

MINUTES OF MEETING OF WAREHAM CONSERVATION COMMISSION

Date of Meeting: October 16, 2013

I. CALL MEETING TO ORDER

The meeting was called to order at 7:00 P.M.

II. ROLL CALL

Members Present: Ken Baptiste
Sandy Slavin
Joe Leggett
Mark Carboni
David Pichette, Agent

III. PRELIMINARY BUSINESS

There was no preliminary business.

NOTE: The meeting proceeded w/ item V. Continued Public Hearings.

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

Ms. Slavin stated this application was resolved at the last meeting.

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

Ms. Slavin believes this application has been withdrawn. Mr. Pichette stated he received a request from the applicant's representative to withdraw the application without prejudice. He recommended the ConCom vote to accept the withdrawal letter.

MOTION: Mr. Baptiste moved to accept the application withdrawal letter from Christine Rhodes. Mr. Leggett seconded.

VOTE: Unanimous (4-0-0)

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

Ms. Slavin stated the applicant has requested a continuance to November 6, 2013.

MOTION: Mr. Baptiste moved to continue the public hearing for Kevin Sousa to November 6, 2013. Mr. Leggett seconded.

VOTE: Unanimous (4-0-0)

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

Ms. Slavin stated the applicant has requested a continuance to November 6, 2013.

MOTION: Mr. Baptiste moved to continue the public hearing for John Jay & Lisa Houser & John & Janet Sylvester to November 6, 2013. Mr. Leggett seconded.

VOTE: Unanimous (4-0-0)

NOTE: The meeting proceeded w/ item IX. Any Other Business/Discussion.

A. Discussion: Conservation Restrictions/Stewardship.

Ms. Slavin stated properties are being reviewed in which the ConCom holds the restrictions/stewardships.

Ms. Slavin read the stewardship report for the Shady Lane Track/Mark's Cove into the record.

Ms. Slavin read the Columbia St. stewardship report into the record.

F.Discussion: Joe Mulkern Appointment

Mr. Pichette stated he spoke to the BOS office & this appointment will be scheduled on the BOS agenda for October 22, 2013.

B. Discussion: Westgate Conservation Area

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

Mr. Pichette stated the parking area is 90% complete. The contractor has to come back & roll it w/ a compactor. Signage & trail markers still need to be put up. The project is getting close to completion. Mr. Leggett is working on a kiosk for the site. Finish work is being done on the footbridge.

IV. PUBLIC HEARINGS

A. RDA – Andrew McLean

The public hearing notice was read into the record.

Present before the ConCom: Andrew McLean

Mr. Pichette described the project. The property is located at 24 Spectacle Pond Rd. The project involves the construction of a covered porch w/in the buffer zone to Spectacle Pond. A 14x14 ft. covered porch is to be constructed 80 ft. from the pond in the same location as an existing deck

to be removed. The new porch will be supported on new sono tube footings. All work is to be done by hand. No grade changes are proposed & the surrounding area is existing lawn. He recommended the issuance of a Negative Determination #3.

MOTION: Mr. Carboni moved to close the public hearing for Andrew McLean. Mr. Baptiste seconded.

VOTE: Unanimous (4-0-0)

MOTION: Mr. Baptiste moved to grant a Negative Determination #3 for Andrew McLean. Mr. Leggett seconded.

VOTE: Unanimous (4-0-0)

B. RDA – Scott Guild

The public hearing notice was read into the record.

Present before the ConCom: Scott Guild

Mr. Pichette described the project. The property is located at 34 12th St. in Onset. This is an after the fact filing for site work that has been started at the site in the buffer zone to BVW & a flood zone. Clearing of the vegetation has occurred at the site to w/in 20-40 ft. of the edge of the wetland. The site has an existing dilapidated house that had become abandoned & overgrown. The applicant had started clearing the site w/out ConCom review & has done work in the buffer zone. Haybales have been installed per his direction at this point & then the RDA was filed. No grade changes are proposed. He asked what the extent of the proposed lawn area/site work will be & what remaining work will be done on the structure. If acceptable to the ConCom, he recommended a Negative Determination #2 for the work.

Mr. Guild discussed how he is required to raise the structure & how he will be installing fencing. He spoke re: his proposal for landscaping. The existing foundation will stay & the structure will be raised up.

Ms. Slavin spoke re: reducing the amount of fertilizer used.

MOTION: Mr. Baptiste moved to close the public hearing for Scott Guild. Mr. Leggett seconded.

VOTE: Unanimous (4-0-0)

MOTION: Mr. Carboni moved to grant a Negative Determination #2 for Scott Guild w/ the stipulations that the fertilizer used in hydro seeding be reduced & for the Agent to guide the applicant where the hydro seed is to go. Mr. Baptiste seconded.

VOTE: Unanimous (4-0-0)

C. NOI – Joseph H. & Paulette Chiaraluce, c/o JC Engineering, Inc.

The public hearing notice was read into the record.

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

Mr. Pichette described the project. The property is located at 70 Highland Shores Dr. in the Weweantic Shores area. The project involves the construction of a garage & mudroom w/in the riverfront area of the Weweantic River & in the buffer zone to a coastal bank. A 13x20 ft. garage is proposed 32 ft. from the top of the coastal bank & w/in the riverfront area. Also proposed is a 7x10 mudroom that would be constructed on the east or upland side of the proposed garage. Silt fence is proposed between the work & the resource area. He recommended both haybales & silt fence & that erosion control be placed as close to the 30 ft. no activity zone as possible. The driveway is proposed to be paved. He questioned the pitch of the street. He recommended that additional runoff be addressed on site or that the driveway be a pervious surface. Minor grade changes are proposed around the proposed garage. No DEP file number has been received. He recommended a continuance to the next meeting.

Mr. Pimental discussed the driveway & proposed paver driveway.

MOTION: Mr. Baptiste moved to continue the public hearing for Joseph H. & Paulette Chiaraluce to November 6, 2013. Mr. Leggett 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 (DONE)**
- C. NOI – Kevin Sousa, c/o Braman Surveying Assoc., LLC – SE76-2258 (DONE)**
- D. NOI – John Jay & Lisa Houser & John & Janet Sylvester, c/o G.A.F. Engineering, Inc. – SE76-2273 (DONE)**

VI. EXTENSION REQUESTS

VII. ENFORCEMENT ORDERS

VIII. CERTIFICATES OF COMPLIANCE

IX. ANY OTHER BUSINESS/DISCUSSION

- A. Discussion: Conservation Restrictions/Stewardship (DONE)**
- B. Discussion: Westgate Conservation Area (DONE)**
 - 3. Parking Area Construction**
 - 4. Authorization to Spend**
- C. Discussion: Swifts Beach**
- D. Discussion: Bills**

E. Discussion: Procedure for Ronald & Lois Enos

Mr. Baptiste stated he has filed disclosure papers w/ the Town Clerk so that he may sit in on this discussion/case.

Present before the ConCom: Margaret Ishihara, Attorney for Burgess Point Building Trust
Mr. Balzarini
Mr. Enos

Mr. Pichette explained this was a hearing that involved a project for a path through a wetland for a property off Burgess Point Road. The project was appealed & before a Superior Court judge. As part of his review, the judge ordered the ConCom re-explain a portion of the decision relative to the 30 ft. no activity zone issued. The Concom approved work within the 30 ft. no activity zone & the judge is looking for clarification on the ConCom's interpretation & he has remanded the issue back to the ConCom for review.

Mr. Pichette believes the issue the ConCom needs to address is whether or not to have a public hearing on this matter or to handle it as a discussion item at a future meeting agenda. The ConCom needs to make this decision. Ms. Slavin clarified what the judge is asking the ConCom to do.

Brief discussion ensued re: how to proceed. Mr. Pichette stated if the ConCom decides to have a public hearing, it would afford the public to give input on the matter. If it is just an agenda item for discussion purposes, the ConCom is not obligated to take public comment. He stated a public hearing needs to be advertised, abutters notified, etc. For a discussion, these things are not required. The question arose & he spoke to Town Counsel what his thoughts were. Town Counsel's recommendation is to hold a public hearing on this matter. There is not mandate to have a public hearing.

Mr. Carboni doesn't feel the hearing needs to be opened up again. An appropriate process was followed. He feels this matter now is just a clarification. He doesn't feel the need for another public hearing.

Mr. Leggett stated this matter is now just a clarification of the 30 ft. no activity zone. He doesn't see a need to have another public hearing where it is just a question of clarification.

Mr. Baptiste stated he was involved in the original public hearing & he didn't have a problem with it then. He doesn't understand why the judge sent it back. If it was a serious matter, he would recommend a public hearing, but it is just a clarification matter at this point.

Discussion continued.

Mr. Baptiste suggested reviewing the minutes of the public hearing & send a letter to the judge to explain what was decided & why. Mr. Pichette feels the judge wants the ConCom state their

rationale & interpretation of the 30 ft. no activity zone where the Bylaw prohibits work in the 30 ft. no activity zone except for certain specific issues. He feels the judge is wants an interpretation of the ConCom's thinking re: how the work was approved in the 30 ft. no activity zone where it doesn't fall w/in the categories listed.

Mr. Baptiste asked for clarification of what will be done in the 30 ft. no activity zone. Mr. Pichette explained that clearing of vegetation will be done. Mr. Baptiste stated any path going to the water is like that. It just doesn't stop at the 30 ft. Mr. Pichette feels this matter needs to be discussed & put into words to give back to the judge.

Ms. Slavin stated this agenda item is just to decide whether or not to hold another public hearing or just a discussion. Any further discussion on this project will need to be put on a future agenda.

MOTION: Mr. Carboni moved to place the matter of Ronald & Lois Enos as a discussion item on the November 6, 2013 meeting agenda & the ConCom reserves the right to allow public comment if they so choose. Mr. Baptiste seconded.

Mr. Pichette noted the ConCom can allow public comment w/ a discussion item, but they are not obligated to.

VOTE: Unanimous (4-0-0)

F. Discussion: Joe Mulkern Appointment (DONE)

NOTE: Brief discussion ensued re: sending a letter to _____ relative to Swifts Beach.

The ConCom asked for an update re: status of property off of Camp St.

X. ADJOURNMENT

MOTION: Mr. Baptiste moved to adjourn the meeting. Mr. Carboni seconded.

VOTE: Unanimous (4-0-0)

Date signed: 8/2/19

Attest: SS Slavin

Sandy Slavin, Chair

WAREHAM CONSERVATION COMMISSION

Date copy sent to Town Clerk: 8/8/19