

MINUTES OF MEETING OF WAREHAM CONSERVATION COMMISSION

Date of Meeting: June 6, 2012

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
Joe Mulkern, Associate Member
Joe Leggett, Associate Member
David Pichette, Agent

Members Absent: Mark Carboni
Donald Rogers

III. PRELIMINARY BUSINESS

A. Approval of meeting minutes: January 18, 2012, March 7, 2012, March 21, 2012, April 4, 2012, & May 2, 2012.

MOTION: Mr. Westgate moved to approve the meeting minutes of January 18, 2012. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Westgate moved to approve the meeting minutes of March 7, 2012. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Westgate moved to approve the meeting minutes of March 21, 2012. Mr. Baptiste seconded.

**VOTE: (4-0-1)
Mr. Connolly abstained**

MOTION: Mr. Westgate moved to approve the meeting minutes of April 4, 2012. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Baptiste moved to approve the meeting minutes of May 2, 2012. Ms. Slavin seconded.

VOTE: Unanimous (5-0-0)

NOTE: The meeting proceeded w/ item VI. Extension Requests – A. Stonebridge Marina – 5 East Boulevard.

Mr. Pichette explained this request is to extend an OOC the Commission issued to the Stonebridge Marina for work to be done to reconstruct the existing bulkhead. The applicant's engineer sent in a request for a three year extension to the permit. Brief discussion ensued.

MOTION: Mr. Baptiste moved to grant a one year extension to the Order of Conditions issued to Stonebridge Marina – 5 East Boulevard. Mr. Westgate seconded.

VOTE: Unanimous (5-0-0)

NOTE: The meeting proceeded w/ item VIII. Certificates of Compliance – A. Eagle Holt Co. – Off County Road.

Mr. Pichette explained this project was for the installation of a water line from an existing cranberry bog to a water supply source which was the pond at the Whitehead plant off of County Road. The project has been completed in accordance w/ the Order of Conditions. He recommended the issuance of a Certificate of Compliance.

MOTION: Mr. Baptiste moved to grant a Certificate of Compliance for Eagle Holt Co. – Off County Road. Mr. Westgate seconded.

VOTE: Unanimous (5-0-0)

B. 47 Agawam Lake Shore Drive Nominee Trust – 47 Agawam Lake Shore Drive.

Mr. Pichette explained this project was for the reconstruction of a septic system at 47 Agawam Lake Shore Drive which is in the buffer zone to Agawam Mill Pond. The project has been completed according to the OOC. He recommended the issuance of a Certificate of Compliance.

MOTION: Mr. Baptiste moved to grant a Certificate of Compliance for 47 Agawam Lake Shore Drive Nominee Trust – 47 Agawam Lake Shore Drive. Mr. Caron seconded.

VOTE: Unanimous (5-0-0)

C. Bay Trust – 54 Winship Ave.

Mr. Pichette explained this project was for the extension of a dock & floats. This project has been completed according to the OOC & plan submitted. He recommended the issuance of a Certificate of Compliance.

MOTION: Mr. Caron moved to grant a Certificate of Compliance for Bay Trust – 54 Winship Ave. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

IV. PUBLIC HEARINGS

A. RDA – David Matthews

The public hearing notice was read into the record.

Present before the Commission: David Matthews

Mr. Matthews presented the abutter cards to the Commission.

Mr. Pichette described the project. The property is located at 48 East Central Ave. The project is not to extend the foundation as described in the advertisement. There was an error in the advertisement. The foundation already exists at the site. This is a project the Commission approved a number of years ago, but the permit has expired & the applicant is seeking a new valid permit to complete the work. The project is for the construction of a single family home w/in a coastal flood zone. The project is not in the buffer zone to any other resource area & has other existing development around it. The foundation is the only thing there & all that remains is the construction of the home, landscaping, & associated work. He recommended approval of the project w/ a Negative Determination #2.

Audience members had any questions or comments.

MOTION: Mr. Baptiste moved to close the public hearing for David Matthews. Mr. Caron seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Baptiste moved to grant a Negative Determination #2 for David Matthews. Mr. Caron seconded.

VOTE: Unanimous (5-0-0)

B. NOI – Ronald Buck, c/o J.C. Engineering, Inc. – SE76-2230

The public hearing notice was read into the record.

Present before the Commission: Brad Bertollo, J.C. Engineering, Inc.

Mr. Pichette described the project. The property is located at 20 Agawam Dr. The project involves the upgrading of a septic system in the buffer zone to Agawam Mill Pond. An existing septic system is to be replaced w/ a new Title V system. The new system is being located as far from the resource area as possible on the lot, thus between the existing dwelling & the street. The new system will be approx. 80 ft. to the edge of the pond. There is no significant grade changes proposed at the property. A DEP file number has been assigned. He recommended the issuance of an Order of Conditions w/ standard conditions.

Audience members had no questions or comments.

MOTION: Mr. Baptiste moved to close the public hearing for Ronald Buck. Mr. Caron seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Caron moved to grant an Order of Conditions w/ standard conditions to Ronald Buck. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

C. NOI – Mary T. DeSantis, c/o N. Douglas Schneider & Associates, Inc. – SE76-2231

The public hearing notice was read into the record.

Present before the Commission: Dave Davignon, N. Douglas Schneider & Associates, Inc.

Mr. Pichette described the project. The property is located at 32 Algelo Ave. (Hamilton Beach area). The project involves the replacement of an existing seawall. Approx. 50 ft. of existing concrete seawall is to be removed & replaced in the same general location as the existing wall. The new wall will be a poured concrete wall on top of a new concrete footing. It is also proposed to place toe-stone boulders out in front of the new seawall. Currently, there is some stone rip-wrap material which includes some brick & chunks of concrete out in front of the seawall. This material will be removed & disposed of off-site. This project is subject to tidal influences & work would have to be done at low tidal ranges. It is also likely that de-watering will be needed when the footing work is done. He recommended conditions re: dewatering, such as haybale containment areas for discharge of the de-watering activities. Toe-stones are proposed for protection of the wall. He spoke to the engineer about this re: whether this will be necessary & the engineer felt this would be needed for protection of the wall. It was stated that an

excavator would be utilized for the work. The existing stairway would be removed & replaced in the same location. The original plan submitted had some additional features that were proposed, but after discussing those items w/ the engineer, the plan has been revised & removed those features because they were features that did not conform to the 30 ft. no activity zone. The Division of Marine Fisheries commented on the project & they commented re: work should be done from the upland side of the property & machinery on the beach would likely damage shellfish resources so they recommend against this. They also recommend no further encroachment of the seawall. A DEP file number has been assigned. He recommended approval of this project. Discussion ensued re: the project.

Audience members were asked for questions or comments.

Present before the Commission: _____

Mr. _____ has some reservations re: the wall being taken down, vibrations, rip wrap, mice around the property, etc. (*Could not hear what he was saying*). Mr. Pichette asked in terms of getting the existing stone & rip wrap out of there, how is this proposed to be done. Mr. Connolly suggested a pre-construction hearing w/ Mr. Pichette on site prior to the project commencing.

MOTION: Mr. Westgate moved to close the public hearing for Mary T. DeSantis. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Baptiste moved to grant an Order of Conditions for Mary T. DeSantis w/ standard conditions & additional stipulations to have a pre-construction meeting prior to commencement of the project, have a boom placed in the water to catch hydraulic fluid leaks & removal of rip wrap of the lower portion, place a trap for rodents, & no nitrogen fertilizer on the lawn. Mr. Westgate seconded.

VOTE: Unanimous (5-0-0)

V. CONTINUED PUBLIC HEARINGS

There were no continued hearings scheduled.

VI. EXTENSION REQUESTS

A. Stonebridge Marina – 5 East Boulevard (DONE)

VII. ENFORCEMENT ORDERS

A. Robert & Lisa Fast – Sias Point Road

Mr. Pichette stated at the last meeting, it was decided that he would meet w/ the Fast's at the site to fully explain what the Commission wants in terms of replanting the disturbed area. He did meet & the Fast's have agreed to restore the area as the Commission requested. They will be doing this shortly once the planting scheme list is completed.

B. Michael Gerard – 32 Farmer's Lane

Present before the Commission: Michael Gerard

Mr. Pichette stated this issue is in re: to work done at 32 Farmer's Lane which involved the placement of fill material in the buffer zone to wetland that was not approved by the Commission. There was the placement of gravel fill material on the side of the existing dwelling to create an expanded parking area for a camper & in close proximity to a wetland & w/in the 30 ft. no activity zone which is part of the Town's Bylaw.

Mr. Gerard explained _____ (*could not hear him on tape*).

Ms. Slavin asked when the silt fence was placed. Mr. Gerard stated the silt fence was placed when the work was being done.

Mr. Pichette again stated the stone is still in the buffer w/ no review or approval of the Commission. Also, it is in the 30 ft. no activity zone that was grass, but is now an extension of a driveway. Mr. Baptiste doesn't see a major problem w/ what was done. The camper isn't going to be there all the time. He understands the 30 ft. setback, but there is an issue w/ getting around this house.

MOTION: Mr. Baptiste moved that Mr. Gerard file an RDA for this project. Mr. Westgate seconded.

VOTE: Unanimous (5-0-0)

C. Joseph Leal – Grandview Avenue

Present before the Commission: Joseph Leal
Attorney _____, Representative

Mr. Pichette stated this matter deals w/ work done at 12 Grandview Ave. This was discussed previously. The work done was activity along the beachfront property (Mr. Leal's property). When he reviewed the property, it looked as though sand had been placed in front of Mr. Leal's seawall. Mr. Leal claims he did not bring in any sand, but there was sand on the beach that was re-distributed. Also, there are some concrete blocks & concrete material that Mr. Leal stated he had removed at the property. The last time the Commission spoke of this, they wanted to look into this matter further. Mr. Pichette stated it is still his view that sand was brought into the site, but he has no proof. Looking

at the material & the condition that it was in, it looked like fresh material to the area. The work was partially done because of a stairway that was built at this location that was in Mr. Leal's view, an illegal structure & had no permits. Mr. Pichette stated, in speaking to some of the abutters & the Building Inspector, it turns out there was no permit issued for the stairs. This is a separate matter.

The attorney stated the stairs were a combination of concrete & block that was put down around 9/11. The introduction of this structure caused the sand to on one side, build up & on the other side (the wall) caused erosion. Another feature that needs to be pointed out is, at the top, there is a large culvert drain & a lot of sand is collected in the drain over the course of the year & runoff. Rain & sand go into the culvert drain & comes out approx. in the area where the illegal stairs were built. So it is quite possible that debris from the culvert was in the sand & accumulated & this is what Mr. Pichette observed.

Brief discussion ensued re: the stairs & the "new" sand that seems to be there. Some members think a lot of the new sand is on the abutter's side.

Mr. Pichette noted that where the stairs are located, there is a paper street that runs down to the coast that other property owners in the neighborhood have access to or deeded rights to. This is the intent of the stairs was to gain access to get down to the beach. Mr. Baptiste feels this is a separate issue. He feels the focus should be re: Mr. Leal & the sand placement issue. Mr. Pichette stated he cannot prove Mr. Leal put new sand there, but it seems obvious that the sand there was "new" & redistributed. The main issue is work was done along the beach w/ no permits.

MOTION: Mr. Baptiste moved to issue a \$100.00 fine to Mr. Leal for un-permitted work done at Grandview Ave. Mr. Caron seconded.

**VOTE: (4-1-0)
Ms. Slavin opposed**

A member of the audience asked if there was going to be any public comment on this matter & the matter of the stairs.

Present before the Commission: _____

Mr. _____ displayed a picture of the stairs in 1969. He stated it was taken down & work was done on the wall, then the stairs were put back on. He doesn't feel the stairs caused any washing up of sand. He stated the stairs are behind the culvert. The stairs would have to be beyond something to have an effect on the collection of sand. When work was done on the beach, everything got ripped out by contractors. This happened two months ago. He explained a picture the Commission was shown that depicts after the work was done on the beach, the railings & the staircase had come off, & then put back on. All the railings were all torn off. He briefly discussed the location of the culvert structure. Mr. Baptiste asked re: the dump truck on the beach doing work. Mr. _____ stated there were men working on the beach. Mr. Pichette stated Mr. Leal has

admitted to re-distributing sand on the beach, but not w/ a dump truck. Mr. Baptiste stated the gentleman before the Commission has said that there were men on the beach w/ a dump truck doing work & they took down the stairs & railings. Mr. Leal stated since he purchased the property, there were no stairs, just two steps.

Present before the Commission: Marsha Rossman

Ms. Rossman stated she has lived in O-Ne-Set Heights her whole life. There has always been stairs there. Mr. Leal moved in & he has built a lot around _____ stairs. She stated she (we: neighbors) have deeded rights to all the roadways to the beach. Sand was brought down to the beach. The stairs are needed for neighbors to utilize. She stated there are some that are concerned for their grandchildren coming to visit this summer due to the stairs issue & not knowing if the sand that was brought in is clean.

Ms. Rossman asked re: the stairs issue. Mr. Connolly stated they will need to go to the Building Dept. to seek a permit. He noted the Commission can't make anyone rebuild the stairs. Mr. Pichette added that work on the stairs will need a building permit & most likely some of this work will require approval from the Conservation Commission because work will be done on the beach.

Present before the Commission: Karen _____

Ms. _____ feels this whole issue is a vendetta against Mr. Leal because he took down the stairs that were illegally built to begin with. The stairs were built without any code at all. She feels because Mr. Leal took the stairs down, some neighbors are retaliating.

Mr. Connolly stated Mr. Pichette will speak to the Building Inspector tomorrow, have the inspector go down to the site, & then recommend what to do re: the stairs. Mr. Pichette stated he will also speak to the Municipal Maintenance Director re: the culvert & have them see if any repairs are necessary.

Present before the Commission: _____

Mr. _____ stated there was just a fine assessed to Mr. Leal for work on the beach. Due to the work that was done on the beach, plant material was damaged, footings were placed in the sand, etc.

Mr. Connolly clarified what the next steps will be & what Mr. Pichette will be doing.

D. Scott Robertson – Stockton Shortcut

Present before the Commission: Scott Robertson

Mr. Pichette stated the site is at 7 Stockton Shortcut. He met Mr. Robertson at his property to discuss tree work to be done. When he visited the site, he noticed work had

already commenced on the site in terms of removal of underbrush & work had been done right up to the edge of the wetland & w/in the 30 ft. no activity zone (that was ordered, through the OOC), to be left as is). There was also no silt fence or haybales placed. He stated Mr. Robinson has agreed to replant some vegetation. Brief discussion ensued. Mr. Pichette stated Mr. Robinson will fix what was disturbed in the 30 ft. no activity zone. He stated he will go to the site to make sure the haybales are placed in the right place.

VIII. CERTIFICATES OF COMPLIANCE

- A. Eagle Holt Co. – Off County Road (DONE)**
- B. 47 Agawam Lake Shore Drive Nominee Trust – 47 Agawam Lakeshore Dr. (DONE)**
- C. Bay Trust – 54 Winship Avenue (DONE)**

IX. ANY OTHER BUSINESS/DISCUSSION

A. Discussion: Conservation Land – Condition Reports

Mr. Pichette stated there are base-line reports that were produced for other Conservation Commission properties in Town. They are documents that give a snap-shot in time of what is going on at the property, aerial & ground photos, etc. The base-line report needs to be signed by the Commission Chair. He briefly noted what sites are in this report.

MOTION: Mr. Baptiste moved that Mr. Connolly, Commission Chair sign the base-line report for Town conservation land. Mr. Westgate seconded.

VOTE: Unanimous (5-0-0)

B. Violations.

Mr. Pichette noted some violations, one being on Long Meadow Drive. Another matter deals w/ a property in the RLDS Campground. A patio was put in that was larger than the one shown on the plan.

Mr. Pichette spoke re: the Mike Gerard issue & the 30 ft. no activity zone. He feels the Commission needs to figure out how it is going to deal w/ this matter. He needs to direct people on how to proceed & there needs to be consistency re: the 30 ft. no activity zone. He feels no activity means no activity. Ms. Slavin feels this should be an item on the agenda for discussion at a future meeting.

X. ADJOURNMENT

MOTION: Ms. Slavin moved to adjourn the meeting. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

Date signed: 7-16-12

Attest: [Signature]

John Connolly, Chairman

WAREHAM CONSERVATION COMMISSION

Date copy sent to Town Clerk: 7/19/12

