

MINUTES OF MEETING OF WAREHAM CONSERVATION COMMISSION

Date of Meeting: May 2, 2012

I. CALL MEETING TO ORDER

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

II. ROLL CALL

Members Present: John Connolly, Chairman
Doug Westgate
Ken Baptiste
Sandy Slavin
Mark Carboni (Arrived at 7:15 P.M.)
Joe Mulkern, Associate Member
Joe Leggett, Associate Member
David Pichette, Agent

Members Absent: Donald Rogers
Louis Caron

III. PRELIMINARY BUSINESS

There was no preliminary business.

NOTE: The meeting proceeded w/ item V. Continued Public Hearings.

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

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

Mr. Madden stated he has gone back & re-assessed the proposal & the new proposal is to demolish the existing home & build a new one & respect the 30 ft. no activity zone. He asked how the Commission would like them to proceed w/ this new proposal. Mr. Pichette suggested withdrawing the application & submit a new application or submit a revised plan w/ the modification of the filing fee to make up the difference. Mr. Madden stated it would be more preferable to submit the revised plan w/ the modification of the filing fee. He stated the plan should be ready in approx. two weeks.

No-one in the audience had any questions or comments.

MOTION: Mr. Westgate moved to continue the public hearing for Peter N. Benedict to May 16, 2012. Mr. Baptiste seconded.

VOTE: Unanimous (4-0-0)

B. NOI – Robert & Rose Tourigny, c/o G.A.F. Engineering, Inc. – SE76-2223

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

Mr. Pichette stated a letter from the applicant's representative was received requesting this NOI be withdrawn.

Mr. Madden stated the applicant had a discussion w/ his neighbors & the applicant felt at that time it was in his best interest to withdraw the application & seek other alternatives.

No-one in the audience had any questions or comments.

MOTION: Mr. Baptiste moved to accept the withdrawal of the application by the applicant, Robert & Rose Tourigny. Mr. Westgate seconded.

VOTE: Unanimous (4-0-0)

C. NOI – Wareham Municipal Maintenance Dept. – SE76-2226.

Present before the Commission: John Browning, Wareham Land Trust

Mr. Pichette stated this project is at lots 1003, 1007, & 1009 off of Papermill Rd. The project involves improvements to Town-owned conservation land. Some work proposed would be w/in the riverfront area of the Weweantic River in the buffer zone to bordering vegetated wetland & partially w/in the estimated habitat for rare & endangered species. A gravel parking lot that would accommodate approx. 7 cars is proposed w/in the riverfront area to the river. This would be approx. 50 ft. to the edge of the wetland & w/in the estimated habitat of rare & endangered species. The parking area would be constructed partially in a previously cleared area on the site & be approx. 44x72 ft. Haybales will be placed between the work & the wetland & the limit of work would be approx. 41 ft. to the wetland. Also proposed is to establish a trail system, primarily by enhancing existing trails & creating some sections of new trails. Some trails are w/in riverfront areas, specifically wetlands & the buffer zone to the wetlands. A majority are existing trails. A foot bridge is proposed to be constructed over an existing brook. The foot bridge would be 4x16 supported on wooden posts. There are a few sections of existing trail where there would be a 3 ft. wide boardwalks placed in wet portions of the trails. These would be elevated approx. 12 to 18 inches from the surface of the ground. Also proposed is selected cutting of damaged trees & maintenance mowing around the existing bogs. A DEP file number has been assigned. Comments have been received from Natural Heritage & they have no major problems w/ the project.

Mr. Browning stated this is a great piece of property & Town Meeting voted to do this project a year ago. The plans have been well done.

Audience members had no questions or comments.

MOTION: Mr. Baptiste moved to close the public hearing for Wareham Municipal Maintenance Department. Ms. Slavin seconded.

VOTE: Unanimous (4-0-0)

MOTION: Mr. Baptiste moved to grant an Order of Conditions for Wareham Municipal Maintenance Department. Ms. Slavin seconded.

VOTE: Unanimous (4-0-0)

IV. PUBLIC HEARINGS

A. RDA – Rudolph Cabral, c/o West Home Improvement

The public hearing notice was read into the record.

Present before the Commission: Mr. West, West Home Improvement

Mr. West presented the green abutter cards to the Commission.

Mr. Pichette described the project. The property is located at 34 13th St. The project involves the construction of an addition w/in a coastal flood zone. A 10x12 ft. addition is proposed w/in coastal flood zone AE elevation 15. The project is not in the buffer zone to any other resource areas. There are no grade changes proposed. He recommended approval w/ a Negative Determination #2.

Audience members had no questions or questions.

MOTION: Mr. Westgate moved to close the public hearing for Rudolph Cabral. Ms. Slavin seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Westgate moved go grant a Negative Determination #2 for Rudolph Cabral. Ms. Slavin seconded.

VOTE: Unanimous (5-0-0)

B. Amended OOC – Point Independence Yacht Club, c/o G.A.F. Engineering, Inc.

The public hearing notice was read into the record.

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

Mr. Pichette described the project. This request is to allow the yacht club the ability to replace damaged piles w/in the marina footprint. There are some piles that need to be replaced. The OOC that was issued previously to install sheet piling limited any piling work to five new pilings at the gas dock. PIYC wants to amend the OOC to have the ability to replace damaged/rotted piles as needed w/in the existing marina footprint. He recommended the issuance of an amended OOC to include the work w/ the understanding that any new pilings will need to be non-leaching treated piles & notification to the Commission prior to the installation.

Mr. Baptiste asked if this will be an on-going thing or will PIYC have to file every time they need to do this. Mr. Pichette stated it will be on-going for the life of the OOC. Mr. Baptiste asked if the Chapter 91 license covers maintenance. Mr. Pichette stated it does under the Chapter 91 law, but it doesn't cover the wetlands permitting. They are two separate processes. He stated the OOC will be good for three years unless an extension is granted. Conditions can't be continued after the OOC has ended. The only way to have continued conditions is if a Certificate of Compliance is issued or obtain a new OOC. Mr. Madden stated sometimes there are conditions that can be imposed in perpetuity. Mr. Pichette stated these would be referenced in the Certificate of Compliance.

Audience members had no questions or comments.

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

VOTE: Unanimous (5-0-0)

MOTION: Mr. Baptiste moved to grant an Amended Order of Conditions for PIYC. Mr. Carboni seconded.

VOTE: Unanimous (5-0-0)

C. NOI – Peter Franklin, c/o Rubin & Rudman LLP, Attorneys at Law

The public hearing notice was read into the record.

Present before the Commission: Douglas Schneider of Schneider Associates
Theresa Sprague, Blueflax Design

Mr. Pichette described the project. The property is located 75 & 77 Green Gate Lane. This project is a follow-up to a violation that occurred at the site for an alteration of a coastal bank & alteration of land in the buffer zone to a coastal bank. This project is for the restoration of the altered area, management of vegetation in the buffer zone area, & for the control & removal of invasive species on site, such as Bittersweet. The altered area is to be vegetated w/ native plant species as identified on the restoration plan. Ten red Cedar trees & six Junipers are proposed along w/ other shrub & ground cover vegetation. Work on the steeper face of the eroding coastal bank has already been

completed & this is work the Commission approved previously prior to the winter. Stumps from trees that were cut are re-sprouting & part of the project proposal is to manage some of the sprouts to encourage the regeneration of trees. This involves mostly oaks & cherries. The plan also shows a view corridor proposed to be maintained. He recommended there be no management in terms of limiting height of the vegetation either on the coastal bank itself as delineated, or within the 30 ft. no activity zone to the coastal bank, even if it is in the proposed view corridor. This is an area he believes the Commission would not have allowed the level of work that was done. A DEP file number has been assigned. He believes the intent & what is shown on the plan is what the Commission wanted to see. He recommended the issuance of the OOC w/ the standard conditions & the added conditions as stated relative to the 30 ft. no activity zone & the coastal bank.

Ms. Slavin asked how the plants did over the winter. Ms. Sprague discussed how the plants did in the winter & a lot of the vegetation is coming back.

Lengthy discussion ensued re: allowing maintenance of tree growth to allow for a water view, restoration, & vegetation types.

Mr. Carboni questioned if Mr. Pichette's recommendations would be counteractive to what the applicant's representative is proposing. The applicant's representative discussed their ultimate goal. Mr. Pichette stated he understands the applicant's interests & what they want to do, but he expressed concern that if everyone that has a coastal property wants to tear down the trees to two to three feet for a view, the coastline would have a significantly different look than what it naturally should have. Secondly, there is already a significant view at this property already. It just isn't a 100% view of what the applicant wants to see. He feels the Commission's goal is to look out for all the interests, including wildlife habitat & all the values that are there.

Brief discussion ensued re: what percentage the applicant is suggesting relative to removing obstructive trees, etc. The applicant's representative stated it is more of a height issue. Discussion ensued.

MOTION: Mr. Westgate moved to close the public hearing for Peter Franklin. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Westgate moved to grant an Order of Conditions for Peter Franklin w/ the stipulations set forth by the Agent re: work in the resource area & in the 30 ft. buffer zone & any other stipulations set forth. Mr. Baptiste seconded w/ the stipulation to issue a fine of \$300.00.

VOTE: Unanimous (5-0-0)

D. NOI – Eric & Linda Ronni, c/o Bracken Engineering, Inc.

Present before the Commission: _____

The public hearing notice was read into the record.

Mr. Pichette described the project. The property is located at 1162 Main Street in West Wareham. The project involves the demolition of an existing dwelling & the reconstruction of a new dwelling, septic system, grading, & driveway in the buffer zone to bordering vegetated wetland. An existing small dwelling is to be demolished & a new 24x32 ft. dwelling w/ a bump out addition will be constructed in the same general location, but slightly further from the edge of the wetland than the existing dwelling. The new dwelling footprint is larger than the existing dwelling. The wetland line was reviewed & no changes were made. The wetland is an abandoned cranberry bog. There is also cranberry bog existing across the street from the dwelling. All the new work would be outside the 30 ft. no activity zone. The new leach field at its closest point to wetlands would be approx. 56 ft. to the wetland across the street. Due to the high ground water, the new system would be a raised system & the leach field would be approx. 3-4 ft. above existing grade. He questioned the volume of fill that may be required for this project. Haybales are proposed to be placed between the work & the resource areas. A DEP file number has been assigned. Based on the conditions, he feels the septic system will be located at the best possible spot on the site & the proposed house will be further from the wetlands. He recommended the issuance of an OOC w/ standard conditions & any added conditions needed in case any dewatering is needed for foundation work.

Audience members had no questions or comments.

MOTION: Mr. Baptiste moved to close the public hearing for Eric & Linda Ronni. Mr. Carboni seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Baptiste moved to grant an Order of Conditions for Eric & Linda Ronni w/ standard conditions & any added conditions of the Agent. Mr. Carboni seconded.

VOTE: Unanimous (5-0-0)

V. CONTINUED PUBLIC HEARINGS

- A. NOI – Peter N. Benedict, c/o G.A.F. Engineering, Inc. – SE76-2221 (DONE)**
- B. NOI – Robert & Rose Tourigny, c/o G.A.F. Engineering, Inc. – SE76-2223 (DONE)**
- C. NOI – Wareham Municipal Maintenance Dept. – SE76-2226 (DONE)**

VI. EXTENSION REQUESTS

There were no extension requests.

VII. ENFORCEMENT ORDERS

A. Ronald Souza – 42 Circuit Avenue

Present before the Commission: Ronald Souza

Mr. Pichette stated the property is located at 42 Circuit Avenue. This issue involves the installation of a dock at the site which he doesn't believe there are any permits issued for its installment. Thus, an Enforcement Order was sent to the owner to attend the meeting this evening to discuss the matter. He asked about the dock.

Mr. Souza stated it is a seasonal aluminum dock he purchased. His plan was to put it in in the spring & take it out in the fall. If a hurricane came, he would take it out. He would use it for the kids to fish, swim off of, etc.

Mr. Pichette stated several permits are needed to have a dock. One is to have a Chapter 91 license. There is also a permit in the wetlands laws, which is a separate permit. Further, the structure Mr. Souza has is not permitted in a coastal area. It is for an area more like a fresh water setting. The Town has its own Bylaws relative to docks & piers that delineate certain construction materials, certain lengths, certain widths, etc. There are a whole host of issues that need to be addressed before a dock can be put in. He offered to go through this w/ Mr. Souza at some point. At this point, since it is not a permitted structure, it will need to be removed.

Mr. Pichette stated Mr. Souza could have an aluminum dock, but pilings would need to be driven into the sediment & they have to be a certain diameter, etc. There is certain criteria that needs to be met. Further, any dock plan needs to be done by a certified engineer so it is designed to meet the standards.

Mr. Westgate suggested Mr. Souza remove the dock, contact Mr. Pichette re: options, etc.

MOTION: Mr. Baptiste moved to ratify the Enforcement Order for Ronald Souza – 42 Circuit Avenue. Mr. Westgate seconded.

VOTE: Unanimous (5-0-0)

VIII. CERTIFICATES OF COMPLIANCE

A. Porcaro, LLC, c/o JC Engineering, Inc. – 1 Sias Point Road

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

MOTION: Mr. Westgate moved to grant a Certificate of Compliance for Porcaro, LLC – 1 Sias Point Road. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

IX. ANY OTHER BUSINESS/DISCUSSION

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

Mr. Pichette stated this is re: the plan to modify the highway (slope) slightly. There is not a significant change. He asked if the Commission wants a hearing for an Amended OOC or just reflect the change in an as-built-plan when it is completed. Brief discussion ensued. The Commission concurred w/ just reflecting the change on the as-built plan.

B. Discussion: Conservation Restrictions

Ms. Slavin stated the Commission is holder of several CR's on property owned by other entities. Part of the Commission's responsibilities as holder is monitoring of these CR's. She feels a report should be given by the Commission once a year on the condition of these properties. The Commission should be stewards of these properties.

Mr. Pichette stated he can provide a formal list of the CR's the Commission holds to the next meeting & look into the condition of said properties. He stated if there was an issue, the Commission would have to contact the owner to rectify the issue since the Commission is only the steward, not the owner of these properties.

Brief discussion ensued.

NOTE: Discussion ensued re: a bill included in the Commission's correspondence re: the survey work & plan done at the Westgate Conservation area. Mr. Pichette stated he wanted the Commission to see the bill. Brief discussion ensued re: what the bill represents.

Ms. Slavin suggested that this bill be presented to the Community Preservation Commission to see if they will pay for it.

Ms. Slavin spoke re: correspondence from the DEP re: the appeal of the Winship, LLC path project that was granted. Mr. Pichette stated DEP has decided that wetlands replication for the path does need to be done & a plan needs to be provided. Brief discussion ensued.

X. ADJOURNMENT

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

VOTE: Unanimous (5-0-0)

Date signed: 6-6-12

Attest: [Signature]
John Connolly, Chairman

WAREHAM CONSERVATION COMMISSION

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

