

# MINUTES OF MEETING OF WAREHAM CONSERVATION COMMISSION

Date of Meeting: July 17, 2013

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

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

## **II. ROLL CALL**

Members Present: John Connolly, Chairman  
Sandy Slavin, Clerk  
Ken Baptiste  
Louis Caron  
Donald Rogers (Arrived at 7:04 P.M.)  
Joe Leggett, Associate Member  
David Pichette, Agent

## **III. PRELIMINARY BUSINESS**

### **A. Approval of Meeting Minutes: April 3, 2013**

To be handled later in the agenda

**NOTE:** The meeting proceeded w/ item V. Continued Public Hearings – A. MA Dept. of Fish & Game, c/o Anthony Stella, P.E. – SE76-2260.

Mr. Rogers arrived at this time.

Present before the Commission: Tony Stella, MA Office of Fishing & Boating Access

Mr. Pichette described the project. The property is located at 2844 Cranberry Highway & Rte. 6 & 28 bypass. The project involves the construction of a boat launching ramp & parking facility w/in the buffer zone & partially w/in Agawam Mill Pond. This property is owned by the State. The site is currently used as a boat launch area, but there is no formal ramp or parking spaces. Work would involve the construction of a concrete boat ramp, parking area, & stormwater drainage structure(s) on the site. Wetland lines are shown on plan. A revised plan has been submitted pulling the work away from the wetlands to some degree which was a Commission recommendation. The revised plan does not show any revisions to the size of the boat ramp which was also a recommendation. For the ramp, stone filled material will be brought in as a base for the ramp which will be placed in the pond. The ramp length is approx. 45 ft. out from the edge of the pond & approx. 85 ft. from that portion that is on the land. Stormwater system is set up to have sheet flow over land into the detention basins. The revised plan does show some curbing installed. A DEP file number has been assigned.

Ms. Slavin stated the Commission had recommended decreasing the length of the ramp. Mr. Stella explained why this could not be done & what they are proposing. Brief discussion ensued re: parking.

Audience were asked for questions or comments.

Present before the Commission: Gary Buckminster, Wareham Harbormaster

Mr. Buckminster reviewed the project & addressed the boat ramp & compared it to the two other public boat ramps in Town as well as design flaws/material flaws w/ this ramps. He supports the project.

**MOTION:** Ms. Slavin moved to close the public hearing for MA Dept. of Fish & Game. Mr. Baptiste seconded.

**VOTE: Unanimous (5-0-0)**

**MOTION:** Mr. Baptiste moved to grant an Order of Conditions for MA Dept. of Fish & Game. Mr. Caron seconded.

**VOTE: Unanimous (5-0-0)**

#### **IV. PUBLIC HEARINGS**

##### **A. RDA – Judith Robbins, c/o JC Engineering, Inc.**

The public hearing notice was read into the record.

Present before the Commission:

Mr. Pichette described the project. The property is located at 24 Cleveland Ave. The project involves the upgrading of a septic system in a coastal flood zone. An existing system will be replaced w/ a new Title V system w/in a coastal flood zone. The project is not w/in any other resource area. The leach field will be slightly elevated & surrounded by a timber wall approx. 12 inches high. Both house & garage will be connected to the system which is a nitrogen reducing system. He recommended approval of the project w/ a Negative Determination #2.

Audience members had no questions or comments.

**MOTION:** Ms. Slavin moved to close the public hearing for Judith Robbins. Mr. Baptiste seconded.

**VOTE: Unanimous (5-0-0)**

**MOTION:** Ms. Slavin moved to grant a Negative Determination #2 for Judith Robbins. Mr. Leggett seconded.

**VOTE: Unanimous (5-0-0)**

**B. RDA – Joseph Antin**

The public hearing notice was read into the record.

Mr. Pichette described the project. The property is located at 26 Winship Ave. The applicant for this project had already submitted the abutter notification cards because the applicant could not be present this evening. The project involves storm damage clean up of uprooted white pine trees in the buffer zone to a coastal bank. The project would involve the removal of uprooted rootballs & filling in w/ sand & loaming & seeding of the areas. He recommended granting a Negative Determination #2.

Audience members had no questions or comments.

**MOTION:** Ms. Slavin moved to close the public hearing for Joseph Antin. Mr. Leggett seconded.

**VOTE: Unanimous (5-0-0)**

**MOTION:** Ms. Slavin moved to grant a Negative Determination #2 for Joseph Antin w/ the stipulation that low nitrogen fertilizer be utilized on the site. Mr. Leggett seconded.

**VOTE: Unanimous (5-0-0)**

**C. RDA – Cherilynn Pitera, c/o William Peloquin**

The public hearing notice was read into the record.

Present before the Commission: William Peloquin

Mr. Peloquin submitted one abutter notification card.

Mr. Pichette described the project. The property is located at 94 Parkwood Dr. The project involves a deck extension in the buffer zone to a coastal bank & w/in a coastal flood zone. A 14x19 ft. L-shaped extension deck is proposed approx. 70 ft. from a coastal bank, a saltmarsh area, & w/in a coastal flood zone. The deck will be supported on sono-tube footings built in the existing lawn area. No grade changes are proposed. He recommended a Negative Determination #2.

Audience members had no questions or comments.

**MOTION:** Ms. Slavin moved to close the public hearing for Cherilynn Pitera. Mr. Caron seconded.

**VOTE:** Unanimous (5-0-0)

**MOTION:** Ms. Slavin moved to grant a Negative Determination #2 for Cherilynn Pitera. Mr. Baptiste seconded.

**VOTE:** Unanimous (5-0-0)

**D. RDA – Ned & Carole Barrett, c/o Bill Croston**

The public hearing notice was read into the record.

Present before the Commission: Bill Croston

Mr. Pichette described the project. The property is located at 7 Surf Ave. (Hamilton Beach). The project involves the construction of an addition & the demolition & reconstruction of a garage w/in a coastal flood zone. A 12x13 ft. addition is to be constructed w/in coastal flood zone AE, elevation 15. The existing garage is to be demolished & reconstructed in the same general area, but made slightly larger to fill in the existing jog & the current footprint. The project is not in the buffer zone to any other resource areas. The site is flat & no fill is proposed. He recommended a Negative Determination #2.

Audience members had no questions or comments.

**MOTION:** Ms. Slavin moved to close the public hearing for Ned & Carole Barrett. Mr. Baptiste seconded.

**VOTE:** Unanimous (6-0-0)

**MOTION:** Ms. Slavin moved to grant a Negative Determination #2 for Ned & Carole Barrett. Mr. Baptiste seconded.

**VOTE:** Unanimous (6-0-0)

**E. RDA – Berrego Solar Systems, Inc., c/o Beals & Thomas, Inc.**

The public hearing notice was read into the record.

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

Mr. Pichette described the project. The property is located at the Tihonet Technology Park off of Tihonet Rd. The project involves the construction of a solar field on a lot w/in the park. This request is being submitted to the Commission to satisfy a Planning

Board requirement for the applicant to have a determination of the site by the Commission prior to the review by the Planning Board. This request is for the Commission to acknowledge that the project is not w/in the Commission's jurisdiction. He did review the site & the plans submitted & he agrees that the project site will not be w/in the Commission's jurisdiction. He recommended the issuance of a Negative Determination #4.

Mr. Rogers asked how much acreage will be clear cut for this project. Mr. Johnson stated approx. 12 acres will be cut for 6 acres of solar panels. There are access requirements.

Audience members had no questions or comments.

**MOTION:** Ms. Slavin moved to close the public hearing for Berrego Solar Systems, Inc. Mr. Baptiste seconded.

**VOTE:** Unanimous (6-0-0)

**MOTION:** Ms. Slavin moved to grant a Negative Determination #4 for Berrego Solar Systems, Inc. Mr. Leggett seconded.

**VOTE:** (5-1-0)

**F. RDA – John J. Carchio, Jr.**

The public hearing notice was read into the record.

Present before the Commission: John Carchio, Jr.

Mr. Pichette described the project. The property is located at 23 R Roosevelt St. (Briarwood). The project involves the removal of an existing deck & reconstruct a new deck & place a roof on the structure, & further, to remove several trees in the buffer zone to a coastal bank, coastal beach, & also w/in the riverfront area of the Weweantic River & w/in a coastal flood zone. An existing 8x12 ft. deck will be removed & a new 8 x19 ft. covered porch is to be constructed in the same general area. The new porch will be supported on sonotube footings. This is on the non-water side of the house. There are no grade changes proposed. There are four oak trees proposed to be removed in the location shown on plans. The site is relatively flat. He has no issues w/ the porch project. Relative to the tree removal, he is not necessarily opposed, but he would like to see if there is a way to do some significant pruning of the trees to see if this accounts for the potential problems vs. just cutting them down. If this doesn't suffice, the cutting of the trees could suffice.

Mr. Carchio stated two of the trees are oak & the two others are scrub pines. He stated the trees he is most concerned with overhang his neighbor's roofline. He stated the trees overhanging his neighbor's lot are weak & are concerned re: hurricane conditions & potential damage to dwellings if the trees came down. He can take Mr. Pichette's

recommendation of pruning the trees first. He noted the two trees he feels are most dangerous. These two trees have been pruned as best as they can.

Ms. Slavin stated she would have no problems w/ the removal of the two pine trees, but she doesn't feel the oak trees look unhealthy.

Audience members had no questions or comments.

**MOTION:** Mr. Caron moved to close the public hearing for John Carchio. Mr. Rogers seconded.

**VOTE:** Unanimous (6-0-0)

**MOTION:** Ms. Slavin moved to approve the construction of a covered deck & removal of two pine trees to the left side of property facing the water for John Carchio. Mr. Leggett seconded.

**VOTE:** Unanimous (6-0-0)

**G. RDA – Christopher & Charlene Ryan, c/o CGA Engineering, Inc.**

The public hearing notice was read into the record.

Present before the Commission: Representative of CGA Engineering, Inc.

Mr. Pichette described the project. The property is located at 3 Whippoorwill Way. The project involves upgrading a septic system in a coastal flood zone. The existing system will be replaced w/ a Title V system w/in coastal flood zone AE elevation 14. The plan shows the project is not in any other resource areas. When the site visit was conducted, he did not agree w/ the wetland line shown on the plan. He doesn't believe it is accurate. The work is closer to the wetland line than is shown on the plan. There is a question if it is w/in the buffer zone or not because delineation has not been done. This is a septic upgrade/repair. Even though the wetland line is not accurate, he feels the project can be approved because there is no other place to put the system other than where it is being proposed. There is no filling proposed for the new system. The leach field will be in the same general location as the existing. There is an area discovered where fill was being placed in a wetland area which was filling the area w/ yard waste & debris. He recommended this wetland area be cleaned up prior to the installation of the septic system. He recommended approving the project.

Audience members had no questions or comments.

**MOTION:** Ms. Slavin moved to close the public hearing for Christopher & Charlene Ryan. Mr. Leggett seconded.

**VOTE:** Unanimous (6-0-0)

**MOTION:** Ms. Slavin moved to approve the installation of a Title V system w/ the stipulation that the debris placed in wetlands be cleaned up first before construction of the Title V system & when the area is loamed & seeded, only nitrogen reducing fertilizer can be utilized for Christopher & Charlene Ryan. Mr. Rogers seconded.

**VOTE:** Unanimous (6-0-0)

**H. NOI – Brian Porter/Brophy & Phillips Contracting Co., c/o SITEC, Inc. – SE76-2267**

The public hearing notice was read into the record.

Present before the Commission: Stephen Gioso

The abutter notification cards were submitted.

Mr. Pichette described the project. The property is located at 37 Pine Tree Dr. The project involves the demolition of an existing dwelling & the reconstruction of a new dwelling & a septic system expansion w/in a coastal flood zone. An existing dwelling will be demolished. A new 24x55 ft. dwelling w/ attached 24x24 ft. garage w/ decks will be constructed in the same general area as the original house. The new dwelling will be closer to the street vs. the original. An expansion of the septic system leach field is also proposed. The new dwelling & septic system expansion will be w/in coastal AE, elevation 15 septic expansion in a VE elevation 18 flood zone. The new driveway layout & grade changes will be laid out. Haybales are proposed around the perimeter of the work. A DEP file number has been assigned. He recommended approval of the project w/ standard conditions. Comments were received from Natural Heritage stating they believe the project would not have any adverse impact on any endangered species habitat.

Discussion ensued re: the areas to be disturbed & altered.

Audience members had no questions or comments.

**MOTION:** Ms. Slavin moved to close the public hearing for Brian Porter/Brophy & Phillips Contracting Co. Mr. Caron seconded.

**VOTE:** Unanimous (6-0-0)

**MOTION:** Ms. Slavin moved to grant an Order of Conditions for Brian Porter/Brophy & Phillips Contracting Co. w/ standard conditions & that low nitrogen reducing fertilizer be utilized on property. Mr. Leggett seconded.

**VOTE:** Unanimous (6-0-0)

**I. NOI – Tony Zecco/Zecco Marine, LLC, c/o Bourne Consulting Engineering,  
P.C. – SE76-2265**

The public hearing notice was read into the record.

Mr. Connolly stated he will abstain from this hearing because he is an abutter to the property.

Present before the Commission:      Tony Zecco  
Representatives of Bourne Consulting Engineering

Mr. Pichette described the project. The property is located the Zecco Marine facility. The project involves the reconstruction of marina docks to convert the docks from fixed elevated docks system to a floating dock system. This involves work for land under the ocean & containing shellfish w/in a coastal flood zone. It is proposed to remove the four main piers & finger docks & replace w/ floating docks & finger floats. The existing pilings would be removed & replaced w/ much smaller overall number of pilings for the new floating system. The plans call for some of the finger docks to be perpendicular w/ the main piers. Some of the finger floats will be larger than the finger docks. He expressed concern re: the floating dock concept & near shore area would not have adequate water depth separation from the floats to the bottom sub-straight as required by the Wareham Protective Bylaw. Comments were received from DMF which also raised the same concern in their comment letter. They are recommending a 2.5 ft. separation between the floats & the bottom. He also asked the engineer to show that all the structures are licensed which they are. He asked for the depth sounding information to be included in the dock layout plan. The representatives submitted copies of the layout plan. He asked if the float system would remain in the water year round or removed each season. He asked if it was going to be removed, where would the storage area be placed. A DEP file number has been assigned. He recommended revised plans &/or consultation w/ DMF to address their concerns/comments be given.

The representatives noted the pilings were installed in the 1950's & 1960's & will be removed. He spoke re: an Army Corp. Permit for several floats. They have continued to look for permits for other floats. He discussed the proposed floats to be installed. He discussed the site in general.

Mr. Pichette stated the Harbormaster also supplied comments re: the project. The Harbormaster supports the project, but commented that the site isn't utilized by commercial/recreational shell fishermen & the project updates would have no impact on shellfishing practices. Mr. Pichette expressed concern re: the shellfish resource itself. He feels the Bylaw applies to this matter. Discussion ensued.

Discussion ensued re: dredging. Discussion ensued re: the primary reasoning for the project. The representative stated the project will also meet ADA accessibility issues as well. The project will also meet more standardized conventional marina fairway for slip & width of length designs.

The representative stated the floats will stay in the water year round.

Audience members were asked for questions or comments.

Present before the Commission: A gentleman

The gentleman asked re: the pump out station. The representatives responded.

The representatives discussed why they are taking out the solid piers vs. new floats.

Mr. Pichette stated if there is a hurricane forecasted, how will the floats be dealt with. The representative stated they would be removed & the new pilings are much stronger & built for hurricanes.

**MOTION:** Mr. Baptiste moved to close the public hearing for Tony Zecco/Zecco Marine, LLC. Mr. Rogers seconded.

**VOTE: (5-0-1)**  
Mr. Connolly abstained

**MOTION:** Mr. Baptiste moved to grant an Order of Conditions for Tony Zecco/Zecco Marine, LLC. Mr. Rogers seconded.

**VOTE: Unanimous (5-0-1)**  
Mr. Connolly abstained

**J. NOI – Paula M. Hamilton, c/o G.A.F. Engineering, Inc. – SE76-2266**

The public hearing notice was read into the record.

Present before the Commission: Paul Mattos, G.A.F. Engineering, Inc.

Mr. Pichette described the project. The property is located at 44 Agawam Beach Rd. The project involves the reconstruction of a seawall along a coastal bank & w/in a coastal flood zone. The existing seawall is a stonewall approx. 110 ft. long. This will be removed & replaced, in the same location, w/ a vinyl sheet driven pile wall. Removed materials from the old wall would be taken off site. The work would be done primarily from the upland side of the wall. There would be an exposed wall approx. 2 ft high above the grade on the land side. A DEP file number has been assigned. He recommended the issuance of an OOC w/ standard conditions & the added condition that no materials be stockpiled on the beach during construction.

Mr. Mattos discussed serious washout behind the wall that is going into the waterway. Brief discussion ensued re: the 2 ft. high exposed wall.

Audience members had no questions or comments.

**MOTION:** Ms. Slavin moved to close the public hearing for Paula Hamilton. Mr. Baptiste seconded.

**VOTE: Unanimous (6-0-0)**

**MOTION:** Ms. Slavin moved to grant an Order of Conditions for Paula Hamilton w/ standard conditions w/ the added condition that no materials be stockpiled on the beach or yard during construction & when lawn is restored, low nitrogen fertilizer be utilized. Mr. Leggett seconded.

**VOTE: Unanimous (6-0-0)**

**K. NOI – Nathaniel Heard, c/o G.A.F. Engineering, Inc. – SE76-2264**

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 23 Elizabeth Lane. The project involves the construction of a single family dwelling on a coastal bank & also w/in the estimated habitat for rare & endangered species. A 34x52 ft. dwelling driveway & associated grading is proposed on a wooded coastal bank. The septic system is proposed between the house & the beach area, but would be outside the buffer zone to the beach. A well is proposed up by the road. Upon inspection, some clearing work had been done in the buffer zone to the beach re: removal of underbrush. The proposed limit of clearing work is identified on the plan. If approved, he recommends a condition requiring no clearing or altering vegetation beyond the limit of work & the disturbed areas be allowed to re-vegetate w/out cutting. There are steep grades along the driveway. A DEP file number has been assigned. Comments have been received from Natural Heritage w/ no negative comments. He recommended approval of the project w/ standard conditions & the added conditions for the limit of work clearing as stated.

Brief discussion ensued re: the clearing that was done.

Audience members had no questions or comments.

**MOTION:** Mr. Baptiste moved to close the public hearing for Nathaniel Heard. Mr. Caron seconded.

**VOTE: Unanimous (6-0-0)**

**MOTION:** Mr. Baptiste moved to grant an Order of Conditions for Nathaniel Heard w/ standard stipulations & any other stipulations of the Agent. Mr. Rogers seconded.

**VOTE:** Unanimous (6-0-0)

**L. NOI – Town of Wareham/CEDA, c/o Salvador Pina – SE76-2268**

The public hearing notice was read into the record.

Present before the Commission: \_\_\_\_\_

Mr. Pichette described the project. The project site is at Merchant's Way. The project involves the installation of stormwater treatment structures w/in Merchant's Way which is w/in a coastal flood zone, w/in a riverfront area of the Wankinko River, & w/in the buffer zone to a coastal bank. It is proposed to install new manholes & stormwater retention ponds w/in the existing paved area of Merchant's Way to better treat stormwater runoff. The proposed new system would capture street & roof runoff from the buildings along Merchant's Way. Stormwater from the buildings would be directed into an underground perforated drain pipe to allow infiltration into the ground w/ any excess flow exiting out of the existing outflow pipe that currently goes under the railroad tracks into the river. Stormwater runoff from the street would be directed into two proposed rain gardens/retention areas. Stormwater would sheet flow through openings in the perimeter berms around the rain gardens. At a site visit, he recommended these openings be graded somehow to prevent street trash from flowing into the rain garden areas. The proposed rain gardens would be constructed on existing paved areas. The rain garden on the east side of the bus depot building would be approx. 365 ft. in length & extend from the building to Cumberland Farms. The rain garden on the west side of the building would be approx. 190 ft. extending from the depot building in the opposite direction. Overflow, if it occurs, would be tied into the existing outflow pipe that goes under the railroad tracks under the river. A DEP file number has been assigned. All the work is primarily w/in existing paved areas. He recommends the issuance of an OOC w/ standard conditions & the added conditions for the continued maintenance of the structures & any dewatering when this work is being done.

Discussion ensued re: ground testing in the area being discussed & the rain gardens.  
Discussion ensued re: the proposal to make Merchant's Way a one-way & fencing.

Mr. Pichette explained why this project is before the Commission. Currently, there is little to no stormwater treatment from this whole area. The intent is to try & improve the treatment of stormwater before it dumps into the river. Whether or not people like where it is going is an issue, but the intent is to improve stormwater treatment in this area. The procedure of how this is being done triggers grants which triggers other grants to make these improvements. This hasn't been approved by anyone yet as to if this can be done. The Commission is currently looking at a plan that they aren't sure if the Town is in

favor of doing. It is a concept plan if things came together, the plan can be utilized. Brief discussion ensued if the Buzzards Bay Coalition is in support of this project.

Brief discussion ensued re: loss of parking & nitrogen issues w/ water.

Audience members were asked for questions or comments.

Present before the Commission: \_\_\_\_\_

Ms. \_\_\_\_\_ stated she owns a building on Main St. She expressed concern re: taking a majority of parking spaces away on Main St. & now changes being proposed for Merchant's Way will take away more parking. She feels it will be very inconvenient to block alleyways w/ rain gardens & she feels it is a bad idea for Merchant's Way to become a one-way. She feels the businesses on Main St. will be impacted negatively.

Mr. Pichette stated this proposed concept hasn't been approved by the Town yet. There will be other opportunities for business owners to voice their opinions at other meetings the Town will hold.

Mr. Rogers expressed concern re: this project taking away parking spaces & driving business out.

**MOTION:** Ms. Slavin moved to continue the public hearing for town of Wareham/CEDA to August 21, 2013. Mr. Baptiste seconded.

**VOTE:** Unanimous (6-0-0)

**M. NOI – Milbery Family Nominee Trust, c/o G.A.F. Engineering, Inc. – SE76-2270**

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 51 Cleveland Ave. (Indian Mound Beach). The project involves repairs to an existing seawall & replacement of an existing retaining wall along a coastal bank & buffer zone to a coastal bank. Also proposed is the reconstruction of existing terra steps & improvements to a driveway drainage structure. It is proposed to place filter fabric & stone behind an existing 110 ft. seawall to prevent further sand washout from behind the wall. Currently, sand is seeping out leaving sinkholes behind the wall. The project would involve leaving the wall in place, excavating behind it, filling it w/ a base of stone & filter fabric, refilling behind the wall w/ filter fabric behind it. There is also an existing 70 ft. timber retaining wall which is deteriorating. This is proposed to be removed & replaced in the same location. This wall is approx. 50 ft. from the beach. There is an existing driveway drain that will be upgraded to handle more runoff. A 4x15 drainage trench is proposed to be added to the

existing structure to accommodate the runoff. This would be w/in the existing lawn area. Deteriorating patio steps would be removed & replaced in same location. A DEP file number has been assigned. He recommended the issuance of an OOC w/ standard conditions & the added condition that no materials & stockpiled on the beach.

Audience members had no questions or comments.

**MOTION:** Mr. Baptiste moved to close the public hearing for Milbery Family Nominee Trust. Ms. Slavin seconded.

**VOTE:** Unanimous (6-0-0)

**MOTION:** Mr. Baptiste moved to grant an Order of Conditions for Milbery Family Nominee Trust w/ standard conditions & any added conditions of the Agent. Mr. Caron seconded.

**VOTE:** Unanimous (6-0-0)

**N. NOI – Thomas Strom (Kool Kone), c/o N. Douglas Schneider & Associates, Inc. – SE76-2269**

The public hearing notice was read into the record.

Present before the Commission: \_\_\_\_\_, N. Douglas Schneider & Associates  
Tom Strom

Mr. Pichette described the project. The property is located at 374 Marion Road. The project involves the construction of an 18-hole mini golf course in the buffer zone to bordering vegetative wetland w/in a coastal flood zone & w/in the estimated habitat of rare & endangered species. An 18-hole mini golf course is proposed behind the existing parking lot of Kool Kone Restaurant. Approx. 50 ft. from edge of wetland & in flood zone AE, elevation 15. Haybales & silt fence will be placed between the limit of work & the resource area along the 50 ft. no activity zone line. The work to be done would be clearing vegetation, grading, construction of mini-golf course, including a self-contained concrete lined pond & parking area modifications. The mini-golf course will be located on the neighboring property next to Kool Kone which is the Sherman Briggs property. There would be parking lot modifications to increase parking spaces. A DEP file number has been assigned. Comments from Natural Heritage have not been received, but an email from them stated they are reviewing the application & they anticipate a Turtle Protection Plan will be required. They will make a final determination by July 31<sup>st</sup>. He recommended continuing the hearing until this final determination is received. This project also needs to be reviewed by the Planning Board.

Mr. Rogers wants to make sure Kool Kone will be a good neighbor re: maintaining the fence which abuts other properties.

The representative discussed the Turtle Protection Plan & his conversation w/ a representative from Natural Heritage. He also stated no proposals for parking modifications are being proposed. Mr. Pichette stated on the plan it shows up front by the highway it looks like there will be changes & side parking. Brief discussion ensued. Mr. Pichette stated he didn't realize the parking shown already existed. He still feels that w/out a final letter from Natural Heritage & approval from the Planning Board is needed for the Commission to make a final determination. The representative made arguments re: continuing the hearing.

**MOTION:** Ms. Slavin moved to continue the public hearing for Thomas Strom (Kool Kone) to August 7, 2013. Mr. Baptiste seconded.

**VOTE: Unanimous (6-0-0)**

**V. CONTINUED PUBLIC HEARINGS**

**A. NOI – MA Dept. of Fish & Game, c/o Anthony Stella, P.E. – SE76-2260  
(DONE)**

**B. NOI – Deborah & Calvin Bourne, c/o G.A.F. Engineering, Inc. – SE76-2221**

**Present before the Commission:** Brian Grady, G.A.F. Engineering, Inc.

Mr. Pichette described the project. The property is located at 75 Edgewater Dr. The project involves the removal of stone rip rap material from along the base of a seawall which is on a coastal beach, coastal flood zone, & w/in the estimated habitat of rare & endangered species. The seawall was allowed to be reconstructed under an emergency order & during the procedure, more stone material that was there was placed along the base of the newly constructed seawall covering over part of the beach area. At the request of the Commission, the applicant submitted an NOI to remove the excess stone material from the beach intertidal area at a length of approx. 150 ft. The work would be done by hand to place stone into a lift or machine bucket. The excess material will be removed off site. A DEP file number has been received. Natural Heritage had no comments. He recommended the issuance of an OOC w/ standard conditions & the added condition that no machinery be on the beach & the stone material be removed off site & go back to the amount that was shown on plan & approved.

Audience members had no questions or comments.

Mr. Grady discussed what stone was there previously. Brief discussion ensued.

**MOTION:** Mr. Baptiste moved to close the public hearing for Deborah & Calvin Bourne. Mr. Rogers seconded.

**VOTE: Unanimous (6-0-0)**

**MOTION:** Mr. Baptiste moved to grant an Order of Conditions for Deborah & Calvin Bourne w/ standard conditions & any additional conditions of the Agent. Mr. Rogers seconded.

**VOTE:** Unanimous (6-0-0)

**C. NOI – Kevin Sousa, c/o Braman Surveying Assoc., LLC – SE76-2258**

The applicant has asked for a continuance.

**MOTION:** Mr. Baptiste moved to continue the public hearing for Kevin Sousa to August 7, 2013. Mr. Rogers seconded.

**VOTE:** Unanimous (6-0-0)

**VI. EXTENSION REQUESTS**

**VII. ENFORCEMENT ORDERS**

**VIII. CERTIFICATES OF COMPLIANCE**

**A. Karin Van Der Wal – 29 Oak Street**

Mr. Pichette stated this is a COC that the Commission reviewed & approved, but w/ a fine & the COC was not to be issued until the fine was paid. The fine has been paid.

**MOTION:** Mr. Baptiste moved to issue a Certificate of Compliance to Karin Van Der Wal. Ms. Slavin seconded.

**VOTE:** Unanimous (6-0-0)

**IX. ANY OTHER BUSINESS/DISCUSSION**

**A. Discussion: Barry Brown – 17<sup>th</sup> Avenue property**

Present before the Commission: Mr. Brown

Mr. Brown stated he is currently interested in 7 17<sup>th</sup> Ave. property. The current restrictions conservation have on the property make it somewhat unacceptable. He would like the Commission's opinion on alterations. The Commission reviewed the alterations Mr. Brown is proposing, including donating a portion of the property by allowing access to the property.

Mr. Pichette stated the issue is the law requires the Commission to review the site & the proposed work. If the work can be done outside the 200 ft. area, that is what the Commission is supposed to permit. This is what the Commission permitted. What Mr.

Brown is requesting is unallowable in his opinion under the law. The whole point is to prevent further construction closer to the river. Lengthy discussion ensued.

#### **B. Decision: CEDA Streetscape – Phase II**

Mr. Pichette stated the Commission needs to render a decision. This is a project which was done w/out a permit. A permit was then applied for & voted upon & there is a need for a decision. This is the project that just finished in front of Cumberland Farms. Brief discussion ensued re: changes to drainage.

Ms. Slavin stated when she looks at the plan, it isn't what she sees that was done on Main St. Mr. Pichette stated the Commission needs to focus on wetland issues. He stated the Commission needs to determine what was proposed/done is significantly different in such a way that it may adversely impact the river.

**MOTION:** Ms. Slavin moved to accept the Phase II Wareham Village Streetscape project w/ a Negative Determination #2 & further, that low nitrogen fertilizer be utilized. Mr. Baptiste seconded.

**VOTE: Unanimous (6-0-0)**

#### **C. Discussion: Conservation Restrictions/Stewardship**

Mr. Pichette stated he spoke to the State re: the Swifts Beach CR. There are some issues. One, the Swifts Beach Assoc. still needs to provide the State w/ proof they are a viable 13C non-profit organization. Second, the State wants the CR language to be discussed w/ all the entities involved so everyone is on board before it is sent to the State. This would involve discussion w/ the BOS.

#### **D. Discussion: Westgate Conservation Area**

1. Parking area construction
2. Authorization to spend

#### **E. Discussion: Swifts Beach**

#### **F. Discussion: Bills**

Mr. Rogers asked why the railroad doesn't have to come before the Commission w/ an NOI for the work they are doing on the tracks. Mr. Pichette stated the railroad is exempt from the laws. Mr. Rogers feels they still should have to file.

Mr. Rogers asked who gave permission to cut down on the tracks by the waterways. Mr. Pichette stated the Municipal Maintenance Director spoke w/ the railroad about the cutting. He noted the railroad could have just done what they wanted. The Director asked the railroad to leave some of the trees.

#### **X. ADJOURNMENT**

MOTION: A motion was made & seconded to adjourn.

VOTE: Unanimous (6-0-0)

Date signed: 3/5/14

Attest: [Signature]  
John Connolly, Chairman  
WAREHAM CONSERVATION COMMISSION

Date copy sent to Town Clerk: 3/6/14