

Town of Wareham
Conservation Commission Minutes
SEPTEMBER 7, 2022

I. **OPENING:** Chairperson, Sandra Slavin opened the meeting.

II. **ATTENDANCE:** Chairperson, Ms. Slavin, Vice Chairperson Denise Schulz, Ms. Malonson, and Michael Mercier.

Absent: Nichole Locurto and Kwame Bartie

Conservation Agent, Dave Pichette was also in attendance.

III. **PRELIMINARY BUSINESS:** No minutes at this time were presented.

IV. **PUBLIC HEARINGS:**

- a. RDA – Lisa & Erasimo Mitrano – 22 Barnes & 51 Pleasant Street

Ms. Schulz opened the hearing by reading the advertisement in for the record to install a shed and patio.

Michael Mitrano, son of Mr. and Mrs. Mitrano was present.

Mr. Pichette reviewed the project for a replacement of a shed and installing a new concrete patio within a coastal flood zone. He said they would be replacing a 10x10 shed with a 9x8x14 on a concrete slab. He said work had already started. He said the concern is runoff on abutters runoff, and he has already heard from a neighbor as the lots are very small in this area. Mr. Pichette recommended a pitch to go away from the neighboring properties.

Mr. Mitrano stated that they did start with the demolition of the existing shed and went ahead roughing for the concrete and they were told to hold off, which they did. He said the patio project was to pitch the patio toward the yard. He said it's very sandy soil in that area and they are aware of it. He stated if there is a concern with water runoff on the new patio they could put a concrete berm on the patio as a supplemental feature. He said it will be pitched.

Ms. Schulz asked if they would consider putting another impervious material versus concrete for the patio.

Mr. Mitrano stated that with budget constraints concrete is the cheapest at this time and it's already prepped for concrete.

Mr. Mercier asked why the two addresses

Mr. Mitrano stated the addresses are back-to-back properties and his parents own both the lots.

Mr. Pichette stated because it's common ownership that one application is fine.

Ms. Malonson asked about where the existing drywall is. Mr. Mitrano explained where the existing patio to the new patio and the trench are between the two. He explained where it was with a picture.

Ms. Slavin asked if the shed would have a water drain.

Mr. Mitrano stated it would not. He said it would have a gable front and in the back pitched back.

Ms. Slavin asked if they would be open to gutters and a dry well in the rear to pitch the water away from the abutters. She said she was going to make that recommendation.

Mr. Mitrano asked if he put an underground pipe and add to the existing drywell if that would be sufficient. Ms. Slavin said it would just so the water doesn't overflow into a neighbor's property.

Ms. Schulz asked about the concrete where it was going, in between the fence and the shed. Mr. Mitrano stated there was concrete there already and they are just swapping it out.

Ms. Slavin opened it up for public comment.

Mr. and Castelo from 20 Barnes Street said she asked for help from the Town in 2015 and 2016 because they feel that these owners have upgraded the land on Barnes Street to meet Pleasant Street. Mr. Barnes said they illegally filled in wetlands.

Ms. Slavin stated the way they explained how they were going to correct the water from running off will help alleviate water to their property.

Mrs. Castelo said they were concerned about violations in the past. Ms. Slavin said they are not talking about that as they were never notified, and it was 2015/2016.

Mrs. Castelo said she is looking for the Conservation to advise them on how to keep the water off their property. She said they think they need to pay for a water flow test to tell how much water is going to go on their property.

Again, Ms. Slavin explained the pitch that is going to be recommended with the new shed and concrete on the project. She said the attempt is to reduce the water from going into your property.

Mr. Mitrano said it will be pitched as the commission is requesting. He said the plan was to always have it pitched.

Mrs. Castelo said if they want to do raise their grade, they will have to go through the proper channels.

Ms. Slavin asked if there was anyone else who wanted to speak and there were no comments.

Mr. Pichette stated his recommendation would be to continue the hearing and get specific plans that show the pitch and that way the commission is not agreeing to something conceptual.

Ms. Slavin said they would like to see the cross-section and the drywells for the runoff on plans.

Mr. Mitrano said that there is retention near the fence for pitching.

Ms. Slavin said there would be a fine because the work was started without a permit. She said it would probably be \$200 but they would discuss it at the next meeting.

Ms. Schulz made a Motion to continue 22 Barnes to September 21, 2022, per the applicant's request and was seconded by Mr. Mercier. The motion passed unanimously.

b. RDA – Jason & Edith Nelson c/o Cape & Islands Engineering, Inc. – 8 Over Jordan Road

Ms. Schulz read the advertisement for the record.

Mark Dibb from Cape & Island Engineering was present.

Mr. Pichette stated this was an RDA filing to build a single-family dwelling in the coastal flood zone. He said they were proposing a 34x54 dwelling in a VE17 flood zone on a piling foundation with a pump septic system. He said the leech field would be approximately 270' away from the house, gravel driveway and town water. The work is not in a buffer zone it is just in a coastal flood zone. He said they have a revised plan with changes around the septic tank. He would recommend approval with a negative determination #2.

Mr. Dibb had no further comments. He said the leaching field would be on Lot L, per Ms. Schulz's question.

No further questions from members.

Ms. Slavin asked for public comment.

Mr. DJ Wilson, abutter asked a few questions and asked if the house would be built on stilts. Mr. Wilson asked about times of construction and Mr. Pichette stated that would be with the Building Commissioner. Mr. Wilson asked if they could put a covering over the chain-link fence that is between them to keep the dirt from his property. He also asked about how many bedrooms the homes would have.

Mr. Dibb said three bedrooms.

Ms. Schulz made a motion to close the public hearing and was seconded by Mr. Mercier. The motion passed unanimously.

Ms. Schulz made a motion to approve the RDA, 8 Over Jordan Road with a negative 2, and the motion was seconded by Ms. Malonson. The motion passed unanimously. (4-0-0)

c. RDA – Jason & Edith Nelson c/o Cape & Islands Engineering, Inc. – 10 Over Jordan Road

Ms. Schulz read the advertisement in for the record and opened the public hearing.

Mark Dibb from Cape & Island Engineering was present on behalf of the applicant.

Mr. Pichette explained this was the next lot over from the one previously reviewed. He said it's similar, 26x36 dwelling to be built, VE 17, single family on pilings. A pump system and leeching field, 290' from the home. Gravel driveway, town water, and not proposed in the buffer zone or wetland areas. He would recommend approval with a negative two.

Ms. Slavin asked for public comment, but there was none.

Ms. Schulz asked again for the dust issue to help out the neighbor in the back. Mr. Dibb agreed.

Ms. Schulz made a motion to close the public hearing and was seconded by Mr. Mercier. The motion passed unanimously. (4-0-0).

Ms. Schulz made a motion to approve the RDA for 10 Over Jordan Road with a negative 2 and asked that they be conscious of the dirt and dust in the rear of the property to the butter. The motion was seconded by Mr. Mercier and passed unanimously. (4-0-0).

d. RDA – The Family Pantry, c/o GAF Engineering, Inc. – 242 Marion Road

Ms. Schulz opened the public hearing and read the advertisement for the record.

Robert Rogers from GAF Engineering was present.

Mr. Pichette stated that this was a project to build a 5,000 sq ft building with associated parking, utilities, and stormwater management. He says they had a site plan review and were told they needed to come to the Commission to see if any of the property would be in a wetland resource area, which it is not. Mr. Pichette would recommend approval with a negative 1 and a negative 6, stating the property is not in a wetland resource area.

Mr. Rogers had no further comment.

Mr. Rogers stated as a point of information the project will be heard in front of the ZBA for a site plan review and special permit on September 28, 2022.

Ms. Schulz made a motion to close the public hearing and was seconded by Mr. Mercier. The motion passed unanimously.

Ms. Schulz made a motion to issue a negative one and six for this RDA project, The Family Pantry at 242 Marion Road. The motion was seconded by Mr. Mercier and passed unanimously. (4-0-0)

e. NOI – Scooter Realty Trust, c/o GAF Engineering, Inc. – 367 Main Street SE76-2757

Ms. Schulz read the advertisement in for the record, opening the public hearing.

Ms. Slavin stated she was a close friend of the applicant and would sit quietly and refrain from voting or speaking about the project.

Mr. Pichette reviewed the project and stated it involves the reconstruction of a parking area and a wall located in the riverfront area, coastal flood zone, and buffer zone to wetland. Existing gravel area to be reconstructed and graded within AE14. He said the existing overgrown parking area for new material to be placed into that location on the site plan and surface material is to be recycled asphalt. He said the retaining wall was to be removed and regraded into the parking area. He said runoff will be to the rear of the building. It is proposed to place a pre-cast curb to the subject site and property to the site which is not there currently. He said there is a DEP filing for the project. He would recommend approval with standard conditions and a condition that the parking lot remains a pervious parking area unless the applicant wants to come back with an NOI.

Mr. Rogers reviewed his plans with what is there currently and then what is being proposed. He said there is very little change in one area and most part is where the retaining wall is being removed. He said there is a slight reduction from pervious to asphalt.

Ms. Schulz asked which property this was on Main Street. Mr. Rogers explained where it was.

Ms. Schulz opened it up for a public hearing and there was none.

Ms. Schulz made a motion to close the public hearing and it was seconded by Ms. Malonson. The motion passed unanimously.

Ms. Malonson made a motion to approve the project with standard conditions and that the parking lot remain pervuis. Mr. Mercier seconded the motion, and it was approved unanimously, with Ms. Slavin abstaining. (3-0-1).

f. NOI – RESI, LLC c/o GAF Engineering, Inc. – 42 Robinwood Road – SE 76-2758

Ms. Schulz read the advertisement for the record opening the public hearing.

Bob Rogers of GAF Engineering and Chris Anderson (partner to the project) were present.

Mr. Pichette reviewed the project. He said the project involves a pier, ramp, and float system with land under the ocean, land on a coastal beach, and a coastal flood zone. The proposed length is a 184' pier, ramp, and float system with two boat lifts proposed with a common pier that is proposed between a proposed subdivision in the southern lot at the same location. He said the overall length is 184', and a buoy was placed in the water to show how far out. He said it would be 159' out from the high tide line. Mr. Pichette stated there would be twenty-eight (28) pilings to be installed, driven from a floating barge. Proposed 360 sq feet. He said there was an Eelgrass survey done almost a year ago and was found there was none in this project area. However, he has spoken to the engineer to recommend the verification of that information and that it is still valid this year. He said there were a few comments from the Marine Division of Fisheries regarding the safety of the shellfish in water and the restriction to have any floats above 30" from the bottom of the ocean. They also stated no barge work at low tide. He said they have not received comments from the Harbormaster as of yet. Mr. Pichette recommends continuing the hearing to receive comments from the Harbormaster as well as to get the information current from the eelgrass survey.

Mr. Rogers asked if Mr. Pichette wanted the same person to review the eel grass survey. Mr. Pichette stated yes.

Ms. Schulz asked how many houses would be utilizing this ramp and pier.

Mr. Rogers said it would be seven. He said they don't have a lot of owners as of yet. He said that the pier is set up for seven boat owners.

Ms. Schulz stated she thought the area looked small between two piers to house seven boats.

Mr. Rogers explained how the boats would be lined up against the pier. He said he can only apply for and do what the by-law states. He said they are not trying to go out the maximum 200' out and not doing the four boat lifts either.

Ms. Schulz stated the DEF stated the comments stated that they would have to move shellfish.

Mr. Rogers said that the Harbormaster would advise how to harvest the shellfish either over in the same area and/or replant them elsewhere.

Ms. Slavin asked if they could restrict the size or the number of boats that go on the pier. Mr. Pichette stated they could.

Ms. Slavin said she noticed that the kayaks were up on the beach, and she said she doesn't want anything stored on the beach area. She said she would make that recommendation.

Ms. Slavin asked for public comment and asked them to limit it to Conservation only.

Ms. Fafst, abutter was present to speak on the project. She said this application should be denied as it doesn't meet the bylaw requirements. She said it's their burden of proof to not have a negative impact on the area, and not knowing is not a good enough excuse. She said the fact that they don't know and it's a premature application. She said this is a very active recreation area. She said they are proposing to build McMansions. She said it doesn't share any mitigation of the pier and or the shellfish in that area.

Resident, Mary Oliveira stated this was a very small area for a pier to house seven boats. She said there is no room, in her opinion. She said she walks the beach in that area and the little that is left is shrinking. She asked who would maintain it.

Mr. Donoghue was also present and stated he is with eight residents who are opposed to this project. He asked if the DMF report can be available. He stated a resident who was to be notified was not.

Mr. Rogers explained what location he got the 100' assessors abutters list that was generated from. He said that was the center point lot of the pier.

Mr. Pichette stated they have to go by the list that they receive from the assessor's office and if that is inaccurate, they wouldn't know that.

Mr. Donoghue stated they did know about it as this also occurred with the Planning Board. He said it's a very premature application and they're concerned for safety in that area.

Ms. Slavin stated they will be continuing to get comments from the Harbormaster.

Ms. Schulz made a motion to continue to September 21, 2022 and was seconded by Mr. Mercier. The motion passed unanimously. (4-0-0).

g. NOI – Robert Charles Malone, c/o Charles Purdy – 79 Blackmore Pond Circle SE76

Ms. Schulz read the advertisement in for the record to open the public hearing.

Mr. Charles Purdy was present and Mr. Robert Charles Malone.

Mr. Pichette reviewed the project. Construction of an addition – in the buffer zone – 12x27 l shaped addition, 43' edge of retaining wall – proposed new title 5 septic system, up close to the road – still in the buffer zone to that pond area. Sil fence proposed between resource area. Would recommend hay bales – the site is relatively flat and no grade changes are proposed. No dep file #. Recommend continuance until we get the DEP file number. No further issues with what was proposed.

Mr. Purdy stated he has everything in place and the hay bales would be fine.

Mr. Mercier stated the property wasn't staked out very well. He asked about a specific area.

Mr. Purdy stated it would be the leaching field where the large stakes were located.

Ms. Slavin asked about the addition to the side of the house in an "l" shape.

Mr. Purdy stated there is a proposed 2-car parking spot. He said he would have to remove the trees for the whole project.

Ms. Slavin asked if all the trees on the plan will be removed. Mr. Purdy stated all the trees where the septic, leaching field, parking spot, and addition are going to be.

Ms. Slavin asked for public comment and there was none. She said they would have to continue as they don't have a DEP filing as of yet.

Ms. Schulz made a motion to continue to September 21, 2022 and was seconded by Mr. Mercier. The motion passed unanimously. (4-0-0)

IV. CONTINUED PUBLIC HEARINGS:

a. Edwin R. Harris Jr., c/o Bracken Engineering Inc. 2530 Cranberry Highway, SE 76-2765

Engineer, Robert Dewar was present on behalf of Mr. Harris (who was also present). Paul Revere was also present for the applicant.

Mr. Pichette reviewed the project as this came in as an after-the-fact filing for site work and placing fill in the buffer zone to bordered vegetated area. He said a large amount of fill was added to the buffer zone to raise the grade of the property up to 10' in some areas. He said there is a large steep of material that goes down to the natural area. He said it'll go to a 3:1 slope, which will remove some of the fill and put it back to its natural existence. He said they proposed a dry well to handle the material, and erosion control to be installed to contain the work area. They did receive a DEP filing. Mr. Pichette recommended approving with standard

conditions and an additional condition that the site is stabilized per the plans and the plantings listed. He said erosion control would be installed. He said they continued because of abutter notification, and they have been resolved. He would recommend monitoring the plantings for a year.

Engineer, Robert Dewar stated nothing more to add and said he was there to remedy and rectify. He said they want to improve the conditions. He said there will be a berm on the top of the slope to prevent anything from running down the slope. He said the drywell has been moved away to further reduce stormwater running over the bank.

The commission members had no comments.

Mr. Munice was present to speak as an abutter. He said he has no problem with the plans and as long as it is going to be a residential use and not industrial, he is fine with it.

Mr. Pichette stated that there is no change proposed to industrial use.

Ms. Schulz made a motion to close the public hearing and was seconded by Mr. Mercier. The motion passed unanimously. (4-0-0).

Ms. Schulz made a motion to approve 2530 Cranberry Highway with standard conditions as presented with the current plan, the planting schedule, and the maintenance plan as well as the land to be loomed and seeded only. And a drywell was installed. The motion was seconded by Mr. Mercier and passed unanimously. (3-0-1).

Ms. Slavin stated there was a \$300 fine for after-the-fact work.

Ms. Schulz made a motion to issue the \$300 fine and was seconded by Mr. Mercier. The motion passed unanimously. (4-0-0).

b. John Boone, BOBM Inc., c/o Merrill Engineers, 18 Green Street SE 76-2754

John Boone from Safe Harbor was present and Tom Pozerski, from Merrill Engineers, was present.

Mr. Pichette reviewed the project at Safe Harbor Marina in Onset. He said it involves the reconstruction of the bulkhead which is the coastal bank and the reconstruction of the concrete pad and boat rack in the buffer zone to the coastal bank and within the coastal flood zone and underwater. He said the bulkhead is approximately 330' in length and will be replaced with steel. The existing will be removed in pieces and the new put in with crushed stone and the pad and boat rack. He said a new steel boat rack would be installed in the same area. He said new stormwater would be installed. He said they did receive a DEP file number and received comments from DMF. He would recommend approval with condition that the stormwater

structure be constructed with the most recent plan submitted. He said the DMF started to see if the work could be done on the upland side.

Mr. Pozerski explained the stormwater maintenance plan and the construction sequence was added to the plans.

There was no comment from the commission members.

Ms. Schulz made a motion to close the public hearing and was seconded by Mr. Mercier. The motion passed unanimously. (4-0-0).

Ms. Schulz made a motion to grant the project as submitted with the maintenance plan and a condition if the work needs to be done with a floating barge they need to do it within a high tide, plus or minus high tide. The motion was seconded by Mr. Mercier. The motion passed with one abstaining. (3-0-1).

c. Scott Green c/o J.C. Engineering Inc. 17 Murphy Avenue

Attorney Jillian Morton was present. Mike Pimental with JC Engineering and Scott Green was present.

Mr. Pichette reviewed the project involves the construction of a single-family dwelling in the buffer zone, coastal beach, within a salt marsh and flood zone area AE20. The proposal has pervious material for the driveway. They are proposing Town water and sewer. Hay bales are to be installed. Mr. Pichette stated he is concerned that the proposed is a very large construction of the site and not sure how they are going to maintain the 30' no activity zone. Mr. Pichette stated he didn't receive a comment from Mass National Heritage and asked if the applicant had. The disturbed area would be replanted as described in the plans. Infiltration is proposed for runoff from the home.

Mr. Pimental stated they issued an approval letter back on August 4, 2022, and he would make sure the office received a copy.

Mr. Pichette recommends a continuance unless the commission is comfortable.

Ms. Morton stated they went to the Zoning Board of appeals. She said the applicant is going to be the general contractor as well. She said they would be happy to hear comments.

Ms. Schulz asked about the boats in the area and if they belong to the applicant.

Ms. Morton stated they did discuss that at the Zoning Board. She said the cottage was grandfathered, where the boats are located. Ms. Morton said the old foundation would be coming out in front of the property.

Ms. Schulz asked about the coastal dune in the area.

Mr. Pichette is shown the buffer but the coastal dune is a resource area. The coastal dune shouldn't be pushed further back.

Ms. Schulz stated she would like more time to review the project and the letter and asked for a continuance so she can digest everything.

Mr. Mercier said he felt the same. He asked about the pump station and asked if it should be further back.

Mr. Pichette stated the stub could be only where the proposal is.

Mr. Pimental stated that's exactly it, the E1 is proposed where the stub is. He said that would be coordinated with the sewer department.

Ms. Slavin asked how they are going to walk around the house to get to the water. She asked if they were going to put a path or stones.

Ms. Malonson asked how many bedrooms the proposed house is. Mr. Green said four bedrooms.

Mr. Green said he didn't think he could put stones or a pathway. He said from the perimeter of the house is one foot out.

Ms. Slavin asked how they were going to keep the no activity zone, no activity.

Ms. Morton stated there was a tree line there and/or fencing.

Ms. Slavin said there wasn't too much space in that area. Mr. Green said he was thinking of a fence perhaps. She said it was a very busy plan. Ms. Slavin suggested they visit the site again.

Ms. Schulz made a motion to continue the hearing until September 21, 2022 and was seconded by Mr. Mercier. The motion passed unanimously. (4-0-0).

- d. NOI – Wareham, MA 3, LLC, c/o Atlantic Design Engineers, Inc. 91 & 101 Fearing Hill Road SE 76- (asked for continuance)**

Ms. Schulz made a motion to continue NOI, 91 & 101 Fearing Hill Road until September 21, 2022, and was seconded by Mr. Mercier. The motion passed unanimously. (4-0-0).

- e. NOI – Paula Hamilton, c/o G.A.F. Engineering, Inc. – 44 Agawam Beach Road – SE76-2747 (asked for continuance). Motion made and seconded to continue passed 4-0-0.**

- f. NOI Richard Grady, c/o G.A.F. Engineering Inc – 67 Jefferson Shores Road – SE 76-2753**

Ms. Schulz made a motion to continue NOI Richard Grady to September 21, 2022, and was seconded by Mr. Mercier. The motion passed unanimously. (4-0-0).

VI. EXTENSION REQUESTS:

VII. ENFORCEMENT ORDERS:

VII. CERTIFICATE OF COMPLIANCE:

- a. TJP Realty, LLC – 13 Over Jordan Road – SE 76-2594

Mr. Pichette stated he went to the site and it is not completed as far as he can see. He is going to meet the engineer.

- b. Roberta M. White – 42 Charlotte Furnace Road – SE76-2716

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

Ms. Schulz made a motion to grant the certificate of compliance and was seconded by Mr. Mercier. The motion passed unanimously. (4-0-0)

- c. Borrego Solar – 160 Tihonet Road – SE 76-2518

Mr. Pichette stated this was for a solar project which they referred to as 160 Tihonet Road and has been completed per the plans.

Ms. Schulz made a motion to issue the certificate of compliance and was seconded by Mr. Mercier. The motion passed unanimously. (4-0-0).

VII. ANY OTHER BUSINESS/DISCUSSIONS AND/OR VOTE

- a. Discussion: Wetlands By Law's Filing Fees

Ms. Schulz stated she sent everyone the filing fees. Mr. Pichette recommended a separate meeting for this activity, as their meetings are long as is. He says they do have to have a public hearing.

Ms. Malonson stated their agendas are so long and she recommends a separate meeting night for public comment and input.

Ms. Slavin recommended a zoom meeting perhaps, as it's hard to get this room.

The commission discussed potential dates. They discussed October 17, 2022.

Ms. Schulz stated the Commission was invited to a Planning Board meeting with Fearing Hill Road on September 26, 2022, with Mr. Price at 6 pm. Ms. Slavin said she has not received a formal request as of yet and needs to post a meeting if they have a quorum.

b. Discussion: Superseding Orders of Conditions

c. Discussions: Continuances

d. Discussions: Appointments/Interviews/Reappointments:

Ms. Malonson made a motion to recommend the appointment of Jessica Parr as an associated member of Conservation. The motion was seconded by Ms. Schulz and passed unanimously. (4-0-0).

Ms. Slavin stated that she will add all the minutes that need to be done on the agenda going forward. Mr. Pichette stated he was confident that there would be minutes forthcoming.

e. Discussion: Bills

VIII. ANY OTHER BUSINESS/DISCUSSION AND/OR VOTE:

Ms. Schulz made a motion to adjourn at 8:50 and was seconded by Mr. Mercier. The motion passed unanimously. (4-0-0).

Respectfully,

Patricia A Pacella

Date signed: 12/8/22

Attest:  *approved 12/7/22 6-0-0*

Sandy Slavin, Chair

WAREHAM CONSERVATION COMMISSION

WAREHAM TOWN CLERK
2022 DEC 12 PM 12:34

Date copy sent to Town Clerk: _____