

MINUTES OF MEETING OF WAREHAM CONSERVATION COMMISSION

Date of Meeting: September 4, 2013

I. CALL MEETING TO ORDER

The meeting was called to order at 7:14 P.M.

II. ROLL CALL

Members Present: John Connolly, Chairman
Sandy Slavin, Clerk
Joe Leggett
Mark Carboni
Mr. Baptiste
Joe Mulkern, Associate Member
David Pichette, Agent

III. PRELIMINARY BUSINESS

IV. PUBLIC HEARINGS

A. Amended OOC – Kathleen M. Hughes, c/o JC Engineering, Inc.

The public hearing notice was read into the record.

Present before the Commission: Brian Bertollo, JC Engineering, Inc.

Mr. Pichette described the project. The property is located at 84 Pinehurst Dr. This request is to amend an OOC to allow the reconstruction & expansion of an existing deck. This work was not included on the original site plan for the reconstruction of a seawall. The request is to remove the 8x14 ft. deck & replace it w/ an 8x18 ft. deck w/ additional stairs. The toe of the stairs would require a concrete pad & the deck would require 5 10 inch sono-tubes w/ big foot footings. This work is w/in the 30 ft. No Activity Zone. He recommended the deck expansion be limited to the footprint of the original deck & stairs. Haybales are proposed between the work & top of seawall. He recommended approval of the work w/ the condition noted above (deck utilize existing footprint for deck & stairs).

Mr. Pichette stated the deck is being expanded into the No Activity Zone. Mr. Bertollo stated the deck is not going any closer to the seawall. Mr. Pichette again reiterated his recommendation that the deck expansion be limited to the current footprint. Mr. Bertollo stated this proposed deck has no impact to the coastal bank whatsoever. He stated the proposed project is just an extension of the existing deck. Discussion ensued.

Mr. Pichette stated the issue isn't just how this project may or may not affect the coastal bank, but more structures in a coastal flood zone w/ additional impacts in severe weather situations. This is one reason a 30 ft. No Activity Zone is in place.

Audience members had no questions or comments.

Mr. Bertollo stated the project is modest. It is a 4 ft. extension of the deck. It is not going to impact the coastal bank.

MOTION: Ms. Slavin moved to close the public hearing for Kathleen Hughes. Mr. Leggett seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Carboni moved to approve the deck reconstruction within the existing footprint. Ms. Slavin seconded.

VOTE: Unanimous (5-0-0)

V. CONTINUED PUBLIC HEARINGS

A. NOI – Christine Rhodes, c/o Holmes & McGrath, Inc. – SE76-2271

Present before the Commission: Christine Rhodes

Mr. Pichette stated a request has been received to continue this hearing until the next meeting which is Sept. 18, 2013. The applicant is also asking to reschedule the site walk visit of the property.

Brief discussion ensued re: when to reschedule the site walk. The Commission concurred to meet on Wed., September 11, 2013 at 5:00 P.M.

MOTION: Ms. Slavin moved to continue the public hearing for Christine Rhodes to September 18, 2013. Mr. Carboni seconded.

VOTE: Unanimous (5-0-0)

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

The applicant has requested a continuance of this hearing to the next meeting.

MOTION: Ms. Slavin moved to continue the public hearing for Kevin Sousa to September 18, 2013. Mr. Carboni seconded.

VOTE: Unanimous (5-0-0)

**C. NOI – Town of Wareham – CEDA, c/o Salvadore Pina – SE76-2268
(Merchant's Way Project)**

The applicant has requested a continuance of this hearing. Mr. Pichette stated the test pits were not completed. They are requesting a continuance to September 18, 2013.

MOTION: Ms. Slavin moved to continue the public hearing for Town of Wareham – CEDA to September 18, 2013. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

**D. NOI – John Jay & Lisa Houser & John & Janet Sylvester, c/o G.A.F.
Engineering, Inc.**

The applicants have requested a continuance of this hearing to September 18, 2013.

MOTION: Ms. Slavin moved to continue the public hearing for John Jay & Lisa Houser & John & Janet Sylvester to September 18, 2013. Mr. Leggett seconded.

VOTE: Unanimous (5-0-0)

E. NOI – Alex Kent, c/o G.A.F. Engineering, Inc.

Mr. Pichette stated this project was continued for a DEP file number. The DEP file number has been received.

Mr. Pichette described the project. The property is located at 17 Deane St. (Rosepoint). The project involves the construction of a duplex dwelling in the buffer zone to bordering vegetated wetland. A 28x64 duplex w/ associated driveway & grading is to be constructed w/ the driveway & landscaping to be the closest work to the wetland. This would be approx. 40 ft. from edge of wetland. Filling is proposed outside the buffer zone in the front of the dwelling. Silt fence is proposed between the work & resource area. A DEP file number has been assigned w/ no negative comments. Abutter notification cards have been received. The engineer indicated he could not attend tonight's meeting.

Mr. Pichette recommended the issuance of the OOC w/ standard conditions & the added condition to add haybales along w/ silt fence.

MOTION: Mr. Baptiste moved to close the public hearing for Alex Kent. Ms. Slavin seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Baptiste moved to grant an Order of Conditions for Alex Kent w/ standard conditions & the added condition that haybales be utilized at the project site. Ms. Slavin seconded.

VOTE: Unanimous (5-0-0)

VI. EXTENSION REQUESTS

VII. ENFORCEMENT ORDERS

A. Michael Cook – 28 Sariah Lane

Mr. Pichette stated this is a matter re: an ongoing enforcement. The Commission had tried to notify the owner by certified mail. He did get the certified mailing back unclaimed. He suggested get the Enforcement Order hand-delivered.

MOTION: Ms. Slavin moved to have the Constable hand-deliver the Enforcement Order to Michael Cook. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

VIII. CERTIFICATES OF COMPLIANCE

IX. ANY OTHER BUSINESS/DISCUSSION

NOTE: The meeting continued w/ item F. **Discussion:** Procedure for Ronald & Lois Enos.

Present before the Commission: Mr. Enos
Attorney Margaret Ishihara

Mr. Connolly stated as it stands right now, he & Mr. Baptiste need to leave the room because of this case & this leaves no quorum to deal w/ the matter at hand. He & Mr. Baptiste need to abstain from this matter because they sat on another board w/ Mr. Enos previously. The AG's office stated it would be best for he & Mr. Baptiste to leave the room. One Commission member is stuck at work & the other member is absent.

Discussion ensued re: how to proceed.

Mr. Connolly & Mr. Baptiste departed the room at this time. Ms. Slavin asked Mr. Pichette to offer the options the Commission has re: this matter. Mr. Pichette stated this was a case where a decision was made by this Commission under the Town Bylaw. This decision has been appealed to the Superior Court. In review of the appeal, the judge has ordered the Commission to re-discuss an issue as to the 30 ft. No Activity Zone which he felt was not clear in the Order the Commission issued. As far as the order goes, the Commission can do several things. The Commission can have a public hearing to discuss the issue or the Commission could have a discussion amongst the Commission members (judge did not require a public hearing). In discussion w/ Town Counsel, Town Counsel feels a public hearing should be held. The person's attorney who is making the appeal

also feels a public hearing should be held. The applicant's attorney feels a public hearing is unnecessary.

This matter will be placed on the next meeting agenda (September 18, 2013).

Mr. Connolly & Mr. Baptiste returned to the table at this time.

NOTE: The meeting proceeded w/ item C. Swifts Beach.

Brief discussion ensued re: a fire in Swifts Beach (kids starting a fire on the beach).
Brief discussion ensued re: the outstanding matter of whom will be holding the CR & waiting for the State's determination.

Mr. Pichette stated another issue is at least one BOS member feels that there is no need for a CR on the property & this BOS member will not support a CR on this property. There is a need for BOS approval on the CR. Brief discussion ensued. Ms. Slavin expressed concern that if the CR is not done, the CPC will be asking for over \$1 million be returned because it is a requirement of the CPC funding to have a CR on the property. Mr. Pichette stated he has asked for a legal opinion on the matter.

A. Discussion: Conservation Restrictions/Stewardship

B. Discussion: Westgate Conservation Area

1. Parking Area Construction

2. Authorization to Spend

Mr. Connolly stated the hope is to have the parking lot finished this weekend. Mr. Pichette stated he is looking for volunteers for the next few Saturdays to do various small jobs at the site.

C. Discussion: Swifts Beach (DONE)

D. Discussion: Bills

E. Discussion: Master Plan Committee

Ms. Slavin stated the former Town Planner was supposed to create a Master Plan Committee in which a member of the Conservation Commission would be on. There is currently no Town Planner thus, this matter can come off the agenda until such a time this matter is revisited.

F. Discussion: Procedure for Ronald & Lois Enos (DONE)

G. Discussion: Christine Rhodes – Schedule Site Walk (DONE)

X. ADJOURNMENT

MOTION: Ms. Slavin moved to adjourn the meeting at 8:04 P.M. Mr. Carboni seconded.

VOTE: Unanimous (5-0-0)

Date signed: 2/5/14

Attest: J. Connolly

John Connolly, Chairman

WAREHAM CONSERVATION COMMISSION

Date copy sent to Town Clerk: 2/7/14