, loam & seed will be utilized. Catch basins will be replaced w/ deep sump hooded catch basins. Haybales & silt fence will be placed between work & the resource area. Most of the work will be w/in existing disturbed area. A DEP file number has been assigned. He recommended the issuance of an OOC w/ standard conditions.

Mr. Johnson noted Section 72 \_\_\_\_\_????? He received revised plans from the traffic consultant & none of the work will impede w/ the buffer zone. He asked that the plans be revised to a \_\_\_\_\_ curve to a \_\_\_\_\_ curve & \_\_\_\_\_????? & changing sloped granite to a cape cod berm.

Audience members had no questions or comments.

**MOTION: Mr. Westgate moved to close the public hearing for ADM Development Services, LLC. Mr. Baptiste seconded.**

**VOTE: Unanimous (4-0-0)**

**MOTION: Mr. Westgate moved to issue an Order of Conditions for ADM Development Services, LLC w/ the added stipulations of the Agent & the ADM representative. Mr. Baptiste seconded.**

**VOTE: Unanimous (4-0-0)**

**V. CONTINUED PUBLIC HEARINGS**

**A. NOI – Point Independence Yacht Club, Inc., c/o G.A.F. Engineering, Inc. – SE76-2215**

Present before the Commission: Bill Madden, G.A.F. Engineering, Inc.

Mr. Pichette described the project. The property is located at 15 & 17 Independence Lane at the PIYC in Onset. The project involves the installation of 198 sq. ft. of finger floats, installation of five pilings, & the installation of vinyl sheetpiling. The work is w/in land under the ocean & land subject to coastal storm flowage. The site is also w/in the estimated habitat of rare & endangered species. Five 12 inch pilings are to be installed under the existing gas dock for additional structural support. A floating barge would be used for the installation of the pilings. Also proposed are three finger piers totaling 198 sq. ft. to be installed around the gas dock area. There will be no new pilings needed to support the floats as they will be held by existing pilings. Vinyl sheet piling will be installed around the dock gatehouse structure to prevent undermining of sediments. These will be installed on the upland side of the structure. The meeting had been continued to await comments from Natural Heritage & Endangered Species Program. They have responded w/ comments & there are no negative comments about the project. A DEP file number has been assigned. He recommended the issuance of an OOC to approve the project as proposed.

Mr. Madden spoke re: the removal of the decking from the gatehouse & evaluating underneath. Municipal Maintenance has cleaned out the catch basin & to see what is going on there. They would like to expose the drain line & fix it which may be the source of what is being undermined at the site. They would like to replace the pipe if necessary. Mr. Pichette stated down where the catch basins are, there is some caving in.

He asked if there has been any word from Municipal Maintenance as to these being fixed. Mr. Madden stated Municipal Maintenance was able to clean them out, but they were not able to see any pipes going in or coming out. He feels when the work is being done, a better view of what is going on & what is involved.

Ms. Slavin asked re: material needed under the gatehouse. Mr. Madden discussed the material that may be needed under the gatehouse.

Audience members had no questions or comments.

**MOTION: Mr. Baptiste moved to close the public hearing for Point Independence Yacht Club, Inc. Mr. Westgate seconded.**

**VOTE: Unanimous (4-0-0)**

**MOTION: Mr. Westgate moved to issue an Order of Conditions for Point Independence Yacht Club, Inc. according to the plans submitted & any added stipulations of the Agent. Mr. Baptiste seconded.**

**VOTE: Unanimous (4-0-0)**

**B. NOI – Walmart Stores/Mark Goldsmith, c/o Bohler Engineering – SE76-2172**

Ms. Slavin stated there has been a request to continue this public hearing. The next meeting will be on March 21, 2012.

**MOTION: Mr. Westgate moved to continue the public hearing for Walmart Stores/Mark Goldsmith to March 21, 2012. Mr. Baptiste seconded.**

**VOTE: Unanimous (4-0-0)**

## **VI. EXTENSION REQUESTS**

There were not extension requests.

## **VII. ENFORCEMENT ORDERS**

### **A. Mark Lombardi – 276 Barker Road**

Mr. Pichette stated he & Mr. Westgate met w/ Mr. Lombardi & went over the issues & what Mr. Lombardi needs to do to get the violations straightened out. Mr. Lombardi will be consulting an engineer to start the process. He will be working towards correcting the violation through restoration planting & things of that nature. The violation was clearing vegetation in the buffer zone & clearing in the wetland itself (mostly underbrush). A

small dock was also constructed that was not permitted & this would require going through the permitting process.

## **B. Marsha Fishman – 30 Bourne Point Road**

Present before the Commission: Ms. Fishman

Mr. Pichette stated this violation involved clearing of vegetation in the buffer zone to a coastal bank & also w/in land subject to coastal storm flow. No permits were garnered from the Commission to do this. At a previous meeting, these issues were discussed w/ Ms. Fishman & Commission members wanted to go down to the site. He also met w/ the Wildlands Trust who is the entity that holds the Conservation Restriction on the adjacent piece of land. Restoration planting was discussed w/ the owner & the owner stated she would comply w/ whatever the Commission required. He would like to hear comments from the Wildlands Trust.

Present before the Commission: Jim Gainor, Wildlands Trust

Mr. Gainor has oversight of the property abutting the property in question. He briefly discussed the Conservation Restriction on the abutting property & what the Wildlands Trust has oversight of.

Mr. Pichette stated in terms of the cutting, it seems Ms. Fishman stated she didn't do any cutting. Ms. Fishman stated she didn't do any cutting beyond her property. Mr. Pichette feels the cutting that was done was all done in a similar timeframe. Ms. Fishman stated after the hurricane, there was a lot of damage & work was done. She stated she is not associated w/ the other cutting that was done. Mr. Pichette stated all the vegetation was shaved right down to the ground, not just trees. There are smaller trees down by the water that were clearly topped. Ms. Fishman stated she wasn't involved w/ this. Ms. Slavin stated maybe the contractor from a neighbor's property wasn't aware of the lot line & did work on Ms. Fishman's property as well.

Mr. Pichette has noticed that this never was cut the way it is cut now until Ms. Fishman's house was built. It seems coincidental. This is the issue. He feels some of the cutting was done on a neighbor's property as well. It is a violation that needs to be addressed & the issue has only showed up since this house has been built.

Mr. Westgate suggested bringing in the person (people) who did the cutting & speak w/ them. Mr. Pichette stated he can attempt to contact this person (people).

Mr. Gainor stated he can go back & revisit the Conservation Restriction w/ the neighbor to make sure it is clear what the restriction states. Mr. Pichette stated it may be that some of the contractor(s) aren't aware of the Conservation Restriction.

Brief discussion ensued re: a proposed replanting scheme. Discussion ensued re: how to proceed w/ this replanting, which would include a meeting at the property.

### **C. Steven Caradimos/Robert Barry – 37 Prospect Street**

Present before the Commission: Steven Caradimos

Mr. Caradimos stated Mr. Barry is his 93 year old grandfather.

Mr. Pichette stated the site is located at 37 Prospect St. in Onset. There was some cutting work & removal of vegetation on the coastal bank & in the buffer zone to the coastal bank w/ no permitting. An Enforcement Order was sent out & Mr. Caradimos contacted him. A meeting was set up to go to the site to explain what went on & Mr. Caradimos was not aware there was a permitting process for this. There is a steep coastal bank that is now exposed w/ no vegetation to stabilize it. He requested haybales be staked at the tow of the bank & erosion control blanket be pinned in on the bank. Mr. Caradimos stated he has put the haybales there. He stated when he was cleaning up the bank (hill) a lot of debris was found. He recently purchased the property & that is why he was trying to clean up the property.

Mr. Pichette stated Mr. Caradimos will be hiring an engineer & filing an NOI. Another thing that will be needed is a restoration plan to re-stabilize the bank properly over the long-term. Mr. Caradimos discussed what he is trying to do w/ the dwelling & the property. He distributed pictures of the property, the bank, & debris he found.

Mr. Westgate feels once the process starts w/ the restoration, it needs to continue because if it doesn't, there will be weakness & potential for further issues. Brief discussion ensued re: Commission priorities on the property to be taken care of, firstly, the slope. Mr. Pichette suggested in the meantime, even without any engineering consultation, the Commission should allow Mr. Caradimos put in the erosion control blanket, etc. Discussion continued.

Mr. Pichette concluded that first off, the temporary measures should be put into place & then follow-up w/ an engineered plan to address the work. Mr. Caradimos discussed the financial factors of everything he needs to do at the property, including addressing these Conservation issues. Discussion continued.

### **VIII. CERTIFICATES OF COMPLIANCE**

#### **A. Carol Knight – 43 Gault Road**

Mr. Pichette stated this was for a septic system completed a long time ago.

**MOTION: Mr. Westgate moved to grant a Certificate of Compliance for Carol Knight. Mr. Baptiste seconded.**

**VOTE: Unanimous (4-0-0)**

**B. Habitat for Humanity – Minot Avenue**

Mr. Pichette stated this was the house built in front of the power station. Brief discussion ensued re: it was thought the power station was to be moved. Mr. Pichette stated this was never part of this project. Brief discussion ensued re: how this project passed the Building Dept.

**MOTION: Mr. Westgate moved to grant a Certificate of Compliance for Habitat for Humanity. Mr. Baptiste seconded.**

**VOTE: Unanimous (4-0-0)**

**IX. ANY OTHER BUSINESS/DISCUSSION**

- A. Swifts Beach Conservation Property. (NONE)**
- B. Discussion: Violations. (NONE)**
- C. Discussion: Westgate Property. (NONE)**
- D. Discussion: Pittsley/Tourigny. (NONE)**
- E. Discussion: Walmart DEIR Comment Letter.**

Mr. Pichette stated the Commission has a draft form of the Walmart DEIR comment letter. The draft letter he put together has to do w/ Commission issues. The submitted letter to the State, initially, when this project came up, dealt w/ the Natural Heritage issue because of proposed mitigation. His letter reiterated how the Commission was not in favor of the proposed mitigation. All the comments were put into a certificate which was given to the applicant. The State made recommendations of what should be done. After this, there was a second round of commenting. In reading the document, no changes have been made re: the Commission's issue of the mitigation. Again, his letter will reiterate the Commission's concerns, which he discussed briefly. Basically, he is asking for Walmart to mitigate w/in the Town, not somewhere else.

Mr. Pichette asked the Commission to vote to submit this letter since Friday is the deadline for comments.

**MOTION: A motion was made & seconded to accept & approve the DEIR comment letter.**

**VOTE: Unanimous (4-0-0)**

**F. Discussion: Associate Member.**

**MOTION: Mr. Westgate moved the Commission request Mr. Pichette write a letter to the BOS recommending Mr. Leggett as an Associate member to the Commisison. Mr. Baptiste seconded.**

**VOTE: Unanimous (4-0-0)**

X. ADJOURNMENT

MOTION: A motion was made & seconded to adjourn the meeting at 8:50 P.M.

VOTE: Unanimous (4-0-0)

Date signed: 6/6/12

Attest: *S. Slavina*

Sandy Slavin, Chairman Pro Tem  
WAREHAM CONSERVATION COMMISSION

Date copy sent to Town Clerk: *Kelly Barrano*  
6/7/12

