

MINUTES OF MEETING OF WAREHAM CONSERVATION COMMISSION

Date of Meeting: April 4, 2012

I. CALL MEETING TO ORDER

The meeting was called to order at 7:08 P.M.

II. ROLL CALL

Members Present: John Connolly, Chairman
Ken Baptiste
Doug Westgate
Donald Rogers
Sandy Slavin
David Pichette, Agent

Members Absent: Mark Carboni
Louis Caron
Joe Mulkern, Associate Member

III. PRELIMINARY BUSINESS

There were no items under preliminary business.

**NOTE: The meeting proceeded w/ item IX. Any Other Business/Discussion –
A. Swifts Beach Conservation Property.**

Ms. Slavin stated there are problems at the conservation property. She stated someone has been driving on the conservation property since the fence & boulders have been removed. There is also a lot of traffic going off of Swifts Neck between the two parking lots. All the stones have been removed by the parking lot by the playground, thus there is free access between the parking lots.

Mr. Pichette stated he visited the site after the last meeting. There were vehicle tracks. He suggested asking Municipal Maintenance to put something along the edge so vehicles cannot have access. Discussion ensued re: the boulders being taken out.

**NOTE: The meeting proceeded w/ item IX. Any Other Business/Discussion –
D. Discussion: P.I.Y.C.**

Mr. Pichette stated P.I.Y.C has asked to be put on the agenda to discuss amending their OOC which was recently issued. They would like to be doing pile replacement work which was not originally included in the NOI.

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

Mr. Madden discussed the proposal for pile replacement work at P.I.Y.C. He would like to allow a condition to allow for periodic replacement of the pilings. Mr. Pichette stated a separate order would be needed to do this under the Wetland Protection laws. He feels Mr. Madden is asking, if an amendment is done to the OOC, they would like to include the entire setup for replacement piles, & there are conditions in the OOC that states how it should be done, etc., then it would be permitted. It would deal w/ maintenance of the pilings. He feels the OOC would need to be amended to include conditions that discuss specifically what is being discussed. Thus, the conditions need to be changed & a hearing held for an amended OOC.

IV. PUBLIC HEARINGS

A. RDA – Erik Bevans, c/o MLP Carpentry & Building

The public hearing notice was read into the record.

Present before the Commission: Mike Palmer, MLP Carpentry & Building
 Erik Bevans

Mr. Pichette described the project. The property is located at 197 Onset Ave. The project involves the construction of a ground level deck w/in a coastal flood zone. A deck approx. 30 ft. in length & 10-12 ft. wide is proposed in a coastal flood zone, zone AE, elevation 15. The deck would be a ground-level deck constructed over the existing cement patio area & partially over existing lawn area. The deck would be anchored into the existing cement patio area & also w/ sono-tube footings w/in the lawn area & would be utilized for outdoor seating as part of a proposed restaurant at this location. A low retaining wall is proposed w/in the existing lawn area to achieve the appropriate grades to complete the deck. The retaining wall would be approx. 18 inches high. The proposed alteration would be minor. He recommends issuance of a Negative Determination #2.

Audience members had no questions or comments.

MOTION: Mr. Westgate moved to close the public hearing for Erik Bevans. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Westgate moved to grant a Negative Determination #2 for Erik Bevans. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

B. RDA – Ed & Dorothy Donahue, c/o Care Free Homes, Inc.

The public hearing notice was read into the record.

Present before the Commission: _____ Care Free Homes, Inc.

The representative did not have the abutter notification cards.

Mr. Pichette described the project. The property is located at 13 Briarwood Dr. The project involves the construction of a sunroom addition w/in a coastal flood zone. The proposal is for a 12x14 ft. sunroom w/ attached 12x8 deck. The proposed project is w/in coastal flood zone AE, elevation 15. The site is not w/in the buffer zone to any other resource areas. The sunroom & deck would be supported on sono-tube footings. No grade changes are proposed. He recommends approval of this project once the abutter notification cards are submitted.

MOTION: Mr. Westgate moved to continue the public hearing for Ed & Dorothy Donahue to April 18, 2012. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

C. RDA – Dr. Benedict Cosimi, c/o CLE Engineering

The public hearing notice was read into the record.

Present before the Commission: Ms. Olsen, CLE Engineering

Mr. Pichette described the project. The property is located at 67 Towhee Road. The project involves the construction of decks w/in the coastal flood zone. A 6x26 ft. deck is proposed w/in coastal flood zone AE, elevation 15. The decks would be supported on big foot footings w/ 12 inch sono-tubes w/in existing lawn area. A low retaining wall extension would be added to the existing retaining wall for several ft. in the location of the proposed deck. The work is not in the buffer zone to any other resource areas. No grade changes are proposed. He recommended approval of the project, but there are no abutter notifications, so he suggested continuing the hearing.

Audience members had no questions or comments.

MOTION: Mr. Westgate moved to continue the public hearing to April 18, 2012. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

D. NOI – John & Becky Bessette, c/o G.A.F. Engineering, Inc. – SE76-2220

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 97 Glen Charlie Rd. The project involves upgrading a septic system in the buffer zone to Spectacle Pond. An existing cesspool will be replaced w/ a new Title V system. The new system will be located up near the street & is located as far from the pond as possible. It would be approx. 63 ft. from the pond. Also proposed is to construct a retaining wall along the east property line along the side of the driveway. The driveway would have to be removed to install the new system then replaced once the system has been completed. Some grading work is proposed per plan. Silt fence is proposed between the work & the resource area. He recommended including haybales as well. A DEP file number has been assigned. He recommended approval of the project w/ standard conditions & the added condition of adding the haybales along w/ the silt fence.

Audience members had no questions or comments.

Mr. Grady stated the BOH has approved the project.

MOTION: Mr. Westgate moved to close the public hearing for John & Becky Bessette. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Westgate moved to grant an Order of Conditions for John & Becky Bessette w/ standard conditions & the added condition re: adding haybales along w/ the silt fence. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

E. NOI – Peter N. Benedict, c/o G.A.F. Engineering, Inc. – SE76-2221

The public hearing notice was read into the record.

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

Mr. Pichette described the project. The property is located at 6 Point Rd. The project involves the construction of a garage in the buffer zone to a coastal bank. A 22x24 ft. garage is proposed approx. 24 ft. from the top of a coastal bank (sea wall). The proposed garage would be attached to the existing dwelling & is w/in the 30 ft. no activity zone. An infiltration system is proposed to handle the roof runoff from the proposed garage. Silt fence is proposed between the work area & the resource area. A DEP file number has been assigned. He recommended the project be denied as the project does not meet the Town Bylaw re: the 30 ft. no activity zone.

Mr. Madden stated it is a modest expansion of the existing house. A portion of it is w/in the 30 ft. no activity zone, although a very small portion, approx. 70 or 80 sq. ft. Along w/ the application, a detailed letter was submitted that identifies the resource area values pertaining to the Bylaws, the impacts of the project on the resource area values, etc. He

feels there is a net positive impact due to the proposed infiltration system. He stated there is nothing in the Bylaw that allows for activities to occur on a prior disturbed site. He displayed pictures of the site.

Ms. Slavin asked re: the large trees to be removed. Mr. Madden explained. Ms. Slavin asked re: the deck on the side of the house. Mr. Madden explained the deck on the side of the house will be removed as well the stairs associated w/ access to this deck.

Mr. Westgate would like to strive for the 30 ft. no activity zone. He discussed the design of this Bylaw & Town Meeting vote on this Bylaw. Discussion ensued. Mr. Madden noted that the Commission has set precedent for granting projects in the 30 ft. no activity zone in the past & there is no ability in the Bylaw to request a waiver from a residential standpoint as there is for the commercial side. Mr. Pichette stated the decisions made prior do not set precedent from there forward.

Mr. Madden stated they chose to evaluate every resource area value & have showed the net effect of the project is not a negative. Mr. Pichette stated not every interest applies to every project. He noted cumulative potential impacts, such as storm damage. Discussion continued.

Mr. Baptiste expressed concern re: parking cars at this site, if the project is approved, 20 ft. closer to the water.

Mr. Westgate asked if the project can be downsized to bring the project outside the 30 ft. no activity zone.

Audience members had no questions or comments.

Mr. Madden requested a continuance of the hearing.

MOTION: Mr. Madden moved to continue the public hearing for Peter N. Benedict to April 18, 2012. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

V. CONTINUED PUBLIC HEARINGS

There were no continued public hearings scheduled.

VI. EXTENSION REQUESTS

There were no extension requests.

VII. ENFORCEMENT ORDERS

A. Gordon Foote – 2580 Cranberry Highway

Present before the Commission: Gordon Foote

Mr. Pichette stated this issue deals w/ work done at 2580 Cranberry Highway & removal of vegetation in the buffer zone to Parker Mill Pond & wetlands associated w/ that w/ no approval of the Commission.

Mr. Foote stated the address being discussed is his home address in which nothing has been done there. He feels the issue may be at the property he just purchased next door. He has purchased this property as a foreclosure & he has been trying to clean up the property. He stated all he has done is mow down some brush & briars out back. Again, nothing has been done at 2580 Cranberry Highway. Mr. Pichette stated it looks like some cutting was done on both properties at the far end where the canoe racks are.

Brief discussion ensued re: meeting at the property to discuss the matter.

Mr. Foote stated the trees that were taken out were ones that came down during the hurricane. The stumps are still there. Mr. Baptiste expressed concern re: the bank eroding & flooding the property.

Brief discussion ensued re: when to meet at the property. The Commission members concurred to meet this coming Saturday at 9:00 A.M.

B. Joseph Leal – 12 Grandview Avenue

Present before the Commission: Robert Chmielinski
Joseph Leal

Mr. Pichette explained this matter deals w/ a violation that involved the placement of sand on a coastal beach in front of his property at 12 Grandview Ave. (On-E-Set Heights). Also, some marsh grass was removed in this particular area. There has been some erosion over the course of time in this area. When he visited the site after he received a complaint, he noticed sand had been placed along the base of the seawall. This was not reviewed or permitted by the Commission.

Mr. Chmielinski stated Mr. Leal has a medical condition & that is why he is present to represent him.

Mr. Chmielinski distributed pictures of the area in question. He explained that a neighbor moved in at 7 Wellington St. which is up across Mr. Leal's house. What this neighbor did was he built a rock wall down along the beach & built stairs going down to the beach at the end of Wellington St. He stated Wellington St. is a private way. He stated Mr. Leal understood that the stairs were never permitted. He stated one of the pictures shows a little "igloo" type of drain & the rock wall was right beside it; about one foot high. After the wall was built, the sand was building up against the wall & washing away in front of Mr. Leal's retaining wall. This will cause the wall to erode. What Mr. Leal did

was when he saw this, he hired someone to take the wall out & then just spread the sand back where it was supposed to be all along. Somehow, this resulted in some confusion. The sand was moved back after the wall was taken out. After the wall was taken out, the neighbor went back down & built the wooden stairs right next to where the wall was. Mr. Leal stated he has a letter into the Building Inspector to find out if whether or not the stairs were permitted. He feels the stairs are dangerous. He again reiterated, after Mr. Leal took out the wall, the neighbor went right back & put the stairs in. Mr. Leal had to take the wall out because the sand was eroding his wall. The sand that was there (after the wall was taken out) was just redistributed.

Mr. Leal discussed the dismantling of the wall & the redistribution of sand. Mr. Chmielinski stated there are no pictures of anything until the citation was received. Mr. Leal stated the neighbor put concrete under the stairs. He stated this was a second set of stairs. He stated no grass was removed. He doesn't know the difference between marsh grass & regular grass.

The Commission reviewed the photos that Mr. Pichette took at the site.

Mr. Shlalinsky stated at high tide, you can't see the beach. Again, the sand was pushed back over from one area where it had washed away to back in front of Mr. Leal's wall. Mr. Pichette disagreed. He stated there was a lot of fresh siltation coming out of the sand. Mr. Leal stated no sand was delivered as far as he knows. He spoke re: the storm drain on Wellington St. & between Wellington St. & Grandview what have never been serviced in 16 years. He stated when it rains, all the sand comes down Wellington.

Brief discussion ensued re: when to meet at the property. The Commission concurred to meet at this site this coming Saturday at 10:00 A.M.

C. Ralph Malin – 31 Jefferson Shores Road

Present before the Commission: Ralph Malin

Mr. Pichette explained this matter deals w/ clearing of land on Jefferson Shores Rd. across the street from 31 Jefferson Shores Rd. which is an area w/in a coastal flood zone. Mr. Malin removed brush & trash from this property & some trees were cut and/or damaged. Landscaping work was done in a flood zone that the Commission did not review or approve. He spoke to Mr. Malin & the need for review & approval of the Commission. Mr. Malin has since come to the office & picked up an RDA application & submitted & included on the next agenda.

Mr. Malin stated he has lived at 27 Jefferson Shores Rd. since 1984. He stated the lot across the street was literally abandoned. There was a lot of debris from the hurricane. He did not know he needed a permit to clean up the lot.

Mr. Pichette stated the hearing will be on the 18th of this month.

VIII. CERTIFICATES OF COMPLIANCE

There were no Certificates of Compliance.

IX. ANY OTHER BUSINESS/DISCUSSION

A. Swifts Beach Conservation Property (DONE)

B. Discussion: Violations

C. Discussion: Hunting on Conservation Land

Mr. Pichette stated this issue was raised by some people over at the Fearing Hill conservation site found some deer stands in the woods. The question was brought up at a BOS meeting re: whether or not hunting is allowed there. The Commission received a memo asking if hunting is allowed there. There is no formal policy re: this. The Conservation Restriction on the property doesn't specifically address hunting as a prohibited act. He feels Town of Wareham conservation properties should not have hunting.

Discussion ensued re: how to word the motion to prohibit hunting & potentially including Land Trust land as well.

MOTION: Mr. Baptiste moved that a policy be put in place stating that hunting is strictly prohibited on Town-owned conservation land. Mr. Westgate seconded.

VOTE: Unanimous (5-0-0)

D. Discussion: P.I.Y.C. (DONE)

E. Discussion: A.D. Makepeace – Charge Pond Road

Mr. Pichette stated this is an issue that was brought up by the engineer for A.D. Makepeace & a A.D. Makepeace representative re: road improvement work that they will be doing at the intersection of Charge Pond Rd. & Rte. 28. After the Commission held its hearing, MA Highway requested a plan change re: the slope of the stone work that will be on the wetland side of the project. The plan originally showed a certain slope, but MA Highway stated it has to be a different slope; a less steep slope. This will result in pushing the stone work a few feet closer to the wetland. The question is does the Commission want A.D. Makepeace to file an Amended OOC for the revised plan. No revised plan has been submitted as of yet. Discussion ensued re: the change.

The Commission concurred to wait until a revised plan has been received to make a decision.

F. MEPA Certificate – WalMart

Mr. Pichette stated the MEPA Certificate for WalMart's draft EIR has been issued. The letter the Commission sent re: having mitigation in the Town was addressed & it is now required that in the final EIR, WalMart has to show they have tried to go this route w/ Natural Heritage & the Town.

Mr. Pichette explained that all WalMart said the other night (at the ConCom meeting) was they are going to leave the seven acres alone (which they already were going to leave alone because it is wetlands). This is not what mitigation is. He explained that mitigation is accounting for the 20 acres of area they will be destroying to build the store. The State has already determined that this constitutes a take of habitat & the State is making WalMart do a management plan, which includes WalMart paying \$250,000+ to the State, which WalMart agreed to do. The State then decides where to spend this money. He stated he has been urging to have this money be spent in Town, which WalMart has made no effort to agree to this. He stated unfortunately, the hearing has been closed.

G. Draft Plans – Westgate Conservation Area

Mr. Pichette displayed & explained the draft plans for the Commission's review. Discussion ensued re: clearing the area (mowing) & the road.

Mr. Pichette stated a public hearing is needed for this work.

Discussion continued re: the area, including entry way & the bogs.

X. ADJOURNMENT

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

VOTE: Unanimous (5-0-0)

Date signed: 6-6-12

Attest: [Signature]

John Connolly, Chairman

WAREHAM CONSERVATION COMMISSION

Date filed w/ Town Clerk: Kelly Barracco
6/7/12

