

Town of Wareham
Conservation Commission Minutes
November 2, 2022

I. PRELIMINARY BUSINESS:

Present: Chairperson, Ms. Sandra Slavin, Denise Schulz, Kwame Bartie, Carol Malonson, Michael Mercier, and Nichole Locurto

Absent: Ms. Parr

Mr. Pichette was also in attendance.

Ms. Slavin acknowledged Mr. Pichette's last Conservation Commission Meeting and thanked him for his 33 years of service to the Town as he is leaving.

Review and Approve Meeting Minutes: 8-3-22, 8-17-22, 9-7-22, 9-21-22, 10-5-22 and 10-19-22

Ms. Slavin stated she would review the minutes for accuracy and content and bring them forward shortly.

II. PUBLIC HEARINGS:

a. RDA – Parkwood Beach Association, c/o Jamie Lupino Sr. – 0 Parkwood Drive

Mr. Bartie read the advertisement for the record. Mr. Lupino was present.

Mr. Pichette reviewed the project: He said this was at the main beach. He said the project is from the front of the beach to the Crooked River area. He said they would be replacing different vines to protect the desirable area. All would be done by hand. He recommends approval with a Negative 2.

Mr. Lupino was present. Richard Murphy and James Rogers were present. Mr. Rogers spoke briefly about the project.

Ms. Schulz made a motion to close the public hearing which was seconded by Mr. Bartie. The motion passed unanimously. (6-0-0).

Ms. Schulz made a motion to approve 0 Parkwood Drive with a Negative 2 determination and stated all brush was to be disposed of appropriately and the motion was seconded by Mr. Bartie. The motion passed unanimously. (6-0-0).

b. NOI Salvatore A & Carol Santolucito, c/o GAF Engineering Inc – 8 Grace Lane – SE 76-2767

Mr. Bartie read the advertisement for the record.

Representing GAF Engineering, Mr. Bob Rogers was present.

Mr. Pichette reviewed the project: He stated this was a project to construct a pier, a ramp and float system with an attached boat system with land in the ocean, coastal flood zone and partial beach. Piles would be driven by a floating barge. DFM stated shellfish is in the area in the area and there were concerns of permanent loss of shellfish. They commented about the eelgrass as well as fishing for commercial or recreational would be prohibited. Mr. Pichette asked what the distance of the proposed pier to the eelgrass would be. Recommends a continuance for comments from Harbormaster and eelgrass.

Mr. Rogers reviewed the project. He said an eelgrass study was done about a year ago, and photographs and reports were issued with NOI. He said it's about a 7' area of eelgrass on the South side of the pier near the proposed boat lift. He said the pier would not be giving any shade to the eelgrass. He said they do have the ability to shift the pier a bit to the north if necessary.

There were no questions from Commission members. Ms. Slavin asked about the comments from MDF (Mass Dept of Fisheries); she said she would like to see the eelgrass plotted on the plans for the next meeting.

There was no public comment.

Ms. Shulz made a motion to continue 8 Grace Lane to November 16, 2022, per the applicant's request. The motion was seconded by Mr. Bartie and approved unanimously. (6-0-0)

c. NOI James Saunders, c/o GAF Engineering Inc. 27 Over Jordan Road – SE 76-

Mr. Bartie read the advertisement for the record.

Ms. Schulz made a motion to approve the withdrawal of the application per the applicant's request which was seconded by Mr. Bartie. The motion was approved to withdraw. (6-0-0)

d. **NOI John L Churchill, Jr. c/o JC Engineering Inc. -2850 Cranberry Highway – SE76-2769**

Mr. Bartie read the advertisement for the record.

Mr. Bertolo was present for the applicant.

Mr. Pichette reviewed the project: He said the project involved a proposed single-family dwelling and detached garage construction. The property is in the buffering vegetated wetlands and buffer zone. 28x52 dwelling; 28x36 detached garage proposed. house is 56' from wetlands; the garage is 36' from buffering wetlands. An extensive amount of fill is proposed so Mr. Pichette would have a question as to approximately how much is needed. The proposed driveway between the house to Cranberry Highway. The DEP file number has been received. All work outside the 30' buffer zone. Recommends order of standard conditions and added condition that split rail fence be added so the 30' no work zone line is maintained.

Mr. Bertolo stated he didn't have a quantity amount of fill currently of what will be at the site. He said the fill is to allow for the septic tank to be covered at the site. He does not know the yardage for this project, he said he could get the number to the commission. He said approximately 400 yards, just a guess. He said they have no issue with the split rail fence for the line. He said there had been a project approved in the last year at this location, but due to COVID, it was postponed.

Ms. Slavin said there was a lot of fill at the property already. Mr. Bertolo stated there was fill added for the previous project.

Ms. Schulz asked about the huge chunks of asphalt on the property, not just dirt. She said there is cement there as well.

Mr. Bertolo said any material that isn't appropriate would be removed. He said new sil fencing would be put up and hay bales.

Mr. Mercier asked about the man-made canal. Mr. Bertolo said that was existing as part of the Herring Run.

Ms. Slavin asked about the curb cut, however, has not been filed yet. She asked about the driveway in front to be paved. Mr. Bertolo said it would be paved. Ms. Slavin asked if they could get drywells in the area. Mr. Bertolo stated they could add to the conditions.

Ms. Slavin asked for public comment and there was none.

Ms. Schulz made a motion to close the hearing which was seconded by Mr. Bartie. The motion was passed unanimously. (6-0-0).

Ms. Schulz made a motion to approve 2850 Cranberry Highway with the standard conditions as well as the condition that a split rail fence is added around the 30' no work zone to maintain the line; the removal of all inappropriate material, the grade for the driveway be such so there is no run-off into the street and drywells be located on the plans and revised plans be submitted. The motion was seconded by Ms. Locurto. The motion passed unanimously. (6-0-0).

e. NOI – Robert McDuffy, c/o JC Engineering Inc. 0 Station Street – SE76-2768

Mr. Bartie read the advertisement for the record.

Mr. Bertolo was present for the applicant.

Mr. Pichette reviewed the project: He said the site does not have an address yet. He said the NOI is being filed for a violation at the address as well as to build a single-family dwelling in the bordered vegetated wetland. He said there were alterations. An enforcement order was filed. An area where fill has pushed into the 30' no work zone. Fill needs to be removed to the natural slope and plantings need to be restabilized. As part of the NOI, construct a single-family dwelling, garage, and in-ground pool in the bordering wetland area. 54' from the wetland. Roof runoff in infiltration 33' from wetlands is a pool proposed with retaining walls. Patio and retaining walls are proposed. Proposed driveways are proposed to be paved. He said a lot of different grades are being proposed, recommending some of the grades be minimized. He recommends continuance.

Mr. Bertolo said this project was approved at some point. He said the applicant has no intention of changing the retaining wall at this time. He said they started this project in 2005. He said they proposed a mitigation plan. He said the grading is the topography of today's grade. He said the site will be somewhat leveled, 2' elevation change difference from North to South. A walkout basement is proposed, with a couple of feet of fill at that location, tapering down a 3:1 slope. He doesn't anticipate a lot of run-offs. Proposing retaining walls along the 30', hold back for fill. Minor grading, act as a fixed buffer zone. Regards to driveway, 50% of the driveway length is captured by surface runoff by the drainage structure, the middle of the pavement.

Mr. Bertolo said he doesn't think there is a lot of fill that will be coming in as they will use some of what is there.

Ms. Schulz asked why everything was shifted toward wetlands. She asked about the pavers around the pool.

Ms. Schulz made a motion to continue to November 16, 2022 and was seconded by Mr. Bartie. The motion passed unanimously. (6-0-0).

III. CONTINUED PUBLIC HEARINGS:

- f. **Matthew & Cindy Rhodes, c/o JC Engineering Inc. – 72A Burgess Point Road – SE76-2765**

Brian Wallace was in attendance from JC Engineering.

Mr. Pichette reviewed the project: He said this is to replace a pier and float; adding two pilings for a new float. He said 160' to 300' new float, 17' further out into the water than its current location. Eelgrass was studied and at the last meeting there was a discrepancy; he did speak to the consultant and reviewed the information. He said they confirmed the eelgrass line that the consultant marked was the same as the engineering plan. Work will be done outside of eelgrass line. Also activities being done at coastal bank near existing pier that was previously discussed (seaweed piled up).. discussed with consultant and they will not continue those activities. They will have to remove a few piles of seaweed that shouldn't had been piled up. Project itself, did get a DEP file #. Recommend project with standard conditions with an added condition of materials placed at coastal bank removed; no more vegetation cutting.

No further questions from commission members. Ms. Slavin asked about issuing a fine for work not permitted.

Ms. Schulz made a motion to close the hearing which was seconded by Mr. Bartie. The motion passed unanimously. (6-0-0).

Ms. Schulz made a motion to approve 72A Burgess Point Road with the standard order of conditions with a stipulation that the shoreline material is removed and no further cutting within the 30' work zone be done. A fine of \$300 will be issued as well. The motion was seconded by Ms. Malonson. The motion passed unanimously. (6-0-0).

- g. **NOI – BOBM Inc. c/o Merrill Engineers, 18 Green Street – SE76-2756**

Ms. Slavin said they were waiting for clarification of limited notification of abutters on this project. She said there was a discussion with the Town attorney and assessor's office. Mr. Pichette said there was discussion regarding the abutter list and the Town attorney stated because the project was not on the far lot, the abutters per that lot of 100' would not have to be notified. He said that the abutters notified on the second round were appropriately notified.

Mr. Pichette stated that the commission could approve with standard conditions. He said there were other matters but now they should just approve this.

Ms. Schulz made a motion to accept the project with the revised plans and was seconded by Ms. Locurto. The motion passed unanimously. (6-0-0)

h. NOI – Connor Comrie, c/o Atlantic Coast Engineering – 33 Prospect Street – SE76-2762

Mr. Pichette stated that the engineer may be running late and if not in attendance to table. Ms. Schulz made a motion to table and was seconded by Mr. Mercier. The motion passed unanimously. (6-0-0)

Ms. Schulz made a motion to un-table and was seconded by Mr. Mercier. The motion to un-table was passed unanimously. (6-0-0)

Joseph Hannon, Atlantic Coast Engineering was present for the applicant.

Mr. Pichette reviewed his staff notes for the project. He said this involves the reconstruction a retaining wall in a coastal bank and coastal flood zone. He said the retaining wall is in between two lots. Work would have to be done on both lots. Wall needs to be reconstructed. Precast block. The DEP file number has been received. He said he wants to know the methodology of how the project would be done as it's a tight site.

Mr. Hannon stated it was a tight site for the project and says he came up with a cost-effective design. He said it is a challenging site. He said the existing retaining wall is failing. He said they are pre-cast concrete with stone, and porous material so stormwater can recharge in groundwater. He said they did speak to the abutter and they are in full support of the project.

Ms. Slavin asked if the work would be done from the abutter's lot. Mr. Hannon said yes the abutters would agree to work being done on their side with a restoration plan as well.

Mr. Pichette stated a letter should be added to the file from the abutter to do work on their end.

No comment from the public.

Ms. Schulz made a motion to close the public hearing and seconded by Ms. Malonson. The motion passed unanimously. (6-0-0).

Ms. Schulz made a motion to approve the project with the standard conditions and a condition to add a letter from abutter agreeing to the work being done from his property to

the file. The motion was seconded by Ms. Malonson. The motion passed unanimously. (6-0-0).

i. **NOI – Wareham, MA LLC c/o Atlantic Design Engineers, Inc. – 91 & 101 Fearing Hill Road – SE 76-2684**

Mr. Joe Shanahan was present. His consultant, Seth Taylor (Goddard Consulting) as a wetland scientist was also present.

Mr. Pichette reviewed the project: He reviewed the project as to construct a commercial solar array in the vegetated wetland. He said some of the work is in the buffered wetland. His opinion after reviewing the opinion as the project would have an adverse impact on the wetlands. He said the hydro study that was done wasn't done to impact the site, but neighboring homes. The cutting of the property would have an adverse effect on the property.

Mr. Pichette stated that he believed the project would have an adverse water flow and impact on the wetlands in the area. He said he believes the applicant has worked hard over course of time for the best project to be compiled but not an applicable site per his opinion. He said he felt there were a lot of features that are adverse in this area, sloped area; soiled not well drained; approximately of wetlands in area; and based on this information, the project should not be approved, and the commission should protect the Town-owned property. He said other impacts may not be recognized immediately in the future. Would recommend not be approved per the Town bylaws.

Mr. Shanahan read from a written statement. He said he was blindsided by the October 5th meeting as the commission has made many continuances on this project and then Mr. Pichette's report was that he recommended a denial. He said that Mr. Pichette made his report on October 4th for denial, which was two weeks prior to the final plans being reviewed and submitted, whereas the commission continued to ask for the final plans to be submitted for five months.

Mr. Taylor reviewed his studies on the project and the water flow for the area.

Mr. Pichette stated again the reason for the timing of the October 5th meeting report was that he knew he was going to be away that week and there was no continuance requested for that meeting. He said knowing that he wouldn't be there and an interest of closing the hearing, that's why he submitted his comments at that time. He said he understands Mr. Shanahan's concerns for his report at that time, but he wanted to note for the record whereas he wouldn't be attending the meeting, he still felt a report needed to be issued for the October 5, 2022, meeting. He said his comments were not going to change after seeing the final plans of October 17 and 31st report. He also asked the consultant about the water quality and issue of changing of the patterns of the water flow and impacts to velocity and

new channels that would create different patterns and impact the downstream. He said that would be altered and what impact potentially would happen to that area, used to have the area to a certain downflow.

Mr. Taylor said the same amount of water would still be received per the design. He said it's a small wetland and flow wouldn't change the hydraulics of the wetland or change the composition of the wetland. He said it would still exit the same way. He doesn't think there would be a considerable difference.

The engineer also clarified the stormwater design. He explained there would be two basins on that side of the property and the stormwater would enter both basins. He explained the discharge points total 150' in length and is not a small pipe into one specific 2-3' area.

Mr. Shanahan questioned the timing of Mr. Pichette's report for the October 5, 2022 meeting and stated the Commission asked for continuances for five months awaiting their final reports. He stated he believed that Mr. Pichette never reviewed the final reports to make his findings known for a denial on October 5, 2022.

Ms. Slavin said she believed they received Mr. Rowley's final report on October 31, 2022. Mr. Shanahan argued that still wasn't the final report. Ms. Slavin reviewed the dates that the applicant was before them or continued the hearing. She also stated there were times when no one showed up for some of the hearings. Mr. Shanahan disagreed.

She opened it up for discussion from the commission members.

Mr. Bartie had a slight concern about the water runoff once the land is altered.

Ms. Schulz stated she has been doing a lot of research. She stated she had concern about the altered land as well which would impact the wetland areas and neighborhood households. She said under the Wetland Protection Act the project wouldn't be feasible because of the adverse impact on the wetlands. She said Mr. Rowley confirmed. She also reviewed the Town's bylaws, 7.2 read from the bylaw how they could deny the project. She said she also had concerns when the land is altered, and the water flow could absolutely affect the wetlands.

Ms. Slavin asked about the fence that was proposed and she said she sees tree clearing in the buffer zone. She asked why the project couldn't be moved out of the wetland area.

Mr. Shanahan said this project started larger and has been reduced quite a bit.

Ms. Slavin opened it up for public comment asking members of the public to keep their comments within two minutes and only reflect conservation concerns.

Ms. Annie Hayes read from her paperwork regarding the toxicity of solar panels to the earth.

Ms. Linda Sharp also reflected her comments on the “wetlands are the kidneys of the earth.”

Ms. Katherine from Save the Pines from Plymouth was present and as well read from a document on her opinion of this project.

Derek Lintell of Squirrel Island Road also spoke and stated he was concerned about the alterations to the wetlands and thinks it should be denied.

Resident, Dan Malone was also present and referenced the applicant saying “shouldn’t happen” as opposed to “it won’t happen,” in regard to the water flow. He is opposed to the project.

Other residents also spoke in opposition.

Ms. Schulz made a motion to close the public hearing which was seconded by Mr. Mercier. The motion passed unanimously. (6-0-0).

Ms. Slavin stated they would render their order of conditions on November 16, 2022.

IV. **EXTENSION REQUESTS**

V. **ENFORCEMENT ORDERS:**

VI. **CERTIFICATES OF COMPLIANCE:**

j. **Mimi Demauro-1 Bluejay Terrace – SE 76-2699**

Mr. Pichette stated this project involved the construction of a garage and has been completed per the order of conditions.

Ms. Schulz made a motion to grant the Certificate of Compliance for 1 Bluejay Terrace which was seconded by Ms. Malonson. The motion passed unanimously. (6-0-0).

k. **Robert & Linda Christensen – 35 Crab Cove Terrace -SE 76-2652**

Mr. Pichette stated the project involved the reconstruction of a deck. He said the project is completed per the conditions.

Ms. Schulz made a motion to grant the Certificate of Compliance and was seconded by Ms. Malonson. The motion passed unanimously. (6-0-0).

l. **James Duffy – 46 Winship Avenue – SE 76-2662**

For the construction of an addition to the home and several other features, pool house etc. He said all been completed to the order of conditions.

Ms. Schulz made a motion to grant the Certificate of Compliance and was seconded by Ms. Malonson. The motion passed unanimously. (6-0-0)

m. Roy Christopherson – 18 Sias Point Road – SE76-697

Mr. Pichette stated this was for a seawall reconstruction in the 1980's.

Ms. Schulz made a motion to grant the Certificate of Compliance and was seconded by Ms. Malonson. The motion passed unanimously. (6-0-0).

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

The Commission discussed future meetings. Ms. Slavin stated meetings in December would be 12/7 & 12/21. They decided not to have the December 21, 2022, meeting. They would hold the meetings in January, January 4, 2023, and January 18, 2023.

The next meeting is November 16, 2022.

Mr. Pichette thanked the commission members for their efforts and a pleasure to work with everyone.

Ms. Schulz made a motion to adjourn and was seconded by Ms. Malonson. The motion passed unanimously at 8:52 p.m.

Date Signed: Approved 12/7/22

Attest: S.S. Slavin

Sandy Slavin, Chairperson

WAREHAM CONSERVATION COMMISSION

Date copy sent to Town Clerk: _____

WAREHAM TOWN CLERK
2022 DEC 14 PM 5:14