

MINUTES OF MEETING OF WAREHAM CONSERVATION COMMISSION

Date of Meeting: June 2, 2021

I. CALL MEETING TO ORDER

The meeting was called to order at 6:30pm.

II. ROLL CALL

Members Present: Sandra Slavin, Chair

Ronald Besse

Kwame Bartie

Michael Mercier

Denise Schulz (Associate Member)

Dave Pichette (Agent)

Members Absent: Elissa Heard

Carol Malonson

III. Preliminary Business

IV. Public Hearings

A- RDA Herbert Wydom – 85 Edgewater Drive

The public hearing notice was read into the record.

Present before the Commission: Nobody, applicant was running late.

Motion: Ms. Slavin motioned to table the hearing.

VOTE: Unanimous (4-0-0)

B – RDA Linda Rose – 11 Vernal Street

The public hearing notice was read into the record.

Present before the Commission: Linda Rose, applicant;

Keith (Difficult to hear last name.)

Project was at 11 Vernal Street, in the Swifts Beach region and involves the raise and reconstruction of an existing dwelling. The new building would have two small additions to “square off the footprint of the existing home”, all of which is in a coastal flood zone. However, the project is not in the buffer zone of any wetlands resources. Mr. Pichette recommended the approval of the project with the negative determination number two.

Ms. Rose spoke the existing home is no in compliance with existing building code so it is being replaced with a new structure.

Motion: Mr. Besse moved to close the hearing. Mr. Bartie seconded.

VOTE: Unanimous (4-0-0)

Motion: Mr. Besse moved to approve the project with a negative determination number two. Mr. Bartie seconded.

VOTE: Unanimous (4-0-0)

C – RDA Cromesett Park Improvement Assoc. – 0 Marks Cove Road

The public hearing notice was read into the record.

Present before the Commission: Donna Foley, applicant

Marylin Jordan, applicant

Mr. Pichette explained the project is placed at 0 Marks Cove Road in the Cromesett Park Association area and involves a few items, which is why the applicants appeared before the Commission. One is the repair of a concrete step into the beach area, which was done previously, and an enforcement was issued to address the item. The applicants also want to have beach nourishment done by having 12-yards of beach sand replaced on the upland portion of the beach. And finally, the applicants are hoping to place a floating swim matt onto the water.

In regards to the floating swim matt, that is an issue which has to be addressed by the Wareham's Harbormaster and not the town's Conservation Commission since a matt is a free-floating device and not attached to anything. In regards to the beach nourishment wants to match the existing sand already on the beach. Also, the applicant plans to use hands as their method of spreading the sand onto the beach. The Commission reminded the applicants that an analysis would have to be performed before any new sand is placed on the beach to ensure both the new and existing sands are exactly the same.

Motion: Mr. Besse moved to close the hearing. Mr. Bartie seconded.

VOTE: Unanimous (4-0-0)

The topic of a \$300 fine was addressed as the applicants had existing beach grass covered while the existing stairs were repaired. Mr. Pichette claimed a \$300 wasn't issued, but the applicants claimed they were issued an enforcement order and paid one. Mr. Pichette claimed he'd check his records to see if this was this case as he wasn't at his office since the meeting was being conducted remotely.

Motion: Mr. Besse moved to close the hearing. Mr. Bartie seconded.

VOTE: Unanimous (4-0-0)

Motion: Mr. Besse moved to approve the beach nourishment project with a negative determination number two, pending sieve analysis for match on the beach sand and letter is received by the Conservation Commission and to approve the staircase project with the open possibility of a \$300 fine if it wasn't paid. Mr. Mercier seconded.

VOTE: Unanimous (4-0-0)

D – RDA Brad Holmes 2 Tinkers Lane

The public hearing notice was read into the record.

Present before the Commission: Tom Roux , civil engineer

Mr. Pichette described the project located at 2 Tinkers Lane in Onset involving the upgrading of a septic system. The current one would be replaced a new, title five, nitrogen reducing system. All work would be done in a flood zone, and just outside a 100-foot buffer zone to a wetlands area, and within a coastal flood zone, elevation zone AE elevation 14. Since he feels there would be no big grade changes to the site, Mr. Pichette recommended approval of the project with a negative determination number two.

Mr. Roux was asked if he wanted to add any information to the project; he did not.

Motion: Mr. Besse moved to close the hearing. Mr. Mercier seconded.

VOTE: Unanimous (4-0-0)

Motion: Mr. Besse moved to approve the project with a negative determination number two. Mr. Mercier seconded.

VOTE: Unanimous (4-0-0)

E – Amended Order of Conditions – Angela Howard – 10 Bog Iron Road

The public notice was read into the record.

Before the Commission: Nobody.

Mr. Pichette took a moment and said the Amended Order of Conditions was small and proposed for 10 Bog Iron Road. It involved a small reconfiguration of a layout to the addition to one side of a house, which was previously approved. Mr. Pichette showed the Commission the plan previously approved and the proposed changed. The work would still occur within the buffer zone and within the limit of work approved. Therefore, Mr. Pichette didn't have any problems with the proposed change.

Motion: Mr. Besse motioned to close the hearing. Mr. Bartie seconded.

VOTE: Unanimous (4-0-0)

Motion: Mr. Besse motioned to approve the updated plans with the previous order of conditions and plan approval. Mr. Bartie seconded.

VOTE: Unanimous (4-0-0)

F – Amended of Conditions – Thomas Parenteau – 13 Over Jordan Road

The Public notice was read into the record

Before the Commission: Mark Dabe, Cape and Island Engineering

Mr. Pichette discussed that the proposal involved a previous approved project at 13 Over Jordan Road. The Commission previously approved the construction of a home as well as the reconstruction of a patio and pool house. Most of that work has already been completed. Housing changes had been approved at a previous meeting, but new changes were shown on a plan presented in front of the Commission.

In the end, Mr. Pichette received nine proposed changes in a letter received on May 19th, 2021. So, Mr. Dabe of Cape and Island Engineering reviewing those changes:

- 1: The house location, which will move the house away from any resources areas.
- 2: An addition of a concrete slab inside the house to support an elevator well and it supporting equipment.
- 3: A pump equipment in the middle of a field that helps support utilities, outside 100-foot buffer zone.
- 4: Under a condition previously approved, the applicant used previously-used some granite curbing material on one portion of the site, and used to create a new curbing landscape.
- 5: The use of artificial grass, which is pervious, on where the old pool was located and will be used as a bocce court.
- 6: Updating an existing structure that was previously approved to have more supporting structure and have a bathroom facility; which as has a septic system.
- 7: The pool was set back from the original plan.

8: Revegetation outside the pool area.

9: Granite curbing outside the site used as a terrace to protect a tree.

The issue of fines was addressed as the contractor began work without prior approval from the Conservation Commission.

Motion: Mr. Besse motioned to close the hearing. Mr. Mercier seconded.

Vote: Unanimous (4-0-0)

Motion: Mr. Besse motioned to approve the changes as proposed as well as issue \$300 fines to both the contractor and homeowner for work without prior approval from the Conservation Commission. Mr. Mercier seconded.

Vote: Unanimous (4-0-0)

G – Amended Order of Conditions – James Duffy – 46 Winship Avenue

The public notice was read into the record.

Before the Commission: Richard Grady

Mr. Pichette described the proposed amended order of conditions for 46 Winship Avenue. It involves adding a patio on an original plan. The work is outside the 30-foot No Foot Activity Zone to the coastal bank, no significant grade changes would be made, and only asked that any pervious material be used.

Motion: Mr. Besse motioned to close the hearing. Mr. Mercier seconded.

VOTE: Unanimous (4-0-0)

Motion: Mr. Besse motioned to approve the changes to the previously order of conditions to add a patio to the plan with a crushed stone perimeter. Mr. Bartie seconded.

VOTE: Unanimous (4-0-0)

H – NOI – BE RE, LLC, Adam Schumaker – Off North Carver Road SE 76 – 2683

The public notice was read into the record.

Before the Commission: Sarah Sterns, Beals & Thomas,

Adam Schumaker, representing applicant

Iain Ward agricultural consultant

Brett Meredith, land owner

Mr. Pichette presented the project as a commercial solar array located off of North Carver Road, within distant cranberry bogs, the buffer zone of vegetated wetlands, and riverfront areas. At that time, Mr. Pichette didn't have a chance to review the wetlands boundaries as depicted on the plan nor conduct the walk-through on site. Most of the Commission members didn't have the opportunity as well as the site couldn't be located. So, Mr. Pichette kept his final thoughts reserved until he reviewed the plans and reviewed the site. The plan was discussed as it was scheduled for the evening's agenda.

Ms. Sterns stated the property's land owner, Mr. Brett Meredith, was also on the line to describe the project. She stated the project was located off of Carver Road and Massachusetts Route 58 (with gave access to North Carver Road), and said it was operated by the Meredith family in both the towns of Wareham and Carver, MA. Encouraged by the state of Massachusetts' "Solar Massachusetts Renewable

Target" (SMART) program, most of the project would occur on the Wareham side and be a dual-use solar array (110 total acres with 77 acres in Wareham and 33 in Carver). Under the program, the use of farming is still strongly encouraged to be the main purpose of the use of the land while at the same time, placing solar panels are also attempted in an effort to gain access to solar energy.

Therefore, the panels would be built and designed to allow for sufficient area and space for harvesting crops as well as movement for farmers around their land. The project would require equipment pads and storage, both of which would be on the Wareham side. The solar panels would be spread further apart to allow for equipment between them as well as at a higher level (13-feet). They are also electric tracking panels that would follow the sun and not get stuck in any shaded areas during the day.

Some work was proposed within wetlands and buffer zone resources that overlay the farm itself adjacent to the Weweantic River and associated bogs, as well as untouched wooded areas. An access road was proposed from Carver Road. Ms. Sterns wrapped up by saying she was looking forward to meeting with Mr. Pichette as well as anybody else from the Conservation Commission to review the wetlands boundaries and answer any further questions.

Several questions and comments by commissioners.

Mr. Shumaker spoke in regards to the panels and stated Beals and Thomas had previously put piles up not long ago for dual-use purposes. He claimed just up the road at Berry Guys Farm Stand there is a project underway but wouldn't be done until the end of the summer. He claimed "at the moment" they were "driving the piles" into the bogs. The construction team wanted to ensure minimal damage as possible by using wetlands matts when driving the piles into the bogs. He described a project behind "Berry Guys" that involved bogs 20-25 feet deep, but had to use 40-foot piles for the use of the project.

Mr. Shumaker went on to describe mock-up plywood panels that are placed on blueberry vines. He claimed it'll give them an estimate on height and spacing.

Ms. Sterns did add that since a portion of the project was located in Carver, Beals and Thomas are still awaiting approval from the Carver Conservation Commission.

Before the Commission: Lisa Moralas

Ms. Moralas wanted to say for the record that that she recently reached out to a long-time farmer and she thought a lot about the state's SMART dual use solar initiative. She felt it was being sold to the public as a "rare win-win" as it would benefit farming and the climate. But she feels it's another "win-lose". The winners are the big solar companies and big land owners and losers are farmers, particularly those who lease over the land and new entry farmers. Concerns regarding the SMART program and potential reduction in crop production.

Before the Commission: Annie Hayes

Annie wanted to know if there were concerns about the panels themselves, and if they were pervious, possibility of those panels breaking, and the threat of water running into the crops as well as wetlands resources of the nearby river areas. She also wanted to know if she can find global data into similar projects, not just local ones. Mr. Shumaker claimed the state's energy resources website "frequently asked questions" section had such information.

Before the Commission: Trisha Wurts

She was curious in just how many total panels would be used in the project. Ms. Sterns said she would have that information available for the next meeting.

Mr. Pichette began to wrap things up by letting the Conservation Commission know that work is being proposed in wetlands and riverfront areas and there's some discussion about having the 50-foot No Activity Zone restrictions being lifted. He just wanted the commission be aware of this and as time passed, more information regarding the project would be sent as it arrives to the office. But typically, this may be a project where work is being proposed in an area where work is usually not allowed.

Motion: Mr. Besse motioned to continue the hearing until July 7, 2021. Mr. Mercier seconded.

VOTE: Unanimous (4-0-0)

I – NOI Wareham MA 3, LLC, Joseph Shanahan – 91 & 101 Fearing Hill Road – SE76-

The public notice was read into the record.

Before the Commission: Mr. Joe Shanahan, Con Edison Energy clean Business

Mr. Patrick Johnson (Atlantic Design Engineers)

Mr. Pichette introduced the project as a commercial solar array in the buffer zone of bordering vegetative wetlands located at 91 and 101 Fearing Hill Road. It would be a 20-acre array, involving trees clear cut on the site, perimeter fencing, and a battery storage component as well. Like the last site, Mr. Pichette didn't have the opportunity to walk through and see the wetlands and as was planning to schedule a visit with the project's engineer. It would also have to be reviewed by the town's engineer as well. But Mr. Pichette recommended the discussion be continued until July 7, 2021.

Mr. Joe Shanahan presented this project as a 4.4 megawatt solar array on 20-acres over a 44-acre site. The site is mostly undeveloped woodland, with some abutting residential properties as well. It would have a 100-foot setback from Fearing Hill Road and a natural buffer around the perimeter to reduce the visual impact from local residents.

Mr. Johnson went on to say that 2 wetlands are on the west side and a bordering wetlands on the north side, according to a March, 2021 delineation. He also claimed that the site doesn't fall under DEP Mass surface or groundwater protection area, or any town designated aquifer protection, watershed protection districts. Also, no FEMA flood zones are in the vicinity or area, nor are there endangered species. (Mr. Pichette did question that later because according to a report by Natural Heritage, endangered species may have existed on site; so Mr. Johnson said he'd look into it to confirm there wasn't any conflicting information).

Mr. Johnson did say any work that would be done in a 100-foot buffer zone would be minimal and consist of a chain link fence. The fence would have a 6-inch gap underneath to allow wildlife to roam underneath it. There would be erosion control measures, and creation of a stormwater detention basin. He stressed no solar arrays are proposed for the buffers nor their 50-foot no activity zones.

Several comments and questions from commissioners.

When addressed about how much would possibility be deforested, Mr. Shanahan stressed he sees a difference between this project and deforestation, while there would be substantial tree cutting, from the climate perspective, is the greenhouse gases offsetting from this project over the next 25 years would be about 200 times the sequestration of the number of trees that would be left to remain. He also claimed that once is project is complete wildlife habitat would benefit by roaming underneath due to the 6-inches under the fencing; there wouldn't be much soil lost, re-seeding would use environmentally friendly seeds, and with proper grading would re-grow as meadow.

Ms. Slavin did state e-mails were received. However, Ms. Slavin recommended the Commission wait until the next meeting to read those e-mails into the minutes.

Before the Commission: Nancy McHale

Ms. McHale addressed concerns about waivers being requested for setbacks for the fences. She felt the site is large enough. Also, she went to say this was prime forest land, and any waiver requested should not identify trees of 18 inches of diameter of height. However, Mr. Pichette reminded the speaker that those cannot be addressed by the Conservation Commission, but by the Planning Department. Finally, she did say that we should know endangered species are in the area due to a recent effort to purchase land and claimed a study by Natural Heritage showed box turtles lived in the area.

Before the Commission: Lisa Moralas

Ms. Moralas stated that the Conservation Commission needs to take into account the number of deforestation already in town. She also wanted to know the science behind Mr. Shanahan's statement that solar energy was better for then environment over a 25-year span than trees. She felt very strongly the people of Wareham needed to speak up and will very soon.

Before the Commission: Cathleen Muller, abutting property owner

Ms. Muller thanked the first two speakers and felt this was a terrible waste to the land as there could be better ways to use solar arrays, like placing solar panels atop old buildings instead of cutting down old trees. Ms. Slavin had to cut her off and remind Ms. Muller that this topic had to be related to Conservation Commission by laws only.

Before the Commission: Annie Hayes, abutting property owner

Ms. Hayes wanted to say that she has box turtles and vernal pool on her farm land, as well as salamander and frog species. She thought there was a water bed on this land and wanted to know if that was the case but, Mr. Pichette informed Ms. Hayes she'd have to contact the Water Department for more information.

Motion: Mr. Besse motioned to continue the hearing until July 7, 2021. Mr. Mercier seconded.

VOTE: Unanimous (4-0-0)

A (Tabled from Beginning of Public Hearings) – Herbert Waydom – 85 Edgewater Drive

Ms. Slavin asked if any individual arrived to discussed the project: Nobody.

Motion: Mr. Besse motioned to untable the discussion. Mr. Mercier seconded.

VOTE: Unanimous (4-0-0)

Mr. Pichette describe the project as small and at 85 Edgewater Drive. It involves the reconstruction of an existing deck within 20-feet of a coastal bank, and have to place two footings to solidify the deck, that were shown to the Conservation Commission on a graphic layout. The work sits over an existing concrete patio and would involve drilling into the existing patio, but not further away into any resources areas. The work is pretty minor so Mr. Pichette had no problem approving the project with a negative determination number two.

Motion: Mr. Besse motioned to close the hearing. Mr. Mercier seconded.

VOTE: Unanimous (4-0-0)

Motion: Mr. Besse motioned to approve the project with a negative determination number two. Mr. Mercier seconded.

VOTE: Unanimous (4-0-0)

V. Continued Hearings

A – George & Kerry Barrett, c/o J.C. Engineering, Inc. – 4 Verne Avenue – SE76-2682

Before the Commission: George Barrett, applicant

Margaret Ishihara

Mike Menthal (from JC Engineering).

The project involves the construction of a home at 4 Verne Avenue. But there was concern that wetlands exist onsite, which is why discussion over the project was continued. However, Mr. Pichette never received a modified plan. Ms. Ishihara stated that no wetlands are on site due to the property not bordering anything. Then Mr. Menthal went on to say that based on calculations he made based on height, there could not be wetlands; plus he made observations one weekend before extensive rainfall where the land contained no water, and observations after the same storm, with water, but thought the land was not subject to flooding. Disagreements over whether the land was or not wetlands pursued afterwards. The Conservation Commission asked that an updated set of plans and a report of observed wetlands be submitted by June 16th, 2021.

Before the Commission: Sarah Constant, abutting property owner

Ms. Constant, an abutting property owner, claimed wetlands sits on Verne Avenue and has the GIS mapping to prove it.

Motion: Mr. Mercier motioned to continue the hearing until June 16, 2021. Mr. Bartie seconded.

VOTE: Unanimous (4-0-0)

B – NOI Edward & Susan Cabral, c/o Alpha Survey Group – 4 Point Road – SE 76-2674

Present before the Commission: Jim Peterson (Alpha, LLS),

Edward Cabral, applicant

Susan Cabral, applicant

This project involves the reconstruction of a seawall along the coastal bank and the reconstruction of a garage, which are in a buffer zone to a coastal bank and within a coastal flood zone. It was continued from the last meeting because the state's Department of Marine Fisheries wanted a Salt Marsh Mitigation Plan to be submitted, which it has, along with a state DEP file number. Also, as long as the applicant follows placing no construction on the beach, dewatering, any materials in front of the wall not be removed, and install the subsurface drainage system as shown on the plan, the plan can be approved.

Motion: Mr. Bartie motioned to close the hearing. Mr. Besse seconded.

VOTE: Unanimous (4-0-0)

Motion: Mr. Besse motioned to approve the project based on the Standard Order of Conditions and the four additional measures Mr. Pichette presented. Mr. Mercier approved

VOTE: Unanimous (4-0-0)

C – NOI Anthony & Ann Antonellis, c/o G.A.F Engineering, Inc. – Old Onset Road – SE 76-2681

Present before the Commission: Brian Grady (GAF Engineering).

The project involved constructing a single-family house within the buffer zone of wetlands area. Mr. Pichette was okay with the plan originally and had a state DEP file number at the last meeting. However, no commission members were able to locate the site, which is why discussion was continued. When asked if any members had an issue, there no comments.

Motion: Mr. Bartie motioned to close the hearing. Mr. Besse seconded.

VOTE: Unanimous (4-0-0)

Motion: Mr. Besse motioned to approve the project with Standard Order of Conditions. Mr. Bartie seconded.

VOTE: Unanimous (4-0-0)

D – NOI Randall Riva, c/o G.A.F Engineering, Inc. – 10 Captain Collis Drive – SE 76-2676

Present before the Commission: Bob Rodgers (GAF Engineering),

Randall & Diane Riva, applicants

Earlier that morning Mr. Pichette had received an updated plan of the applicant's proposal to construct decks on an existing structure within the buffer zone of a coastal bank, within a beach, and a coastal flood zone. There's also existing concrete padding on the site where some of it has been removed. One of the decks already exists and is a proposed expansion to align with the new deck, proposed directly across from it. One of the decks also would be screened over and have a roof placed above it.

Mr. Rodgers described the updates a little and said one reason a deck was being screened over was for melanoma and mosquitoes purposes. He also went on to say that five sonotubes were now going to be used as opposed to six.

The Commission was a little hesitant about the decks. For the most part they were okay about work on an existing deck, but expressed concerns about the size of the new one. Another concern was expanding the size of the existing deck to meet the new deck's size; and especially the work being done in a 30-foot now activity zone. Also, if expanded, screened in, and roofed over, the deck could eventually lead to extra-living space. Mr. Rodgers asked for a continuance of the hearing.

Motion: Mr. Mercier motioned to continue the hearing until June 16th, 2021. Mr. Besse seconded.

VOTE: Unanimous: (4-0-0)

VI. Extension Requests

A – MA DOT – Rte 6/28 Reconstruction

Requested 3-year extension due to original order about to expire.

Motion: Mr. Besse motioned for a 3-year extension on Rte 6/28 Reconstruction project. Mr. Bartie seconded.

VOTE: Unanimous (4-0-0)

B – Thomas Foster – 103 Maple Springs Road

Requested 1-year extension for construction on the house due to features not yet completed and a retaining wall.

Motion: Mr. Besse motioned for a 1-year extension to 103 Maple Springs Road. Mr. Mercier seconded.

VOTE: Unanimous (4-0-0)

VII. Enforcement Orders

A – Kasie Robinson – 11 Wareham Avenue

Before the Commission: Robin Colmbs, homeowner

The previous owner was listed as Kasie Robinson but new home owner was Ms. Robin Colmbs and present before Commission. She started to construct a shed at the edge of Hynes Field. Mr. Colmbs claimed she tried to get in touch with the building department, but then her architect informed her that if the shed was under 200-square feet and 15-feet she could build it without a permit. Therefore, she decided to construct the shed. Mr. Pichette decided he wanted to see the shed; so the enforcement order would be ratified, and discussion of fines would wait until the next meeting.

Motion: Mr. Besse motioned to ratify the enforcement order. Mr. Mercier seconded.

VOTE: Unanimous (4-0-0)

B –Dan Clemmey, Dockhouse LLC – 28 Winship Avenue

The owner, not present before the Commission, installed pilings on an existing pier with no order of conditions.

Motion: Mr. Besse motioned to ratify the enforcement order and put a 45-day window to submit new plan. Mr. Mercier seconded.

VOTE: Unanimous (4-0-0)

C –Russell Kriehn – 24 & 28 Old Glen Charlie Road

The Commission spoke to Mr. Kriehn at the last meeting. Mr. Kriehn was supposed to speak to the building inspector and get back to Mr. Pichette, but had not. Plus, Mr. Kriehn was not present before the Commission, so discussion on the topic would wait until the next meeting.

D –Lawrence Pink – 33 East Boulevard

The owner was not present before the Commission, so the issue had to wait until the meeting.

E –Robert Lomp – 10 Wareham Lake Shores Drive

Before the Commission: Robert Lomp, homeowner

The owner had some alterations to his shed and fence along the waterfront, and Mr. Pichette did meet with the applicant not too long ago to see what can be done to correct the issue. Mr. Lomp spoke to the Commission, claimed he wasn't aware of what he needed to do, how these items were placed onto the ground, where they were placed on the property, and photos were shared. If an RDA was submitted originally, the project likely wouldn't have passed as the items are too close to the water's edge. The discussion of having an RDA or NOI for the fence and shed was discussed, but it was decided such discussion that would wait until the next meeting until the Commission members had a chance to see the sight.

Motion: Mr. Besse motioned to ratify the enforcement order. Mr. Mercier seconded.

VOTE: Unanimous (4-0-0)

VIII. Certification Compliance

IX. Any Other Business / Discussion And/Or Vote

X. Adjournment

Motion: Mr. Besse motioned to adjourn the meeting at 9:55pm. Mr. Bartie seconded.

VOTE: Unanimous (4-0-0)

Date signed: 3/3/2022

Attest: SS Slavin approved 6-0-0

Sandy Slavin, Chair

3/2/22

WAREHAM CONSERVATION COMMISSION

Date copy sent to Town Clerk: 3/3/22