

MINUTES OF MEETING OF WAREHAM CONSERVATION COMMISSION

Date of Meeting: February 5, 2020

I. CALL MEETING TO ORDER

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

II. ROLL CALL

Members Present: Sandy Slavin, Chair
Ken Baptiste
Mary Taggart
Robert Lassen
Jim Smith
David Hall
David Pichette, Conservation Agent

Member Absent: Elissa Heard

III. PRELIMINARY BUSINESS

Approval of meeting minutes: March 3, 2004 & October 16, 2019

MOTION: Mr. Baptiste moved to approve the meeting minutes of March 3, 2004 under the law of necessity. Mr. Lassen seconded.

Vote: Unanimous (6-0-0)

MOTION: Mr. Baptiste moved to approve the meeting minutes of October 16, 2019. Mr. Lassen seconded.

VOTE: Unanimous (6-0-0)

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

A. ANRAD – Sure-Cran Services, Inc., c/o TRC/Laura Lefebvre – SE76-2583

Present before the ConCom: Maria Furstenburg, TRC

Mr. Pichette described the project. The lot is 1012 off Charge Pond Rd. This is an application for resource area delineation. Resource delineations are for Bordering Vegetative Wetland(BVW) & for Riverfront Area. Approx. 2,600 linear ft. of BVW & approx. 600 ft. of inland bank are shown on plan. The site was reviewed & changes were made to the wetland line & are reflected on the revised plan. The original plan was not a certified stamped plan, but now it has been completed. A DEP file number has been received. He recommended approval of the wetland boundaries as shown on the revised plan.

Ms. Furstenburg submitted the revised plan to the members.

MOTION: Mr. Baptiste moved to close the public hearing for Sure-Cran Services, Inc. Mr. Smith seconded.

MOTION: Mr. Baptiste moved to issue an Order of Resource Area Delineation to Sure-Cran Services, Inc. approving the wetland boundaries depicted on the revised plan. Mr. Lassen seconded.

VOTE: Unanimous (6-0-0)

B. Revised NOI – Stonebridge Marina, LLC/John Cornish, c/o G.A.F. Engineering, Inc. – SE76-2576

Present before the ConCom: Bob Rogers, G.A.F. Engineering, Inc.

Mr. Pichette described the project. The property is located at 5 East. Blvd. The project involves repairs to an existing bulkhead & maintenance dredging along a coastal bank & land under the ocean & w/in a coastal flood zone. The project proposes to drive vinyl sheet piles in front of the existing wooden bulkhead for a length of approx. 390 ft. The sheet piles will be driven in front of the existing bulkhead & helical screw anchor deadmen would be driven into the bank to anchor the sheet pile bulkhead in place. Sand would be placed in the void space between the existing retaining wall & the new vinyl sheets. Some of the work to drive the sheet piles would be done from the upland side & some from a floating barge/boat on the water side where it is not accessible from land. Also proposed is maintenance dredging w/in the approved reconfiguration zone for the marina. The original plan showed approx. 2,400 cubic yds. of material. More detail was requested. A revised plan has been submitted which represents the depth to which dredging would be maintained at the site. This is approx. 3 ft. below the mean low water mark. The mean low water mark is elevation 2.3. The dredging would be 3 ft. below that w/ 1 ft. over dig. The proposal is to remove 550 yds. A DEP file number has been assigned. He had spoken w/ the engineer re: methodology for how the dredging would be done. In general, he believes the work is something that is necessary & recommends approval. The ConCom will need to put conditions in place to address the methodology further.

Mr. Rogers discussed the changes to the original plan. He noted the dredging would be either by suction or bucket dredging.

Brief discussion ensued re: the dredging & depth.

MOTION: Mr. Baptiste moved to close the public hearing for Stonebridge Marina, LLC/John Cornish. Mr. Smith seconded.

VOTE: Unanimous (6-0-0)

MOTION: Mr. Baptiste moved to approve the revised NOI for Stonebridge Marina, LLC/John Cornish w/ standard stipulations, time of year restrictions, excess material to be stored off site, loam & seed only & no fertilizer, applicant will need to provide methodology on how they will dredge & the ConCom will have the opportunity to add further conditions as needed depending on said methodology. Mr. Lassen seconded.

VOTE: Unanimous (6-0-0)

IV. PUBLIC HEARINGS

A. RDA – Cally & Denise Wolk, c/o G.A.F. Engineering, Inc.

The public hearing notice was read into the record.

Present before the ConCom: Bob Rogers, G.A.F. Engineering, Inc.

Mr. Pichette described the project. The property is located at 15 Howard St. The project involves the construction of a shed in the buffer zone to coastal bank & coastal flood zone. An 8x10 shed is proposed approx. 30 ft. from the top of the coastal bank & w/in flood zone AE, elevation 15. The location for the shed is in the front yard. The site is a small lot. No grade changes are proposed. The shed meets the setback from the coastal bank. He recommended approval of the project w/ a Negative Determination #2.

MOTION: Mr. Lassen moved to close the public hearing for Cally & Denise Wolk. Mr. Smith seconded.

VOTE: Unanimous (6-0-0)

MOTION: Mr. Lassen moved to grant a Negative Determination #2 for Cally & Denise Wolk. Mr. Smith seconded.

VOTE: Unanimous (6-0-0)

B. Amended OOC – NBE Management Corp., c/o G.A.F. Engineering, Inc. – SE76-2533

The public hearing notice was read into the record.

Present before the ConCom: Brian Grady, G.A.F. Engineering, Inc.
Attorney Sheila Tierney

Mr. Pichette described the project. The property is located at 11 Elizabeth St. The site has been given an address change. It is now indicated on Arnold St. The revised plan reflects the new address. The request is for a plan change & to place the OOC in the new applicant's name. The originally approved project involved the construction of a single family dwelling in the buffer zone to wetlands & a wetland crossing for the driveway access to the lot. A replication area was approved as well. The proposed plan change is to have a duplex vs. a single family dwelling. The footprint of the change is the same as was originally approved. The driveway access will remain the same. The limit of work is approx. 30 ft. from the edge of the wetland. There is a 3, 109 ft. replication area & is in the same location as originally approved. He recommended the approval of the Amended OOC w/ the same conditions as the originally approved OOC.

MOTION: Mr. Baptiste moved to close the public hearing for NBE Management Corp. Mr. Lassen seconded.

VOTE: Unanimous (6-0-0)

MOTION: Mr. Baptiste moved to approve an Amended Order of Conditions for NBE Management Corp. w/ the same conditions as the original Order of Conditions issued prior. Mr. Lassen seconded.

VOTE: Unanimous (6-0-0)

C. Amended OOC – Robert & Maryellen Stone, c/o Schneider, Davignon & Leone, Inc. – SE76-2545

The public hearing notice was read into the record.

Present before the ConCom: Dave Davignon, Shneider, Davignon & Leone, Inc.

Mr. Pichette described the project. The property is located at 12 Kennedy St. The request is for a plan change for a project previously approved. The project involves the demolition of an existing dwelling & the reconstruction of a new dwelling w/in the riverfront area of the Sippican River & in the buffer zone to a coastal bank. The originally approved project proposed to remove the existing dwelling & construct a larger dwelling that would be setback slightly from the coastal bank from the existing dwelling. The proposed change is to reconstruct a new home in the same original footprint vs. a larger dwelling. Haybales & silt fence will be placed between the work & the resource area. He recommended the issuance of an Amended OOC w/ the standard conditions & the added condition that no future expansion of the structure, patios, decks or similar, towards the river or w/in the 30 ft. no activity zone to the coastal bank.

MOTION: Mr. Baptiste moved to close the public hearing for Robert & Maryellen Stone. Mr. Lassen seconded.

VOTE: Unanimous (6-0-0)

MOTION: Mr. Baptiste moved to grant an Amended Order of Conditions for Robert & Maryellen Stone w/ standard conditions & an added condition that there be no further expansion of the structure, patios, decks or similar towards the river. Mr. Smith seconded.

VOTE: Unanimous (6-0-0)

D. NOI – BMFN, LLC, c/o Bracken Engineering, Inc.

The public hearing notice was read into the record.

Present before the ConCom: Rob Duoar, Bracken Engineering, Inc.

Mr. Pichette described the project. The property is located at 248 Great Neck Road. The project involves the construction of a breezeway & garage in the buffer zone to bordering vegetative wetland. A 24x54 ft. garage w/ in 8 ft. wide breezeway in an “L” shape which is approx. 50 ft. long is proposed & is approx. 40 ft. from the edge of the wetland at its closest point. The wetland is on the other side of the driveway from where the proposed work is. An underground storage chamber is proposed to handle roof runoff. There will be minor grading. Silt fence will be placed between the work area & resource area. He recommended the use of haybales as well. A DEP file number has not been assigned as of yet. He recommended a continuance to await a DEP file number.

Present before the ConCom: Judith Whiteside, 253 Great Neck Rd.

Ms. Whiteside displayed an aerial picture of the area. She stated there are water courses that run through the area. She expressed concern re: the marsh & ponds close to the property & water courses/flows in general in the area. Mr. Duoar stated they didn’t do any topography mapping of the water courses because it is far from the property. There is no work proposed on the existing driveway. There would be

no change to the natural flow of the water. There will be a small expansion of the driveway where it meets the garage. There is no work proposed in the resource areas.

Present before the ConCom: Regina Purtell

Ms. Purtell is the sanctuary director of the newly acquired Sacred Heart property. She expressed concern that the proposed garage would be w/in the 100 ft. buffer to the wetland. She wants to make sure the wetlands are protected. There is a low value shed & carport there that extends over the boundary into the newly acquired land. She feels this is the opportunity to have those items removed. She recommended certain conditions on the project, such as maintaining property lines & not doing work past those property lines. Mr. Duoar stated the property lines/boundaries would be delineated prior to any work being done. Ms. Purtell also suggested debris, litter, etc. be taken off site. Mr. Duoar spoke re: some tree clearing & installing mitigation for roof run off. Brief discussion ensued re: what type of roof & roof line there will be. Ms. Purtell spoke re: the Conservation Restriction on a large part of the newly acquired property she represents. She encouraged nature-based solutions. Ms. Slavin also noted low nitrogen fertilizer be used.

MOTION: Mr. Baptiste moved to continue the public hearing for BMFN, LLC to February 19, 2020. Mr. Lassen seconded.

VOTE: Unanimous (6-0-0)

E. NOI – Steven Arduielo/Beaumariage Consulting, LLC, c/o Farland Corp.

The public hearing notice was read into the record.

Present before the ConCom: Stevie Carvallo, Farland Corp.

Mr. Carvallo submitted update plans.

Mr. Pichette described the project. The property is located at 47 Fearing Hill Rd. The project involves upgrading a septic system w/in a coastal flood zone. Some of the work is w/in the Riverfront Area of the Weweantic River. An existing septic system is to be replaced w/ a new Title V nitrogen reducing system. The new system will be located outside 150 ft. of the wetland. When he reviewed the site, he noted there were some wetlands on the other side of Fearing Hill Rd. that weren't clearly identified. He brought this forward to the engineer. He feels the septic system located is the best place for it on the property. He would like the plans to reflect all wetlands, not ones just on the subject property.

Mr. Carvallo stated the plan has been updated based on GIS information. The buffers were added. He discussed the riparian line. He stated the septic system is located outside the buffer zone. He stated per the BOH, a de-nitrification system will be required. He spoke re: the wetlands located across the street. He explained why it may be more of a burden for the applicant to have those wetlands across the street delineated. Mr. Pichette stated the wetlands need to be shown accurately vs. the GIS information. The BOH may require this as well. The GIS isn't always accurate.

Mr. Pichette recommended a continuance to obtain a DEP file number & to obtain more accurate detail on the plan relative to wetland delineations.

Present before the ConCom: David Silva, 55 Fearing Hill Rd.

Mr. Silva spoke re: where his well is located & he questioned how far away this project is from his well cap. Mr. Carvalho stated the proposed system is approx. 110 ft. away from Mr. Silva's well.

Mr. Carvalho asked how to deal w/ delineating the wetlands across the street & if they can't get permission from the owners to do so. Brief discussion ensued re: how to proceed. Mr. Pichette understood that surveyors can go on private property to survey. Mr. Carvalho stated this is different than delineating.

MOTION: Mr. Lassen moved to continue the public hearing for Steven Arduielo/Beaumariage Consulting, LLC to February 19, 2020. Mr. Baptiste seconded.

VOTE: Unanimous (6-0-0)

F. NOI – William Mackenzie, c/o Daniel Mackenzie – SE76-2589

The public hearing notice was read into the record.

Present before the ConCom: Daniel Mackenzie

Mr. Pichette described the project. The property is located at 1182 Main St. The project involves upgrading a septic system in the buffer zone to bordering vegetative wetland. An existing septic system is to be replaced w/ a new nitrogen reducing Title V system. The new leach field will be approx. 72 ft. from the edge of the wetland & will be adjacent to where the old field is currently located. The old leach field will be abandoned in place. A new septic tank will be installed & the old tank will be abandoned in place. He expressed concern re: leaving the old tank where typically they are removed. He recommended the old tank be removed. A DEP file number has been assigned. He recommended approval of the project with the removal of the old septic tank.

Mr. Mackenzie stated the BOH has already approved the plan as is & that filling in the septic tank is acceptable. Discussion ensued re: what procedures are common relative to old septic tanks (crushing, filling in, etc.).

MOTION: Mr. Lassen moved to close the public hearing for William Mackenzie. Mr. Smith seconded.

VOTE: Unanimous (6-0-0)

MOTION: Mr. Lassen moved to grant an Order of Conditions for William Mackenzie w/ standard conditions & the added condition that the old tank be removed & filled. Mr. Smith seconded.

VOTE: Unanimous (6-0-0)

V. CONTINUED PUBLIC HEARINGS

A. ANRAD – Sure-Cran Services, Inc., c/o TRC/Laura Lefebvre – SE76-2583 (DONE)

B. Revised NOI – Stonebridge Marina, LLC/John Cornish, c/o G.A.F. Engineering, Inc. – SE76-2576 (DONE)

C. NOI – Buzzards Bay Coalition, Inc., c/o G.A.F. Engineering, Inc. – SE76-2554

The applicant has requested a continuance to February 19, 2020.

MOTION: Mr. Lassen moved to continue the public hearing for Buzzards Bay Coalition, Inc. to February 19, 2020. Mr. Smith seconded.

VOTE: Unanimous (6-0-0)

D. NOI – Thomas J. Parenteau, c/o G.A.F. Engineering, Inc. – (15 Over Jordan Road) – SE76-2575

Present before the ConCom: Bob Rogers, G.A.F. Engineering, Inc.

Mr. Pichette described the project. The property is located at 15 Over Jordan Rd. The project involves the construction of a pier, ramp & float system into Shell Point Bay. A 200 ft. pier, ramp & float system is proposed located in land under the ocean, saltmarsh & w/in a coastal flood zone. The site is also located w/in the estimated habitat for endangered species. The hearing had been continued due to a request for a shellfish survey at the site which has been completed. This information was submitted to the ConCom & the Harbormaster. The Harbormaster has submitted comments. The Harbormaster's recommendation is that this project not be approved. The Harbormaster stated the site is a valuable shellfish area for commercial & recreational shellfishermen & also a shellfish relay area. Comments were also received from MA DMF relative to the height of the pier above the saltmarsh, shallow water depths at the end of the structure & identified the area as shellfish habitat. MA Natural Heritage & Endangered Species had no negative comments. A DEP file number has been assigned.

Mr. Pichette stated based on the Harbormaster's comments, he recommended the project not be approved. He stated under the Town Bylaw, there is a section that states a pier shall not be allowed to be constructed in significant shellfish habitat as determined by MA DMF &/or the Town of Wareham's Shellfish Constable.

Mr. Rogers explained this pier was permitted to be reconstructed in 1995. It is not a brand new pier in a shellfish area. The applicant is applying for reconstruction. There is a total of 13 12 inch diameter pilings that would be in the shellfish area. This equates to a loss of 13 sq. ft. of actual shellfish area. He has tried to reach out to the Harbormaster for the past two weeks unsuccessfully. He feels the Harbormaster is overstating the negative impact to shellfish. Shellfishing will still be viable throughout this area & around the pier.

Mr. Rogers stated in speaking w/ the applicant today, there is an opportunity to improve access from the land for shellfishing & the applicant is willing to offer monetary compensation for shellfish propagation. He requested a continuance so as to discuss these options w/ the Harbormaster. He briefly discussed the license from 1995 & the status of the old pier at present.

MOTION: Mr. Lassen moved to continue the public hearing for Thomas J. Parenteau (15 Over Jordan Rd.) to February 19, 2020. Mr. Smith seconded.

VOTE: Unanimous (6-0-0)

E. NOI – Thomas J. Parenteau, c/o G.A.F. Engineering, Inc. – (0 Over Jordan Road) – SE76-2578

Present before the ConCom: Bob Rogers, G.A.F. Engineering, Inc.

Mr. Pichette described the project. The property is located at 0 Over Jordan Rd. The project involves the construction of a pier, ramp & float into Shell Point Bay. A 196 ft. pier, ramp & float system is proposed located in land under the ocean, saltmarsh & w/in a coastal flood zone. The site is also in the estimated habitat for endangered species. The water depth is shallow in this area at low tide. The float will be just above the depth that is necessary to meet the Wetland Bylaw. The existing concrete support piles will be used to support the structure. 40 ft. spans between the pile sets will be w/ aluminum span decking. The existing support piles will be encapsulated w/ an additional layer of concrete. This would increase the footprint of each concrete support pile. The elevation of the supports would be raised slightly so the pier can reach the required elevation. This hearing had been continued to obtain a shellfish survey, an eelgrass survey & comments from the Harbormaster. The Harbormaster feels this pier is acceptable for approval since the concrete pilings already exist & a pier was there more recently. Comments were received from MA DMF noting concerns re: height of the pier, saltmarsh & shallow water depths at the end of the float structure & construction methodology. National Heritage stated no negative comments. A DEP file number has been assigned. He recommended approval of the project & the added conditions that any work being done by barge be done at high tide & for the containment of any concrete be limited to the stations & not discarded elsewhere. Further, there were no signs of eelgrass.

MOTION: Mr. Lassen moved to close the public hearing for Thomas J. Parenteau (0 Over Jordan Rd.). Mr. Smith seconded.

VOTE: Unanimous (6-0-0)

MOTION: Mr. Baptiste moved to grant an Order of Conditions for Thomas J. Parenteau (0 Over Jordan Rd.) w/ standard conditions & the added conditions that any work done by a barge be done at high tide, proper containment of the concrete spoils & any debris be removed off site. Mr. Smith seconded.

VOTE: Unanimous (6-0-0)

F. NOI – Saba Nessralla, c/o G.A.F. Engineering, Inc. – SE76-2588

Present before the ConCom: Brian Grady, G.A.F. Engineering, Inc.

Mr. Pichette described the project. The property is located 179 Sandwich Rd. The project involves expanding parking & storage area w/in a coastal flood zone. Excavation will occur into the back of the hill behind the existing farmstand & bring the grade down to elevation 10-13. Two existing greenhouses will be removed. Three storage bins for materials is proposed. They will be on a concrete pad & excess material will be removed off-site. Flood zone is AE, elevation 14. A DEP file number has now been assigned. He recommended approval of the project based on the revised plan dated 1/13/20.

MOTION: Mr. Baptiste moved to close the public hearing for Saba Nessralla. Mr. Smith seconded.

VOTE: Unanimous (6-0-0)

MOTION: Mr. Baptiste moved to grant an Order of Conditions for Saba Nessralla w/ standard conditions. Mr. Smith seconded.

VOTE: Unanimous (6-0-0)

G. NOI – Kenneth Deluze, c/o G.A.F. Engineering, Inc. – SE76-2587

The applicant has requested a continuance to February 19, 2020.

MOTION: Mr. Baptiste moved to continue the public hearing for Kenneth Deluze to February 19, 2020. Mr. Lassen seconded.

VOTE: Unanimous (6-0-0)

VI. EXTENSION REQUESTS

VII. ENFORCEMENT ORDERS

A. Wendy Anderson – 247 Great Neck Road

Present before the ConCom: Wendy Anderson
Judy Whiteside

Mr. Pichette stated the project site is at 247 Great Neck Rd. A stone seawall & stone jetty were constructed out on the beach w/ no ConCom approval. An Enforcement Order was issued. Approx. 200 ft. of wall was built in varying sizes in terms of width & height. The stone jetty was constructed out onto the beach that is approx. 40 ft. long. This stone work is in a flood zone which is a velocity zone & the way they are built, they will likely not withstand punishment from waves. The way they were built are something the ConCom likely would not have approved. He spoke to Ms. Anderson who stated the reason for the work was to prevent further erosion in front of her property. He feels the structures should be removed & if Ms. Anderson would like to apply for a permitted project, the ConCom could entertain that.

Ms. Slavin noted that in 2009, the property owner came before the ConCom to stabilize the banking at the property.

Ms. Anderson stated there were no engineered plans. She was concerned re: protecting the house. She had the wall built to stop the erosion that was happening. Every part of the wall was done by hand & rocks were redistributed that were already existing at the location.

Ms. Slavin concurs that the wall & jetty need to be removed & an engineered plan be submitted to install a wall & jetty correctly.

Mr. Pichette stated the existing wall & jetty is not structurally sound & would not have been permitted according to today's regulations. He stated Ms. Anderson was going to reach out to an engineering firm for assistance in remedying the situation.

Discussion ensued re: timeframe & dismantling the existing structures. The ConCom concurred to wait & hear back from an engineer w/ a plan before requesting the existing structures be taken apart.

MOTION: Mr. Baptiste moved to issue a \$300.00 fine to Wendy Anderson for above violations. Mr. Lassen seconded.

VOTE: Unanimous (6-0-0)

VIII. CERTIFICATES OF COMPLIANCE

A. Robert & Jana McDuffy – 5 Oak Hill Road

Mr. Pichette stated this project was for the construction of an addition & garage to a house. The project has been completed per the OOC. He recommended the issuance of the COC.

MOTION: Mr. Lassen moved to grant a Certificate of Compliance to Robert & Jana McDuffy. Mr. Smith seconded.

VOTE: Unanimous (6-0-0)

IX. ANY OTHER BUSINESS/DISCUSSION AND/OR VOTE

A. Discussion: MACC Conference – February 29, 2020

Mr. Pichette stated this is the annual conference. Topics are on the MACC website. The fee would be covered by ConCom funds. Registration is online.

B. Discussion: Fines for Violations

C. Discussion: Appointments/Reappointments

Present before the ConCom: Mike Mercier

Mr. Mercier is new in Town. He discussed his background/education. Ms. Slavin stated there are Associate member openings on the ConCom. The ConCom encouraged Mr. Mercier to apply.

D. Discussion: Conservation Restriction/Stewardship

E. Discussion: Bills

X. ADJOURNMENT

MOTION: A motion was made & seconded to adjourn the meeting at 8:42 P.M.

VOTE: Unanimous (6-0-0)

Date signed: 7/12/21

Attest: Sandy Slavin
Sandy Slavin, Chair
CONSERVATION COMMISSION

Date copy sent to Town Clerk: _____