

MINUTES OF MEETING OF WAREHAM CONSERVATION COMMISSION

Date of Meeting: October 2, 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
Joe Leggett
Ken Baptiste
David Pichette, Agent

NOTE: The meeting proceeded w/ item V. Continued Public Hearings – A. Margaret Saunders, c/o McKinnon & Keese Engineering – SE76-2276

Present before the Commission: Sandy Keese, McKinnon & Keese Engineering

Mr. Pichette described the project. The property is located at 17 Over Jordan Road. The project involves upgrading a septic system, a foundation reconstruction, & a retaining wall reconstruction in the buffer zone to a coastal bank. There is an existing cesspool to be replaced w/ a new Title V system. The new leach field will be approx. 35 ft. from the top of the coastal bank in the area of the existing driveway. Also proposed is to lift the house & replace the foundation in the same location. This work is also in the buffer zone to the coastal bank. A 15x15 ft. deck is proposed at the northwest corner of the house. This is the only part of the project that Mr. Pichette stated he is concerned with. He stated this is a new feature w/in the 30 ft. No Activity Zone. He recommended the Commission not approve this part of the project, but everything else about the project is in order. A DEP file number has been assigned. He recommended the issuance of an OOC w/ standard conditions & the exception of the deck feature of the proposal.

Ms. Slavin asked if the 15x15 ft. deck & the other proposed 38x4 ft. deck are both w/in the 30 ft. No Activity Zone. Mr. Pichette stated they are, but the stretch in the back of the house, there is an existing concrete walkway & will be built over (walkway would be removed).

Ms. Keese stated the applicant is requesting further consideration of the deck if it is moved back five ft. The deck being proposed is 1.5 ft. above grade. An expensive denitrofication system is also going to be installed.

Brief discussion ensued re: the 38x4 ft. deck. Ms. Keese stated they are now proposing an 11x13 ft. deck vs. a 15x15 ft. deck. Ms. Slavin feels that the new deck will still be w/in the 30 ft. No Activity Zone. Ms. Keese again spoke re: the expensive

denitrification system that will be installed & she feels the small deck being proposed would be a good compromise. Mr. Pichette stated the regulations state the rules & there are no provisions for trade-offs.

Audience members had no questions or comments.

MOTION: Mr. Leggett moved to close the public hearing for Margaret Saunders. Ms. Slavin seconded.

VOTE: Unanimous (4-0-0)

MOTION: Mr. Baptiste moved to grant an Order of Conditions per plan & further, that five feet be taken off the 15x15 ft. deck (from the edge of the top of the bank). Ms. Slavin seconded.

VOTE: Unanimous (4-0-0)

III. PRELIMINARY BUSINESS

A. Approval of meeting minutes: February 20, 2013 & April 17, 2013

To be handled later in the meeting.

IV. PUBLIC HEARINGS

A. RDA – Nicole Allen

The public hearing notice was read into the record.

Present before the Commission: Nicole Allen

Ms. Allen submitted the green abutter cards.

Mr. Pichette described the project. The property is located at 18 Linwood Ave. The project involves the construction of an addition w/in a coastal flood zone. A 16x16 ft. addition is to be constructed w/in a coastal flood zone, AE elevation 15. The addition will be constructed in the same location as an existing deck which will be removed from the house & built w/in the footprint. The project is not w/in any other buffer zone or resource area. There is no filling or grade changes proposed. He recommended approval of the project w/ an issuance of a Negative Determination #2.

Audience members had no questions or comments.

MOTION: Mr. Leggett moved to close the public hearing for Nicole Allen. Ms. Slavin seconded.

VOTE: Unanimous (4-0-0)

MOTION: Mr. Baptiste moved to grant a Negative Determination #2 for Nicole Allen. Ms. Slavin seconded.

VOTE: Unanimous (4-0-0)

B. RDA – Susan Duarte

The public hearing notice was read into the record.

Present before the Commission: Susan Duarte
Mr. Duarte

Ms. Duarte submitted the green abutter cards.

Mr. Pichette described the project. The property is located at 26 Washington Drive (Briarwood). The project involves the installation of sonotube footings in the buffer zone to a salt marsh & w/in a coastal flood zone. Four sonotube footings will be installed under the existing structure to provide structural support for proposed modifications to the dwelling which includes raising the roof line & interior improvements. This would be approx. 27 ft. from the edge of the marsh. The site is also w/in a coastal flood zone VE elevation 18. All work will be done by hand & there is no change to the actual structure & is all w/in the same footprint. He recommends approval of the project w/ a Negative Determination #2.

Audience members had no questions or comments.

MOTION: Mr. Baptiste moved to close the public hearing for Susan Duarte. Ms. Slavin seconded.

VOTE: Unanimous (4-0-0)

MOTION: Mr. Baptiste moved to grant a Negative Determination #2 for Susan Duarte. Ms. Slavin seconded.

VOTE: Unanimous (4-0-0)

C. RDA – William W. & Linda P. Smith, c/o JC Engineering, Inc.

The public hearing notice was read into the record.

Present before the Commission: Mike Pimental, JC Engineering, Inc.

Mr. Pichette described the project. The property is located at 48 Highland Shores Drive. The project involves the reconstruction of a deck in the buffer zone to a coastal bank &

w/in the riverfront area of the Weweantic River. An existing 12x24 ft. deck is to be removed & replaced w/ a new deck w/ a roof over it & w/in same footprint as the existing deck. The project would be approx. 24 ft. from the top of the coastal bank. Approx. 8 sono-tube footings will be installed by hand. Silt fence will be placed between the work & the coastal bank. There are no grade changes proposed. He recommended the issuance of a Negative Determination #2.

Audience members had no questions or comments.

MOTION: Mr. Baptiste moved to close the public hearing for William & Linda Smith. Ms. Slavin seconded.

VOTE: Unanimous (4-0-0)

MOTION: Mr. Baptiste moved to grant a Negative Determination #2 for William & Linda Smith. Ms. Slavin seconded.

VOTE: Unanimous (4-0-0)

D. NOI – James & Julie Cronan, c/o JC Engineering, Inc. – SE76-2277

The public hearing notice was read into the record.

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

Mr. Pichette described the project. The property is located at 27 Broad Marsh Avenue. The project involves the construction of two small additions & a bulkhead w/ grading work in the buffer zone to a coastal bank, salt marsh & w/in a coastal flood zone. A 3x21 ft. addition is proposed on the water side of the house & would be approx. 35 ft. from the closest point of the seawall which is the stairwell area of the seawall. There is an area currently used as a walkout of this proposed addition & will be filled in to level out the yard. Grading is shown on plan to reflect this. The backyard area is currently lawn area right up to the seawall. Haybales are proposed between the limit of work & the seawall. Also proposed is a 4x16 ft. addition on the street side of the house & a 5x6 ft. bulkhead to access the basement on the front side of the house. A DEP file number has been assigned. He recommended the issuance of an OOC w/ standard conditions.

Audience members had no questions or comments.

MOTION: Mr. Baptiste moved to close the public hearing for James & Julie Cronan. Ms. Slavin seconded.

VOTE: Unanimous (4-0-0)

MOTION: Mr. Baptiste moved to grant an Order of Conditions w/ standard conditions for James & Julie Cronan. Ms. Slavin seconded.

VOTE: Unanimous (4-0-0)

V. CONTINUED PUBLIC HEARINGS

A. NOI – Margaret Saunders, c/o McKinnon & Keese Engineering – SE76-2276
(DONE)

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

Present before the Commission: Justin Perrotta, Attorney for Ms. Rhodes
_____, Attorney???

Mr. Pichette described the project. This project is the proposed boardwalk & path project on Burgess Point Rd. The project involves the construction of boardwalks & a path w/in bordering vegetated wetland, salt marsh, & w/in land subject to flooding. The site is also w/in the habitat of rare & endangered species. The applicant is proposing to construct a path w/ boardwalks w/in the existing 10 ft. wide easement w/ a length of approx. 1560 ft. from start down to the beach area. Approx. 410 ft. of the path length would be elevated timber boardwalks through three separate wetland areas. At a previous meeting, there were discussion re: whether or not alternatives should or could be considered by the Commission re: different easement routes that may have less impact to wetland resource areas. He contacted Town Counsel re: this issue & Town Counsel stated the Commission could consider other alternatives. Town Counsel had also stated the court ruling was to whether or not the easement was a valid easement, not speaking necessarily about any wetland issues per say. A DEP file number has been assigned. There was also a question as to meandering the boardwalks around existing trees. The applicant submitted a revised plan showing the boardwalk in the current easement meandering around larger trees. He suggested the Commission look at other potential routes if they have less significant impacts & if these routes are offered as a potential alternative.

The applicant's engineer described the revised plan that shows the meandering of both paths & walkways. He described some trees that will be cut down. He spoke re: boardwalk handrails.

Mr. Pichette spoke re: the water line on the plan. Brief discussion ensued re: the high water line. Mr. Pichette stated a letter had been submitted by a Mr. Giosa relative to the height of the boardwalk & that it should be higher (1:1 height requirement). He stated as far as the DEP Regulations go, there are no mandates or performance standards what require a specific height. Thus, there is not a height requirement. Brief discussion ensued.

Ms. Slavin asked if there was any discussion re: alternative pathways.

_____, Attorney noted the regulations re: 310 CMR 1053 for limited projects, the _____ reasonable _____. There have been discussions & the most recent offer was the easement that goes around the cul-de-sac continues over the

existing path, & somewhere in an undefined manner at the water that will have no wetland impact, the plan shows some salt marsh & other coastal resource areas in the location. The only area that doesn't have any wetland area impact that takes the route would be to cross the bridge up to the north ending above the beach area. This proposal was just made w/ a right of first refusal on the applicant's house. The alternative w/ the hypothetical area hasn't been defined or where it would be. The other alternatives are not reasonable.

Mr. Pichette stated there was a previous alternative mentioned that involved a route that would leave Mrs. Rhodes property & go through a 30 ft. wide area that would go through the wetlands less than the current proposal & end up on the path that already exists that go down to the water. _____ stated this alternative was discussed, but in the end, it is going to end at the water w/ wetland impacts. The alternative Mr. Pichette noted is a longer path.

Mr. Pichette stated that alternatives w/ less wetland impacts need to be considered & he would recommend this to the Commission. If an alternative route can be agreed upon great, if it can't than the Commission is back to looking at what is in front of them.

_____ noted the northerly areas. Mr. Pichette stated the current proposal ends up w/ some wetland alteration at the end of the path. If there was an alternative that also included wetland alteration, this wouldn't be out of line, if huge stretches of boardwalk were going to be eliminated in wetlands, etc. If there is an alternative that reduces wetland impacts, then the Commission should consider it.

Discussion ensued re: the proposal at hand. Mr. Pichette stated the Commission needs to look at wetland impacts firstly.

Ms. Slavin stated the proposed easement & the proposed new access to the water contains significantly different vegetation near the water & no way near the thickness that comes along the easement currently. She expressed concern that the proposals/alternatives being discussed have not been visited by the applicant's representatives. Mr. Pichette stated that the applicant/applicant representatives need to look at what the alternative routes could be.

Mr. Baptiste stated the existing path is a common path & ends at the water somewhere. He stated he doesn't see a difference in hitting the water in one place or another. It is all the same beach. Mr. Pichette stated the applicant is not being offered the access to the full run of the path down to where it hits the water. Discussion ensued.

Mr. Baptiste stated as far as first refusals, etc., he is not entertaining these issues because that is not his job as a Commission member. He is looking at the most minimal impact to wetlands. This is all he wants to hear about. Matters between neighbors are not the responsibility of the Commission.

The representative stated in an attempt to come up w/ another proposal to further lessen the wetland impacts, they have come up with a plan that is attached to a letter that was sent dated the 27th. This proposal includes taking the golf cart into the cul-de-sac then park it there, walk on the existing path over the existing bridge, walk on another existing path out to the water. He noted how this is modified from what was presented previously. Any of the four proposals made are available which he discussed.

Mr. Baptiste stated the Commission isn't supposed to choose an option. He stated the applicant is supposed to pick an option. The representative asked the Commission to pick which option is the better route w/ respect to wetlands issues. Mr. Baptiste feels the representative is asking the Commission to make a decision on an option. Mr. Pichette feels the Commission's responsibility is to seek an alternative that has less wetland impact, but at the same time it has to be reasonable. The alternative that makes the most sense & leaves the smallest deviation from what is currently there is the alternative that crosses the one wetland area behind the house, it meets up w/ path, & then ends up down at the beach. The alternative that includes the cul-de-sac is much further & would require a golf cart. He suggested the Commission not vote on something right this moment because if the attorneys can't come up with an offer that is acceptable to the applicant, it doesn't matter anyway. Brief discussion ensued.

The Commission concurred that the applicant & attorneys need to come up w/ an agreement.

Audience members were asked for questions or comments.

Present before the Commission: Karl Clemmey

Mr. Clemmey stated the path Mr. Pichette seems to be in favor of sits up two feet higher than the alternative. There is a high grade & flooding. He is in favor of the proposal.

NOTE: A brief break was taken so the attorney could confer w/ applicant.

The attorney stated one issue that wasn't brought up was the "green line" proposal which would go through the Conservation Restriction. Because it would be a new easement, it, would be subject to the Conservation Restriction. This is another issue w/ the proposal.

The attorney asked if Mr. Decas now becomes the applicant. Mr. Decas is asking the Commission to deny the request. Mr. Pichette stated if an easement was created & deeded to Ms. Rhodes, it would be the same situation as the deeded easement she has now. He stated a legal viewpoint can be rendered from the Town's attorney.

MOTION: Ms. Slavin moved to continue the public hearing for Christine Rhodes to October 16, 2013. Mr. Baptiste seconded.

VOTE: Unanimous (4-0-0)

Murray (attorney) stated Mr. Decas unequivocally offered the "green line" route w/30 ft. widths from the shallow wetlands behind the home w/out any strings attached or restrictions.

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

Mr. Pichette explained the applicant has requested a further continuance of this hearing. This project involves placing 100 yds. more of fill down by PIYC on a private piece of land. The applicant is trying to determine if the existing stormwater drainage in the streets in the area are not working properly & this may be the cause for the water. If the applicant can determine repairs will take the stormwater & they would not have to put the fill there, they will withdraw the application to place any more fill. The fill that was placed there w/out permission from the Commission would still have to be dealt with & approved. The application to put any more fill there would be withdrawn. Municipal Maintenance has been notified of this matter & is being looked into.

MOTION: Mr. Baptiste moved to continue the public hearing for Kevin Sousa to October 16, 2013. Ms. Slavin seconded.

VOTE: Unanimous (4-0-0)

D. NOI – John Jay & Lisa Houser & John & Janet Sylvester, c/o G.A.F. Engineering, Inc. – SE76-2273

Mr. Pichette explained this is a proposed pier project in Onset. A comment letter from DMF has been received. DMF is suggesting that an eel grass survey be done. There are conditions in the Wetlands Bylaw that state this type of survey needs to be done in a certain time of year. The application originally was not sent to DMF & that is why no comments were ever received. He spoke to the Harbormaster also did not receive a copy of the application & he would also like to make comments.

MOTION: Ms. Slavin moved to continue the public hearing for John Jay & Lisa Houser & John & Janet Sylvester to October 16, 2013. Mr. Baptiste seconded.

VOTE: Unanimous (4-0-0)

VI. EXTENSION REQUESTS

VII. ENFORCEMENT ORDERS

VIII. CERTIFICATES OF COMPLIANCE

A. Ed Locke – 51 Oak Street

Mr. Pichette stated this project dealt w/an addition to an existing home. All work has been done according to plan. He recommends issuance of the COC.

MOTION: Ms. Slavin moved to issue a Certificate of Compliance for Ed Locke – 51 Oak Street. Mr. Baptiste seconded.

VOTE: Unanimous (4-0-0)

B. James Pena – 34 Shangri-La Boulevard

Mr. Pichette stated this project dealt w/ a septic system upgrade which has been completed per plan. He recommended the issuance of a COC.

MOTION: Ms. Slavin moved to issue a Certificate of Compliance for James Pena – 34 Shangri-La Boulevard. Mr. Leggett seconded.

VOTE: Unanimous (4-0-0)

IX. ANY OTHER BUSINESS/DISCUSSION

A. Discussion: Tremont Dam

Mr. Pichette stated work has been done at the Tremont Dam by the Town which should have had a NOI before the work was done. This is now being worked on (NOI paperwork application). The work was done in an effort to comply w/ the Federal requirements to make improvements to the dam because the dam is classified as a hazardous structure. An Order of Conditions is required for any other work to move forward. Brief discussion ensued.

Brief discussion ensued re: access to the dam.

B. Discussion: Conservation Restrictions/Stewardship

Ms. Slavin stated she & Mr. Leggett have a date to go see a conservation property at Swifts Beach on Saturday. She has the Conservation Restrictions & maps & will try to utilize Shady Lane & Columbia. She will write a report & forward it to Mr. Pichette & the Land Trust.

C. Discussion: Westgate Conservation Area

- 1. Parking Area Construction**
- 2. Authorization To Spend**

Mr. Pichette stated the area is coming together. The parking lot material is 90% complete. A bill has been received for the parking lot material & needs to be paid. He asked that Ms. Slavin sign off on the bill for approval since Mr. Connolly cannot.

Mr. Pichette stated hardware needed to be purchased for the foot bridge. The cost of this material was \$60.00+. He would like to have the Commission vote to pay this bill as well.

MOTION: Mr. Baptiste moved to approve payment for invoices/bills Mr. Pichette presented this evening. Mr. Leggett seconded.

VOTE: Unanimous (4-0-0)

Mr. Pichette stated there is also the annual bill for MACC dues which is \$252.00. He asked the Commission's approval for payment.

MOTION: Mr. Baptiste moved to approve the payment of the MACC dues invoice in the amount of \$252.00. Ms. Slavin seconded.

VOTE: Unanimous (4-0-0)

Mr. Pichette stated a date for the official opening of the Westgate Conservation area needs to be set. He feels mid-end of October would be a good time on a Saturday at 10:00 A.M. Brief discussion ensued.

D. Discussion: Swifts Beach

Ms. Slavin stated the Swifts Beach group wants to come before the Community Preservation Committee to speak about the Conservation Restriction. She doesn't know why. The Commission is still waiting for an answer from the State to find out if the subset of the Swifts Beach Organization Improvement can hold the CR. Mr. Pichette stated another issue is to get the CR language to the BOS to give it their blessing, modify, etc. before it can be submitted to the State. He also received an email today from Kate Furler asking for the signed version of the CR. He doesn't know what she wants this for. Brief discussion ensued re: what the intent is for Ms. Furler wanting the signed CR. Mr. Pichette will contact her tomorrow.

**E. Discussion: Bills
Done.**

F. Discussion: Procedure for Ronald & Lois Enos

Mr. Pichette stated this matter will be handled on October 16, 2013.

NOTE: The meeting went back to item III. Preliminary Business – A. Approval of meeting minutes: February 20, 2013 & April 17, 2013.

MOTION: Mr. Baptiste moved to approve the meeting minutes of February 20, 2013. Ms. Slavin seconded.

VOTE: Unanimous (4-0-0)

MOTION: Mr. Baptiste moved to approve the meeting minutes of April 17, 2013. Ms. Slavin seconded.

VOTE: (2-0-2)

G. Decision: Town of Wareham – Merchant's Way

Brief discussion ensued re: de-watering & maintenance plan. Ms. Slavin stated the letter of support for maintenance from Municipal Maintenance only included mowing, cleaning of catch basins, & sweeping. She stated the CEDA Director gave the impression all maintenance would be taken care of by Municipal Maintenance.

The Commission discussed conditions for this project, such as no-dye mulch in rain garden, dewatering conditions to be included, what maintenance has to be done on the site, approval & conditions on the 6/7/13 plans if modified by any other board, commission, etc. an amended OOC by the Commission is needed, etc.

Brief discussion ensued re: the proposed rain garden, sand pipes, berms, & water level concerns.

The Commission concurred with the following conditions:

1. Dewatering.
2. No dye mulch.
3. Maintenance – No fertilizer, & find an entity to remove dead vegetation & pruning bi-annually. Municipal Maintenance has agreed to mow, clean catch basins, & sweep. Someone other than Municipal Maintenance must provide weeding & removal of invasive plants twice per year manually.

MOTION: Mr. Baptiste moved to approve the Merchant's Way project based on plan dated 6/7/13 with standard conditions & additional conditions 1-3 above. Ms. Slavin seconded.

VOTE: Unanimous (4-0-0)

X. ADJOURNMENT

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

VOTE: Unanimous (4-0-0)

Date signed: 2/5/14

Attest: [Signature]
John Connolly, Chairman

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